**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0083**

Information Collection Request Title:

Excise Tax Return

Information Collections Issued under this Title:

* TTB F 5000.24, Excise Tax Return.

1. **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 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.

Chapter 51 and 52 of the IRC, at 26 U.S.C. 5061(a) and 5703(b), respectively, require the Secretary to collect the Federal alcohol and tobacco excise taxes imposed by those chapters “on the basis of a return,” and these IRC sections also require the Secretary to issue regulations concerning the filing of, and the information required on, such returns. In addition, sections 5061(d)(1) and 5703(b)(2) require all entities liable for these excise taxes to file returns and pay taxes on a semi-monthly basis, unless otherwise exempted. Under 26 U.S.C. 5061(d)(4), certain small alcohol excise taxpayers may pay tax and file returns on a quarterly basis, or, as a result of a recent statutory amendment, on an annual basis.[[1]](#footnote-1) Under that amended section, to pay alcohol excise taxes and file returns quarterly, a taxpayer must reasonably expect to be liable for not more than $50,000 in such taxes for the calendar year and must be liable for not more than $50,000 in such taxes in the preceding year. To pay tax and file returns annually, a taxpayer must reasonably expect to be liable for not more than $1,000 in such taxes for the calendar year and must be liable for not more than $1,000 in such taxes in the preceding year.

Under the IRC authorities noted above, TTB has issued regulations requiring all entities, other than those in Puerto Rico, to report their alcohol and tobacco excise tax liability on form TTB F 5000.24, Excise Tax Return. TTB uses the information provided on the return form to establish the taxpayer's identity, the amount and type of taxes due, and the amount of payments made. This information is necessary for the collection of the revenue.

The following TTB regulatory sections prescribe the use of TTB F 5000.24 by alcohol and tobacco excise tax payers:

For distilled spirits excise taxes: 27 CFR 19.230, 19.233 through 19.240, 19.242,

19.436, and 19.465.

For wine excise taxes: 27 CFR 24.271, 24.275, 24.277, 24.278, 24.279, and 24.323.

For beer excise taxes: 27 CFR 25.160, 25.163, 25.164, 25.164a, 25.165, 25.166,

25.168, 25.175, 25.224, 25.284, and 25.298.

For tobacco excise taxes: 27 CFR 40.162, 40.164, 40.165, 40.165a, 40.167, 40.169,

40.355, 40.356, 40.357, 40.359, 41.140, 44.67, and 45.36.

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?*

Under the IRC at 26 U.S.C. 5061(a) and 5703(b), the Federal alcohol and tobacco excise tax is collected on the basis of a return. Businesses, other than those in Puerto Rico, report their Federal excise tax liability on those products on TTB F 5000.24, Excise Tax Return.

TTB uses the information provided on the return form to establish the taxpayer's identity, the amount and type of taxes due, and the amount of payments made. This information is necessary for the collection of the revenue. TTB uses the provided information to determine whether the taxpayer has paid the correct amount of tax and to verify any need to take additional action, such as issuance of a refund or the collection of additional tax. TTB examines each return at least once, and TTB often performs additional examinations during audits of taxpayers.

*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 forms, records, and reports. Currently, respondents may electronically complete and submit form TTB F 5000.24, Excise Tax Return, to TTB, and pay any excise tax due, using the Pay.gov system (see <https://pay.gov> and <http://www.ttb.gov/epayment/epayment.shtml>).[[2]](#footnote-2)

In addition, two fillable-printable versions of the Excise Tax Return, are available on the TTB website at <https://www.ttb.gov/forms/5000.shtml>.

1. TTB F 5000.24, a traditional paper form requiring respondents to complete all required data fields and make all necessary mathematical calculations; and
2. TTB F 5000.24sm, an interactive “smart form” that has built-in logic and automation features designed to prevent common mistakes and make completion of the form easier for the respondent. For example, the smart form requires entries in certain data fields based on a response in another field, it automatically makes mathematical calculations and pre-populates certain entries, and it prevents printing of the form if any mandatory data field is incomplete. A User Guide for this smart form is available to respondents on the TTB website at <https://www.ttb.gov/forms/smartform-user-guide500024.pdf>.

*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 required on TTB F 5000.24 is minimal and is unique to a particular period of time for each taxpayer. The Federal excise tax on alcohol and tobacco products is collected only by TTB, and this information is not available from other sources.

