

## Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

CHAPTER 51. Distilled spirits, wines, and beer.

CHAPTER 52. Tobacco, cigars, cigarettes, and cigarette papers and tubes.

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### CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

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#### SEC. 5001. IMPOSITION, RATE AND ATTACHMENT OF TAX.

##### (a) RATE OF TAX—

(1) IN GENERAL.—There is hereby imposed on all distilled spirits in bond or produced in or imported into the United States

an internal revenue tax at the rate of \$10.50 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. On and after April 1, 1955, the rate of tax imposed by this paragraph shall be \$9 in lieu of \$10.50.

(2) **PRODUCTS CONTAINING DISTILLED SPIRITS.**—All products of distillation, by whatever name known, which contain distilled spirits or alcohol, on which the tax imposed by law has not been paid, shall be considered and taxed as distilled spirits.

(3) **IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.**—There is hereby imposed on all perfumes imported into the United States containing distilled spirits a tax of \$10.50 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. On and after April 1, 1955, the rate of tax imposed by this paragraph shall be \$9 in lieu of \$10.50.

(4) **ALCOHOLIC COMPOUNDS FROM PUERTO RICO AND VIRGIN ISLANDS.**—

(A) **PUERTO RICO.**—Except as provided in section 5318, upon bay rum, or any article containing alcohol, brought from Puerto Rico into the United States for consumption or sale there is hereby imposed a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States.

(B) **VIRGIN ISLANDS.**—

For provisions relating to tax on alcoholic compounds from the Virgin Islands, see section 7652 (b) (1).

(5) **WINES CONTAINING MORE THAN 24 PERCENT ABSOLUTE ALCOHOL.**—Wines containing more than 24 percent of absolute alcohol by volume shall be taxed as distilled spirits.

(6) **DENATURED ALCOHOL, DENATURED RUM OR ARTICLES.**—Any person who produces, withdraws, sells, transports, or uses, denatured alcohol, denatured rum, or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured alcohol, denatured rum, or articles shall be subject to all provisions of law pertaining to alcohol that is not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured alcohol, denatured rum, or articles shall be required to pay such tax.

(7) **FRUIT FLAVOR CONCENTRATES.**—If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

(8) **IMPORTED ALCOHOL WITHDRAWN FOR BEVERAGE PURPOSES.**—On all alcohol imported under section 5311 without payment of the internal revenue tax, and withdrawn for beverage purposes, there shall be paid on such withdrawal an additional tax equal to

the duty which would have been paid had such spirits been imported for beverage purposes, less the duty already paid thereon.

(9) **IMPORTED LIQUEURS AND CORDIALS.**—Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

(b) **TIME OF ATTACHMENT ON DISTILLED SPIRITS.**—The tax shall attach to distilled spirits, spirits, alcohol, or alcoholic spirits, within the meaning of section 5002 (b), as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(c) **CROSS REFERENCE.**—

For penalty for tampering with a stamp machine, see section 5689.

#### SEC. 5002. DEFINITIONS.

(a) **DISTILLER.**—Every person who produces distilled spirits from any source or substance, or who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits, or who, by any process of evaporation, separates alcoholic spirits from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller.

(b) **DISTILLED SPIRITS.**—

(1) **GENERAL DEFINITION.**—For purposes of this chapter, distilled spirits, spirits, alcohol, and alcoholic spirits are that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance.

(2) **PRODUCTS OF RECTIFICATION.**—As used in section 5008 (b) the term “distilled spirits” includes products produced in such manner that the person producing them is a rectifier within the meaning of section 5082.

(c) **PROOF SPIRITS.**—For purposes of this chapter, the term “proof spirits” means that alcoholic liquor which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (.7939) at 60 degrees Fahrenheit.

(d) **PROOF GALLON.**—For purposes of this chapter, the term “proof gallon” means a gallon of proof spirits, according to the standard prescribed in subsection (c), set forth and declared for the inspection and gauging of spirits throughout the United States.

#### SEC. 5003. EXEMPTIONS.

(1) For provisions authorizing the withdrawal of alcohol free of tax for use by Federal or State agencies, see section 5310 (b).

(2) For provisions authorizing the withdrawal of alcohol free of tax for use in research, hospitals, or charitable clinics, see section 5310 (c).

(3) For provisions authorizing the importation of alcohol for industrial purposes without payment of tax, see section 5311.

(4) For provisions authorizing the withdrawal and denaturation of alcohol without payment of tax, see sections 5310 (a) and 5331 (a).

(5) For provisions authorizing the withdrawal and denaturation of rum without payment of tax, see section 5331 (c).

(6) For provisions authorizing the removal for denaturation or destruction without payment of tax of distillates containing aldehydes or fusel oil, see section 5194 (b).

(7) For provisions exempting distilled vinegar produced by the vaporizing process from tax, see section 5216.

(8) For provisions exempting from tax wine spirits withdrawn for the production of wine, see section 5373.

