

1513-0037

26 U.S.C.

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revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers--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

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 91-172, title I, Sec. 101(j)(29), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94-455, title XIX, Secs. 1905(c)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95-176, Secs. 3(a), (d), 4(a), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96-39, title VIII, Sec. 807(a)(28), July 26, 1979, 93 Stat. 285; Pub. L. 96-223, title II, Sec. 232(e)(2)(B), Apr. 2, 1980, 94 Stat. 280; Pub. L. 98-369, div. A, title IV, Sec. 455(a), July 18, 1984, 98 Stat. 823.)

Sec. 5362. Removals of wine from bonded wine cellars

(a) Withdrawals on determination of tax

Wine may be withdrawn from bonded wine cellars on payment or determination of the tax thereon, under such regulations as the Secretary shall prescribe.

(b) Transfers of wine between bonded premises

(1) In general

Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

(2) Wine transferred to a distilled spirits plant may not be removed for consumption or sale as wine

Any wine transferred to the bonded premises of a distilled spirits plant--

(A) may be used in the manufacture of a distilled spirits

product, and

(B) may not be removed from such bonded premises for consumption or sale as wine.

(3) Continued liability for tax

The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

(4) Transfer in bond not treated as removal for consumption or sale

For purposes of this chapter, the removal of wine for transfer in bond between bonded premises shall not be treated as a removal for consumption or sale.

(5) Bonded premises

For purposes of this subsection, the term "bonded premises" means a bonded wine cellar or the bonded premises of a distilled spirits plant.

(c) Withdrawals of wine free of tax or without payment of tax

Wine on which the tax has not been paid or determined may, under such regulations and bonds as the Secretary may deem necessary to protect the revenue, be withdrawn from bonded wine cellars--

(1) without payment of tax for export by the proprietor or by any authorized exporter;

(2) without payment of tax for transfer to any foreign-trade zone;

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

(4) without payment of tax for transfer to any customs bonded warehouse;

(5) without payment of tax for use in the production of vinegar;

(6) without payment of tax for use in distillation in any distilled spirits plant authorized to produce distilled spirits;

(7) free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research;

(8) free of tax for use by or for the account of the proprietor or his agents for analysis or testing, organoleptic or otherwise; and

(9) free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

(d) Withdrawal free of tax of wine and wine products unfit for beverage use

Under such regulations as the Secretary may deem necessary to protect the revenue, wine, or wine products made from wine, when rendered unfit for beverage use, on which the tax has not been paid or determined, may be withdrawn from bonded wine cellars free of tax. The wine or wine products to be so withdrawn may be treated with methods or materials which render such wine or wine products suitable for their intended use. No wine or wine products so withdrawn shall contain more than 21 percent of alcohol by volume, or be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

(e) Withdrawal from customs bonded warehouses for use of foreign embassies, legations, etc.

(1) In general

Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

(2) Withdrawal for domestic use

Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

(3) Sale or unauthorized use prohibited

Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 90-73, Sec. 1(a), Aug. 29, 1967, 81 Stat. 175; Pub. L. 94-455, title XIX, Secs. 1905(c)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96-39, title VIII, Sec. 807(a)(44), July 26, 1979, 93 Stat. 287; Pub. L. 96-601, Sec. 2(a), (b), Dec. 24, 1980, 94 Stat. 3495.)

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Sec. 28.92 Application or notice, TTB Form 5100.11.

(a) Export, use on vessels and aircraft, and transfer to a foreign-trade zone or a customs bonded warehouse. Application for or notice of the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a customs bonded warehouse or a foreign-trade zone, shall be made by the exporter on TTB Form 5100.11. If the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, the exporter shall prepare TTB Form 5100.11 as an application, in accordance with the instructions on the form, and shall forward all copies of the form in accordance with instructions for the form. If the exporter is the proprietor of the bonded premises of the distilled spirits plant from which the spirits are withdrawn, the exporter shall prepare TTB Form 5100.11 as a notice in accordance with the instructions on the form.

(b) Manufacturing bonded warehouse. Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on TTB Form 5100.11, in accordance with the instructions on the form.

(Approved by the Office of Management and Budget under control number 1513-0037)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); Sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-198, 50 FR 8559, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

Sec. 28.122 Application or notice, YYN Form 5100.11.

(a) Export, use on vessels and aircraft, transfer to a customs bonded warehouse, and transfer to a foreign-trade zone. Where the exporter is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must make an application on ATF Form 5100.11 for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment on TTB Form 5100.11. TTB approval is not required if the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn.

(b) Manufacturing bonded warehouse. The proprietor of the

manufacturing bonded warehouse must make an application on TTB Form 5100.11 to withdraw wine without payment of tax for transportation to and deposit in such warehouse before withdrawal of the wine.

(c) Action by appropriate TTB officer. Where, under the provisions of paragraphs (a) and (b) of this section, an TTB Form 5100.11 is submitted to the appropriate TTB officer for approval, the appropriate TTB officer shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve the application and forward it to the proprietor of the premises from which the wines are to be withdrawn.

(d) Restriction on shipment. Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of TTB Form 5100.11 by the appropriate TTB officer is required, the proprietor of the bonded wine cellar may not ship the wine until the approved TTB Forms 5100.11 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on TTB Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985]

Sec. 28.152 Notice, TTB Form 5100.11.

Notice of withdrawal of specially denatured spirits, as authorized in Sec. 28.151 shall be made on TTB Form 5100.11 by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn.

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]