

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement -- Information Collection Request**

**OMB Control Number 1513-0059**

**Usual and Customary Business Records Relating to Tax-Free Alcohol (TTB REC 5150/3)**

**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.

In general, the IRC at 26 U.S.C. 5001 imposes Federal alcohol excise tax on distilled spirits produced or imported into the United States. However, under the IRC at 26 U.S.C. 5214, distilled spirits may be withdrawn free of tax from a distilled spirits plant (DSP) for certain nonbeverage purposes, subject to regulations prescribed by the Secretary. Under section 5214(a)(2), those purposes include for use by Federal, State, and local governments, and, under section 5214(a)(3), for use by certain educational organizations and institutions, research and pathological laboratories, hospitals, blood banks, sanitariums, and nonprofit clinics. In addition, the IRC at 26 U.S.C. 5275 requires persons that procure or use distilled spirits withdrawn free of tax under sections 5214(a)(2) and (3) to keep records and make reports regarding the receipt and use of such spirits as the Secretary requires by regulation.

Under those IRC authorities, the TTB regulations in 27 CFR Part 22, Distribution and Use of Tax-Free Alcohol, require distributors and users of alcohol withdrawn tax-free to maintain certain records regarding the receipt, loss, shipment, destruction, return, consignment, and inventories of such alcohol. The required records are usual and customary records kept by respondents during the normal course of business for the purposes of documenting the purchase and use of chemicals for educational and scientific research, medical testing, and the production and dispensing of medicine. The TTB regulations require respondents to keep and maintain such records to protect the revenue as the collected information provides accountability over tax-free alcohol, and ensures that such alcohol is used only for the nonbeverage purposes authorized by statute or regulation.

The 27 CFR part 22 regulatory provisions that contain recordkeeping requirements approved under this information collection requirement are currently found in sections:

§ 22.113, Receipt of tax-free alcohol.	§ 22.122, Losses in transit.*
§ 22.123, Losses on premises.*	§ 22.134, Records of shipment.
§ 22.142, Destruction.*	§ 22.151, Return (of spirits to a distilled spirits plant).
§ 22.152, Reconsignment in transit.	§ 22.155, Emergency disposition to another permittee.*
§ 22.161, Records (of transactions).	§ 22.162, Inventories.

\* 27 CFR 22.122(c) and 22.123(b) also contain information collections approved under OMB No. 1513-0030, Claim—Alcohol, Tobacco, and Firearms Taxes. 27 CFR 22.122(a), 22.142(a), and 22.155 also contain information collections approved under OMB No. 1513-0060, Letterhead Applications and Notices Relating to Tax-Free Alcohol (TTB REC 5150/04.)

In addition, § 22.163 provides that respondents keep information required in part 22 regulations on a daily basis, as applicable, and § 22.164 states that respondents must maintain the records required by part 22 regulations for at least three years at their premises or, for State and local governments, at a central location.

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 keep the usual and customary records required under this information collection to document their procurement and use of tax-free alcohol in educational and scientific research, medical testing, and the production and dispensing of medicine. TTB personnel may inspect the required records during field compliance examinations in order to protect the revenue as the collected information provides TTB with accountability over tax-free alcohol, and ensures that such alcohol is used only for the nonbeverage purposes authorized by statute or regulation.

*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 may keep and maintain the records required under this information collection using automated, electronic, or other information technology at their discretion, provided the records 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 requires the keeping and maintenance of records relating to the distribution and use of tax-free alcohol that are pertinent and specific to each respondent. Similar information regarding such matters is not available to TTB elsewhere.

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

TTB considers the usual and customary business records kept by respondents under this information collection to be the minimum necessary to protect the revenue and to ensure compliance with TTB administered laws and regulations regarding the distribution and use of tax-free alcohol for nonbeverage purposes. Waiver or reduction of this collection, simply because the respondent's business is small, would jeopardize the revenue.

*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 respondents to keep the required usual and customary business records relating to the distribution and use of tax-free alcohol, it could not maintain accountability over such alcohol. Without such accountability, TTB would be less able to detect diversion of tax-free alcohol to taxable beverage use, which would jeopardize TTB's ability to collect the appropriate excise tax revenue. Also, as the required records are kept by respondents on an ongoing basis, the frequency of this information collection cannot be reduced.

*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.

*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 Tuesday, January 7, 2020, at 85 FR 785. 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 regulated industry members 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 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. Also, this collection, which consists of usual and customary business records kept by respondents at their premises, does not collect personally identifiable information (PII) in a Government electronic system, and no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required.

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

Estimated burden: Based on recent experience, TTB estimates the number of annual respondents to this information collection request as follows, with each respondent making one annual response:

Respondent Type	Number of Annual Respondents	Number of Annual Responses
Private sector	3,800	3,800
State, local, & tribal governments	1,200	1,200
Federal Government	600	600
<b>Total Respondents</b>	<b>5,600</b>	<b>5,600</b>

This information collection request requires the keeping of certain usual and customary records relating to tax-free alcohol kept by respondents during the normal course of business, regardless of any TTB regulatory requirement to keep such records. Therefore, in accordance with the OMB regulations at 5 CFR 1320.3(b)(2), this information collection request imposes no burden as defined under the Paperwork Reduction Act on its 5,600 respondents.

Recordkeeping frequency and retention: In general, 27 CFR 22.163 requires respondents to keep the required records on a daily basis, if applicable, and § 22.164, requires respondents to maintain the required records for at three years.

Respondent labor costs: As this information collection consists of usual and customary records kept by respondents during the normal course of business, there are no respondent labor costs associated with this recordkeeping requirement.

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 are no annualized costs to respondents associated with this information collection, which consists of usual and customary records kept by respondents during the normal course of business.

14. *What is the annualized cost to the Federal Government resulting from this information collection?*

There are no annualized costs to the Federal Government associated with this information collection, which consists of usual and customary records kept by respondents at their premises during the normal course of business.

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

There are no program changes associated with this information collection, and TTB is submitting it for extension purposes only. However, due to a change in agency estimates resulting from continued growth in the number of tax-free alcohol users, TTB is increasing the number of annual respondents and responses to this information collection, from 5,268 to 5,600. Also due to changes in agency estimates, TTB is increasing the number of private sector respondents to this collection from 2,634 to 3,800, but is lowering the number of State, local, and tribal government respondents from 1,317 to 1,200, and is lowering the number of Federal government respondents from 1,317 to 600. In addition, TTB is removing the one hour of annual burden previously reported for this information collection as a place holder since, under the OMB regulations at 5 CFR 1320.3(b)(2), regulatory requirements to maintain usual and customary records kept during the normal course of business place no annual burden on respondents.

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 records kept by respondents at their premises during the normal course of business. As such, there is no TTB-prescribed medium for TTB to display this collection's OMB approval expiration date.

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

(c) See item 5 above.

(g) This information collection consists of usual and customary records kept by respondents at their premises during the normal course of business. As such, there is no medium for TTB to inform respondents of the information called for under 5 CFR 1320.8 (b)(3).

(i) No statistics are involved.

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

This information collection does not employ statistical methods.