(9) For provisions exempting from tax volatile fruit-flavor concentrates, see section 5511.

(10) For provisions authorizing the withdrawal of distilled spirits in original casks or packages for export without payment of tax, see section 5247.

(11) For provisions authorizing the withdrawal of distilled spirits by distiller into metallic cans in wooden packages for exportation without payment of tax, see section 5193 (b).

(12) For provisions authorizing the transfer of distilled spirits into tanks, or tank cars for export without payment of tax, see section 5247 (d).

(13) For provisions authorizing withdrawal of distilled spirits to customs manufacturing bonded warehouses for export without payment of tax, see section 5522 (a).

(14) For provisions authorizing exportation of distilled spirits bottled in bond without payment of tax, see section 5243.

(15) For provisions relating to withdrawal of distilled spirits without payment of tax as supplies for certain vessels and aircraft, see 19 U. S. C. 1309.

(16) For provisions authorizing regulations for withdrawal of distilled spirits for use of United States free of tax, see section 7510.

(17) For provisions relating to withdrawal of distilled spirits without payment of tax to foreign trade zones, see 19 U. S. C. 81c.

#### SEC. 5004. LIEN FOR TAX.

##### (a) LIEN APPLICABLE TO DISTILLED SPIRITS.—

(1) PROPERTY SUBJECT TO LIEN.—The tax imposed by section 5001 (a) (1) shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land on which such distillery is situated, and on any building thereon, from the time such spirits are in existence as such until (except as provided in paragraph (3)) such tax is paid.

(2) EXCEPTION DURING TERM OF BONDS.—No lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus, under this subsection, by reason of distilling done during any period included within the term of any bond taken under section 5177 (b) (3).

(3) EXTINGUISHMENT OF LIEN.—Any lien under paragraph (1) on any land or any building thereon shall be held to be extinguished if (A) such land and building are no longer used for distillery purposes, (B) there is no outstanding liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (C) no litigation is pending in respect of any such tax or penalty.

(4) CERTIFICATE OF DISCHARGE.—Any person claiming any interest in any such land or building may apply to the Secretary or his delegate for a duly acknowledged certificate to the effect that such lien is discharged and, if the Secretary or his delegate determines that such lien is extinguished, the Secretary or his delegate shall issue such certificate, and any such certificate may be recorded.

(b) LIEN APPLICABLE TO ALCOHOL.—The tax imposed by law on alcohol shall be a first lien on such alcohol and the premises and plant in which such alcohol is produced or stored, together with all improvements and appurtenances thereunto belonging or in any wise appertaining.

**(c) CROSS REFERENCES.—**

(1) For provisions relating to transfer of lien to redistiller in case of redistillation, see section 5194 (f).

(2) For transfer of lien in cases of national emergency transfers, see section 5217 (a).

**SEC. 5005. PERSONS LIABLE FOR TAX.**

(a) **GENERAL.**—The internal revenue tax imposed by section 5001 (a) (1) on distilled spirits shall be paid by the distiller or importer.

(b) **DOMESTIC DISTILLED SPIRITS.**—Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(c) **ALCOHOL.**—All proprietors of industrial alcohol plants and alcohol bonded warehouses shall be jointly and severally liable for any and all taxes on any and all alcohol produced thereat or stored therein.

**(d) CROSS REFERENCES.—**

(1) For provisions conditioning warehousing bonds on the payment of the tax as specified in the entry, and within 8 years from the date of original entry, see section 5232 (a).

(2) For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5194 (f) and for transfer of liability in case of national emergency transfers, see section 5217 (a).

(3) For liability for tax on denatured alcohol, denatured rum, articles and volatile fruit-flavor concentrates, see section 5001 (a) (6) and (7).

(4) For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5373.

**SEC. 5006. DETERMINATION OF TAX.****(a) REQUIREMENTS.—**

(1) **IN GENERAL.**—The internal revenue tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary or his delegate shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to storage, gauging, and bottling tanks and pipelines) as the Secretary or his delegate may require.

(2) **DISTILLED SPIRITS DEPOSITED IN INTERNAL REVENUE BONDED WAREHOUSES.**—The tax on distilled spirits entered for deposit in internal revenue bonded warehouses shall be determined at the time the same are withdrawn therefrom and within 8 years from the date of original entry for deposit therein (except that distilled spirits which on July 26, 1936, were 8 years of age or older and which were in bonded warehouses on that date, may remain therein).

(b) **EXCESSIVE LOSS.**—If it appears at any time that there has been a loss of distilled spirits from any cask or other package deposited in an internal revenue bonded warehouse, other than the loss provided for in section 5011 (a), which, in the opinion of the Secretary or his delegate, is excessive, he may require the withdrawal from the warehouse of such distilled spirits, and direct the officer designated by him to collect the tax accrued on the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into warehouse in such cask or package has not expired. If such tax is not paid on demand it shall be assessed and collected as other taxes are assessed and collected.

