

1513-0059

26 U.S.C.

§ 170. Charitable, etc., contributions and gifts

(b) Percentage limitations

(1) Individuals

In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

(A) General rule

Any charitable contribution to--

(i) a church or a convention or association of churches,

(ii) an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers -

(1) free of tax after denaturation of such spirits in the manner prescribed by law for -

(A) exportation;

(B) use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or
(C) any other use in the arts and industries (except for uses prohibited by section 5273(b) or (d)) and for fuel, light, and power; or

(2) free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; or

(3) free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale -

(A) for the use of any educational organization described in section 170(b)(1)(A) (ii) which is exempt from income tax under section 501(a), or for the use of any scientific university or college of learning;

(B) for any laboratory for use exclusively in scientific research;

(C) for use at any hospital, blood bank, or sanitarium), (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(D) for the use of any clinic operated for charity and not for profit (including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(4) without payment of tax for exportation, after making such application and entries, filing such bonds as are required by section 5175, and complying with such other requirements as may by regulations be prescribed; or

(5) without payment of tax for use in wine production, as authorized by section 5373; or

(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or

(7) without payment of tax for use of certain vessels and aircraft, as authorized by law; or

(8) without payment of tax for transfer to foreign-trade zones, as authorized by law; or

(9) without payment of tax, for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary may prescribe; or

(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distilled spirits operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue; or

(11) free of tax when contained in an article (within the meaning of section 5002(a)(14)); or

(12) free of tax in the case of distilled spirits produced under section 5181; or

(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).

(b) Cross references

(1) For provisions relating to denaturation, see sections 5241 and 5242.

(2) For provisions requiring permit for users of distilled spirits withdrawn free of tax and for users of specially denatured distilled spirits, see section 5271.

(3) For provisions relating to withdrawal of distilled spirits without payment of tax for use of certain vessels and aircraft, as authorized by law, see 19 U.S.C. 1309.

(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311.

(5) For provisions relating to foreign-trade zones, see 19 U.S.C. 81c.

(6) For provisions authorizing regulations for withdrawal of distilled spirits free of tax for use of the United States, see section 7510.

(7) For provisions authorizing removal of distillates to bonded wine cellars for use in the production of distilling material, see section 5373(c).

(8) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066.

Subchapter D. Industrial use of distilled spirits

§ 5271. Permits

(a) Requirements

No person shall -

(1) procure or use distilled spirits free of tax under the provisions of section 5214(a)(2) or (3); or

(2) procure, deal in, or use specially denatured distilled spirits; or

(3) recover specially or completely denatured distilled spirits, until he has filed an application with and received a permit to do so from the Secretary.

(b) Form of application and permit

(1) The application required by subsection (a) shall be in such form, shall be submitted at such times, and shall contain such information, as the Secretary shall by regulations prescribe.

(2) Permits under this section shall, under such regulations as the Secretary shall prescribe, designate and limit the acts which are permitted, and the place where and time when such acts may be performed. Such permits shall be issued in such form and under such conditions as the Secretary may by regulations prescribe.

(c) Disapproval of application

Any application submitted under this section may be disapproved and the permit denied if the Secretary, after notice and opportunity for hearing, finds that -

(1) in case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or

(2) the applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter; or

(3) the applicant has failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application; or

(4) the premises on which it is proposed to conduct the business are not adequate to protect the revenue.

(d) Changes after issuance of permit

With respect to any change relating to the information contained in the application for a permit issued under this section, the Secretary may by regulations require the filing of written notice of such change and, where the change affects the terms of the permit, require the filing of an amended application.

(e) Suspension or revocation

If, after notice and hearing, the Secretary finds that any person holding a permit issued under this section -

(1) has not in good faith complied with the provisions of this chapter or regulations issued thereunder; or

(2) has violated the conditions of such permit; or

(3) has made any false statement as to any material fact in his application therefor; or

(4) has failed to disclose any material information required to be furnished; or

(5) has violated or conspired to violate any law of the United States relating to intoxicating liquor, or has been convicted of any offense under this title punishable as a felony or of any conspiracy to commit such offense; or

(6) is, in the case of any person who has a permit under subsection (a)(1) or (a)(2), by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(7) has, in the case of any person who has a permit under subsection (a)(2), manufactured articles which do not correspond to the descriptions and limitations prescribed by law and regulations; or

(8) has not engaged in any of the operations authorized by the permit for a period of more than 2 years; such permit may, in whole or in part, be revoked or be suspended for such period as the Secretary deems proper.

