

1513-0090

26 U.S.C.

Sec. 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of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semimonthly period during which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 semimonthly 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 last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(C) Foreign trade zones

Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(D) Exception for articles destined for export

Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(3) Distilled spirits, wines, and beer brought into the United States from Puerto Rico

In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(4) Special rule for tax due in September

(A) In general

Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(B) Safe harbor

The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{11}{15}$ of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

(C) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting ``September 25'' for ``September 26'',

``September 28'' for ``September 29'', and ``2/3'' for ``11/15''.

- (5) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in paragraph (4) falls on a Sunday).

- (e) Payment by electronic fund transfer

(1) In general

Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

(2) Electronic fund transfer

The term ``electronic fund transfer'' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) Controlled groups

(A) In general

In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term ``controlled group of corporations'' has the meaning given to such term by subsection (a) of section 1563, except that ``more than 50 percent'' shall be substituted for ``at least 80 percent'' each place it appears in such subsection.

(B) Controlled groups which include nonincorporated persons

Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(Added Pub. L. 85-859, title II, Sec. 201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, Secs. 1905(a)(6), (b)(2)(E)(iii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1819, 1822, 1834; Pub. L. 96-39, title VIII, Secs. 804(b), 807(a)(9), July 26, 1979, 93 Stat. 274, 281;

Pub. L. 98-369, div. A, title I, Sec. 27(c)(1), July 18, 1984, 98 Stat. 509; Pub. L. 99-509, title VIII, Sec. 8011(b)(1), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 99-514, title XVIII, Sec. 1801(c)(1), Oct. 22, 1986, 100 Stat. 2786; Pub. L. 100-647, title II, Sec. 2003(b)(1)(A), (B), Nov. 10, 1988, 102 Stat. 3598; Pub. L. 101-508, title XI, Secs. 11201(b)(3), 11704(a)(21), Nov. 5, 1990, 104 Stat. 1388-416, 1388-519; Pub. L. 103-465, title I, Sec. 136(c)(5), title VII, Sec. 712(b), Dec. 8, 1994, 108 Stat. 4842, 5000; Pub. L. 104-188, title I, Sec. 1702(b)(6), Aug. 20, 1996, 110 Stat. 1869.)

Sec. 5703. Liability for tax and method of payment

(a) Liability for tax

(1) Original liability

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability

When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax

(1) In general

The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior

to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes

(A) In general

Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

(B) Imported articles

In the case of tobacco products and cigarette papers and tubes which are imported into the United States--

(i) In general

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

(ii) Special rule for entry for warehousing

Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(iii) Foreign trade zones

Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export

Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico

In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September

(i) In general

Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(ii) Safe harbor

The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{11}{15}$ of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting "September 25" for "September 26", "September 28" for "September 29", and " $\frac{2}{3}$ " for " $\frac{11}{15}$ ".

(E) Special rule where due date falls on Saturday, Sunday, or Holiday Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(3) Payment by electronic fund transfer

Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the \$5,000,000 amount specified in the preceding sentence.

(c) Use of government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) Assessment

Whenever any tax required to be paid by this chapter is not paid in

full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment.

(Aug. 16, 1954, ch. 736, 68A Stat. 707; Pub. L. 85-859, title II, Sec. 202, Sept. 2, 1958, 72 Stat. 1417; Pub. L. 94-455, title XIX, Secs. 1905(a)(25), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 97-448, title III, Sec. 308(a), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98-369, div. A, title I, Sec. 27(c)(2), July 18, 1984, 98 Stat. 509; Pub. L. 99-509, title VIII, Sec. 8011(a)(1), Oct. 21, 1986, 100 Stat. 1951; Pub. L. 99-514, title XVIII, Sec. 1801(c)(2), Oct. 22, 1986, 100 Stat. 2786; Pub. L. 100-647, title II, Sec. 2003(b)(1)(C), (D), Nov. 10, 1988, 102 Stat. 3598; Pub. L. 103-465, title VII, Sec. 712(c), Dec. 8, 1994, 108 Stat. 5000.)

Sec. 7652. Shipments to the United States

(a) Puerto Rico

(1) Rate of tax

Except as provided in section 5314, articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale shall be subject to a tax equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture.