(c) **DISTILLED SPIRITS NOT BONDED.**—The tax on any distilled spirits, removed from the place where they were distilled and (except as otherwise provided by law) not deposited in a bonded warehouse, shall, at any time within the period of limitation provided in section 6501, when knowledge of such fact is obtained by the Secretary or his delegate, be assessed on the distiller of such distilled spirits, and payment of such tax immediately demanded and, on the neglect or refusal of payment by the distiller, the Secretary or his delegate shall proceed to collect the same by distraint. This subsection shall not exclude any other remedy or proceeding provided by law.

(d) **UNLAWFULLY IMPORTED DISTILLED SPIRITS.**—Distilled spirits smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

(e) **CROSS REFERENCES.**—

(1) For provisions relating to removals of distilled spirits from a distillery for redistillation, denaturation, or on determination of tax, see section 5194.

(2) For provisions relating to removals of distilled spirits from a distillery as national emergency transfers, see section 5217 (a).

(3) For provisions relating to removals of distilled spirits from a distillery for exportation, see section 5247 (d).

(4) For provisions relating to removals of wine spirits from a distillery for fortification of wine, see section 5373 (b).

#### SEC. 5007. COLLECTION OF TAX ON DISTILLED SPIRITS.

(a) **TAX ON DOMESTIC DISTILLED SPIRITS.**—The tax on domestic distilled spirits shall be paid in accordance with section 5061.

(b) **COLLECTION OF TAX ON IMPORTED DISTILLED SPIRITS AND PERFUMES CONTAINING DISTILLED SPIRITS.**—

(1) **DISTILLED SPIRITS.**—The internal revenue tax imposed by section 5001 (a) (1) and (2) upon imported distilled spirits shall be collected by the Secretary or his delegate and deposited as internal revenue collections, under such regulations as the Secretary or his delegate may prescribe. Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1930 (46 Stat. 590; 19 U. S. C., chapter 4), or any subsequent act. Section 5688 shall be applicable to the disposition of imported spirits.

(2) **PERFUMES CONTAINING DISTILLED SPIRITS.**—The internal revenue tax imposed by section 5001 (a) (3) upon imported perfumes containing distilled spirits shall be collected by the Secretary or his delegate and deposited as internal revenue collections, under such regulations as the Secretary or his delegate may prescribe.

(c) **PAYMENT OF TAX ON ALCOHOLIC COMPOUNDS FROM PUERTO RICO AND VIRGIN ISLANDS.**—The tax imposed by section 5001 (a) (4) shall be collected, under regulations prescribed by the Secretary or his delegate.

(d) **PAYMENT OF TAX ON ALCOHOL.**—The provisions of section 5061 relating to the taxpayment of distilled spirits and the penalty and forfeiture provisions applicable thereto shall, so far as applicable, extend to and include the taxpayment of alcohol produced in the United States, or imported under section 5311.

(e) ASSESSMENT FOR DEFICIENCIES IN PRODUCTION AND EXCESS OF MATERIALS USED.—

(1) REQUIREMENT.—On the receipt of the distiller's return in each month, the Secretary or his delegate shall inquire and determine whether the distiller has accounted for all the grain or molasses used, and all the spirits produced by him in the preceding month. If he is satisfied that the distiller has reported all the spirits produced by him, and the quantity so reported is found to be less than 80 percent of the producing capacity of the distillery as estimated according to law, he shall make an assessment for such deficiency at the rate of tax imposed by law for every proof gallon. In determining the quantity of grain used, 56 pounds shall be accounted as a bushel; and if the Secretary or his delegate finds that the distiller has used any grain or molasses in excess of the capacity of his distillery as estimated according to law, he shall make an assessment against the distiller at the rate imposed by law for every proof gallon of spirits that should have been produced from the grain or molasses so used in excess, which assessment shall be made whether the quantity of spirits reported is equal to or exceeds 80 percent of the producing capacity of the distillery. If the Secretary or his delegate finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate of tax imposed by law for every proof gallon: *Provided*, That the actual product shall be assumed to be in no case less than 80 percent of the producing capacity of the distillery as estimated according to law. All assessments made under this subsection shall be a lien on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon, from the time such assessment is made until the same shall have been paid.