(f) Duration of permits

Permits issued under this section, unless terminated by the terms of the permit, shall continue in effect until suspended or revoked as provided in this section, or until voluntarily surrendered.

(g) Posting of permits

Permits issued under this section, to use distilled spirits free of tax, to deal in, or use specially denatured distilled spirits, or to recover specially or completely denatured distilled spirits, shall be kept posted available for inspection on the premises covered by the permit.

(h) Regulations

The Secretary shall prescribe all necessary regulations relating to issuance, denial, suspension, or revocation, of permits under this section, and for the disposition of distilled spirits (including specially denatured distilled spirits) procured under permit pursuant to this section which remain unused when such permit is no longer in effect.

§ 5272. Bonds

(a) Requirements

Before any permit required by section 5271(a) is granted, the Secretary may require a bond, in such form and amount as he may prescribe, to insure compliance with the terms of the permit and the provisions of this chapter.

(b) Exceptions

No bond shall be required in the case of permits issued to the United States or any governmental agency thereof, or to the several States or any political subdivision thereof, or to the District of Columbia.

§ 5273. Sale, use, and recovery of denatured distilled spirits

(a) Use of specially denatured distilled spirits

Any person using specially denatured distilled spirits in the manufacture of articles shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.

(b) Internal medicinal preparations and flavoring extracts

(1) Manufacture

No person shall use denatured distilled spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remains in the finished product.

(2) Sale

No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remains in the finished product.

(c) Recovery of spirits for reuse in manufacturing

Manufacturers employing processes in which denatured distilled spirits withdrawn under section 5214(a)(1) are expressed, evaporated, or otherwise removed, from the articles manufactured shall be permitted to recover such distilled spirits and to have such distilled spirits restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Secretary may prescribe.

(d) Prohibited withdrawal or sale

No person shall withdraw or sell denatured distilled spirits, or sell any article containing denatured distilled spirits for beverage purposes.

(e) Cross references

(1) For penalty and forfeiture for unlawful use or concealment of denatured distilled spirits, see section 5607.

(2) For applicability of all provisions of law relating to distilled spirits that are not denatured, including those requiring payment of tax, to denatured distilled spirits or articles produced, withdrawn, sold, transported, or used in violation of law or regulations, see section 5001(a)(6).

(3) For definition of "articles", see section 5002(a)(14).

§ 5274. Applicability of other laws

The provisions, including penalties, of sections 9, and 10 of the Federal Trade Commission Act (15 U.S.C., §§ 49, 50), as now or hereafter amended, shall apply to the jurisdiction, powers, and duties of the Secretary under this subtitle, and to any person (whether or not a corporation) subject to the provisions of this subtitle.

§ 5275. Records and reports

Every person procuring or using distilled spirits withdrawn under section 5214(a)(2) or (3), or procuring, dealing in, or using specially denatured distilled spirits, or recovering specially denatured or completely denatured distilled spirits, shall keep such records and file such reports of the receipt and use of distilled spirits

withdrawn free of tax, of the receipt, disposition, use, and recovery of denatured distilled spirits, the manufacture and disposition of articles, and such other information as the Secretary may by regulations require. The Secretary may require any person reprocessing, bottling or repackaging articles, or dealing in completely denatured distilled spirits or articles, to keep such records, submit such reports, and comply with such other requirements as he may by regulations prescribe. Records required to be kept under this section and a copy of all reports required to be filed shall be preserved as regulations shall prescribe and shall be kept available for inspection by any internal revenue officer during business hours. Such officer may also inspect and take samples of distilled spirits, denatured distilled spirits, or articles (including any substances for use in the manufacture thereof), to which such records or reports relate.

