

§ 5055. Drawback of tax

On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax paid on such beer if there is such proof of exportation as the Secretary may by regulations require. For the purpose of this section, exportation shall include delivery for use as supplies on the vessels and aircraft described in section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1420(a), Aug. 5, 1997, 111 Stat. 1049.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5055, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to "determination and collection of tax on beer", prior to the general revision of this chapter by Pub. L. 85-859. See section 5054(a)(1), (2), (c), (d) of this title.

Provisions similar to those comprising this section were contained in prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1997—Pub. L. 105-34 substituted "paid on such beer if there is such proof of exportation as the Secretary may by regulations require." for "found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regulations prescribe."

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary".

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1997 AMENDMENT**

Pub. L. 105-34, title XIV, §1420(b), Aug. 5, 1997, 111 Stat. 1049, provided that: "The amendment made by subsection (a) [amending this section] 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]."

§ 5056. Refund and credit of tax, or relief from liability**(a) Beer returned or voluntarily destroyed**

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under such regulations as the Secretary may prescribe, if such beer is returned to any brewery of the brewer or is destroyed under the supervision required by such regulations. In determining the amount of tax due on beer removed on any day, the quantity of beer returned to the same brewery from which removed shall be allowed, under such regulations as the Secretary may prescribe, as an offset against or deduction from the total quantity of beer removed from that brewery on the day of such return.

(b) Beer lost by fire, theft, casualty, or act of God

Subject to regulations prescribed by the Secretary, the tax paid by any brewer on beer re-

moved for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, if such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God before the transfer of title thereto to any other person. In any case in which beer is lost or destroyed, whether by theft or otherwise, the Secretary may require the brewer to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the first sentence shall not apply unless the brewer establishes to the satisfaction of the Secretary that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(c) Beer received at a distilled spirits plant

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.

(d) Limitations

No claim under this section shall be allowed (1) unless filed within 6 months after the date of the return, loss, destruction, rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant or (2) if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 91-673, §1(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1414(c), Aug. 5, 1997, 111 Stat. 1047; Pub. L. 105-206, title VI, §6014(a)(3), July 22, 1998, 112 Stat. 820.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to "drawback of tax" prior to the general revision of this chapter by Pub. L. 85-859. See section 5055 of this title.

A prior section 5057, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to refund and credit of tax or relief from liability, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsecs. (a) to (c). Pub. L. 105-206 substituted "removed for consumption or sale" for "produced in the United States".

1997—Subsec. (c). Pub. L. 105-34, §1414(c)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-34 redesignated subsec. (c) as (d) and substituted "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant" for "or rendering unmerchantable".

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

1971—Subsec. (a). Pub. L. 91-673 inserted provision permitting credit or refund of tax if the beer is returned to any brewery of the brewer who paid the tax, and provided for offset or deduction against amount of beer removed from the brewery on the day of return if the beer is returned to the same brewery from which it was withdrawn.

Subsec. (b). Pub. L. 91-673 inserted provisions for credit or refund or relief from liability of tax when the beer is lost by theft or otherwise or rendered unmerchandise by fire, casualty or act of God, before the transfer of title to any other party, and required the brewer to file claim for relief from the tax and submit proof of the cause of the loss, and in the case of theft, to further prove that such theft occurred before removal from the brewery and without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

Subsec. (c). Pub. L. 91-673 substantially reenacted subsec. (c) to reflect changes in subsec. (b).

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

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105-34, set out as a note under section 5053 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 91-673, § 5, Jan. 12, 1971, 84 Stat. 2058, provided that: "The amendments made by the first four sections of this Act [enacting section 5417 of this title and amending this section and sections 5052, 5053, 5401, 5402, 5411, 5412, and 5416 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Jan. 12, 1971]."

SUBPART E—GENERAL PROVISIONS

Sec.	
5061.	Method of collecting tax.
5062.	Refund and drawback in case of exportation.
[5063.]	Repealed.]
5064.	Losses resulting from disaster, vandalism, or malicious mischief.
5065.	Territorial extent of law.
5066.	Distilled spirits for use of foreign embassies, legations, etc.
5067.	Reduced rates not allowed for illegally produced beer, wine, or spirits. ¹
5068.	Cross reference.

Editorial Notes

PRIOR PROVISIONS

A prior subpart E, comprising sections 5061 to 5065, related to general provisions, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2020—Pub. L. 116-260, div. EE, title I, § 108(b), Dec. 27, 2020, 134 Stat. 3049, added item 5067 and redesignated former item 5067 as 5068.

1978—Pub. L. 95-423, § 1(b), Oct. 6, 1978, 92 Stat. 936, substituted "Losses resulting from disaster, vandalism,

or malicious mischief" for "Losses caused by disaster" in item 5064.

1971—Pub. L. 91-659, § 3(b), Jan. 8, 1971, 84 Stat. 1966, added item 5066 and redesignated former item 5066 as 5067.

1965—Pub. L. 89-44, title V, § 501(e), June 21, 1965, 79 Stat. 150, struck out item 5063 "Floor stocks tax refunds on distilled spirits, wines, cordials, and beer".

§ 5061. Method of collecting tax

(a) Collection by return

The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.

(b) Exceptions

Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, and beer under—

- (1) section 5001(a)(4), (5), or (6),
- (2) section 5006(c) or (d),
- (3) section 5041(f),
- (4) section 5043(a)(3),
- (5) section 5054(a)(3) or (4), or
- (6) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.

(c) Import duties

The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax.

(d) Time for collecting tax on distilled spirits, wines, and beer

(1) In general

Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semi-monthly period during which the withdrawal occurs.

(2) Imported articles

In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers)—

(A) In general

The last day for payment of tax shall be the 14th day after the last day of the semi-monthly period during which the article is entered into the customs territory of the United States.

(B) Special rule for entry for warehousing

Except as provided in subparagraph (D), in the case of an entry for warehousing, the

¹ So in original. Does not conform to section catchline.