(2) RELIEF FROM ASSESSMENT.—Whenever, under the provisions of this subsection, an assessment shall have been made against a distiller for a deficiency in not producing 80 percent of the producing capacity of his distillery as established by law, or for the tax upon the spirits that should have been produced from the grain or fruit or molasses found to have been used in excess of the capacity of his distillery for any month, as estimated according to law, such excessive use of grain or fruit or molasses having arisen from a failure on the part of the distiller to maintain the capacity required by law to enable him to use such grain or fruit or molasses without incurring liability to such assessment, and it shall be made to appear to the satisfaction of the Secretary or his delegate that said deficiency, or said failure, whereby such excessive use of grain, molasses, or fruit arose, was not occasioned by any want of diligence or by any fraudulent purpose on the part of the distiller, but from misunderstanding as to the requirements of the law and regulations in that respect or by reason of unavoidable accidents, then, and in such case, the Secretary or his delegate, subject to regulations pre-

scribed by him, is authorized, on appeal made to him, to remit or refund such tax, or such part thereof as shall appear to him to be equitable and just in the premises. And the Secretary or his delegate, upon the production to him of satisfactory proof of the actual destruction, by accidental fire or other casualty, and without any fraud, collusion, or negligence of the distiller, of any spirits in process of manufacture or distillation, or before removal to the internal revenue bonded warehouse, shall not assess the distiller for a deficiency in not producing 80 percent of the producing capacity of his distillery as established by law when the deficiency is occasioned by such destruction, nor shall he, in such case, assess the tax on the spirits so destroyed: *Provided*, That no assessment shall be charged against any distiller of fruit for any failure to maintain the required capacity, unless the Secretary or his delegate shall, within 6 months after his receipt of each monthly report, notify such distiller of such failure to maintain the required capacity.

(f) CROSS REFERENCES.—

(1) For authority of the Secretary or his delegate to make determinations and assessments of internal revenue taxes and penalties, see section 6201 (a).

(2) For authority to assess tax on distilled spirits not bonded, see section 5006 (c).

(3) For provisions relating to payment of tax on denatured alcohol, denatured rum, articles and volatile fruit-flavor concentrates, see sections 5001 (a) (6) and (7).

(4) For authority of the Secretary or his delegate to waive provisions of law relating or incidental to survey requirements, see section 5179 (b).

**SEC. 5008. STRIP STAMPS FOR DISTILLED SPIRITS.**

(a) STAMPS FOR CONTAINERS OF DISTILLED SPIRITS BOTTLED IN BOND.—

(1) REQUIREMENTS.—Every bottle of distilled spirits bottled in bond in an internal revenue bonded warehouse when filled shall have affixed thereto in such manner as to be broken on opening the bottle, a stamp evidencing the bottling in bond of such spirits under the provisions of this subsection and section 5243, and of regulations prescribed thereunder.

(2) STAMP REGULATIONS.—The Secretary or his delegate shall prescribe regulations with respect to the supplying of stamps required under this subsection, the time and manner of applying for, issuing, affixing, and destroying such stamps, the form of such stamps and the information to be shown thereon, applications for the stamps, proof that applicants are entitled to such stamps, and the method of accounting for such stamps, and such other regulations as he may deem necessary for the enforcement of this subsection and section 5243.

(b) STAMPS FOR CONTAINERS OF OTHER DISTILLED SPIRITS.—

(1) REQUIREMENTS.—No person shall transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof has affixed thereto in such manner as to be broken on opening the container, a stamp evidencing the tax or indicating compliance with the provisions of this chapter. The provisions of this subsection shall not apply to—

(A) distilled spirits placed in containers for immediate consumption on the premises or for preparation for such consumption;

(B) distilled spirits in bond or in customs custody;

(C) distilled spirits in immediate container required to be stamped under subsection (a) or under other provisions of internal revenue or customs law and regulations;

(D) distilled spirits in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(E) distilled spirits on which no internal revenue tax is required to be paid or which are bottled especially for export with benefit of drawback;

(F) distilled spirits not intended for sale; or for use in the manufacture or production of any article intended for sale; or

(G) any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(2) **STAMP REGULATIONS.**—The Secretary or his delegate shall prescribe regulations with respect to the supplying of stamps required under this subsection, the time and manner of applying for, issuing, affixing, and destroying such stamps, the form of such stamps and the information to be shown thereon, applications for the stamps, proof that applicants are entitled to such stamps, and the method of accounting for such stamps, and such other regulations as he may deem necessary for the enforcement of this subsection.

(3) **DESTRUCTION OF STAMPS ON EMPTIED CONTAINERS.**—Every person emptying any container stamped under the provisions of this subsection shall at the time of emptying such container destroy the stamp thereon.

#### **SEC. 5009. STAMPS FOR DISTILLED SPIRITS WITHDRAWN FOR EXPORTATION.**

(a) **REQUIREMENTS.**—All distilled spirits intended for export in the original casks or packages or in packages filled from the original packages, shall, before being removed from the internal revenue bonded warehouse, be marked as the Secretary or his delegate may by regulations prescribe, and shall have affixed to each cask or package a stamp indicative of such intention. Such stamps shall be used and accounted for, under regulations to be prescribed by the Secretary or his delegate.

(b) **CROSS REFERENCES.**—

(1) For applicability of this section to distilled spirits transferred into tanks or tank cars for export, see section 5247 (d).

(2) For authority of the Secretary or his delegate to prescribe regulations regarding stamps for distilled spirits withdrawn to manufacturing bonded warehouses, see section 5522 (a).