§ 5276. Occupational tax

(a) General rule

Except as otherwise provided in this section, a permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of \$250 with respect to such place.

(b) Certain occupational tax rules to apply

Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section.

(c) Exception for United States

Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States.

(d) Exception for certain educational institutions

Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which –

(1) is issued a permit under section 5271, and

(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of distilled spirits free of tax for experimental or research use but not for consumption (other than organoleptic tests) or sale.

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§ 22.122 Losses in transit.

(a) Reporting losses.

Upon discovering any loss of tax-free alcohol while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's appropriate TTB officer of the facts and circumstances relating to the loss.

(b) Recording losses.

At the time the shipment or report of loss is received, the consignee shall determine the quantity of tax-free alcohol lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in § 22.113. For the purpose of maintaining the records prescribed in subpart M of this part, receipts of tax-free alcohol shall only include the quantity actually received.

(c) Claims.

A claim for allowances of losses of tax-free alcohol shall, as prescribed in § 22.125, be filed:

- (1) If the quantity lost in transit exceeds 1 percent of the total quantity shipped and is more than 5 proof gallons, the consignee shall file a claim for allowance of the entire quantity lost; or
- (2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowances of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)

[T.D. TTB-199, 50 FR 9183, Mar. 6, 1985 as amended by T.D. TTB-435, 66 FR 5476, Jan. 19, 2001]

§ 22.123 Losses on premises.

(a) Recording of losses.

A permittee shall determine and record, in the records prescribed by subpart M of this part, the quantity of tax-free or recovered alcohol lost on premises--

- (1) At the end of each semi-annual period when the inventory required by § 22.162 is taken, or
- (2) Immediately upon the discovery of any loss due to casualty, theft or other unusual causes.

(b) Claims.

A claim for allowances of losses of tax-free alcohol shall be filed as prescribed in § 22.125, in the following circumstances--

(1) if the quantity lost during any semi-annual inventory period exceeds 1 percent of the quantity to be accounted for during that period, and is more than 10 proof gallons, or

(2) if the loss was due to theft or unlawful use or removal, the permittee shall file a claim for allowances of losses regardless of the quantity involved.

(Approved by the Office of Management and Budget under control number 1513-0059)

§ 22.134 Records of shipment.

A consignor shipping recovered alcohol or tax-free alcohol to a distilled spirits plant shall prepare and forward a record of shipment to the consignee. The record of shipment may consist of a shipping invoice, bill, or bill of lading, or another document intended for the same purpose. The record of shipment shall accurately identify and account for the tax-free or recovered alcohol being shipped. A permittee shall file one copy of the record of shipment with the records required by § 22.161.

(Approved by the Office of Management and Budget under control number 1513-0059)

Subpart L--Return, Reconsignment and Disposition of Tax-Free or Recovered Alcohol

§ 22.151 Return.

A permittee may, following the receipt of tax-free alcohol and for any legitimate reason, return the spirits to any distilled spirits plant if the consignee consents to the shipment. The consignor shall prepare a record of shipment in the same manner prescribed in § 22.134 for shipment of recovered alcohol.

(Approved by the Office of Management and Budget under control number 1513-0059)

§ 22.152 Reconsignment in transit.

(a) Reconsignment.

Tax-free alcohol may be reconsigned to another permittee or returned to the consignor if, prior to, or on arrival at the premises of the consignee, the alcohol is determined to be unsuitable for the intended purpose, was shipped in error, or, for any bona fide reason, is not accepted by the consignee or carrier.

(b) Records of reconsignment.

In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if the shipment is to another permittee. The new record of shipment shall be annotated "Reconsignment."

(Approved by the Office of Management and Budget under control number 1513-0059)

[T.D. TTB-199, 50 FR 9183, Mar. 6, 1985 as amended by T.D. TTB-443, 66 FR 13015, Mar. 2, 2001

§ 22.155 Emergency disposition to another permittee.

