

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0045

Distilled Spirits Plants—Excise Taxes, TTB REC 5110/06

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.

The IRC at 26 U.S.C. 5001 imposes Federal excise tax on all distilled spirits produced in or imported into the United States. While that section states that the tax attaches at the time the spirits are first produced, the IRC at 26 U.S.C. 5006 provides that the tax will be determined at the time the spirits are withdrawn from bond, under such regulations as the Secretary shall prescribe. Also, the IRC at 26 U.S.C. 5010 allows a credit against the distilled spirits excise tax for the portion of the alcohol content of a distilled spirits product which is derived from wine or flavors. In addition, the IRC at 26 U.S.C. 5061 provides that the tax will be paid by return, also under such regulations as the Secretary may provide.

The TTB regulations concerned with this recordkeeping information collection are contained in 27 CFR parts 19 and 26, and its respondents are distilled spirits plants (DSP) proprietors. The required records document excise tax determinations DSP proprietors make prior to the removal of spirits from a DSP and support the information provided on excise tax returns filed by those proprietors. Such records concern notifications of electronic funds transfer payment of taxes, and matters that effect the excise tax liabilities reported on tax returns such as the “effective tax rates” for distilled spirits products eligible for the wine or flavor credit authorized under 26 U.S.C. 5010, additional taxes or duties not declared upon importation, taxable samples, and shortages or losses of spirits. The required records also allow TTB to verify excise tax determinations, the correctness of tax returns and claims, and the adequacy of a DSP's bond coverage. As such, this information collection is necessary to protect the revenue.

This information collection is contained in the following sections of 27 CFR parts 19 and 26:

19.222	19.225	19.226	19.227	19.230	19.231	19.233	19.234
19.237	19.238	19.239	19.240	19.242	19.243	19.246	19.247
19.248	19.249	19.256	19.257	19.262	19.263	19.264	19.266
19.267	19.269	19.436	19.461	19.464	19.465	19.571	19.574
19.575	19.576	19.577	19.580	19.581	19.611	19.612	19.613
19.614	19.615 and						
26.50a	26.77	26.79a	26.165.				

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?*

DSP proprietors use the records required under this information collection to document the excise tax determinations they make prior to the removal of spirits from a DSP and support the information regarding their tax liabilities and payments they provide on their excise tax returns. TTB personnel use the information contained in the required records to verify a DSP proprietor's excise tax determinations, the correctness of their tax returns and claims, and the adequacy of the DSP's bond coverage. Verification of such information is necessary to protect the revenue.

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. DSP proprietors maintain the required records at their business premises. DSP proprietors may keep the required records in paper or electronic formats at their discretion, provided that they are readily available for inspection by TTB personnel.

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 request requires the keeping of records that are pertinent to each DSP proprietor and specific to their excise tax determinations and returns. 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 DSPs, regardless of size, are required by the TTB regulations to keep these records so that TTB may verify the correctness of DSP excise tax determinations, claims, and returns, and the adequacy of bond coverage. Waiver or reduction of this collection requirement simply because the respondent's business is small would jeopardize the revenue. TTB notes, however, that while DSPs generally are required to file Federal alcohol excise tax returns, and thus respond to this information collection, on a semi-monthly basis, the IRC at 26 U.S.C. 5061(d)(4) and the TTB regulations at 27 CFR 19.235 and 26.112 allow certain smaller DSPs to file their returns less often. In general, DSPs with an annual excise tax liability of not more than \$50,000 may file tax returns, and thus respond to this information collection, on a quarterly basis, while DSPs with an annual excise tax liability of not more than \$1,000 may file tax returns, and thus respond to this collection, on an annual basis.

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 keeping of excise tax-related records prescribed by 27 CFR parts 19 and 26 constitute a continuing recording of DSP activities and tax determinations. Without this collection of information, TTB would not be able to verify a DSP proprietor's excise tax determinations, the correctness of their tax returns and claims, and the adequacy of the DSP's bond coverage. Verification of such information is necessary to protect 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? (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?