#### **SEC. 5010. MISCELLANEOUS STAMP PROVISIONS.**

(a) **ISSUE FOR RESTAMPING.**—The Secretary or his delegate, under regulations prescribed by him, may issue stamps for restamping packages of distilled spirits, which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(b) **ACCOUNTABILITY.**—All stamps relating to distilled spirits, shall be charged to the principal collection officer in each internal revenue district; and shall be used and accounted for under such regulations as the Secretary or his delegate may prescribe.

(c) **EFFACEMENT OF STAMPS AND BRANDS ON EMPTIED PACKAGES.**—Every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp, required by law, shall, at the time of emptying such cask or package, efface and obliterate said mark, stamp, or brand.

(d) **CROSS REFERENCES.**—

(1) For authority of the Secretary or his delegate to prescribe regulations relating to the stamping of packages of distilled spirits, see section 5194 (g).

(2) For general authority of the Secretary or his delegate to prescribe regulations relating to the establishment and alteration of stamps, marks, and brands, see section 6801.

(3) For provisions relating to stamping of distilled spirits removed from warehouses, see section 5250.

**SEC. 5011. ABATEMENT, REMISSION, REFUND AND ALLOWANCE FOR LOSS OR DESTRUCTION OF DISTILLED SPIRITS.**

(a) **DISTILLED SPIRITS LOST OR DESTROYED IN BOND.**—

(1) **EXTENT OF LOSS ALLOWANCE.**—No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(A) **THEFT.**—In the case of loss by theft, unless the Secretary or his delegate finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them; and

(B) **VOLUNTARY DESTRUCTION.**—In the case of voluntary destruction, unless such destruction is carried out under subsection (b).

(2) **PROOF OF LOSS.**—In any case in which spirits are lost or destroyed, whether by theft or otherwise, the Secretary or his delegate may require the distiller or warehouseman or other person responsible for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the distiller or warehouseman or other person responsible for the tax to establish to the satisfaction of the Secretary or his delegate that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them.

(3) **REFUND OF TAX.**—In any case where the tax would not be collectible by virtue of subsection (a) (1), but such tax has been paid, the Secretary or his delegate shall refund such tax. No tax shall be remitted or refunded under this subsection where the loss occurred after the tax was determined (as provided in section 5006 (a)), and the spirits withdrawn from bond.

(4) **INSURANCE COVERAGE.**—The abatement or refund of taxes provided for by subsections (a) (1) and (3) in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss.

(b) **VOLUNTARY DESTRUCTION.**—The distiller, warehouseman, or other person responsible for the tax imposed by this chapter with respect to any distilled spirits in bond may voluntarily destroy such

spirits, but only if such destruction is under such supervision, and under such regulations, as the Secretary or his delegate may prescribe.

(c) **LOSS OR DESTRUCTION OF ALCOHOL.**—Whenever any alcohol (produced at an industrial alcohol plant or imported under section 5311), is lost by evaporation or other shrinkage, leakage, casualty, or unavoidable cause during distillation, redistillation, denaturation, withdrawal, piping, shipment, warehousing, storage, packing, transfer, or recovery of any such alcohol, the Secretary or his delegate may remit or refund any tax incurred on such alcohol: *Provided*, That he is satisfied that the alcohol has not been diverted to any illegal use: *Provided further*, That such allowance shall not be granted if the person claiming same is indemnified against such loss by a valid claim of insurance.

(d) **CROSS REFERENCES.**—

(1) For provisions relating to losses of fruit brandies before blending in internal revenue bonded warehouse, see section 5023.

(2) For allowance of loss in case of national emergency transfers, see section 5217 (a).

**SEC. 5012. DRAWBACK.**

(a) **DRAWBACK ON EXPORTATION OF DISTILLED SPIRITS IN DISTILLERS' ORIGINAL PACKAGES.**—Distilled spirits on which all taxes have been paid may be exported, with the privilege of drawback, in distillers' original casks or packages containing not less than 20 wine gallons each, on application of the owner thereof to the Secretary or his delegate, under such regulations and on the filing of such bonds, reports, returns and applications and the keeping of such records as the Secretary or his delegate may prescribe. A drawback shall be allowed upon distilled spirits on which the tax has been paid and which have been exported to foreign countries under this section and shall include the taxes levied and paid on the distilled spirits exported. The rate of drawback shall be equal to the rate of the internal revenue tax paid in respect of the distilled spirits exported, as per gauge of such spirits as the Secretary or his delegate may require to be made before exportation. Such drawback shall be due and payable only after all requirements of law and regulations have been complied with and on filing with the Secretary or his delegate a proper claim and satisfactory evidence that the tax on the distilled spirits has been paid and that such distilled spirits have been exported; and the Secretary or his delegate shall prescribe such regulations in relation thereto as may be necessary to secure the Government against frauds.

(b) **CROSS REFERENCES.**—

(1) For provisions relating to drawback on distilled spirits packaged or bottled especially for export, see section 5062 (b).

(2) For provisions relating to drawback on designated non-beverage products, see section 5131 through 5134.

