

which authorized a penalty of 5 percent of the tax due but unpaid where a person failed to pay tax at the time prescribed, and required the penalties to be added to the tax and assessed and collected at the same time, in the same manner, and as a part of the tax.

Subsec. (d). Pub. L. 85-859 added subsec. (d). Similar provisions were formerly contained in subsec. (c) of this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109-432, set out as a note under section 1681 of Title 19, Customs Duties.

##### EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106-554 effective as if included in section 9302 of the Balanced Budget Act of 1997, Pub. L. 105-33, see section 1(a)(7) [title III, §315(b)] of Pub. L. 106-554, set out as a note under section 5702 of this title.

Amendment by section 4002 of Pub. L. 106-476 effective 90 days after Nov. 9, 2000, see section 4002(d) of Pub. L. 106-476, set out as a note under section 5704 of this title.

Pub. L. 106-476, title IV, §4003(b), Nov. 9, 2000, 114 Stat. 2178, provided that: "The amendment made by this section [amending this section] shall take effect as if included in section 9302 of the Balanced Budget Act of 1997 [Pub. L. 105-33]."

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

##### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 715 of Pub. L. 98-369, set out as a note under section 31 of this title.

##### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 722(a)(3) of Pub. L. 97-34 applicable to returns filed after Dec. 31, 1981, see section 722(a)(4) of Pub. L. 97-34, set out as a note under section 5684 of this title.

Amendment by section 724(b)(5) of Pub. L. 97-34 applicable to returns filed after Aug. 13, 1981, see section 724(c) of Pub. L. 97-34, set out as a note under section 6656 of this title.

##### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

## § 5762. Criminal penalties

### (a) Fraudulent offenses

Whoever, with intent to defraud the United States—

#### (1) Engaging in business unlawfully

Engages in business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or as an export warehouse proprietor, without filing the bond and obtaining the permit where required by this chapter or regulations thereunder; or

#### (2) Failing to furnish information or furnishing false information

Fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter or regulations thereunder; or

#### (3) Refusing to pay or evading tax

Refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or

#### (4) Removing tobacco products or cigarette papers or tubes unlawfully

Removes, contrary to this chapter or regulations thereunder, any tobacco products or cigarette papers or tubes subject to tax under this chapter; or

#### (5) Purchasing, receiving, possessing, or selling tobacco products or cigarette papers or tubes unlawfully

Violates any provision of section 5751(a)(1) or (a)(2); or

#### (6) Destroying, obliterating, or detaching marks, labels, or notices before packages are emptied

Violates any provision of section 5752;

shall, for each such offense, be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

### (b) Other offenses

Whoever, otherwise than as provided in subsection (a), violates any provision of this chapter, or of regulations prescribed thereunder, shall, for each such offense, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(Aug. 16, 1954, ch. 736, 68A Stat. 717; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1425; Pub. L. 89-44, title V, §502(b)(12), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, §1905(b)(7)(B)(ii), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674.)

## Editorial Notes

### AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-33 inserted "or importer" after "manufacturer".

1976—Subsec. (a)(6). Pub. L. 94-455 redesignated par. (7) as (6), and in par. (6) as so redesignated substituted "or notices" for "notices, or stamps" and "section 5752;" for "section 5752(a); or". Former par. (6), relating to the affixing of improper stamps, was struck out.

Subsec. (a)(7). Pub. L. 94-455 redesignated par. (7) as (6).

Subsec. (a)(8) to (11). Pub. L. 94-455 struck out pars. (8) to (11) which related to emptying packages without destroying stamps, possessing emptied packages bearing stamps, refilling packages bearing stamps, and detaching stamps or possessing used stamps.

1965—Subsec. (a)(1). Pub. L. 89-44, §502(b)(12)(A), struck out reference to a dealer in tobacco materials.

Subsec. (a)(2). Pub. L. 89-44, §502(b)(12)(B), struck out reference to statements.

1958—Subsec. (a). Pub. L. 85-859 included export warehouse proprietors in par. (1), struck out provisions in pars. (6) and (9) to (11) which related to labels and notices, and added pars. (7) and (8).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 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.

##### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

##### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

#### § 5763. Forfeitures

##### (a) Tobacco products and cigarette papers and tubes unlawfully possessed

###### (1) Tobacco products and cigarette papers and tubes possessed with intent to defraud

All tobacco products and cigarette papers and tubes which, after removal, are possessed with intent to defraud the United States shall be forfeited to the United States.

###### (2) Tobacco products and cigarette papers and tubes not property packaged

All tobacco products and cigarette papers and tubes not in packages as required under section 5723 or which are in packages not bearing the marks, labels, and notices, as required under such section, which, after removal, are possessed otherwise than with intent to defraud the United States, shall be forfeited to the United States. This paragraph shall not apply to tobacco products or cigarette papers or tubes sold or delivered directly to consumers from proper packages.

##### (b) Personal property of qualified manufacturers, qualified importers, and export warehouse proprietors, acting with intent to defraud

All tobacco products and cigarette papers and tubes, packages, machinery, fixtures, equipment, and all other materials and personal property on the premises of any qualified manufacturer or importer of tobacco products or cig-

rette papers and tubes, or export warehouse proprietor, who, with intent to defraud the United States, fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter; or refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or removes, contrary to any provision of this chapter, any article subject to tax under this chapter, shall be forfeited to the United States.

##### (c) Real and personal property of illicit operators

All tobacco products, cigarette papers and tubes, machinery, fixtures, equipment, and other materials and personal property on the premises of any person engaged in business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or export warehouse proprietor, without filing the bond or obtaining the permit, as required by this chapter, together with all his right, title, and interest in the building in which such business is conducted, and the lot or tract of ground on which the building is located, shall be forfeited to the United States.

##### (d) General

All property intended for use in violating the provisions of this chapter, or regulations thereunder, or which has been so used, shall be forfeited to the United States as provided in section 7302.

(Aug. 16, 1954, ch. 736, 68A Stat. 718; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1426; Pub. L. 89-44, title V, §502(b)(13), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, §1905(b)(7)(C), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 105-33, title IX, §9302(h)(2)(A), (B), Aug. 5, 1997, 111 Stat. 674.)

#### Editorial Notes

##### AMENDMENTS

1997—Subsec. (b). Pub. L. 105-33 inserted “qualified importers,” after “manufacturers,” in heading and “or importer” after “manufacturer” in text.

Subsec. (c). Pub. L. 105-33, §9302(h)(2)(A), inserted “or importer” after “manufacturer”.

1976—Subsec. (a)(2). Pub. L. 94-455, §1905(b)(7)(C)(i), substituted “and notices” for “notices, and stamps”.

Subsec. (b). Pub. L. 94-455, §1905(b)(7)(C)(ii), struck out “internal revenue stamps,” after “packages.”

1965—Subsec. (b). Pub. L. 89-44, §502(b)(13)(A), struck out references to tobacco materials, dealers in tobacco materials, and statements.

Subsec. (c). Pub. L. 89-44, §502(b)(13)(B), struck out references to tobacco materials and dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes” for “articles” wherever appearing and inserted provisions making par. (2) inapplicable to tobacco products or cigarette papers for tubes delivered directly to consumers from proper packages.

Subsecs. (b), (c). Pub. L. 85-859 included property of export warehouse proprietors.

Subsec. (d). Pub. L. 85-859 included property intended for use, or used, in violating regulations under this chapter.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after