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

In general, all individuals and entities liable for Federal alcohol and tobacco excise tax, regardless of size, are required by statute at 26 U.S.C. 5061(d)(1) and 5703(b)(2) to pay tax and file tax returns on a semi-monthly basis. (Under some circumstances, in accordance with 27 CFR 19.233, TTB may require certain distilled spirits taxpayers to make prepayments in lieu of semi-monthly payments.)

However, under 26 U.S.C. 5061(d)(4), certain small alcohol excise taxpayers may qualify to pay tax and file returns on a quarterly or annual basis. Under that paragraph, to pay tax and file returns quarterly, a taxpayer must reasonably expect to be liable for not more than $50,000 in such taxes for the calendar year and must be liable for not more than $50,000 in such taxes in the preceding calendar year. To pay tax and file returns annually, a taxpayer must reasonably expect to be liable for not more than $1,000 in such taxes for the calendar year and must be liable for not more than $1,000 in such taxes in the preceding calendar year. Given these less burdensome filing options for small alcohol taxpayers, TTB believes that this information collection does not have a significant impact on a substantial number of small alcohol industry businesses or entities.

While there are no exemptions to the semi-monthly tax payment requirement for tobacco excise taxpayers, the information required on TTB F 5000.24 is minimal. Therefore, TTB believes that this information collection does not have a significant impact on a substantial number of small tobacco industry businesses or other small entities.

*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 information provided by the taxpayer on the TTB F 5000.24 tax return form is essential to TTB's Federal alcohol and tobacco excise tax collection responsibilities. The absence of this information would seriously jeopardize TTB's collection of such taxes, which amount to approximately $25 billion each year. Furthermore, if TTB did not require the use of this tax return form or required it less frequently, TTB’s ability to identify and account for such excise tax payments would be significantly hindered. In particular, the use of this form eliminates the substantial costs that would be incurred by both the taxpayer and TTB to resolve matters related to unidentified tax payments.

*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 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. In the case of TTB F 5000.24, Excise Tax Return, respondents are required by statute to pay tax and file returns on a semi-monthly basis, unless otherwise exempted.

The IRC at 26 U.S.C. 5061(d)(1) requires alcohol excise taxpayers to pay tax, and thus file tax returns, on a semi-monthly basis, but under 26 U.S.C. 5061(d)(4), certain small alcohol excise taxpayers may pay tax and file returns on a quarterly or annual basis. The IRC at 26 U.S.C. 5703(b)(2) requires all tobacco excise taxpayers to pay tax, and thus file returns, on a semi-monthly basis.

*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 June 9, 2017, at 82 FR 26837.

TTB received one comment on this information collection and several others, submitted on behalf of an alcohol excise taxpayer, Phramco Products, Inc., of Brookfield, Connecticut. The relevant portion of the comment stated:

OMB Number: 1513–0083, Excise Tax Return: Excise tax claims that are under a set dollar amount limit should qualify for automatic approval by simply having them filed as a decreasing adjustment on the current excise tax return, versus a full submission of a claim packet. This would save time and paperwork burden while still protecting TTB revenue from the risk associated with larger, significant dollar amounts. Most of these returns are for small quantities of material being returned from a tax paid shipment. There of course could and should be limitations on the use of this exception, depending on the reason for the claim, etc. The exact dollar amount limitation would of course depend on the historical data of all received claims - either looking at a lower end percentage or some other statistical method.

TTB response: TTB notes that under its distilled spirits regulations at 27 CFR 19.266, a proprietor may not anticipate allowance of a credit or make an adjusting entry in a tax return pending TTB action on a claim for drawback of tax. In order to protect the revenue, TTB must review all such claims to ensure that they meet statutory and regulatory requirements for credits, abatement, remission, or refund of excise tax.

*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, the IRC at 26 U.S.C. 6103 prohibits disclosure of taxpayer and tax return information unless disclosure is specifically authorized by that section. In addition, TTB F 5000.24 includes a general Privacy Act Statement explaining what TTB uses the requested information for and to whom and for what purposes the information may be disclosed, as well as a Privacy Act notice regarding TTB’s use of information provided on a taxpayer’s check. TTB maintains these forms in secure file rooms with controlled access, and the provided information is maintained 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. This collection contains personally identifiable information (PII) that is collected in an electronic system. A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application systems, and a Privacy Act System of Records notice (SORN) has been issued for that 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?*

