

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0089

Records Supporting Drawback Claims on Eligible Articles Brought into the United States from Puerto Rico or the Virgin Island (TTB REC 5530/3).

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 (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

Under the IRC at 26 U.S.C. 7652(g), the provisions of 26 U.S.C. 5111-5114 providing for drawback (refund) of the Federal excise taxes paid on the distilled spirits used in certain nonbeverage products—medicines, medicinal preparations, food products, flavors, flavoring extracts, and perfumes—also apply to such articles brought into the United States from Puerto Rico or the U.S. Virgin Islands. In particular, and among other things, 26 U.S.C. 5112 requires claimants for such drawback to keep records documenting the receipt, use, and tax determination of the distilled spirits in question, subject to regulations prescribed by the Secretary to prevent frauds against the Treasury.

Under those IRC authorities, the TTB regulations at 27 CFR 26.174 and 26.310 require claimants for nonbeverage product drawback on eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands to keep certain records documenting the receipt, taxpayment, and use of the distilled spirits for which drawback will be claimed, as well as records of the eligible articles' entry into the United States. The required records include usual and customary business records, such as commercial invoices and shipping records, and TTB-required form serial numbers and taxpayment certifications. Claimants must maintain the records at their business premises for at least 3 years, during which time TTB may inspect the required records to verify the data provided to it by claimants in their drawback claims. This verification is necessary to protect the revenue and ensure compliance with the relevant statutory and regulatory requirements.¹

¹ Respondents file nonbeverage product drawback claims with TTB using forms TTB F 5620.8, Claims--Alcohol, Tobacco, and Firearms Taxes, and TTB F 5154.2, Supporting Data for Nonbeverage Drawback Claims, which are approved under OMB Control Nos. 1513-0030 and 1513-0098, respectively.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

Respondents use the distilled spirits receipt, use, and tax determination records required under this collection request to document the data provided to TTB in nonbeverage product drawback claims involving eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands. Such claimants must maintain those records at their business premises for at least 3 years, and, during that time, TTB may inspect the required records to verify the provided data in order to protect the revenue and ensure compliance with the relevant statutory and regulatory requirements. In particular, TTB uses the recorded data to verify that: (1) The article in question was made in accordance with its approved formula, which will show the amount of distilled spirits used and eligible for drawback; (2) the amount of excise tax claimed for drawback is correct and was paid, (3) the article entered the United States from Puerto Rico or the U.S. Virgin Islands, and (4) the filing of the drawback claim occurred within the statutory time period, defined in the IRC at 26 U.S.C. 5114(b) as “within the 6 months next succeeding the quarter in which the distilled spirits covered by the claim were used as provided in this subpart.”

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?

Respondents maintain the required records at their business premises. TTB does not specify the form or format of the records, and electronic records are acceptable, provided such records can be accessed by TTB at the respondent’s premises during business hours.

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 required records, kept by respondents at their places of business, are pertinent and unique to each nonbeverage product drawback claim filed with TTB for eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands. 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?

All entities, regardless of size, are required by statute and regulation to keep certain records documenting the data provided to TTB in nonbeverage product drawback claims involving eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands. However, TTB believes that the required records, many of which are usual and customary, are the minimum necessary to verify such claims, and, as such, TTB believes that this information collection has no significant impact on 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?*

If TTB did not require the keeping of records documenting the data that respondents provide to it in nonbeverage product drawback claims made for eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands, TTB would not be able to verify that data, which would pose jeopardy to the revenue. The required records assist TTB in preventing payment of fraudulent or improperly-filed claims, and help ensure claimants comply with the relevant statutory and regulatory requirements. In addition, respondents maintain the required records on an as needed basis, and, as such, this information cannot be conducted less frequently.

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 November 27, 2018, at 83 FR 60963. TTB received no comments on this information collection in response.

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?*

Respondents maintain the required records at their business premises, and, as such, there is no medium for TTB to offer an assurance of confidentiality for this information collection. However, the IRC at 26 U.S.C. 6103 prohibits disclosure of taxpayer information unless disclosure is specifically authorized by that section, and the disclosure of any proprietary information contained in the required records is generally prohibited by 5 U.S.C. 552.

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. Also, as this collection consists only of records kept by respondents at their business premises, it 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 information collection.

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

Based on recent experience, TTB estimates that 10 respondents will maintain the required records on a continuing basis at their business premises, and, as such, each respondent will make one annual response to this collection, for a total of 10 annual responses. As the required records consist mostly of usual and customary business records, the maintenance of which imposes no burden on respondents as defined by 5 CFR 1320.3(b)(2), TTB finds that each annual response to this collection requires no more than one hour to complete. Therefore, TTB estimates that the total annual burden for this collection is 10 hours.

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)?

This information collection, which respondents maintain at their business premises, consists of usual and customary business records, as well as data from other TTB-required records and forms. As such, TTB finds there are no annualized costs to respondents associated with this collection.

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

Consisting of records maintained by respondents at their premises, there is no cost to the Federal government associated with this information collection.

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

Adjustments: In the past, TTB estimated that 20 respondents made an average of eight annual responses each to this collection, and that each response took one hour to complete, consisting of one-half hour of reporting and one-half hour of recordkeeping. This resulted in an estimated annual burden of 160 responses and 160 hours for this collection. However, TTB finds that this collection has no reporting requirement as it consists solely of records maintained on a continuing basis by respondents at their business premises, which equates to one annual response per respondent. Therefore, the agency is revising estimates to reflect a decrease in the estimated annual burden for this collection, from 160 responses to 20, and from 160 hours to 20, all of which are for recordkeeping.

Also, based on recent experience, TTB is decreasing the number of annual respondents to this information collection, from 20 to 10, due to a change in agency estimates. This results in further decreases in the number of annual responses to this collection, from 20 to 10, and in the estimated total annual burden, from 20 hours to 10.

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

TTB will not publish the results of this information collection request.

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 and maintained at a respondent's business premises, and, as such, there is no medium for TTB to display the expiration date of its OMB approval.

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.