

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0088

Information Collection Request Title:

Alcohol, Tobacco, and Firearms Related Documents for Tax Returns and Claims
(TTB REC 5000/24)

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 Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine and beer), chapter 52 (tobacco products and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes) of the IRC 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 of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

The Internal Revenue Code of 1986, as amended (IRC; 26 U.S.C), imposes Federal excise taxes on distilled spirits, wine, beer, tobacco products, cigarette papers and tubes, and firearms and ammunition, and it also imposes special occupational taxes related to tobacco products and cigarette papers and tubes. The IRC requires that these excise and special occupational taxes be collected on the basis of a return. The IRC also allows for the filing of claims for the drawback (abatement or refund) of excise taxes under certain circumstances.

To safeguard this revenue, the IRC authorizes the Secretary of the Treasury to issue regulations to require the keeping of supporting records to document the information contained in excise and special occupational tax returns and in drawback claims. Specifically, the IRC at 26 U.S.C. 5555 authorizes the Secretary to prescribe regulations requiring every person liable for the excise tax imposed on distilled spirits, wine, and beer to prepare any necessary records, statements, or returns. The IRC at 26 U.S.C. 5741 authorizes the Secretary to prescribe by regulation the keeping of records relating to tobacco products and cigarette papers and tubes, including records related to special occupational taxes. In addition, the IRC at 26 U.S.C. 5843 provides similar authorization to the Secretary regarding firearms and ammunition.

The TTB regulations contained under this information collection, 1513-0088, concern the keeping of supporting records that document the information supplied to TTB in excise tax and special occupation tax returns and in tax drawback claims. (Other approved information collections cover the excise and occupational tax returns and tax claim forms submitted to TTB.) The TTB regulations related to the keeping of the supporting records covered under

1513–0088 are found in 204 separate regulatory sections in 27 CFR Parts 17, 19, 24, 25, 26, 27, 29, 31, 40, 41, 44, 45, 46, 53, and 70. Due to the length of the list of regulatory sections associated with 1513–0088, a comprehensive list of the relevant IRC statutory and TTB regulatory sections related to this information collection is included separately as a supporting document in the ROCIS entry for this information collection approval request.

The keeping of supporting records for excise and occupational tax returns and drawback claims is necessary to protect the revenue. TTB uses the information contained in such records to determine the appropriate tax liability, verify computations on tax returns, determine the adequacy of bond coverage, and verify the correctness of claims and other adjustments to tax liability.

The supporting records required by the TTB regulations associated with this information collection consist mostly of usual and customary records kept during the normal course of business. These usual and customary records support the information on excise and occupational tax returns and drawback claims by documenting the respondent's production, removal, import, export, loss, shipment, and transfer (among other things) of the taxable products regulated by TTB, such as alcohol beverage and non-beverage products, tobacco products, cigarette papers and tubes, and firearms and ammunition. Other supporting records kept by respondents as part the supporting records required under the regulations related to this information collection may include affidavits, effective tax rate determinations, insurance records, and inventories.

Proposed Rulemaking

The International Trade Data System (ITDS) is an interagency program to establish an electronic "single window" through which importers and exporters may submit electronically the data required by Federal government agencies for clearing imports or exports. Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109–347) mandates participation in ITDS by all agencies that require documentation for clearing or licensing the importation and exportation of cargo. In addition, on February 19, 2014, the President issued E.O. 13659, "Streamlining the Export/Import Process for America's Businesses, which mandated that agencies be able to utilize ITDS by December 31, 2016.

Currently, importers and exporters that are regulated by multiple agencies or that import or export commodities regulated by multiple agencies must submit data to those agencies through various channels, often in paper form. Through the implementation of ITDS, importers will electronically enter data into the Automated Commercial Environment (ACE) system, operated by U.S. Customs and Border Protection, and then that data will be electronically transferred to each relevant government agency that participates in ITDS.

