

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0065

Information Collection Request Title:

Wholesale Dealers Records of Receipt of Alcoholic Beverages, Disposition of Distilled Spirits, and Monthly Summary Report, TTB REC 5170/2.

A. Justification

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

The Internal Revenue Code (IRC) of 1986, as amended, at 26 U.S.C. 5121, mandates that wholesale liquor dealers keep daily records of the receipt and disposition of distilled spirits, as well as records of all wine and beer received. This IRC section also authorizes the Secretary of the Treasury to prescribe regulations concerning the keeping and submission of these records. In addition, the IRC sets forth record retention and inspection requirements for wholesale and retail dealers at 26 U.S.C. 5123, and sets forth a general authority for recordkeeping and reporting requirements at 26 U.S.C. 5555.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these IRC provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary has delegated certain IRC administrative, enforcement, and regulatory authorities to TTB through Treasury Department Order 120-01.

The TTB alcohol beverage dealer regulations are contained in 27 CFR part 31. The recordkeeping requirements contained in this information collection merely repeat those imposed by the IRC. The TTB regulations regarding the keeping of wholesaler dealer records are found at 27 CFR 31.151, 31.152, 31.155, and 31.156, which provide for the minimum burden necessary to satisfy the IRC's mandates. These TTB regulations also permit the use of commercial invoices as the required records of receipt and disposition, and § 31.191 requires that these records be kept for a period of at least 3 years.

In addition, 26 U.S.C. 5121 contains a requirement for the preparation and submission to the Secretary of the Treasury of a summary report showing the receipt and disposition of distilled spirits. The statute gives administrative discretion to the Secretary as to whether this reporting requirement will be imposed in a specific case. Thus, the monthly summary report imposed by regulation at 27 CFR 31.160 is required of wholesale dealers only when TTB determines that a need for it exists. Preparation and submission of a monthly summary report could, for example, be imposed on a dealer with a known history of noncompliance. Based on agency experience, it is estimated that TTB will require no more than 50 dealers to prepare and file the monthly summary report. TTB has no prescribed form for this report

and the regulation allows a dealer to submit the report in a format adapted to the dealer's accounting and recordkeeping systems.

These records and reports are the only information collections regularly required of wholesale dealers of alcoholic beverages. Therefore, they are not subject to incorporation in, or modification to, other recordkeeping or reporting requirements.

This information collection is aligned with —

- 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?

TTB uses these records and reports as an accounting tool to ensure protection of the revenue. Records of receipt and disposition are the basic source documents that describe the activities of wholesale dealers. These records provide an audit trail of taxable commodities from point of production to point of sale. The records are a tool to ensure that wholesale dealers in distilled spirits, wine, and beer are in compliance with regulations and have accurately accounted for all products received (including inventory gains) and disposed of (including inventory losses). Records of disposition are required only for distilled spirits.

TTB uses these records to determine that alcoholic beverages are not diverted for illegal purposes and to ensure that holders of basic or operating permits are engaging in the operations stated on their permits. TTB requires the monthly report only in exceptional circumstances to ensure that a particular wholesale dealer is maintaining the required records.

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?

Except in a few instances, TTB does not require wholesalers to submit such records to TTB. In cases where TTB does require the submission of such records, TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the submission of the application form and the maintenance of the required records.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

To avoid duplication, TTB allows wholesale dealer to use records maintained in the ordinary course of business to comply with this recordkeeping requirement. TTB requires submission of the monthly summary report only in specific instances. As far as TTB 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?

The preparation of records of the receipt and disposition of distilled spirits, and records of wine and beer received, are required by statute. Therefore, this requirement cannot be waived or reduced on the basis of the size of an entity. Wholesale dealers maintain the records required for this collection of information in the ordinary course of business. TTB requires a few wholesale dealers to submit monthly summary reports of receipt and disposition of distilled spirits, but when required to do so, the reason is due to noncompliance with regulations or potential jeopardy to the revenue. No special provisions are made for size of the entity under these circumstances.

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?

Without the information required in this collection of information, TTB would be unable to determine if individual wholesale dealers are accurately accounting for receipt and disposition of distilled spirits and receipt of wine and beer. TTB would be severely hampered in determining whether these commodities have been illegally diverted by, or through, wholesale dealers. Less frequent collection of this information would pose jeopardy to the revenue.

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.

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on October 15, 2014, at 79 FR 61939.

TTB received one comments on this information collection in response. The commenter noted that in its October 15, 2014, Federal Register notice, TTB cites 26 U.S.C. 5122, which concerns retail liquor dealers, as the authority for this information collection, and cites 50 respondents and 600 hours of burden for this collection. The commenter questions the burden estimate and notes that there are approximately 25,000 wholesale liquor permittees listed on TTB's website.

TTB response: The listing of 26 U.S.C. 5122 in TTB's October 15, 2014, Federal Register notice is a typographic error, and this supporting statement cites the correct legal authority for this collection, 26 U.S.C. 5121. As for the number of respondent and burden hours, TTB notes that records kept in the normal course of business, such as the wholesale liquor dealer records included in this collection, are not included in the burden hour calculation for an information collection approved under the Paperwork Reduction Act. TTB notes that the number of respondents and burden hours listed is only for the monthly summary report, which only a few certain wholesale dealers are required to provide to TTB. Based on TTB's experience, TTB estimates that it will require no more than 50 wholesale dealers to prepare and submit monthly summary reports. Thus, the reporting burden listed in TTB's October

15, 2014, Federal Register notice is correct (50 respondents x 12 months = 600 responses @ 2 hours per response = 1,200 total burden hours).

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

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 records are maintained at the premises of wholesale dealers. Monthly summary reports are submitted to TTB's National Revenue Center, and are maintained in secure file rooms with controlled public access. Federal statute at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and return information unless specifically authorized under section 6103.

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature.

TTB has completed a Privacy Impact Assessment (PIA) for information collected under this request as part of the Tax Major Application Systems, and has issued a Privacy Act System of Records notice (SORN) for this system under TTB .001—Regulatory Enforcement Record System, published in the Federal Register on December 1, 2011, at 76 FR 74847. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

This information collection involves both recordkeeping and, in a few instances, reporting requirements. The recordkeeping requirements involve the wholesale dealer's usual and customary business records, which would be maintained by the dealer even without the IRC's requirement to keep them. Therefore, there is no recordkeeping burden.

Based on agency experience, TTB estimates that it will require no more than 50 wholesale dealers annually to prepare and submit monthly summary reports. Thus, the reporting burden for the monthly summary report is calculated as follows:

- 50 respondents x 12 months = 600 responses @ 2 hours per response = 1,200 total burden hours.

13. *What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

The total annual cost estimate associated with this information collection requirement is allocated to the preparation of any required monthly summary reports, and are calculated as follows, based on a total of 1,200 burden hours:

Minimum wage of \$7.25/hour x 1,200 hours =	\$ 8,700
Postage: 600 annual reports @ \$0.91 each =	\$ <u>498</u>
Total:	\$ 9,198.

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

There is no cost to the Federal Government regarding the preparation of records or the submission of reports by wholesale dealers. There are no prescribed Government forms for these records and reports.

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

There are no program changes or adjustments associated with this collection.

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

TTB will not publish the results of this collection.

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?*

There is no prescribed TTB form for this collection. Therefore, there is no medium for TTB to display the OMB approval expiration date.

18. *What are the exceptions to the certification statement?*

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

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.