

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Requirement

OMB Control Number 1513-0045

TTB REC 5110/06 Distilled Spirits Plants - Excise Taxes

A. Justification

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

The Internal Revenue Code of 1986, in 26 U.S.C. 5001, imposes a tax of \$13.50 a proof gallon on all distilled spirits produced in or imported into the United States. Although that tax attaches at the time the spirits are first produced, 26 U.S.C. 5006 provides that the tax will be determined at the time the spirits are withdrawn from bond and, under 26 U.S.C. 5061, will be paid by return. Excise tax records and reports prescribed by part 19 of the TTB regulations (27 CFR part 19) are those necessary to satisfy these requirements. Respondents are the distilled spirits plants (DSPs) qualified under the provisions of 26 U.S.C. 5171.

Additionally, 26 U.S.C. 5010 allows a credit against the distilled spirits excise tax for the portion of the alcohol content of a distilled spirits product which is derived from wine or flavors.

To administer the wine/flower tax credit with respect to excise taxes at distilled spirits plants, we must collect such information as will enable us to verify (1) the eligibility of wines and flavors contained in a product, (2) the alcohol content of wines and flavors, (3) the exact quantity of such wines and flavors contained in a product, (4) the correct "effective tax rate" for such products after taking into consideration the credits allowed by 26 U.S.C. 5010 and (5) the application of the correct rate of tax at the time of removal.

To verify claims filed by distilled spirits plants, we must establish the rate of tax which was paid on any given product.

Those records, returns, and claims include the following:

Record of tax determination. The records of tax determination must be made prior to the taxable removal of spirits from the DSP (§§ 19.227) in accordance with §§ 19.611 and 19.226. Daily summaries of tax determinations (§ 19.612) and bond accounts (§ 19.231) are maintained by those DSP proprietors who defer taxes subject to a withdrawal bond.

If the record of tax determination covers products eligible for wine or flavor credit, sufficient information must appear on the record to trace the product to manufacturing records. Regulations in §§ 19.222, 19.241, 26.77, and 26.79 require DSP proprietors who use wine or flavor in the manufacture of a distilled spirits product to calculate an "effective tax rate" for each such product. The effective tax rate so computed will enable the proprietor to determine the correct tax liability when the product is removed from bond and will enable our specialists to verify the payment of the proper amount of tax.

Sections 19.247 through 19.250 allow the proprietor to use any of four alternative methods to withdraw spirits using an effective tax rate. A standard effective tax rate for a distilled spirits product may be used in the tax payment for such products in accordance with §§ 19.248 and 19.615. A proprietor may tax pay distilled spirits products by determining an average wine and flavor content in accordance with §§ 19.249 and 19.613. A proprietor may also use an inventory reserve procedure in accordance with §§ 19.250 and 19.614. The information collections required by these sections will be used by our specialists to verify that the tax determinations reflect the proper tax rate for spirits containing wine or flavor.

Taxes are paid by return on TTB F 5000.24 prior to the removal of spirits unless the proprietor has sufficient bond coverage and is authorized to defer payment. Tax deferred payments are also made on TTB F 5000.24 (§§ 19.234 through 19.239). TTB F 5000.24 is currently approved under OMB control number 1513-0083. Tax returns, to properly identify the taxpayer, must show the employer identification number (EIN) (§ 19.242). The EIN may be obtained by filing SF-4 (OMB control number 1545-0003) with the Internal Revenue Service (section 19.243).

In addition to the normal tax determinations of distilled spirits, tax returns must also reflect additional taxes or duties not declared upon importation (§ 19.257), taxable samples (§ 19.436), and shortages of bottled goods (§ 19.465).

Tax returns are normally filed with remittances; however, taxpayers who paid more than \$5 million in distilled spirits taxes in the previous year must so notify the Director, National Revenue Center and pay tax by electronic fund transfer (§ 19.240).