To implement the SAFE Port Act and E.O. 13659, TTB published a proposed rule, Notice No. 159, in the Federal Register of June 21, 2015, at 81 FR 40404, titled "Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System." In Notice No. 159 TTB proposed to amend the TTB regulations governing the importation of distilled spirits, wine, beer and malt beverages, tobacco products, processed tobacco, and cigarette papers and tubes. The proposed amendments are intended to clarify and streamline import procedures, and support the implementation of ITDS and the filing of import information electronically in conjunction with an electronic

import filing with U.S. Customs and Border Protection (CBP). The proposed amendments include providing the option for importers to file import-related data electronically when filing entry or entry summary data electronically with CBP, as an alternative to the current TTB requirements that importers submit paper documents to CBP upon importation. Under the proposed rule, the information collection approval for many of these electronic submissions will be placed under OMB control number 1513–0064, Importer's Records and Reports (TTB REC 5170/1).

Under the proposed rule, TTB proposed to remove approval for the information collections in 27 CFR 27.48 and 27 CFR 41.81 from this OMB control number, 1513–0088, and, instead, place them under OMB control number 1513–0064. We also amended this information collection to state that the required supporting records for tax returns and drawback claims includes information submitted to CBP to meet CBP requirements. This information collection was also amended to specify that such information must be retained for three years, which is stated in proposed amendments to 27 CFR 26.276 and 27.137, and each section, as proposed, will list OMB control numbers 1513–0064 and 1513–0088. While two regulatory sections were proposed for removal from 1513–0088, TTB stated in the proposed rule that the estimated burden for the collection would not change since the number of respondents to the collection would remain the same and that this small change would have no measurable effect on the estimated burden hours. See Questions 12 and 15 below for details on this collection's burden estimates.

Final Rule

TTB is issuing a Final Rule, titled "Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System," which will finalize, with minor clarifying changes not relevant to this information collection, the amendments proposed in Notice No. 159. The final rule was published as T.D. TTB–145 on December 22, 2016, at 81 FR 94186.

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 the information contained in the records required under this information collection to protect the Federal revenue. Without the supporting records required under this collection of information, TTB would be unable to determine the amount of taxes rightly due, verify computations on excise and occupational tax returns or verify the correctness of tax drawback claims and other adjustments to tax liability. For example, TTB auditors use the required records to verify taxable removals, taxes due, the adequacy of withdrawal bonds, and the correctness of claims for refund or abatement.

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?

TTB has approved and will continue to approve, on a case by case basis, the use of improved information technology for the collection and maintenance of required information. Since the required supporting records are maintained at the respondent's place of business, respondents may use improved technologies of their choice to keep and maintain the required records, as long as the records are made accessible to appropriate TTB personnel.

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?

The information collected on the supporting records required to document the information provided on tax returns and claims is pertinent to a taxpayer's specific circumstances and operations. As far as TTB can determine, similar information is not available anywhere else. The documentation used to support tax returns and claims may include records that would be kept in the ordinary course of business.

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

All entities, regardless of size, are required by statute and/or regulation to keep supporting records pertaining to Federal excise and occupational tax returns and tax drawback claims related to distilled spirits, wine, beer, tobacco products, cigarette papers and tubes, and firearms and ammunition. Waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the revenue. However, TTB believes that this collection of information does not have a significant impact on a substantial number of small businesses or other entities since many of the required records are usual and customary records kept during the normal course of business. Also, small businesses often are eligible to file excise tax returns on a less-frequent basis (quarterly or annually) and thus are required to keep fewer supporting records for such returns.

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?

This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. The required supporting records for tax returns and claims constitute a continuing record of ongoing tax-related activities. Less frequent recordkeeping would create jeopardy to the revenue as it would significantly hinder TTB's ability to determine that the information on excise and occupational tax returns and tax drawback claims is correct and thus verify that tax liability and tax payments are correct.

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 proposed rule titled “Amendments to Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes and Facilitate Use of the International Trade Data System” (Notice No. 159), in the Federal Register on Tuesday, June 21, 2016, at 81 FR 40404.

TTB received seven comments in response to the proposed rule. None of the comments specifically addressed this collection of information.

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?

No specific assurance of confidentiality is provided for this information collection. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and tax-related information, including records supporting tax returns and drawback claims, unless disclosure is specifically authorized by that section.

