

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0009

Information Collection Request Title:

Application to Establish and Operate Wine Premises, and Wine Bond.

Information Collections Issued under this Title:

- TTB F 5120.25 — Application to Establish and Operate Wine Premises.
- TTB F 5120.36 — Wine Bond.

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, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.), 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.

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Public Law 114-113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 332 of the PATH Act amends the IRC to change tax return due dates and remove bond requirements for certain taxpayers with respect to taxes on distilled spirits, wine, and beer. This law includes amendments to the IRC at 26 U.S.C. 5061(d)(4) (providing for a new annual tax return period) and 26 U.S.C. 5551(d) (providing for a new exemption from bond requirements). This law has an effective date of January 1, 2017.

The IRC, at 26 U.S.C. 5351–5357, provides for the establishment of bonded wine cellars, bonded wineries, and taxpaid wine bottling houses. To establish such a wine premises, these sections of law require the filing of applications and bonds. Under the IRC at 26 U.S.C. 5551(d), as amended by the PATH Act, certain wine premises proprietors are exempt from bond requirements if they are eligible to pay excise taxes quarterly or annually under the IRC at 26 U.S.C. 5061(d)(4). Sections 5351-5357 also authorize the Secretary to issue regulations regarding these matters. Specifically:

- 26 U.S.C. 5351 requires that persons establishing a place for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine, including the use of untaxpaid wine spirits in wine production must, before starting operations, make an application and file a bond with the Secretary and then receive permission to operate. These operations are known as bonded wine cellars except for those operations engaged in production which are known as bonded wineries.
- 26 U.S.C. 5352 requires that persons bottling, packaging, or repackaging taxpaid wines must, before starting operations, make an application to the Secretary and then receive permission to operate. Such premises are known as “taxpaid wine bottling houses.”
- 26 U.S.C. 5354 describes the required bond amounts for bonded wine cellars (including bonded wineries), and it authorizes the Secretary to issue regulations concerning such bonds. These bond requirements are subject to the exemption set forth in 26 U.S.C. 5551(d), as noted above.
- 26 U.S.C. 5356 authorizes the Secretary to issue regulations concerning the information required on wine premises applications in order to allow the Secretary to “determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.”

Therefore, as authorized by these IRC sections, TTB has issued regulations concerning the content and filing of wine premises applications and the filing of wine bonds as required by the IRC. These regulations are found in 27 CFR Part 24, Wine, Subpart D, Establishment and Operations. The regulations in that subpart require the completion and submission of forms TTB F 5120.25, Application to Establish and Operate Wine Premises, and TTB F 5120.36, Wine Bond (unless, the latter case, the proprietor is exempt from bond requirements).

Applicants use TTB F 5120.25 to establish their qualifications for a new bonded wine cellar, bonded winery, or taxpaid wine bottling house. Using TTB F 5120.25 and the required supporting documents, applicants for new wine premises describe the name, location, type, organization, premises, and proposed operations of the business. Current proprietors use TTB F 5120.25 to amend the required application information already on file. To implement the bond exemption under the PATH Act, TTB is amending its regulations to provide that an applicant or existing proprietor must state on TTB Form 5120.25 whether the proprietor is exempt from bond requirements. Proprietors maintain the completed, or amended, application and supporting data as a permanent record of the business and its qualifications to operate.

The following TTB regulations require the use of TTB F 5120.25, prescribe data or supporting documentation for it, or contain other requirements related to the form:

18.40	19.143	24.100	24.101	24.102	24.105
24.106	24.107	24.108	24.109	24.110	24.111
24.112	24.113	24.114	24.115	24.117	24.120
24.122	24.123	24.124	24.125	24.126	24.127
24.128	24.129	24.130	24.131	24.135	24.136
24.137	25.81.				

Subject to the bond exemption under the IRC at 26 U.S.C. 5551(d), all bonded wine cellars and bonded wineries also must have a bond to guarantee payment of the Federal wine

excise tax. Tax-paid wine bottling houses do not require bonds. Using TTB F 5120.36, proprietors describe their collateral or surety bond coverage. The following TTB regulations require the use of TTB F 5120.36 or contain other requirements related to the form:

24.145	24.146	24.147	24.148	24.153	24.154
24.155	24.156	24.157	24.158	24.159	24.291.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application System.

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

TTB uses the information on the wine premises application form, TTB F 5120.25, and the attached supporting documents to determine the location and extent of the proposed wine premises, the type of operations to be conducted on such premises, and if those operations will be in conformity with the law and regulations. TTB uses the information on the wine bond form, TTB F 5120.36, to identify the bonded premises, the type and amount of the bond, the bond's surety (if any), and to determine if the required bond will provide adequate protection for the revenue. The use of these standardized forms provides TTB with an efficient method of collecting the required information.