(2) Payment of tax

The Secretary shall by regulations prescribe the mode and time for payment and collection of the tax described in paragraph (1), including any discretionary method described in section 6302(b) and (c). Such regulations shall authorize the payment of such tax before shipment from Puerto Rico, and the provisions of section 7651(2)(B) shall be applicable to the payment and collection of such tax in Puerto Rico.

(3) Deposit of internal revenue collections

All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed in the island, shall be covered into the treasury of Puerto Rico.

(b) Virgin Islands

(1) Taxes imposed in the United States

Except as provided in section 5314, there shall be imposed in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

(2) Exemption from tax imposed in the Virgin Islands

Such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of such islands.

(3) Disposition of internal revenue collections

The Secretary shall determine the amount of all taxes imposed by, and collected under the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States. The amount so determined less 1 percent and less the estimated amount of refunds or credits shall be subject to disposition as follows:

(A) The payment of an estimated amount shall be made to the government of the Virgin Islands before the commencement of each fiscal year as set forth in section 4(c)(2) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (48 U.S.C. 1645), as in effect on the date of the enactment of the Trade and Development Act of 2000. The payment so made shall constitute a separate fund in the treasury of the Virgin Islands and may be expended as the legislature may determine.

(B) Any amounts remaining shall be deposited in the Treasury of the United States as miscellaneous receipts.

If at the end of any fiscal year the total of the Federal contribution made under subparagraph (A) with respect to the four calendar quarters immediately preceding the beginning of that fiscal year has not been obligated or expended for an approved purpose, the balance shall continue available for expenditure during any succeeding fiscal year, but only for emergency relief purposes and essential public projects. The aggregate amount of moneys available for expenditure for emergency relief purposes and essential public projects only shall not exceed the sum of \$5,000,000 at the end of any fiscal year. Any unobligated or unexpended balance of the Federal contribution remaining at the end of a fiscal year which would cause the moneys available for emergency relief purposes and essential public projects only to exceed the sum of \$5,000,000 shall thereupon be transferred and paid over to the Treasury of the United States as miscellaneous receipts.

(c) Articles containing distilled spirits

For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

(d) Articles other than articles containing distilled spirits

For purposes of subsections (a)(3) and (b)(3)--

(1) Value added requirement for Puerto Rico

Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of--

(A) the cost or value of the materials produced in Puerto Rico, plus

(B) the direct costs of processing operations performed in Puerto Rico,

equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

(2) Prohibition of Federal excise tax subsidies

(A) In general

No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

(B) Federal excise tax subsidy

For purposes of this paragraph, the term "Federal excise tax subsidy" means any subsidy--

(i) of a kind different from, or
(ii) in an amount per value or volume of production greater than, the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

(3) Direct costs of processing operations

For purposes of this subsection, the term "direct cost of processing operations" has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.

(e) Shipments of rum to the United States

(1) Excise taxes on rum covered into treasuries of Puerto Rico and Virgin Islands

All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

(2) Secretary prescribes formula

The Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto

Rico and the Virgin Islands and the timing and methods for transferring such tax collections.

(3) Rum defined

For purposes of this subsection, the term ``rum'' means any article classified under subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(4) Coordination with subsections (a) and (b)

Paragraph (1) shall not apply with respect to any rum subject to tax under subsection (a) or (b).

(f) Limitation on cover over of tax on distilled spirits

For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of--

(1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2002), or

(2) the tax imposed under section 5001(a)(1), on each proof gallon.

(g) Drawback for medicinal alcohol, etc.

In the case of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands--

(1) subpart F of part II of subchapter A of chapter 51 shall be applied as if--

(A) the use and tax determination described in section 5131(a) had occurred in the United States by a United States person at the time the article is brought into the United States, and

(B) the rate of tax were the rate applicable under subsection (f) of this section, and

(2) no amount shall be covered into the treasuries of Puerto Rico or the Virgin Islands.