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. In addition, the required supporting records are kept by respondents at their places of business, and, as such, this information collection does not collect personally identifiable information (PII) in a government electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

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

TTB regulates approximately 65,000 entities that may be required to file excise or occupational tax returns or that may file tax drawback claims and are thus required to keep the supporting records required by this information collection, 1513–0088, that document the information contained on those returns and claims. TTB estimates that each respondent files an average of 8 tax returns and claims per year.

Therefore, TTB estimates that there are 65,000 respondents to this information collection, each making an average of 8 annual responses, for a total of 520,000 annual responses. Because the required supporting records consist mostly, but not entirely, of usual and

customary records kept during the normal course of business, TTB estimates that the time burden for each response is one hour, for a estimated total annual burden of 520,000 hours.

Based on the experience of TTB field personnel who audit the required records, the burden for this information collection is divided between private sector respondents who are: (1) Businesses or other for-profits (80%); (2) Individuals or households (10%); and (3) Not-for-profit institutions (10%). For profit b

(65,000 respondents X 8 annual responses = 520,000 responses X 1 hour per response = 520,000 total annual 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)?

There are no capital or start-up costs to respondents associated with this collection.

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

This information collection consists of supporting records for excise and occupational tax returns and tax drawback claims that are kept by respondents at their places of business. As such, there are no costs to the Federal Government associated with this information collection.

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

Program Changes: As for program changes to 1513–0088, in the final rule discussed in Question 1, TTB is removing the information collection contained in 27 CFR 27.48, related to alcohol beverage imports and 27 CFR 41.81, related to imports of tobacco products and cigarette papers and tubes, from this information collection approval and placing those sections under revised OMB control number 1513–0064. In addition, a three-year retention requirement will be stated in amended 27 CFR 26.276 and 27.137, which will be listed under both 1513–0064 and 1513–0088. By themselves, these program changes do not alter the burden associated with this collection since the amendments do not alter the estimated number of respondents to the collection. Also, because most supporting records maintained and retained under the information are usual and customary records kept during the normal course of business, these changes have no measurable effect on the estimated burden hours associated with this information collection.

Adjustments: As noted above, the program changes associated with this information collection do not otherwise effect the collection's estimated burden. However, TTB is revising the burden estimate to reflect more accurately the number of respondents and responses to this information collection and the resulting burden hours associated with it, as described below:

In TTB's previous information collection approval request for 1513–0088, TTB stated that there were an estimated 503,921 respondents, each making 1 response annually, for a total of 503,921 estimated annual responses. TTB further stated that the estimated time burden for each response was one hour, for a total estimated annual burden of 503,921 hours.

However, this previous burden estimate confused “respondents” and “responses,” and each response to the information collection requirements approved under 1513–0088 was treated as if it came from a unique respondent.

Because TTB regulates approximately 65,000 unique entities—producers, importers, exporters, and certain wholesalers of alcohol beverage and non-beverage products, tobacco products and cigarette papers and tubes, or firearms and ammunition). So, the burden estimate associated with information collection control number 1513–0088 should state that TTB estimates there an estimated 65,000 respondents making an average of 8 responses per year, for a total of 520,000 annual responses, at a time burden of 1 hour per response, for a total of 520,000 estimated hours of burden.

In other words, TTB regulates approximately 65,000 industry members who must submit excise or occupational tax returns and/or who may submit tax drawback claim forms, and all of whom are required to keep the supporting records for those returns and claims as required under 1513–0088. Also, TTB notes that while two regulatory sections were moved from 1513–0088 to 1513–0064, the overall hour burden for 1513–0088 has gone up due to an increase in the number of TTB-regulated industry members, particularly due to an increase in the number of small (“craft”) beer and distilled spirits producers.

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?

This information collection consists of records kept by respondents to support tax returns and claims required by the IRC and/or the TTB regulations. There is no prescribed TTB form for this collection, and, as such, 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.
- (g) This information collection consists of records kept by respondents to support tax returns and claims required by the IRC and/or the TTB regulations, and, as such, there is no prescribed form or medium for TTB to inform respondents of the information called for under 5 CFR 1320.8 (b)(3).
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.