

The prescribing statute is 26 U.S.C. 5041(c) as amended by P.L. 104-188 sec. 1702, enacted 8/20/96. (Technical corrections to Revenue Reconciliation Act of 1990. Corrections are effective January 1, 1991, the effective date of the Act.)

Sec. 5041 Imposition and rate of tax.

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(c) Credit for small domestic producers

(1) Allowance of credit

Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States.

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(6) Credit for transferee in bond. If--

(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

Then the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

(7) Regulations

The Secretary may prescribe such regulations as may be necessary carry out the purposes of this subsection, including regulations -

(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.

§ 24.278 Tax credit for certain small domestic producers.

(a) General. In the case of a person who produces not more than 250,000 gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by Title 26, U.S.C. (other than Chapters 2, 21 and 22), an amount computed in accordance with paragraph (d) of this section, on the first 100,000 gallons of wine (other than champagne and other sparkling wine) removed during such year for consumption or sale. Such credit applies only to wine which has been produced at a qualified bonded wine premises in the United States. The small wine producer's tax credit is available only to eligible proprietors engaged in the business of producing wine. A proprietor who has a basic permit to produce wine but does not produce wine during a calendar year may not take the small producers' wine tax credit on wine removed during such calendar year. A proprietor who has obtained a new wine producers' basic permit may not take the small producers' wine tax credit on wine removed until wine is produced by such proprietor. "Wine production operations" include those activities described in paragraph (e) of this section.

(b) Special rules relating to eligibility for wine credit.

(1) * * *

(2) Credit for transferees in bond. A person other than an eligible small producer (hereafter in this paragraph referred to as the 'transferee') shall be allowed the credit under paragraph (a) of this section which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date, under the following conditions:

(A) Wine produced by any person would be eligible for any credit under this section if removed by such person during the calendar year,

(B) Wine produced by such person is removed during such calendar year by the transferee to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

(C) Such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph.

(D) At the time of taxable removal, the following information shall be provided to the transferee by the producer, in writing, and the producer and transferee shall each retain a copy with the record of taxpaid removal from bond required by § 24.310:

(i) the names of the producer and transferee;

(ii) the quantity and tax class of the wines to be shipped;

(iii) the date of removal from bond for consumption or sale;

(iv) a confirmation that the producer is eligible for credit, with the credit rate to which the wines are entitled; and

(v) a confirmation that the subject shipment is within the first 100,000 gallons of eligible wine removed by (or on behalf of) the producer for the calendar year.

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