

1513-0042

27 U.S.C.

§ 5062. Refund and drawback in case of exportation.

(a) Refund

Under such regulations as the Secretary may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

(b) Drawback

On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary.

(c) Exportation of imported liquors

(1) Allowance of tax Upon the exportation of imported distilled spirits, wines, and beer upon which the duties and internal revenue taxes have been paid or determined incident to their importation into the United States, and which have been found after entry to be unmerchantable or not to conform to sample or specifications, and which have been returned to customs custody, the Secretary shall, under such regulations as he shall prescribe, refund, remit, abate, or credit, without interest, to the importer thereof, the full amount of the internal revenue taxes paid or determined with respect to such distilled spirits, wines, or beer.

(2) Destruction in lieu of exportation At the option of the importer, such imported distilled spirits, wines, and beer, after return to customs custody, may be destroyed under customs supervision and the importer thereof granted relief in the same manner and to the same extent as provided in this subsection upon exportation.

27 CFR

Sec. 28.190 Notice, TTB Form 5110.30.

Notice of shipment of distilled spirits for export, for use as supplies on vessels or aircraft, for deposit in a foreign-trade zone, or for deposit in a customs bonded warehouse, shall be prepared by the exporter on TTB Form 5110.30, in accordance with the instructions on the form.

(48 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.192 Packages of distilled spirits to be gauged.

Except for spirits which may be tax determined on the basis of the original gauge, spirits in packages which are to be removed for export with benefit of drawback, shall be gauged by the distilled spirits plant proprietor prior to preparation of notice on TTB Form 5110.30. When spirits in packages are gauged, a package gauge record shall be prepared by the proprietor, as provided in 27 CFR part 19, and a copy of the package gauge record shall be attached to each copy of TTB Form 5110.30 and considered a part of the claim.

(Approved by the Office of Management and Budget under control number 1513-0056 and 1513-0042)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.195b Claims on spirits tax determined on and after January 1, 1980.

(a) Preparation. Claims for drawback of tax on spirits tax determined on and after January 1, 1980, and withdrawn for any purpose authorized by Sec. 28.171, shall be prepared in duplicate by the bottler or packager on parts II and III of TTB Form 5110.30.

(b) Supporting documents. Each claim shall be supported by an invoice, bill of lading or other document which identifies the date of tax determination, unless the bill of lading required by Sec. 28.250 identifies this date. Additional supporting documents are required if the claim covers distilled spirits products on which the claimed drawback rate exceeds the rate of tax imposed by 26 U.S.C. 5001 or 7652 on each proof gallon or part thereof of distilled spirits produced in or imported into the United States (e.g., a product containing alcoholic flavoring materials on which drawback has been claimed by the manufacturer of the material under 26 U.S.C. 5131-5134). For each such product, the additional supporting documents shall consist of a copy of each related dump and batch record, package gauge record as prescribed

in 27 CFR part 19, and/or bottling and packaging record. The appropriate TTB officer may also require these or other supporting documents for any distilled spirits product.

(c) Filing. One copy of the claim, with supporting documents, if required, shall be filed with the appropriate TTB officer. The bottler or packager shall retain the other copy on file.

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(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF-212, 50 FR 34123, Aug. 23, 1985; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.197 Return of spirits withdrawn for export with benefit of drawback.

When notice is filed by an exporter as provided in Sec. 28.198, spirits on which the tax has been paid or determined, and which were withdrawn especially for export with benefit of drawback as provided in Sec. 28.171, but which spirits have not been laden for export, laden for use, or deposited in a customs bonded warehouse or foreign-trade zone, may for good cause be returned under the applicable provisions of this part and 27 CFR part 19:

- (a) To the bonded premises of the distilled spirits plant for purposes authorized under 26 U.S.C.; or
- (b) To a wholesale liquor dealer; or
- (c) To a taxpaid storeroom.

The export marks on spirits returned under this section shall be removed by obliteration, relabeling or recasing.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8561, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23956, June 7, 1985; T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.198 Notice of return.

If an exporter desires to return spirits to a distilled spirits plant, wholesale liquor dealer or taxpaid storeroom, as provided in Sec. 28.197, he shall file a notice, executed under the penalties of perjury, with the appropriate TTB officer. The notice shall be prepared in triplicate for submission to the customs official as required in Sec. 28.199. The notice shall show the:

- (a) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits;
- (b) Date and serial number of the TTB Form 5110.30 on which the spirits were withdrawn;
- (c) Present location of the spirits to be returned;
- (d) Number, size and identification of the containers;
- (e) Proof of spirits;
- (f) Reason for the return; and
- (g) Planned disposition of the returned spirits.

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1513-0048)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8562, Mar. 1, 1985, as amended at T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

Sec. 28.199 Responsibility for return of spirits withdrawn for export with benefit of drawback.

The exporter shall be responsible for arranging the return of the spirits under this subpart to the proprietor or wholesale liquor dealer who will receive them. The exporter or his agent shall submit the original and copies of the notice required by Sec. 28.198 to the appropriate customs official. If the spirits are returned before TTB Form 5110.30 has been filed with the customs official, the exporter shall submit Form 5110.30 with the notice. The customs officer shall, if the spirits are eligible for return under Sec. 28.197, accept the notice as authority for the return of the spirits to the premises identified in the notice. The customs official shall acknowledge receipt on the notice, retain a copy, and return the original and one copy of the notice to the exporter. The exporter shall retain the copy of the notice and file the original of the notice with the appropriate TTB officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended (26 U.S.C. 5062))

[T.D. ATF-198, 50 FR 8562, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]