

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0115

Usual and Customary Business Records Relating to Wine, TTB REC 5120/1.

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, 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 Department Order 120–01.

The IRC at 26 U.S.C. 5041 imposes a per gallon Federal excise tax of varying rates on six classes of wine—three classes of still wines (based on alcohol content), two classes of effervescent wines, and one class of hard cider.¹ The IRC at 26 U.S.C. 5555 also provides that, among other things, every person liable for any tax under chapter 51 of the IRC must keep records, render statements, make returns, and comply with rules and regulations as the Secretary may prescribe by regulation. Specific to wine, the IRC at 26 U.S.C. 5362 provides for the removal of wine free of tax in certain circumstances, including for use in vinegar plants, under regulations issued by the Secretary, and at 26 U.S.C. 5367 requires that proprietors of wineries and taxpaid wine bottling houses keep the records the Secretary requires by regulation. Additionally, the IRC at 26 U.S.C. 5369 provides that such proprietors take and report inventories as the Secretary prescribes by regulation, and at 26 U.S.C. 5370 allows, under certain circumstances, the collection of excise tax on stolen or voluntarily destroyed wine.

Under the authority of those IRC provisions, various TTB regulations in 27 CFR Part 24, Wine, require wineries, taxpaid wine bottling houses, and vinegar plants to keep certain usual and customary business records relating to wine.² These records include, among other things, records regarding the purchase and use of authorized materials and processes, and the production, packaging, storing, shipping, and transfer of wine.

¹ Per 26 U.S.C. 5041(b), the six wine excise tax classes are: (1) Still wines of not more than 14 percent alcohol by volume (ABV), (2) Still wines between 14 and not more than 21 percent ABV, (3) Still wines between 21 and not more than 24 percent ABV, (4) Champagne and other sparkling wines, (5) Artificially carbonated wines, and (6) Hard cider.

² Wineries, taxpaid wine bottling houses, and vinegar plants here after referred to collectively as “wine industry members.”

Specifically, the following regulations in 27 CFR part 24 require the keeping of usual and customary business records relating to wine:

24.32, 24.77, 24.91, 24.96, 24.97, 24.136, 24.170, 24.180, 24.184, 24.197, 24.213, 24.215, 24.226, 24.230, 24.231, 24.232, 24.233, 24.237, 24.241, 24.249, 24.255, 24.281, 24.282, 24.283, 24.284, 24.291, 24.292, 24.293, 24.294, 24.295, 24.300, 24.301, 24.302, 24.303, 24.304, 24.305, 24.306, 24.307, 24.308, 24.309, 24.310, 24.311, 24.312, 24.313, 24.314, 24.315, 24.316, 24.317, 24.318, 24.319, 24.320, 24.321, and 24.322.

TTB believes that wine industry members could not succeed in business without keeping the usual and customary business records required under those regulations. TTB requires the collected information to protect the revenue and ensure compliance. The required records allow TTB to verify that wine industry members pay the appropriate Federal wine excise tax rate and amount, and verify that respondents produce, package, store, ship, and transfer wine in accordance with the applicable Federal laws and regulations.

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?

This information collection requirement consists of usual and customary business records kept by wine industry members during the normal course of business. TTB personnel routinely examine these records during audits and field inspections. TTB examination of these usual and customary records protects the revenue by ensuring appropriate payment of the wine excise tax, and ensures that respondents produce, package, store, ship, and transfer wine in accordance with 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?

Wine industry members keep the usual and customary business records required under this information at their premises, and may maintain the records in paper or electronic formats at their discretion. Where the TTB regulations require records to be kept in a particular format, 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 as an alternate method or procedure issued under 27 CFR 24.22.

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 wine industry members to keep usual and customary business records that are pertinent and specific to each respondent's wine 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?

This information collection consists of usual and customary records kept during the normal course of business, regardless of any regulatory requirement to do so, and, as such, it does not have a significant impact on small entities. In any event, TTB considers this usual and customary recordkeeping requirement to be the minimum necessary to ensure compliance with TTB administered laws and regulations. Waiver or reduction of this recordkeeping requirement, simply because the respondent's business is small, could 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?

In the absence of the usual and customary business records required under this information collection, or with the less frequent collection of this information, TTB could not accurately verify a wine industry member's excise tax liability, which would pose jeopardy to the revenue. TTB also could not accurately determine a proprietor's compliance with the IRC provisions and the TTB regulations related to wine production.

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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Thursday, September 3, 2020, at 85 FR 55067. 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?

TTB provides no specific assurance of confidentiality for this information collection, which consists of usual and customary business records maintained by wine industry members at their 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 consists of usual and customary business records kept by wine industry members during the normal course of business. As such, this information collection contains no questions of a sensitive nature, and 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?

Estimated respondent burden: Based on recent data, TTB estimates that 14,340 wine premises proprietors respond once annually to this information collection, for 14,340 annual responses. However, this information consists of usual and customary records kept during the normal course of business, regardless of any regulatory requirement to do so, this collection requirement places no annual burden on respondents, as described in the OMB regulations at 5 CFR 1320.3(b)(2).

Respondent labor costs: Per the OMB regulations at 5 CFR 1320.3(b)(2), there are no respondent labor costs associated with the keeping of usual and customary records during the normal course of business.

Respondent record retention: Under 27 CFR 24.300(d), respondents must retain records required under part 24 for at least 3 years from the record date or the date of the last entry required in the record. TTB may require retention for up to an additional 3 years in cases where TTB determines that such retention is necessary.

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 business records that wine industry members keep during the normal course of business, regardless of any regulatory requirement to do so. Therefore, under the OMB regulations at 5 CFR 1320.3(b)(2), there is no cost to respondents associated with this 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 regulated industry members at their business premises.

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. As for adjustments, due to a change in agency estimates, TTB is increasing the number of respondents to this information collection requirement from 12,450 to 14,340. This increase is the result of continued growth in the number of regulated wine industry members in the United States. However, there is no corresponding increase in the burden hours associated with this information collection since it consists of usual and customary records kept during the normal course of business, which, under the OMB regulations at 5 CFR 1320.3(b)(2), places no annual burden on respondents. In addition, for the same reason, TTB is removing the one hour of annual burden previously reported for this information collection as a placeholder.

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 wine industry members keep at their premises during the normal course of business. As such, there is no prescribed TTB form for this collection, and, as such, 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 information collection does not employ statistical methods.