(a) In the case of an emergency, a permittee may, upon the filing of a notice with the appropriate TTB officer, dispose of tax-free alcohol to another permittee, when the quantity involved does not exceed 10 proof gallons. In the case of a medical emergency or disaster, the appropriate TTB officer is authorized to verbally approve, with the required notice to follow, disposals of tax-free alcohol to another permittee or Government agency in excess of 10 proof gallons. The tax-free alcohol disposed of shall be in original unopened containers. The consignor shall prepare a record of shipment in the same manner prescribed in §22.134.

(b) The notice required by this section shall (1) explain the nature of the emergency, (2) identify the consignee by name, address and permit number, and (3) list the quantity of alcohol and package identification number of the container(s) involved.

(c) The consignor permittee may not receive remuneration for tax-free alcohol given to another permittee in case of an emergency, as authorized by this section.

(Notice approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)

Subpart M--Records of Transactions

§ 22.161 Records.

(a) General.

All persons qualified under this part shall keep accurate records of all receipts, shipments, usage, destructions and claims pertaining to the withdrawal and use of tax-free alcohol. These records shall be in sufficient detail to enable the

permittee to reconcile any losses or gains for the semi-annual inventory, and to enable appropriate TTB officers to verify all transactions and to ascertain whether there has been compliance with law and regulations. All records required by this section shall identify tax-free alcohol by proof, date of transaction, and quantity involved, and shall include alcohol received from the General Services Administration and the recovery of alcohol and its disposition. Records shall be kept current at all times.

(b) Records of receipt and shipment.

Records of receipt and shipment shall consist of the consignor's or consignee's (as the case may be) invoice, bill or bill of lading, or another document used for the intended purpose. Records of receipt shall record only the quantity of tax-free alcohol actually received. Losses in transit shall not be considered as received, but may be the subject of a claim for allowances of losses, as prescribed in Subpart I of this part.

(c) Records of usage.

For the purpose of this subpart, tax-free or recovered alcohol shall be considered as "used" when permanently removed from a permittee's supply storeroom, compartment, or tank for any authorized use. Records of usage shall identify the tax-free alcohol by quantity, proof, and purpose of removal (office, department or location to which dispensed). This record shall list separately, the usage of tax-free alcohol from recovered alcohol or alcohol received from the General Services Administration.

(d) Records of destruction.

Records of destruction shall consist of a copy of the notice of intention to destroy, prescribed in §22.141, signed by an appropriate TTB officer or employee witnessing the destruction.

(e) Claims.

Claims for allowance of losses of tax-free alcohol, required to be filed under Subpart I of this part, shall consist of Forms 2635 (5620.8) and supporting data.

(Approved by the Office of Management and Budget under control number 1513-0059)

[T.D. TTB-199, 50 FR 9183, Mar. 6, 1985 as amended by T.D. TTB-435, 66 FR 5476, Jan. 19, 2001]

§ 22.162 Inventories.

Each permittee shall take a physical inventory of the tax-free and recovered alcohol in its possession semi-annually for the periods ending June 30 and December 31 of each year; or other inventory periods which are approximately 6 months apart, upon filing written notice with the appropriate TTB officer

establishing other inventory periods. These inventories may be recorded separately or as an entry in the record of usage with any necessary adjustments (losses or gains). If an inventory results in a loss in excess of the quantities prescribed by Subpart I of this part, the permittee shall file a claim for allowance of loss.

(Notice approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)

[T.D. TTB-199, 50 FR 9183, Mar. 6, 1985 as amended by T.D. TTB-435, 66 FR 5476, Jan. 19, 2001]

§ 22.164 Filing and retention of records.

Each person required to maintain records of operations and transactions under this part shall:

(a) Keep on file all records and copies of claims for a period of not less than 3 years following the date of transaction or, at the discretion of the appropriate TTB officer, an additional 3-year period; and

(b) Maintain all records at the permit premises, except that the records may be kept at a central location by a State or political subdivision of a State, or the District of Columbia which distributes tax-free alcohol to multiple dependent agencies, institutions, or departments.

[T.D. TTB-199, 50 FR 9183, Mar. 6, 1985 as amended by T.D. TTB-435, 66 FR 5476, Jan. 19, 2001]