TTB estimates that the excise tax return form, TTB F 5000.24, will be filed annually by 18,479 respondents and that TTB will receive a total of 114,517 returns. With a burden of 0.75 hours per return, this results in an estimated total annual burden of 85,888 hours. Respondents file at different time intervals, depending on their individual circumstances and the regulatory requirements that they meet. The burden is summarized as follows:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Frequency** | **No. of Respondents** | **Responses per Respondent** | **No. of Responses** | **Hours per Response** | **Burden Hours** |  |
| Pre-Payment | 22 | 48 | 1,056 | 0.75 | 792 |  |
| Occasionally | 23 | 10 | 230 | 0.75 | 173 |  |
| Annually | 7,268 | 1 | 7,268 | 0.75 | 5,451 |  |
| Quarterly | 8,208 | 4 | 32,832 | 0.75 | 24,624 |  |
| Monthly | 63 | 12 | 756 | 0.75 | 567 |  |
| Semi-Monthly | 2,895 | 25 | 72,375 | 0.75 | 54,281 |  |
| **TOTALS** | **18,479** | **(Average of approx. 6.1971427)** | **114,517** | **0.75** | **85,888** |  |

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

Total costs for this collection:

|  |  |
| --- | --- |
| Clerical costs (filing, mailing, etc.) | 108,000 |
| Other Salary (assembling and gathering  Information and completing the form) | 2,000,000 |
| Overhead | 200,000 |
| **Total** | **$ 2,308,000** |

Given these total costs, each of the 18,479 annual responses has a cost burden of approximately $20.15.

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

|  |  |
| --- | --- |
| Clerical costs (filing)[[3]](#footnote-3) | 38,253 |
| Other salary (examination, supervisory, etc.)[[4]](#footnote-4) | 561,056 |
| **Total** | **$ 599,309** |

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 website (<http://www.ttb.gov>).

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

There are no program changes associated with this approval request. (The amendment made by the PATH Act to 26 U.S.C. 5061(d)(4) to allow certain small alcohol excise taxpayers to pay tax and file returns annually was reported as a program changes in the last approval request that TTB submitted for this information collection.)

As for adjustments, due to changes in agency estimates, TTB is decreasing the estimated number of annual responses from 170,017 to 114,517, and, as result, is decreasing the estimated number of annual burden hours, from 127,513 hours to 85,888. This decrease is due to the number of small alcohol excise taxpayers who will now file annual tax returns, rather than quarterly, under the recent amendment made to the IRC at 26 U.S.C. 5061(d)(4); see details under Question 1 above. TTB also expects that additional small alcohol excise taxpayers who are eligible to pay taxes and file returns quarterly will begin doing so in lieu of filing semimonthly returns.

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

The Federal alcohol and tobacco tax payment data collected on TTB F 5000.24 is summarized by TTB and published as a generalized quarterly Tax Collections report, which is posted to the TTB website at <https://ttb.gov/tax_audit/tax_collections.shtml>. Also, a summary of the amount of tax collected by TTB is included in the bureau’s Annual Report, which is posted to the TTB website at <https://ttb.gov/about/performance-reports.shtml>. However, the tax collection data in each report is summary, and information in these reports cannot be traced to an individual taxpayer.

*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 of this information collection. By not displaying the expiration date of this collection on the related form, TTB will not have to update the form’s expiration date on its electronic systems and website pages or on the form’s paper version each time the information collection is approved. More importantly, this avoids confusion among users of the form when the OMB approval date may have passed but the form is approved under interim short-term approvals while the form is under OMB review but before OMB has taken action. In addition, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale.

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

(f) This is not a recordkeeping requirement.

1. No statistics are involved.

**B. Collection of Information Employing Statistical Methods.**

This collection of information does not employ statistical methods.

Q 15:

(Under some circumstances, in accordance with 27 CFR 19.233, TTB may require certain distilled spirits taxpayers to make prepayments in lieu of semi-monthly payments.)

1. 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). Among other things, section 332 of the PATH Act amended the IRC at 26 U.S.C. 5061(d)(4) to provide for a new annual tax return period for certain small alcohol excise taxpayers, effective January 1, 2017. [↑](#footnote-ref-1)
2. The Pay.gov system, which is operated by the Department of the Treasury’s Fiscal Service, allows businesses and individuals to pay certain Federal taxes and fees, and submit various reports and requests, to various Federal agencies electronically. Users of the TTB portion of Pay.gov system must first register with TTB for access to the system by completing TTB F 5000.31, Pay.gov User Agreement, approved under OMB Control No. 1513–0117. [↑](#footnote-ref-2)
3. Estimated 5 minutes per paper return to transcribe, image, and file at $20/hour (75% of all returns (127,512) filed via paper). [↑](#footnote-ref-3)
4. Estimate 5% of returns will require examination by a specialist to resolve issues at $33/hour for 2 hours. [↑](#footnote-ref-4)