DSP proprietors maintain the records required at their business premises, and no specific assurance of confidentiality is provided for this information collection. However, the IRC at

26 U.S.C. 6103 prohibits disclosure of tax returns and other tax-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 contains no questions of a sensitive nature, and, as it consists of records maintained at the respondent's place of business, 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 collection.

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

Currently, TTB estimates that it regulates 3,160 DSPs. Of those, TTB estimates that 1,500 DSPs file excise tax returns, and thus respond to this information collection request, on a semi-monthly basis (25 responses per year), 1,500 DSPs file excise tax returns, and thus respond to this collection, on a quarterly basis (4 responses per year), and 160 DSPs file excise tax returns, and thus respond to this collection, on an annual basis (1 response per year).¹ TTB has determined that each response requires 1 hour to complete. As such, those respondents and annual response rates result in the estimated total number of annual responses and burden hours shown below:

No. of DSP Respondents	No. of Responses Per Year	Total Annual Responses	Time per Response	Total Burden Hours
1,500	25	37,500	1 hour	37,500
1,500	4	6,000	1 hour	6,000
160	1	160	1 hour	160
3,160	(13.8165)	43,660		43,660

Under 27 CFR 19.575, DSP proprietors must retain the records required under this information collection for a period of at least 3 years.

¹ The IRC at 26 U.S.C. 5061(d)(1) and 5703(b)(2), and the TTB regulations at 27 CFR 19.235 and 26.112, require all Federal alcohol excise taxpayers to file returns on a semi-monthly basis, unless otherwise exempted. Under 26 U.S.C. 5061(d)(4), taxpayers who reasonably expect to be liable for not more than \$50,000 in such taxes for the calendar year, and who were liable for not more than \$50,000 in such taxes the preceding year, may file excise tax returns on a quarterly basis. Also under that IRC section, taxpayers who reasonably expect to be liable for not more than \$1,000 in such taxes for the calendar year, and who were not liable for more than \$1,000 in such taxes the preceding year, may file excise tax returns on an annual basis.

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 cost to respondents associated with this information collection.

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

This information collection consists of records kept by DSP proprietors at their business premises, and, as such, there is no cost to the Federal government associated with this collection.

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

Program changes: In general, under the IRC at 26 U.S.C. 5061(d), Federal alcohol excise taxpayers are required to file returns on a semi-monthly basis. However, in 2005, section 11127(a) of Public Law 109–59 amended 26 U.S.C. 5061(d) to add a quarterly filing option for certain small Federal alcohol excise taxpayers (in general, those with tax liabilities under \$50,000 in a calendar year). In addition, in beginning in 2017, section 332 of Division Q of Public Law 114–113 amended 26 U.S.C. 5061(d) to add an annual filing option for certain very small Federal alcohol excise tax payers (in general, those with tax liabilities of under \$1,000 in a calendar year). TTB has not previously accounted for these statutory amendments and the resulting program changes on this information collection. Based on the 2,198 annual respondents previously reported for this information collection, these program changes result in decreases to the average number of annual responses per respondent, from 26 to 13.8165, which results in decreases in the estimated number of annual responses and burden hours for this collection, from 57,148 to 30,369, a decrease of 26,779.

Adjustments: Due to changes in agency estimates resulting from continued growth in the number of DSPs in the United States, TTB is increasing the number of respondents to this information collection, from 2,198 to 3,160. Based on the new average number of annual responses per respondent (13.8165) resulting from the statutory changes noted above, this change in agency estimates results in an increase of 13,291 annual responses and burden hours for this information collection. (The estimated burden per respondent remains unchanged at 1 hour per response).

Overall changes and adjustments: Taken together, the program changes and adjustments noted above result in an increase in the number of respondents to this information collection, from 2,198 to 3,160, but a decrease in its average number of annual responses per respondent, from 26 to 13.1865. As a result, while the 1 hour per-response burden for this collection is unchanged, the combined changes result in a decrease in the number of annual responses and burden hours for this information collection, from 57,148 to 43,660 (an overall decrease of 13,488).

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 records kept by DSP proprietors at their premises. As such, there is no prescribed TTB form associated with this collection and thus there is no medium for TTB to display this collection's OMB approval expiration date.

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

- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.