Claims. As provided by § 19.262, claims for the abatement or refund of taxes paid must be filed on TTB F 5620.8 (OMB control number 1513-0030). Information to be collected for the submission of these claims is prescribed by §§ 19.263 and 19.264 (for spirits lost in bond), and 19.265 and 19.464 (spirits lost after tax determination). To properly identify Puerto Rican or Virgin Island spirits, the data required by § 19.269 must be shown on the claim. Approved claims for credit are taken on the tax returns only after receipt of the approval (§§ 19.266 and 19.267).

General provisions of the format, organization, maintenance and retention of these records are provided in §§ 19.571, 19.572, 19.573, 19.574, 19.575, 19.576, 19.580, and 19.581. Such records are required to be retained for a period of three years. However, the Director, National Revenue Center, may require that such records be retained for an additional period of up to three years where such retention is deemed necessary to protect the revenue.

Changes in this supporting statement reflect changes to section numbers as recodified in the final rule (T.D. TTB-92, 76 FR 9080) for the revision of part 19 of the TTB regulations. (See also TTB Notice No. 83)

This information collection is aligned with:

Treasury Strategic Goal: Effectively Manage U.S. Government Finances.

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

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

Excise tax records required by 27 CFR Part 19 are used by the DSP proprietors qualified under the provisions of 26 U.S.C. 5171 to compute tax payments, and by our specialists to verify tax determinations computations of tax returns, adequacy of bond coverage, and correctness of claims.

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 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?

This information collection provides information that is pertinent to each respondent and applicable to his/her specific operation. As far as we can determine, similar information is not available elsewhere.

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

These records are required to support calculation of the proper amounts of excise taxes owed. This collection of information is not susceptible to reduced requirements for small business.

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?

Tax records prescribed by 27 CFR Part 19 constitute a continuing recording of ongoing activities. Without these collections of information, we would be unable to verify taxable removals, taxes due, adequacy of withdrawal bonds, and the proper payment of taxes.

Less frequent recordkeeping requirements would result in incomplete determinations of taxes owed and would severely hinder TTB in its verification of tax payments in DSP audits.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

A NPRM for the revision to part 19 was published on May 8, 2008 (73 FR 26200). In response to Notice No. 83, TTB received 7 comments. Six of the comments expressed strong support for the revisions to part 19. No comments were opposed to changes that are affected by this information collection. A final rule (T.D. TTB-92, 76 FR 9080) was published to reflect the changes that were proposed in Notice No. 83, including a change to section numbers relevant to this collection.

A 60-day *Federal Register* notice was published for this information collection on Wednesday, November 9, 2012, 77 FR 67442. 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 remuneration of contractors or grantees?

No payment or gift is associated with this collection.

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

These collections of information are maintained at the proprietor's premises, however, 26 U.S.C. 6103 protects the confidentiality of any information collected.

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?

There is no change in burden hours from the previous submission. There are 26 responses per 133 respondents. We estimate that it takes 1 hour per response for a total burden of 3,458 hours. The recordkeeping retention period is 3 years.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above)?

We do not associate any cost with this collection.

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

There is no cost to the Federal Government associated with this information collection.

15. What is the reason for any program changes or adjustments?

There are no program changes or adjustments associated with this collection. We are submitting this as a revision as advised by the OMB terms of clearance to incorporate final rule 27 CFR Parts 1, 17, 19, et al., *Revision of Distilled Spirits Plant Regulations* (February 16, 2011, at 75 FR 9080) with this information collection. The rule modernized requirement for operating distilled spirits plants and included a number of operational changes (renumbering) to improve the layout of the regulatory text.

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?

Displaying the expiration date for OMB approval would be inappropriate because this is a recordkeeping collection and it is kept at the record keeper's premises. Therefore, TTB would be unable to display the expiration date on the respondent's records.

18. What are the exceptions to the certification statement?

- (c) See answer 5 above.
- (i) No statistics are involved.
- (j) See answer 3 above.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.