

payment of the tax shall become the liability of such person from the time of the removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

(2) Foreign wine

In the case of foreign wines which are not transferred to a bonded wine cellar free of tax under section 5364, by the importer thereof.

(3) Other wines

Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person producing, importing, receiving, removing, or possessing such wine; and all such persons shall be jointly and severally liable for such tax with each other as well as with any proprietor, transferee, or importer who may be liable for the tax under this subsection.

(b) Payment of tax

The taxes on wines shall be paid in accordance with section 5061.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1905(b)(2)(C), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 96-39, title VIII, §807(a)(8), July 26, 1979, 93 Stat. 281; Pub. L. 105-206, title VI, §6014(b)(1), July 22, 1998, 112 Stat. 820.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5043, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-206 inserted “which are not transferred to a bonded wine cellar free of tax under section 5364” after “foreign wines”.

1979—Subsec. (a)(1)(A). Pub. L. 96-39 struck out “between bonded wine cellars” after “transfer of wine in bond”.

1976—Subsec. (b). Pub. L. 94-455 substituted “The taxes” for “Except as provided in subsection (a)(3), the taxes”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates (see section 1422(c) of Pub. L. 105-34 set out as an Effective Date note under section 5364 of this title), see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

§ 5044. Refund of tax on wine

(a) General

In the case of any wine removed from a bonded wine cellar and returned to bond under section 5361—

(1) any tax imposed by section 5041 shall, if paid, be refunded or credited, without interest, to the proprietor of the bonded wine cellar to which such wine is delivered; or

(2) if any tax so imposed has not been paid, the person liable for the tax may be relieved of liability therefor,

under such regulations as the Secretary may prescribe. Such regulations may provide that claim for refund or credit under paragraph (1), or relief from liability under paragraph (2), may be made only with respect to minimum quantities specified in such regulations. The burden of proof in all such cases shall be on the applicant.

(b) Date of filing

No claim under subsection (a) shall be allowed unless filed within 6 months after the date of the return of the wine to bond.

(c) Status of wine returned to bond

All provisions of this chapter applicable to wine in bond on the premises of a bonded wine cellar and to removals thereof shall be applicable to wine returned to bond under the provisions of this section.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1416(a), (b)(2), Aug. 5, 1997, 111 Stat. 1048; Pub. L. 105-206, title VI, §6014(b)(2), July 22, 1998, 112 Stat. 820.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5044, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-206 substituted “removed from a bonded wine cellar” for “produced in the United States” in introductory provisions.

1997—Pub. L. 105-34, §1416(b)(2), struck out “unmerchutable” after “tax on” in section catchline.

Subsec. (a). Pub. L. 105-34, §1416(a), struck out “as unmerchutable” after “to bond” in introductory provisions.

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIV, §1416(c), Aug. 5, 1997, 111 Stat. 1048, provided that: “The amendments made by this section [amending this section and section 5361 of

this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

§ 5045. Cross references

For provisions relating to the establishment and operation of wineries, see subchapter F, and for penalties pertaining to wine, see subchapter J.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5045, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

SUBPART D—BEER

Sec.

5051.	Imposition and rate of tax.
5052.	Definitions.
5053.	Exemptions.
5054.	Determination and collection of tax on beer.
5055.	Drawback of tax.
5056.	Refund and credit of tax, or relief from liability.

Editorial Notes

PRIOR PROVISIONS

A prior subpart D, comprising sections 5051 to 5057 of this title, related to beer, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5051. Imposition and rate of tax

(a) Rate of tax

(1) In general

(A) Imposition of tax

A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be—

(i) \$16 on the first 6,000,000 barrels of beer—

(I) brewed by the brewer and removed during the calendar year for consumption or sale, or

(II) imported by the importer into the United States during the calendar year but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph, and

(ii) \$18 on any barrels of beer to which clause (i) does not apply.

(B) Barrel

For purposes of this section, a barrel shall contain not more than 31 gallons of beer, and any tax imposed under this section shall be applied at a like rate for any other quantity or for fractional parts of a barrel.

(2) Reduced rate for certain domestic production

(A) \$3.50 a barrel rate

In the case of a brewer who produces not more than 2,000,000 barrels of beer during the

calendar year, the per barrel rate of the tax imposed by this section shall be \$3.50 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) Regulations

The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year.

(3) Tolerances

Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

(4) Reduced tax rate for foreign manufacturers and importers

(A) In general

In the case of any barrels of beer which have been brewed or produced outside of the United States and imported into the United States, the rate of tax applicable under clause (i) of paragraph (1)(A) (referred to in this paragraph as the “reduced tax rate”) may be assigned by the brewer (provided that the brewer makes an election described in subparagraph (B)(ii)) to any electing importer of such barrels pursuant to the requirements established by the Secretary under subparagraph (B).

(B) Assignment

The Secretary, after consultation with the Secretary of the Department of Homeland Security, shall, through such rules, regulations, and procedures as are determined appropriate, establish procedures for assignment of the reduced tax rate provided under this paragraph, which shall include—

(i) a limitation to ensure that the number of barrels of beer for which the reduced tax rate has been assigned by a brewer—

(I) to any importer does not exceed the number of barrels of beer brewed or produced by such brewer during the calendar year which were imported into the United States by such importer, and

(II) to all importers does not exceed the 6,000,000 barrels to which the reduced tax rate applies,

(ii) procedures that allow the election of a brewer to assign and an importer to receive the reduced tax rate provided under this paragraph,

(iii) requirements that the brewer provide any information as the Secretary determines necessary and appropriate for purposes of carrying out this paragraph, and