

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0090

Excise Tax Return – Alcohol and Tobacco Products (Puerto Rico)

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, cigarette papers and tubes, and processed tobacco), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.). TTB administers those IRC provisions 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.

Under those statutory and delegated authorities, TTB is responsible for the collection of the Federal excise taxes on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes imposed by chapters 51 and 52 of the IRC. As provided at 26 U.S.C. 5061(a) and 26 U.S.C. 5703(b), the IRC requires that those taxes be collected on the basis of a return, filed for the periods, at the times, and containing the information the Secretary requires by regulation. The IRC at 26 U.S.C. 7652(a) also provides that taxes imposed by the IRC on domestic articles, including excise taxes on alcohol and tobacco products, apply at the same rates to similar products manufactured in Puerto Rico and brought into the United States, to be paid and collected under such regulations as the Secretary shall issue. In addition, that section requires the transfer of the majority of taxes collected on Puerto Rican products brought into the United States to the treasury of the Commonwealth of Puerto Rico.

As authorized by the IRC, the TTB regulations in 27 CFR part 26 (for distilled spirits, wine, and beer) and part 41 (for tobacco products and cigarette papers and tubes), prescribe the use of TTB F 5000.25, Excise Tax Return – Alcohol and Tobacco (Puerto Rico) for the collection of the excise taxes imposed by the IRC on such products. Those regulations are found in §§ 26.81, 26.96, 26.105, 26.112, 26.113, 41.105, 41.112 and 41.114.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application Systems.

2. *How, by whom, and for what purpose is this information used?*

This information collection is necessary to ensure the tax provisions of the IRC are appropriately applied. TTB uses the information provided by respondents on TTB F 5000.25 to establish the taxpayer's identity, the amount and type of excise taxes due, and the amount of tax paid. TTB personnel examine each return at least once, and TTB may perform additional return examinations during on-site audits of the taxpayer. The required information and examinations allow TTB to determine if the taxpayer has paid the correct amount of tax and to take additional action, such collection or refund of tax, when necessary. In addition, information provided on TTB F 5000.25 is necessary for TB to determine the amount of collected alcohol and tobacco excise taxes that it must transfer to the treasury of Puerto Rico.

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?*

Currently, respondents may electronically complete TTB F 5000.25 and pay any taxes due via the Federal government's Pay.gov system; see <https://www.ttb.gov/epayment>. Respondents may also download fillable-printable versions of TTB F 5000.25 at no cost from the TTB website at <https://www.ttb.gov/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?*

The information TTB requires on TTB F 5000.25 is minimal and is unique to each taxpayer and to each period for which they file a return. Only TTB collects the Federal excise tax on alcohol and tobacco products of Puerto Rican manufacture brought into the United States, and this information is not available to TTB from other sources.

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

This information collection does not have a significant impact on a substantial number of small businesses or other small entities, and the information required on TTB F 5000.25 is minimal. The excise tax liabilities reported on that form are based on the amount of taxable commodities produced and removed by respondents during a given time period. TTB notes that respondents account for their production of alcohol or tobacco products during the normal course of business to control and track their operations and inventory. While all tobacco entities, regardless of size, and all large alcohol entities are required to pay tax and file returns on a semi-monthly basis (three times in September), most small alcohol taxpayers may pay tax and file returns on an annual or quarterly basis under the authority of 26 U.S.C. 5061(d).¹ Waiver or reduction of those filing requirements, simply because the respondent's business is small, would jeopardize the ability of TTB to ensure

¹ Under 26 U.S.C. 5061(d) and 27 CFR 26.112(b), to pay alcohol excise tax and file returns quarterly, a taxpayer must reasonably expect to be liable for more than \$1,000 and not more than \$50,000 in such taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year. To pay alcohol excise tax and file returns annually, a taxpayer must reasonably expect to be liable for not more than \$1,000 in such taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year.

that the tax provisions of the IRC are appropriately applied and to determine the amount of alcohol and tobacco excise taxes that it must transfer to the treasury of Puerto Rico.

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 information collected on TTB F 5000.25 is necessary to ensure the tax provisions of the IRC are appropriately applied. Not collecting or reducing the frequency of this collection would seriously jeopardize TTB's ability to determine and account for the excise taxes due on alcohol and tobacco products of Puerto Rican origin brought into the United States. Such actions would also compromise TTB's ability to calculate the amount of such taxes it must transfer to the treasury of Puerto Rico.

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?*

Under 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. In the case of this information collection, the IRC at 26 U.S.C. 5061(d) and 5703(b) requires alcohol and tobacco excise taxpayers to pay such taxes on a semi-monthly basis (three times in September), unless, for certain small alcohol excise taxpayers, they are authorized by 26 U.S.C. 5061(d)(4) to pay quarterly or annually. To account for those excise tax payments, the TTB regulations at 27 CFR 26.112 and 41.114 require respondents to file excise tax returns on the same schedule as their related tax payments. As such, respondents who file TTB F 5000.25 must do so up to 25 times a year as required by the IRC, unless they are small alcohol taxpayers otherwise qualified to file quarterly or annually under 26 U.S.C. 5061(d) and § 26.112(b).

