

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0037

Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation

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The IRC, at 26 U.S.C. 5066, 5214, and 5362, provides that distilled spirits, denatured spirits, and wines may be withdrawn from bonded premises, without payment of Federal alcohol excise tax, for export purposes. Those purposes include for direct export, for transfer to a foreign trade zone, a customs manufacturing bonded warehouse or a customs bonded warehouse for later export, or for use as supplies on vessels or aircraft traveling outside the jurisdiction of the United States. These IRC sections also state that such withdrawals are subject to regulations prescribed by the Secretary.

Under those authorities, TTB has issued regulations regarding the exportation of alcohol, which are contained in 27 CFR part 28. Specific to this information collection, the TTB regulations at 27 CFR 28.92, 28.122, and 28.152, require respondents to use form TTB F 5100.11 to report withdrawals from bonded premises of distilled spirits, denatured spirits, or wines, made without payment of tax for export purposes.¹ Under those regulations, such purposes include direct export to a foreign country or United States armed forces stationed overseas; transfer to a foreign trade zone, a customs manufacturing bonded warehouse, or a customs bonded warehouse for subsequent export; or for use as supplies on international vessels or aircraft. In general, completion of the form as instructed relieves the exporter of any further excise tax liability with respect to the spirits and wine described on the form.

Under those TTB regulations, if the exporter is also the proprietor of the bonded premises from which the spirits or wines are to be removed, the proprietor completes Part I of the form as a "notice" of removal. However, if the exporter is not the same as the proprietor, Part I becomes an "application" made by the exporter to remove the spirits or wines listed on the

¹ The IRC at 26 U.S.C. 5053(a) allows beer to be withdrawn without payment of tax for export in a similar manner as distilled spirits and wines. Under 27 CFR 28.142, such withdrawals of beer are reported on form TTB F 5130.12, which is approved under OMB Control No. 1513-0114.

form. If TTB approves the exporter's application, a TTB officer completes Part II, and the officer's signature is the proprietor's authorization to remove the spirits or wines from the bonded premises on behalf of the exporter, which the proprietor reports on Part III or Part IV of the form, as appropriate. Customs officers complete Parts V, VI, or VII, as appropriate, to document the export or lading of the spirits and wines in question. The part of the form to be completed depends upon the nature of the removal—for direct export, for transfer to a customs warehouse or foreign trade zone, or for use as supplies on vessels or aircraft. A U.S. armed forces officer uses Part VIII of the form to certify receipt of spirits and wine for shipment to forces stationed overseas.

This information collection is necessary to protect the revenue. The use of TTB F 5100.11 allows TTB to verify that exporters have sufficient bond coverage, if required, to cover the tax liability for the removed spirits and wines.² The form also documents that the spirits and wines in question were, in fact, exported or laden and not diverted into taxable domestic commerce.

The collected information is necessary to protect the revenue. The required removal application procedure allows TTB to determine if the exporter has a bond sufficient enough to cover the tax liability on the products to be removed without payment of tax, as required by the IRC at 26 U.S.C. 5175 or 5362(c), or is otherwise exempt from those bond requirements under 26 U.S.C. 5551(d). The export or lading certifications provided by customs or armed forces officers documents that the products were, in fact, exported and not diverted into taxable domestic commerce.

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?

The information collected on TTB F 5100.11 allows TTB to determine that exporters of untaxpaid spirits and wines possess the bond coverage required by law and regulations. Additionally, the certifications of export or lading made on the form by customs or armed forces officers demonstrate to TTB that the spirits and wines in question were, in fact, exported or laden and were, therefore, legitimate tax-free removals. If TTB did not collect this information, it would have no reasonable means of verifying that withdrawals of spirits and wines made without payment of tax for export purpose were, in fact, exported or laden and not diverted into taxable domestic commerce.

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 submission of the application form and the

² In general, the IRC at 26 U.S.C. 5175 and 5362(c) requires distilled spirits and wine premises proprietors and exporters to provide a bond to protect the revenue. However, under 26 U.S.C. 5551(d), certain small entities are exempt from the bond requirement.

maintenance of the required records. Currently, TTB F 5100.11 is “fillable–printable” from the TTB website at <https://www.ttb.gov/forms/all-forms>.

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?