(h) Manner of cover over of tax must be derived from this title

No amount shall be covered into the treasury of Puerto Rico or the Virgin Islands with respect to taxes for which cover over is provided under this section unless made in the manner specified in this section without regard to--

(1) any provision of law which is not contained in this title or in a revenue Act; and

(2) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(Aug. 16, 1954, ch. 736, 68A Stat. 907; Pub. L. 85-859, title II,

Sec. 204(17), (18), Sept. 2, 1958, 72 Stat. 1430; Pub. L. 89-44, title VIII, Sec. 808(b)(3), June 21, 1965, 79 Stat. 164; Pub. L. 94-202, Sec. 10(a), Jan. 2, 1976, 89 Stat. 1141; Pub. L. 94-455, title XIX, Sec. 1906(a)(55), (b) (13)(A), Oct. 4, 1976, 90 Stat. 1832, 1834; Pub. L. 98-67, title II, Sec. 221(a), Aug. 5, 1983, 97 Stat. 395; Pub. L. 98-213, Sec. 5(c), Dec. 8, 1983, 97 Stat. 1460; Pub. L. 98-369, div. B, title VI, Secs. 2681(a), 2682(a), July 18, 1984, 98 Stat. 1172, 1174; Pub. L. 99-514, title XVIII, Sec. 1879(i)(1), Oct. 22, 1986, 100 Stat. 2907; Pub. L. 100-418, title I, Sec. 1214(p)(1), Aug. 23, 1988, 102 Stat. 1159; Pub. L. 103-66, title XIII, Sec. 13227(e), Aug. 10, 1993, 107 Stat. 494; Pub. L. 103-465, title I, Sec. 136(b), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 106-170, title V, Sec. 512(a), Dec. 17, 1999, 113 Stat. 1924; Pub. L. 106-200, title VI, Sec. 602(b), (c), May 18, 2000, 114 Stat. 305, 306.)

27 CFR

Sec. 26.81 Prepayment of tax and release of spirits.

(a) Action by proprietor. Where the distilled spirits are to be released after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 5110.51 and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate, and send the original with all copies of TTB Form 5110.51 and any package gauge record as provided in Sec. 26.164a and the remittance in full for the tax, to the appropriate TTB officer.

(b) Action by appropriate TTB officer. On receipt of TTB Forms 5110.51, 5000.25 and any package gauge record, with remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 5110.51. The appropriate TTB officer shall then retain the originals of TTB Forms 5110.51 and 5000.25 and forward the remaining copies of TTB Form 5110.51 in accordance to the instructions on the form.

(c) Action by revenue agent. On receipt of TTB Form 5110.51 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 5110.51 and release the spirits for shipment to the United States. The completed TTB Form 5110.51 shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0210 and 1513-0090)

[T.D. ATF-277, 53 FR 45267, Nov. 9, 1988. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.96 Prepayment of tax--release of wine.

(a) Action by proprietor. Where the wine is to be withdrawn from bonded storage after payment of the computed tax, the proprietor shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The proprietor shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) Action by appropriate TTB officer. On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5100.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions on the form.

(c) Action by revenue agent. On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the wine for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0149 and 1513-0090)

[T.D. ATF-277, 53 FR 45267, Nov. 9, 1988]

Sec. 26.105 Prepayment of tax--release of beer.

(a) Action by brewer. Where the beer is to be withdrawn from bonded storage after payment of the computed tax the brewer shall enter the amount of such computed tax on all copies of TTB Form 2900 (5100.21) and execute the statement that such tax is being prepaid. The brewer shall then prepare TTB Form 5000.25 in duplicate and send the original with all copies of TTB Form 2900 (5100.21) and the remittance in full for the tax, to the appropriate TTB officer.

(b) Action by appropriate TTB officer. On receipt of TTB Forms 2900 (5100.21) and 5000.25, and remittance covering prepayment of tax, the appropriate TTB officer shall execute the receipt on TTB Form 5000.25 and execute the report of prepaid taxes on all copies of TTB Form 2900 (5100.21). The appropriate TTB officer shall then retain the originals of TTB Forms 2900 (5110.21) and 5000.25 and forward the remaining copies of TTB Form 2900 (5100.21) in accordance with the instructions of the form.

