

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Requirement

OMB Control Number 1513-0058

TTB REC 5130/1 - Usual and Customary Business Records Maintained by Brewers

A. Justification.

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

Beer, other than beer used in manufacturing processes, is taxed at the rate of \$18.00 per barrel of 31 gallons (\$7.00 for certain small brewers). To safeguard the revenue from this tax, Congress established in the Internal Revenue Code of 1986 (title 26, U.S.C.), a comprehensive system to regulate breweries and to collect the excise taxes.

26 U.S.C. 5415 requires that brewers keep records in such form and containing such information as the Secretary of the Treasury (Secretary) may prescribe by regulation as necessary to protect the revenue. These records must be available during business hours for examination by Government officers. Records will be preserved as prescribed by regulation.

26 U.S. C. 5555 authorizes the Secretary to prescribe regulations requiring any person liable for certain taxes on alcohol beverages, including beer, to prepare any records, statements, or returns as necessary to protect the revenue.

These records provide an audit trail sufficient to ensure a reasonable degree of protection to the revenue.

The following regulations detail the specific records that brewers must maintain:

27 CFR

§ 25.42 Testing of measuring devices.

§ 25.142 Bottles.

§ 25.186 Record of beer transferred.

§ 25.192 Removal of sour or damaged beer.

- § 25.195 Removals for analysis.
- § 25.196 Removals for research, development or testing.
- § 25.211 Beer returned to brewery.
- § 25.252 Records.
- § 25.264 Transfers between breweries.
- § 25.276 Operations and records.
- § 25.284 Adjustment of tax.
- § 25.291 Records.
- § 25.292 Daily records of operations.
- § 25.293 Record of ballings and alcohol content.
- § 25.294 Inventories.
- § 25.295 Record of unsalable beer.
- § 25.296 Record of beer concentrate.
- § 25.300 Retention and preservation of records.
- § 25.301 Photographic copies of records.

Required records encompass data which the brewer would maintain in usual and customary business records as necessary internal production controls. TTB believes that brewers can conduct business much easier if they maintain records, which document the purchase and use of materials and ingredients, and document all of the steps of brewing and selling of finished products.

This information collection is aligned with:

Treasury Strategic Goal: Effectively Manage US Government Finances.

Line of Business/Sub-function: Law Enforcement/Substance Control.

IT Investment: Tax Major Application Systems.

2. How, by whom, and for what purpose is this information used?

Records of brewery operations required by 27 CFR Part 25 are used by TTB field personnel to verify the quantities of raw materials received at a brewery, the quantity of beer and cereal beverage produced and removed taxpaid or without payment of tax from a brewery, and the appropriate rate of tax which the beer is subject to on removal from the brewery.

These records are necessary to verify the brewer's tax liability and adequacy of bond coverage. These records provide TTB with means of determining if the brewer is in compliance with tax payment and bonding requirements.

Section 25.300 requires the retention of these records for three years by the brewer. This section further authorizes the appropriate TTB officer to require that records be kept for up to an additional three years if the records are necessary for conducting a current examination or investigation.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

We have approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the maintenance of required records.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

TTB believes the records required are the usual and customary records that a brewer would maintain, and generally do not represent a duplication of existing records.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

The information collected is unique to each brewery for each activity or transaction being recorded. This recordkeeping requirement is considered to be the minimum necessary to ensure compliance with existing law and regulations. TTB cannot reduce this recordkeeping requirement on the basis of the size of the brewer because without these records we would be unable to verify tax returns and claims and thus it would jeopardize the revenue. However, a small brewer may be expected to have fewer and smaller transactions than a large brewery, and the recordkeeping burden would be commensurately less.

6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?

These recordkeeping requirements are considered to contain the minimum amount of information necessary for accounting at the brewery. Without a requirement to keep these records and to provide TTB access to these records, we would be unable to verify brewers' tax returns, claims, and other transactions.

7. Are there any special circumstances associated with this information collection?

There are no special circumstances associated with this collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day Federal Register notice was published for this information collection on Tuesday, September 28, 2010, at 75 FR 59797. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this information collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

The brewer's business records are maintained at the brewery, and are not made available to the public. The confidentiality of tax information obtained by the Government from regulated individuals under the Internal Revenue Code is protected by 26 U.S.C. 6103.

11. What justification is there for questions of a sensitive nature?

We ask no questions of a sensitive nature.

12. What is the estimated hour burden of this collection of information?

This recordkeeping requirement involves the brewer's usual and customary business records which would be maintained by the brewer even without the requirement to keep them. Therefore the total annual burden is estimated to be 1 hour for the 2,026 respondents.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

No cost is associated with this information collection.

14. What is the annualized cost to the Federal Government?

There is no cost to the Federal Government.

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There are no program changes or adjustments associated with this information collection. However, the number of respondents and responses have changed due to an increase in the number of respondents. These changes do not affect the burden hours, which remain at one, because these are usual and customary business records that are normally maintained by the brewer.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

The results of this collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

It would be inappropriate to display the expiration date for OMB approval because these records are the records of the respondent and are maintained at the respondent's premises. Unlike a form, there is no medium on which TTB can display the expiration date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.