TTB F 5100.11 collects information that is pertinent to each respondent and applicable to the respondent’s removal of specific spirits or wines, without payment of tax, for export purposes. 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?

The TTB regulations require all entities, regardless of size, to complete TTB F 5100.11 to document that spirits or wines withdrawn from bonded premises without payment of tax are, in fact, exported as stated and not entered into domestic commerce. Because this information collection requirement is necessary to protect the revenue, TTB cannot waive the collection simply because the respondent’s business is small.

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 completion of TTB F 5100.11 is necessary to document and verify the export of spirits or wines removed from bonded premises without payment of tax. If TTB did not collect this information, persons could make fraudulent or incorrect export claims and divert untaxpaid spirits and wines into domestic commerce, which would jeopardize the revenue. In addition, because respondents complete this information only as necessary to document such exports, TTB cannot conduct this collection less frequently.

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).)

Under 5 CFR 1320.5(d)(2)(iii), requiring respondents to submit more than an original and two copies of any document is a special circumstance. The instructions for TTB F 5100.11 require respondents to prepare the form in quadruplicate, and a fifth copy is required when distilled spirits or wines are for use as supplies on an aircraft. The form’s instructions describe the distribution of the copies to the exporter, customs officer or other person certifying the export of the distilled spirits or wines in question, the consignee, and TTB’s National Revenue Center.

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 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 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?

TTB provides no specific assurance of confidentiality for this collection. 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 that section. TTB maintains the collected information in secure computer systems and file rooms with controlled access.

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 it does not collect personally identifiable information (PII). 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 Annual Burden: Based on recent data, TTB estimates that 150 respondents complete an average of 20 responses per year, for a total of 3,000 annual responses. TTB further estimates that respondents require 0.5 hour (30 minutes) to complete each response. This results in an estimated annual burden of 10 hours per respondent and an estimated total annual burden of 1,500 hours for this information collection.

Estimated Respondent Labor Costs: TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour³ = \$29.65						
Information Collection	Avg. Time / Response (Hours)	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation	0.5	\$14.83	20	\$296.60	3,000	\$44,490.00

³ Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312000—Beverage and Tobacco Product Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations is \$29.65 (\$20.59 in wages plus \$9.06 in benefit costs). See the BLS website at https://www.bls.gov/oes/current/naics3_312000.htm.

Respondent Record Retention: Under 27 CFR 28.45, respondents must maintain file copies of any forms and records required under that part for a period of at least 2 years, and, during that period, such copies and records must be made available for inspection by appropriate TTB officers during normal business 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)?*

TTB believes that there are no annualized start-up or maintenance costs to respondents associated with this occasional information collection. As for mailing costs, TTB estimates that the estimated 150 respondents file an average of 20 responses each, with each response resulting in \$5.00 in postage and mailing supplies, resulting in \$100.00 per respondent per year in mailing costs and \$15,000.00 in total annual mailing costs for this information collection.

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

TTB has determined that there are no annual non-labor costs to the Federal Government associated with this information collection. In addition, Federal Government printing and distribution costs for this collection have decreased to \$0.00 in due to the public availability of TTB forms on its website forms page at <https://www.ttb.gov/forms>.

TTB estimates the annual labor costs to the Federal Government for this information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio Processing and Review of TTB F 5100.11					
Position	Fully-loaded Labor Rate/Hour ⁴	Processing Time per Response	Labor Costs per Response*	Total Responses	Total TTB Labor Costs**
GS-5, Step 5, Clerk	\$32.13	0.1 hour	\$3.21	3,000	\$9,630.00
GS-11, Step 5, Specialist	\$58.91	0.2 hour	\$11.78		\$35,340.00
TOTALS	(\$49,966)	0.3 hour	\$14.99	3,000	\$44,970.00

* Rounded to nearest whole cent. ** Rounded to the nearest whole dollar.

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

At this time, 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.*

⁴ Federal Government Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.13 (\$19.71 in wages plus \$12.42 in benefit costs); and (2) GS-11, step 5, employee = \$58.91 (\$36.14 in wages plus \$22.77 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN_h.pdf.

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?

As a cost saving measure for both TTB and the public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5100.6. By not displaying that date on the form, TTB will not have to update the form on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

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

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (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.