(c) Action by revenue agent. On receipt of TTB Form 2900 (5100.21) executed by the appropriate TTB officer to show receipt of TTB Form 5000.25 and remittance, the revenue agent shall execute the report of release on the TTB Form 2900 (5100.21) and release the beer for the purpose authorized on the form. The completed TTB Form 2900 (5100.21) shall be distributed according to the instructions on the form.

(Approved by the Office of Management and Budget under control number 1512-0149 and 1513-0090)

[T.D. ATF-277, 53 FR 45268, Nov. 9, 1988]

Sec. 26.110 Release of articles or liquors.

After determining that the proprietor has good and sufficient bond coverage, or, in the case of prepayment, on receipt of TTB Form 5110.51 or Form 2900 executed by the appropriate TTB officer to show receipt of TTB Form 5000.25, and remittance, the revenue agent shall execute his report of release on TTB Form 5110.51 or Form 2900 and release the articles containing distilled spirits, or release the wine and/or beer for use in the manufacture of articles. He shall forward one copy of TTB Form 5110.51 or Form 2900, and any package gauge record as provided in Sec. 26.164a, to the Bureau of Alcoholic Beverage Taxes and one copy of each to the District Revenue Agent (Commonwealth of Puerto Rico), deliver one copy of each to the applicant, and retain one copy. A permit shall be obtained as provided in Sec. 26.114 through 26.116 before the articles manufactured from such liquors may be shipped to the United States.

(Approved by the Office of Management and Budget under control number 1513-0090)

[T.D. ATF-198, 50 FR 8550, Mar. 1, 1985, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987; T.D. ATF-277, 53 FR 45268, Nov. 9, 1988.]

Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

Sec. 26.112 Returns for deferred payment of tax.

(a) Returns. The taxes imposed by 26 U.S.C. 7652(a), (equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1), 5041, or 5051), the payment of which has been deferred under the provisions of Sec. Sec. 26.80, 26.95 or 26.104 of this part, shall be paid pursuant to a return on TTB Form 5000.25 prepared in accordance with the instructions on the form.

(b) Return periods. (1) Definitions. For purposes of this section, the following terms have the meanings indicated:

Reasonably expects. When used with reference to a taxpayer, reasonably expects means the taxpayer was not liable for more than \$50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

Taxpayer. A taxpayer is a person who is liable for excise tax under 26 U.S.C. 7652 under the same Employer Identification Number as defined in 26 CFR 301.7701-12.

(2) Semimonthly return period. Except in the case of a taxpayer who qualifies for, and chooses to use, quarterly return periods as provided in paragraph (b)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods shall run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (e) of this section.

(3) Quarterly return period. Effective January 1, 2006, a taxpayer who reasonably expects to be liable for not more than \$50,000 in taxes imposed by 26 U.S.C. 7652 for the current calendar year, and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of semimonthly period in which that date occurs.

(c) Filing. (1) The original of TTB Form 5000.25, with remittance covering the full amount of the tax, shall be filed with the appropriate TTB officer not later than the 14th day after the last day of the return period except as provided by paragraph (d) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday, except as provided by paragraph (d) of this section.

(2) The tax shall be paid in full by remittance at the time the return is filed, unless the proprietor is required to make remittances by electronic fund transfer in accordance with Sec. 26.112a.

(3) The remittance may be in any form that is authorized to be accepted under the provisions of Sec. 70.61 of this chapter.

(4) When the return and remittance are delivered by U.S. mail to the office of the appropriate TTB officer, the date of the official postmark

of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery.

(d) Special September rule for taxes due by semimonthly return. (1) General. The second semimonthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 16-26, no later than September 29. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 27-30, no later than October 14.

(2) Taxpayment not by electronic fund transfer. In the case of taxes not required to be remitted by electronic fund transfer as prescribed by Sec. 26.112a, the second semimonthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 16-25, no later than September 28. The taxpayer shall file a return on Form 5000.24, and make remittance, for the period September 26-30, no later than October 14.

(3) Amount of payment: Safe harbor rule. (i) Taxpayers are considered to have met the requirements of paragraph (d)(1) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (d)(2) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(4) Last day for payment. If the required due date for taxpayment for the periods September 16-25 or September 16-26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance shall be due on the immediately following day.