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 November 16, 2021, at 86 FR 63448. 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 information collection request. However, the IRC at 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless that section specifically authorizes such disclosure. TTB

maintains the collected information in secure file rooms and computer systems 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. As this request collects personally identifiable information, TTB has conducted a Privacy Impact Assessment (PIA) for that information as part of the Tax Major Application. TTB's PIAs are available on the TTB website at <https://www.ttb.gov/foia/privacy-impact-assessments>. TTB also has published a Privacy Act System of Records notice (SORN), which includes that system, under "Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001-Regulatory Enforcement System of Records." TTB's latest SORN appeared in the Federal Register on February 10, 2021, at 86 FR 8988.

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

Estimated Respondent Burden: There are 24 respondents to this information collection, 18 of which file 25 times annually (450 total responses) and 6 of which file quarterly (24 total responses), resulting in a total of 474 annual responses. TTB estimates that a respondent requires 0.75 hour (45 minutes) to complete a response, resulting in an estimated total of 356 hours of annual burden.

Estimated Respondent Labor Costs: Based on the average fully-loaded labor rate of \$53.45 per hour for accountants and auditors employed in the beverage and tobacco product manufacturing industries, TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:²

NAICS 312000 - Beverage & Tobacco Product Manufacturing Accountants and Auditors Average Fully-loaded Labor Rate/Hour = \$53.45				
Filing Frequency	Avg. Time / Response	Labor Cost / Response*	Responses / Respondent	Labor Costs / Respondent
Semi-monthly**	0.75 hr.	\$40.09	25	\$1,002.25
Quarterly	0.75 hr.	\$40.09	4	\$160.36
Total: \$40.09/response x 474 annual responses = \$19,002.66 in total annual respondent labor costs for this information collection.				

* Labor costs are rounded to the nearest whole cent. ** There are three filing periods in September.

² Private Sector Fully-loaded Labor Rate per Hour = Hourly wage rate multiplied by a factor of 1.44 to account for employee benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, 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 Accountants and Auditors is \$53.45 (\$37.12 in wages plus \$16.33 in benefit costs). See https://www.bls.gov/oes/current/naics3_312000.htm.

Recordkeeping Burden: Under the record retention provisions of 27 CFR 26.276 and 41.22, respondents must retain record copies of submitted forms, including TTB F 5000.25, at their business premises for at least three years after the form's submission.

13. *What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above)?*

The information required on TTB F 5000.25 is minimal. The excise tax liabilities reported on that form are based, in general, on the amount of taxable commodities produced and removed by respondents during a given time period. TTB notes that respondents track their operations during the normal course of business to account for their production and inventory of alcohol and tobacco products. As such, TTB believes that there are no annualized start-up, maintenance, or overhead costs to respondents associated with this information collection.

As for other costs to respondents, TTB estimates that respondents have no more than \$2.00 per response in postage and mailing supply costs for this information collection. For taxpayers who respond via paper, such costs would be \$50.00 for each semi-monthly respondent and \$8.00 for each quarterly respondent. Given 474 total annual responses to this information collection, the estimated cost to respondents for postage and mail supplies is no more than \$948.00.

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

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

Costs for TTB Personnel in San Juan, Puerto Rico (Based on the "Rest of United States" Hourly Pay Table)					
Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Costs per Response*	Total Responses	Total Costs
GS-5, Step 5, Clerk	\$31.96	0.2 hours	\$6.39	474	\$3,028.86
GS-11, Step 5, Specialist	\$58.61	0.8 hours	\$46.89		\$22,225.86
TOTALS	(\$53.28)	1 hour	\$53.28	474	\$25,254.72

* Labor costs rounded to the nearest whole cent.

For this information collection, TTB further estimates \$1.00 per response in overhead costs, which total \$474.00. In addition, TTB's printing and distribution costs for this collection's form, TTB F 5000.25, have decreased to \$0.00 due to the availability of the

³ Federal Government Fully-loaded Labor Rate per Hour = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for the "Rest of the United States" pay area, which includes Puerto Rico, are: (1) GS-5, step 5, employee = \$31.96; and (2) GS-11, step 5, employee = \$58.61. See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/RUS_h.pdf.

form at no cost to the public on the TTB website (see <https://www.ttb.gov/forms>) and on the Pay.gov website (see the TB website at <https://www.ttb.gov/epayment>).

Therefore, the total cost to the Federal Government for this information collection is \$25,728.72.

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

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.*

Using data from this information collection, TTB publishes the total amounts of excise taxes it collects by commodity in its quarterly and annual Tax Collections reports. TTB posts those reports on its website at <https://www.ttb.gov/tax-audit/tax-collections>. In its Annual Reports, TTB also published the total amounts of excise taxes it collects by commodity, as well as the amount of excise taxes transferred to the treasury of Puerto Rico. TTB posts its Annual Reports on its website at <https://www.ttb.gov/about-ttb/plans-and-reports-annual-reports>. TTB generalizes all reported tax collection totals, and it does not identify any specific taxpayers in its reports as the IRC prohibits such disclosure.

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?

TTB will display the expiration date for OMB approval of this information collection on its related form, TTB F 5000.25.

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.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.