

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0104

Information Collected in Support of Small Producer's Wine Tax Credit (TTB REC 5120/11).

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.

In general, the IRC at 26 U.S.C. 5041 imposes Federal excise taxes on domestic and imported wines. However, under the IRC at 26 U.S.C. 5041(c), certain small domestic wine producers are eligible for a tax credit that may be taken to reduce the excise tax they pay on wines, including hard ciders, removed from their premises during a calendar year. Such producers also may transfer their tax credit to other bonded wineries or bonded warehouses that store their wine and ship it on their instructions, provided that the small producer supplies such transferees with "such information as is necessary to properly determine the transferee's credit under this paragraph." In addition, the IRC at 26 U.S.C. 5041(c)(7) authorizes the Secretary to prescribe regulations to carry out its small producer wine tax credit provisions.

The TTB regulations concerning the Federal wine excise tax, including the small producer wine tax credit, are contained in 27 CFR Part 24, Wine. Specifically, the TTB regulations at 27 CFR 24.278(b)(2) allow an eligible winery to transfer its small producer wine tax credit to another bonded winery or bonded warehouse (the "transferee") under certain conditions. Among these conditions, the small producer must provide the transferee with a written record showing, among other things, the quantity and tax class of the wines involved, the dates the wines were removed from bond for consumption or sale, confirmation that the producer and the wines are eligible for the tax credit, and the tax credit rate to which the wines are entitled. Also, the producer and the transferee must each maintain copies of this record, together with copies of the related taxpaid removal from bond record required under 27 CFR 24.310. (The information collection for records of taxpaid removals of wine from bond is approved under OMB Control No. 1513-0115.)

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?

Producers and transferees use the information collected on their use of the small producer wine tax credit when preparing their Federal excise tax returns. In particular, producers use the required records to ensure that they do not exceed the authorized annual tax credit, while transferees use the required records to ensure that they take the appropriate tax credit on behalf of the transferring producers.

In turn, TTB personnel routinely inspect these records when conducting tax audits. TTB inspection of the required small producer wine tax credit records protects the revenue by ensuring correct use of those tax credits and ensuring correct payment of wine excise taxes. In addition, TTB inspection of the required records ensures that wine is produced, stored, shipped, and transferred in accordance with the applicable Federal laws and regulations.

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?

The required small producer wine credit tax records are maintained by respondents at their business premises, and respondents may, at their discretion, produce and keep the required records using automated, electronic, or other forms of information technology.

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?

This information collection provides information that is pertinent to each respondent and applicable to their specific operations and claims for the small producer wine tax credit. As far as TTB can determine, similar information is not available anywhere else.

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

TTB considers this information collection to be the minimum necessary to ensure protection of the revenue in regards to claims for and transfer of the small producer wine tax credit. Only certain small wine producers are eligible to claim or transfer the tax credit, the use of which must be supported by the records required under this information collection.

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?

An industry member's eligibility for the small wine producer tax credit may change during the course of a calendar year due to various factors, such as level of production and removals from their own or other facilities, or even changes in ownership or corporate structure. As such, the transferee's tax credit rate must be established as of the date of a wine's removal, using timely information provided by the small producer. Without this information, the producer and transferee would not be able to take advantage of this statutory benefit. Also, TTB would be unable to verify that the correct amount of tax was paid, which would pose a jeopardy to the revenue. Less frequent information collection would result in incorrect determination of the small producer tax credit, overpayment or underpayment of taxes by the transferee, and severely hinder TTB's verification of tax payments during audits.

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? (See 5 CFR 1320.5(d)(2).)

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 March 28, 2019, at 84 FR 11867. 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 information 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, which consists of records maintained by regulated industry members at their business premises. In addition, 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 taxpayer-related information, unless disclosure of the information is specifically authorized by law.

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, which consists of records maintained by industry members at their business premises, contains no questions of a sensitive nature, and 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?

Based on information provided by TTB personnel familiar with this subject, we estimate that 280 wine industry members (250 producers and 30 bonded warehouses) respond to this information collection an average of 10 times each per year, for a total of 2,800 responses. Since this information collection largely consists of usual and customary shipping records and instructions, which the owner of any merchandise must provide to a warehouse proprietor during the normal course of business, TTB estimates that each response to this information collection requires 1 hour. Therefore, the total annual burden for this information collection is 2,800 hours. The retention requirement for these records is 3 years.

(280 responses x 10 responses/year = 2,800 total responses x 1 hour/response = 2,800 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 is no annual cost to respondents associated with this collection since it consists largely of usual and customary records kept at their premises during the normal course of business.

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

There is no annualized cost to the Federal Government for the keeping of records by respondents at their business premises.

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

There are no program changes or adjustments associated with this information 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 information 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 records kept by regulated industry members at their business premises. As such, there is no prescribed TTB form for this collection, and, 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.