(e) Default. Where a taxpayer has defaulted in any payment of tax under this section, during the period of such default and until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment of tax under this section, the tax shall be prepaid by such taxpayer in accordance with the provisions of Sec. 26.113. During such period, distilled spirits, wine, or beer shall not be released from the proprietor's bonded premises before the proprietor has paid the tax thereon. In the event of default, the appropriate TTB officer shall immediately notify the Secretary and the revenue agent at the premises that tax is to be prepaid until further notice, and upon a finding that the revenue will not be jeopardized by resumption of deferred payment or tax under this section, the appropriate TTB officer shall notify the Secretary and the revenue agent that deferred payment may be resumed.

(Approved by the Office of Management and Budget under control number 1513-0090)

(Aug. 16, 1954, Ch. 736, 68A Stat. 775, (26 U.S.C. 6301); June 29, 1956, Ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-277, 53 FR 45268, Nov. 9, 1988, as amended by T.D. ATF-301, 55 FR 47658, Nov. 14, 1990; T.D. ATF-365, 60 FR 33674, June 28, 1995; T.D. ATF-451, 66 FR 21669, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001; T.D. TTB-41, 71 FR 5604, Feb. 2, 2006]

Sec. 26.113 Returns for prepayment of taxes.

(a) General. If a proprietor does not have an approved bond covering the deferred payment of taxes, or if such bond is in an insufficient penal sum, or if there is default by him in any payment of tax under this subpart, liquors shall not be released from bonded storage before the proprietor has paid the tax thereon.

(b) Remittances. Remittances submitted to cover prepayment of taxes under this subpart shall be in cash, United States postal money orders, certified checks, or cashier's checks.

(c) Distilled spirits. In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5001(a)(1) are to be paid before distilled spirits may be released for shipment, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, as prescribed in Sec. 26.81.

(d) Wine. In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5041, are to be paid before wine may be withdrawn from bonded storage, the proprietor shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in Sec. 26.96.

(e) Beer. In all cases where taxes equal to the taxes imposed in the United States by 26 U.S.C. 5051, are to be paid before beer may be withdrawn from bonded storage, the brewer shall pay such taxes pursuant to a return on TTB Form 5000.25, and as prescribed in Sec. 26.105.

(f) Applicable procedures. The procedures of Sec. 26.112(c) with respect to returns delivered by United States mail shall apply to returns and remittances filed under the provisions of this section.

(Approved by the Office of Management and Budget under control number 1513-0090)

Sec. 41.105 Prepayment of tax.

To prepay, in Puerto Rico, the internal revenue tax imposed by 26 U.S.C. 7652(a) on tobacco products and cigarette papers and tubes of Puerto Rican manufacture to be shipped to the United States, the shipper must file, or cause to be filed, a tax return, TTB F 5000.25, with full remittance of the tax which will become due on those products.

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[T.D. ATF-444, 73 FR 16756, Mar. 31, 2008]

Sec. 41.112 Tax return.

The internal revenue taxes imposed by 26 U.S.C. 7652(a), with respect to tobacco products manufactured in Puerto Rico and shipped to the United States on computation of tax under the provisions of this subpart shall be paid on the basis of a semimonthly tax return. The bonded manufacturer of such products shall prepare TTB Form 5000.25 in duplicate, and file the original with the appropriate TTB officer, and maintain one copy for the file for each semimonthly return period. The bonded manufacturer shall execute the return, TTB Form 5000.25, under the penalties of perjury. He shall file a return for each return period at the time specified in Sec. 41.114, regardless of whether tax is due for that return period. However, where the appropriate TTB officer, grants specific authorization, the bonded manufacturer need not file a tax return during the term of such authorization for any period in which tax liability was not incurred under the provisions of this subpart.

(Approved by the Office of Management and Budget under control number 1513-0090)

[T.D. ATF-40, 42 FR 5006, Jan. 26, 1977, as amended by T.D. ATF-125, 48 FR 2123, Jan. 18, 1983; T.D. ATF-232, 51 FR 28086, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987; T.D. ATF-277, 53 FR 45269, Nov. 9, 1988. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]