(3) For drawback on domestic alcohol used in flavoring extracts and medicinal toilet preparations exported, see sections 313 (d) of the Tariff Act of 1930 (46 Stat. 694; 19 U. S. C. 1313).

(4) For drawback on articles removed to foreign trade zones, see 19 U. S. C. 81c.

**Subpart B—Rectification**

- Sec. 5021. Imposition and rate of tax.
- Sec. 5022. Tax on cordials and liqueurs containing wine.
- Sec. 5023. Tax on blending of beverage brandies.
- Sec. 5024. Definitions.
- Sec. 5025. Exemption from rectification tax.
- Sec. 5026. Determination and collection of rectification tax.
- Sec. 5027. Stamp provisions applicable to rectifiers.
- Sec. 5028. Cross references.

**SEC. 5021. IMPOSITION AND RATE OF TAX.**

(a) **RECTIFIED SPIRITS AND WINES.**—In addition to the tax imposed by this chapter on distilled spirits and wines, there is hereby imposed (except as otherwise provided in this chapter) a tax of 30 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines rectified, purified, or refined in such manner, and on all mixtures produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier (as defined in section 5082).

(b) **CHANGE IN PROOF OR VOLUME.**—When the process of rectification is completed and the taxes prescribed by this section have been determined, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance. Nothing in this subsection shall prevent a rectifier from using again in the process of rectification spirits already rectified and on which the taxes have theretofore been determined.

**SEC. 5022. TAX ON CORDIALS AND LIQUEURS CONTAINING WINE.**

On all liqueurs, cordials, or similar compounds produced in the United States and not sold as wine, which contain more than 2½ percent by volume of wine of an alcoholic content in excess of 14 percent by volume (other than bottled cocktails), there shall be paid, in lieu of the tax imposed by section 5021, a tax at the rate of \$1.92 per wine gallon and a proportionate tax at a like rate on all fractional parts of such wine gallon until April 1, 1955, and on or after April 1, 1955, at the rate of \$1.60 per wine gallon and a proportionate tax at a like rate on all fractional parts of such wine gallon. All other provisions of law applicable to rectification shall apply to the products subject to tax under this section.

**SEC. 5023. TAX ON BLENDING OF BEVERAGE BRANDIES.**

Fruit brandies distilled from the same kind of fruit at not more than 170 degrees proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any such mixture or blend, by the distiller thereof in any internal revenue bonded warehouse operated by him exclusively for the storage of brandy or wine spirits, and sections 5021, 5081, and 5082 relating to rectification or other internal revenue laws of the United States shall not be held to apply to or prohibit such mixing or blending, and brandies so mixed or blended may be packaged, stored, transported, transferred in bond, withdrawn from bond taxpaid or tax-free, or be otherwise disposed of, in the same manner as such brandies not so mixed or blended: *Provided*, That, in addition to the tax imposed by this chapter on the production of distilled spirits, there shall be paid a tax of 30 cents as to each proof gallon

(and a proportionate tax at a like rate on all fractional parts of such proof gallon) of brandy so mixed or blended (except when withdrawn tax-free and accounted for or when lost and allowance is made therefor), such tax to be determined at the time of withdrawal and paid under such regulations as the Secretary or his delegate shall prescribe. The Secretary or his delegate, under regulations prescribed by him, on the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise, of fruit brandies so blended or mixed, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the warehouseman or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandies: *Provided, however,* That such remission or refund shall be allowed only to the extent that the warehouseman is not indemnified or recompensed for such tax, and that losses of fruit brandies occurring before any such mixing or blending shall be allowable in accordance with section 5011 (a). The term "distiller" as used in this section shall include any one or more distillers associated as members of any farm cooperative, or any one or more distillers affiliated within the meaning of section 17 (a) (5) of the Federal Alcohol Administration Act, as amended (49 Stat. 990; 27 U. S. C. 211), or any fruit distiller for whose account, recorded with the Secretary or his delegate at the time of production, the brandy to be blended was produced. The Secretary or his delegate may make such rules or regulations as he may deem necessary to carry this section into effect.

#### SEC. 5024. DEFINITIONS.

(1) For definition of "rectifier", see section 5082.

(2) For definition of "products of rectification" as "distilled spirits" for certain purposes, see section 5002 (b) (2).

#### SEC. 5025. EXEMPTION FROM RECTIFICATION TAX.

(a) **ABSOLUTE ALCOHOL.**—The process of extraction of water from high-proof spirits for the production of absolute alcohol shall not be deemed to be rectification within the meaning of sections 5081 and 5082, and absolute alcohol shall not be subject to the tax imposed by section 5021, but the production of such absolute alcohol shall be under such regulations as the Secretary or his delegate may prescribe.

(b) **PRODUCTION OF GIN AND VODKA.**—The tax imposed by section 5021 shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics or to vodka produced from pure spirits in the manner authorized at registered distilleries.

