

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0070

Tobacco Export Warehouse Proprietor — Records of Operations (TTB REC 5220/1).

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 (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, chapter 52 of the IRC (26 U.S.C. chapter 52) imposes Federal excise tax on all tobacco products and cigarette papers and tubes manufactured in, or imported into, the United States, while exempting such articles removed for export, as well as all processed tobacco, from that tax.¹ Export warehouses receive and store such non-taxpaid articles until they are removed without payment of tax for export to a foreign country, Puerto Rico, or the U.S. Virgin Islands, or for consumption beyond the internal revenue laws of the United States. To protect the revenue, the IRC at 26 U.S.C. 5741 provides that tobacco industry members, including export warehouse proprietors, “shall keep such records in such manner as the Secretary shall by regulation prescribe.”

Under that IRC authority, the TTB regulations in 27 CFR Part 44, Exportation of Tobacco Products, and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax, require export warehouse proprietors to maintain records related to their operations. Specifically, under 27 CFR 44.142, such proprietors must keep records showing the date, kind, quantity, and manufacturer of all tobacco products, cigarette papers and tubes, and processed tobacco received, removed, transferred, destroyed, lost, or returned to the manufacturer or to a customs bonded warehouse proprietor. The required records are necessary to protect the revenue as they allow transactions involving non-taxpaid articles to be traced and verified to ensure that no Federal excise tax liabilities were incurred.

¹ Under chapter 52 of the IRC, “tobacco products” subject to Federal excise tax are: Small and large cigars, small and large cigarettes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco. Processed tobacco, which is used to manufacture taxable tobacco products, is regulated but is not subject to Federal excise tax under the IRC.

Section 44.142 does not prescribe a particular format for the required records, and export warehouse proprietors may use usual and customary business records to satisfy the section's requirements provided that the required information is readily ascertainable. In addition, § 44.142 requires proprietors to retain the required records for three years following the close of the calendar year in which filed or made, and the records must be made available for inspection by any appropriate TTB officer upon request.

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?

To protect the revenue, TTB personnel use the required usual and customary business records kept by export warehouse proprietors during tax compliance examinations to verify that non-taxpaid tobacco products and cigarette papers and tubes, and processed tobacco, have not been diverted into taxable domestic commerce. This may include verification of the operational data reported to TTB on TTB F 5220.4, Report—Proprietor of Export Warehouse (approved under OMB control number 1513–0024).

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. Export warehouse proprietors maintain the required records at their business premises and may use electronic formats at their discretion.

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 recordkeeping requirement collects information that is pertinent to each respondent and applicable to their specific export warehouse operations. 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 export warehouse proprietors, regardless of size, are required by regulation to provide the collected information to account for, and prevent diversion of, non-taxpaid tobacco products and cigarette papers and tubes, as well processed tobacco that is not subject to tax. Waiver or reduction of this reporting requirement, simply because the respondent's business is small, would jeopardize the revenue. However, all respondents, regardless of size, may use usual and customary business records, which impose an additional burden on respondents, to keep the required information.

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 information collection consists of usual and customary business records kept by export warehouse proprietors during the normal course of business, and, as such, it cannot be conducted less frequently. Also, not requiring the keeping of such records would jeopardize the revenue as they allow transactions involving non-taxpaid tobacco products and cigarette papers and tubes, as well as processed tobacco that is not subject to tax, to be traced and verified to ensure that no Federal excise tax liabilities were incurred through the diversion of such articles to taxable uses.

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 May 21, 2019, at 84 FR 23157. 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 usual and customary business records maintained by export warehouse proprietors at their business premises. 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 related information unless disclosure is specifically authorized by the IRC.

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 usual and customary business records kept at the respondent's premises, contains no questions of a sensitive nature and does 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 recent experience, TTB estimates that 80 export warehouse proprietors each make one annual response to this ongoing recordkeeping requirement, for a total of 80 annual responses. As this information collection consists of usual and customary business records kept by respondents during the normal course of business, regardless of any TTB regulatory requirement to do so, it imposes no annual burden on respondents, per the OMB regulations at 5 CFR 1320.3(b)(2). The record retention requirement for this information collection is 3 years.

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)?

This information collection consists of usual and customary records kept during the normal course of business. As such, there is no cost to respondents associated with this information collection.

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

There is no cost to the Federal Government for the maintenance of usual and customary business records by export warehouse proprietors at their business premises.

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

There are no program changes associated with this collection. As for adjustments, due to a change in agency estimates resulting from a decrease in the number of export warehouse proprietors, TTB is reducing the number of annual respondents and responses to this information collection from 86 to 80. In addition, TTB is removing the 1 hour of burden previously reported as a place holder for this usual and customary business record collection requirement since such collections impose no burden on respondents per the OMB regulations at 5 CFR 1320.3(b)(2).

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 of usual and customary business records that regulated industry members keep at their premises during the normal course of business. As such, there is no prescribed TTB form for this information collection and there is no medium for TTB to display its 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.