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.

The information required by the wine premises application and wine bond forms may be completed and submitted electronically via TTB's Permits Online (PONL) system's Winery Application (see <https://www.ttbonline.gov/permitsonline/>).

Both forms also are available in paper format on the TTB website forms page at <http://www.ttb.gov/forms/index.shtml> as "fillable-printable" forms. Also posted to the TTB website forms page are separate instructions for the Wine Bond form and a worksheet for respondents to use in calculating the required bond. Respondents are NOT required to return this worksheet to TTB.

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?

TTB F 5120.25 and TTB F 5120.36 collect information that is unique to each respondent. 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 filing of an application to establish a wine premises and the requirement for a bond are required by statute. Except to the extent authorized under the bond exemption set forth in 26 U.S.C. 5551(d), these requirements cannot be waived merely because the respondent's business is small. TTB believes the information collected is the minimum necessary to ensure protection of the revenue.

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?

The filing of an application to establish a wine premises and the requirement for a bond are required by statute. The required information is necessary for TTB to determine if the wine premises will be operated in compliance with the law and regulations, and to determine that the premises has an adequate bond. This information is required only when a respondent establishes a new wine premises or certain changes occur. Elimination or less frequent collection of this information would pose a 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?

Under 27 CFR 24.117, Maintenance of application file, wine premises proprietors must maintain a permanent file containing the application information required by 27 CFR 24.109 "in complete and current condition, readily available at the wine premises for inspection by appropriate TTB officers."

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.

The general public will be notified of this information collection in a temporary rule and notice of proposed rulemaking that will be published shortly in the Federal Register. The notice will solicit comments from the general public.

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 on this form. However, Federal law at 26 U.S.C. 6103 prohibits disclosure of taxpayer-related information unless disclosure is specifically authorized by that section. TTB maintains its copy of this form in secure office space with controlled access and in password-protected computer systems.

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.

A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. 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?*

Based on recent experience, TTB estimates that 4,495 proprietors respond to this information collection an average of once per year, for a total of 4,495 responses. TTB estimates the average burden per response is 0.74 hours, resulting in an estimated total annual burden of 3,345 hours. This estimate includes 2,795 wine premises proprietors who will file one TTB Form 5120.25 in each of the next three years in order to apply for the bond exemption authorized under the IRC at 26 U.S.C. 5551(d) (discussed under #1 above). On average, TTB estimates that the bond exemption application will require 1 hour to complete using either paper or PONL.

The specific burden estimates for the two forms included in this information collection, in their paper and electronic formats, is as follows:

	Respondents	Responses per Year	Annual Responses	Hours per Response	Total Annual Burden Hours
F 5120.25 (paper)	380	1	380	0.25	95
F 5120.25 (PONL)*	1,120	1	1,120	0.25	280
F 5120.25 Bond Exempt Applications	2,795	1	2,795	1	2,795
F 5120.36 (paper)	100	1	100	1.0	100
F 5120.36 (PONL)*	100	1	100	0.75	75
TOTALS	4,495	1	4,495	0.74 (ave.)	3,345

*PONL = Permits Online, TTB’s web-based electronic application system.

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)?*

We do not believe respondents bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement.

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

Estimates of annual cost to the Federal Government are:

Printing costs	\$ 0
Distribution costs	0
Clerical costs	15,250
Other Salary costs (review, supervisory, etc.)	90,750
TOTAL COSTS	\$ 106,000

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB Web site at <http://www.ttb.gov/forms/index.shtml>.

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

As described above, TTB is making program changes associated with this information collection to implement the bond exemption under the PATH Act. TTB is amending its regulations to provide that an applicant or existing proprietor must state on TTB Form 5120.25 whether the proprietor is exempt from bond requirements.

As for adjustments, we are increasing the estimated annual burden for this information collection to account for 2,795 wine premises proprietors who will file one TTB Form 5120.25 in each of the next three years in order to apply for the bond exemption authorized under the IRC at 26 U.S.C. 5551(d). TTB expects this will be a one-time increase over the next three years. TTB is also adding a new item to the form where the applicant or proprietor selects whether the person is eligible for the bond exemption, and TTB is amending an existing statement on another part of the form to reflect this change.

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?*

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval on the two forms included in this information collection. By not displaying the expiration date of this collection on the related forms, TTB will not have to update the forms' expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any marginally-punched continuous printed versions of the forms produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on these forms will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the forms could continue in use regardless of when OMB's approval has expired.

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

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.