(c) **REFINING SPIRITS IN COURSE OF ORIGINAL DISTILLATION.**—The purifying or refining of spirits in the course of original and continuous distillation through any material which will not remain incorporated with such spirits when the manufacture thereof is complete shall not be held to be rectification within the meaning of sections 5021, 5081, or 5082, nor shall these sections be held to prohibit such purifying or refining.

(d) **REDISTILLATION OF SPIRITS BY DISTILLERY.**—Sections 5021, 5081 and 5082 shall not apply to the redistillation of spirits removed under the provisions of section 5194 (f).

(e) **BLENDING STRAIGHT WHISKIES, FRUIT BRANDIES OR WINES.**—The taxes imposed by this subpart shall not attach to blends made exclusively of two or more pure straight whiskies aged in wood for

a period not less than 4 years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below 80 proof; nor to blends made exclusively of two or more pure fruit brandies distilled from the same kind of fruit, aged in wood for a period not less than 2 years and without the addition of coloring or flavoring matter (other than caramel) or any other substance than pure water and if not reduced below 80 proof. Such blended whiskies and blended fruit brandies shall be exempt from tax under this subpart only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Secretary or his delegate may prescribe. Such tax shall not attach to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards.

(f) **ADDITION OF CARAMEL TO BRANDY.**—The addition of caramel to commercial brandy at the distillery where produced, or in the internal revenue bonded warehouse where stored, pursuant to regulations prescribed by the Secretary or his delegate, shall not be deemed to be rectification within the meaning of sections 5021, 5081, and 5082.

(g) **APOTHECARIES.**—The taxes imposed by this subpart and by part II of this subchapter shall not be imposed on apothecaries as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

(h) **MANUFACTURERS OF CHEMICALS AND FLAVORING EXTRACTS.**—The taxes imposed by this subpart and by part II of this subchapter shall not be imposed on manufacturing chemists or flavoring-extract manufacturers for recovering tax paid alcohol or spirituous liquors from dregs or marc of percolation, or extraction, if such recovered alcohol or spirituous liquors be again used in the manufacture of medicines or flavoring extracts of the kind in the production of which originally used.

(i) **CROSS REFERENCES.**—

(1) For provisions exempting industrial alcohol plants and warehouses, see section 5306.

(2) For provisions exempting the blending of beverage brandies in bonded warehouses, see section 5023.

(3) For provisions exempting distilled spirits and wines rectified in customs bonded manufacturing warehouses, see section 5523.

(4) For provisions exempting certain redistillation and mingling of spirits during national emergency, see section 5217 (a).

(5) For provisions exempting winemakers in the use or treatment of wines or wine spirits, see section 5392.

(6) For provisions exempting the manufacture of volatile fruit-flavor concentrates, see section 5511.

## SEC. 5026. DETERMINATION AND COLLECTION OF RECTIFICATION TAX.

(a) **DETERMINATION OF TAX.**—

(1) **GENERAL.**—The taxes imposed by sections 5021 and 5022 shall be determined upon the completion of the process of rectification by such means as the Secretary or his delegate shall by regulations prescribe and with the use of such devices and apparatus (including but not limited to storage, gauging, and bottling tanks, and pipelines) as the Secretary or his delegate may require.

(2) **UNAUTHORIZED RECTIFICATION.**—In the case of taxable rectification on premises other than an authorized rectifying plant,

the tax imposed by sections 5021 and 5022 shall be due and payable at the time of such rectification.

(b) **PAYMENT OF TAX ON RECTIFIED SPIRITS, WINES, AND CORDIALS OR LIQUEURS.**—The taxes imposed by sections 5021 and 5022 shall be paid in accordance with section 5061.

**SEC. 5027. STAMP PROVISIONS APPLICABLE TO RECTIFIERS.**

(a) **EXCHANGE OF WHOLESALE LIQUOR DEALERS' STAMPS FOR RECTIFIED SPIRITS STAMPS.**—The Secretary or his delegate shall not furnish wholesale liquor dealers' stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

(b) **CROSS REFERENCES.**—

(1) For provisions relating to stamps for immediate containers, see section 5008 (b).

(2) Provisions relating to the stamping of packages of rectified distilled spirits containing 5 wine gallons or more, see section 5282 (b) and (c).

**SEC. 5028. CROSS REFERENCES.**

For penalty provisions applicable to this subpart, see subchapter J.

**Subpart C—Wines**

Sec. 5041. Imposition and rate of tax.

Sec. 5042. Exemption from tax.

Sec. 5043. Collection of taxes on wines.

Sec. 5044. Refund of tax on unmerchtable wine.

Sec. 5045. Cross references.

**SEC. 5041. IMPOSITION AND RATE OF TAX.**

(a) **IMPOSITION.**—There is hereby imposed on all wines, including imitation, substandard or artificial wine, and compounds sold as wine, having not in excess of 24 percent of alcohol by volume, in bond in, produced in, or imported into, the United States, taxes at the rates shown in subsection (b), such taxes to be determined as of the time of removal for consumption or sale. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and taxed accordingly.

(b) **RATES OF TAX.**—

(1) On still wines containing not more than 14 percent of alcohol by volume, 17 cents per wine gallon, except that on and after April 1, 1955, the rate shall be 15 cents per wine gallon;

(2) On still wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, 67 cents per wine gallon, except that on and after April 1, 1955, the rate shall be 60 cents a wine gallon;

(3) On still wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, \$2.25 per wine gallon, except that on and after April 1, 1955, the rate shall be \$2.00 per wine gallon;

(4) On champagne and other sparkling wines, \$3.40 per wine gallon, except that on and after April 1, 1955, the rate shall be \$3.00 per wine gallon; and

(5) On artificially carbonated wines, \$2.40 per wine gallon, except that on and after April 1, 1955, the rate shall be \$2.00 per wine gallon.

(c) **WINE GALLON.**—For the purpose of this chapter, the term “wine gallon” means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches. On lesser quantities the tax shall be paid proportionately (fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon being converted to the next full one-tenth gallon).

(d) **ILLEGALLY PRODUCED WINE.**—Notwithstanding subsection (a), any wine produced in the United States at any place other than the bonded premises provided for in this chapter shall (except as provided in section 5042 in the case of tax-free production) be subject to tax at the rate prescribed in subsection (b) at the time of production and whether or not removed for consumption or sale.

#### SEC. 5042. EXEMPTION FROM TAX

##### (a) TAX-FREE PRODUCTION.—

(1) **CIDER.**—Subject to regulations prescribed by the Secretary or his delegate, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

(2) **FAMILY WINE.**—Subject to regulations prescribed by the Secretary or his delegate, the duly registered head of any family may, without payment of tax, produce for family use and not for sale an amount of wine not exceeding 200 gallons per annum.

(3) **EXPERIMENTAL WINE.**—Subject to regulations prescribed by the Secretary or his delegate, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, and may receive such wine spirits without payment of tax as may be necessary for such production.

##### (b) CROSS REFERENCES.—

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine without payment of tax, see section 5362.

#### SEC. 5043. COLLECTION OF TAXES ON WINES.

(a) **PERSONS LIABLE FOR PAYMENT.**—The taxes on wine provided for in this subpart shall be paid—

(1) **BONDED WINE CELLARS.**—In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar: *Provided*, That, in the case of any withdrawal without payment of tax authorized under section 5362, such obligation, if any, shall become the obligation of the transferee, and the transferor shall thereupon be relieved of such obligation.

(2) **FOREIGN WINE.**—In the case of foreign wines, by the importer thereof.

(3) **OTHER WINES.**—In the case of any other wine or of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person producing, importing,

receiving, removing, or possessing such wine; and all such persons shall be jointly and severally liable for such tax with each other as well as with any proprietor, transferee, or importer who may be liable for the tax under this subsection.

(b) **COLLECTION OF TAX.**—The taxes on wines shall be paid in accordance with the provisions of section 5061.

**SEC. 5044. REFUND OF TAX ON UNMERCHANTABLE WINE.**

In the case of any champagne or other sparkling wine or artificially carbonated wine produced in the United States and returned to a bonded wine cellar as unmerchantable under section 5361—

(1) any tax imposed by this chapter on or after the effective date of this chapter shall, if paid, be refunded or credited to the proprietor of the bonded wine cellar to which such champagne or wine is delivered; or

(2) if any tax so imposed has not been paid, the person liable for the tax may be relieved of liability therefor, under such regulations as the Secretary or his delegate may prescribe. Such regulations may provide that claim for refund or credit under paragraph (1), or relief from liability under paragraph (2), may be made only with respect to minimum quantities specified in such regulations. The burden of proof in all such cases shall be on the applicant.

**SEC. 5045. CROSS REFERENCES.**

For provisions relating to the establishment and operation of wineries, see subchapter F, and for penalties pertaining to wine, see subchapter J.

**Subpart D—Beer**

Sec. 5051. Imposition and rate of tax.

Sec. 5052. Definitions.

Sec. 5053. Exemptions.

Sec. 5054. Persons liable for tax.

Sec. 5055. Determination and collection of tax on beer.

Sec. 5056. Drawback of tax.

Sec. 5057. Refund and credit of tax, or relief from liability.

**SEC. 5051. IMPOSITION AND RATE OF TAX.**

(a) **RATE OF TAX.**—There is hereby imposed on all beer, brewed or produced and sold, or removed for consumption or sale, within the United States, or imported into the United States, a tax of \$9 for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. On and after April 1, 1955, the tax imposed by the preceding sentence shall be at the rate of \$8 in lieu of \$9. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel, containing less than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third and not more than one-half, shall be accounted one-half; more than one-half and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than

63 gallons, shall be accounted two barrels, or a hogshead. The provisions of this section requiring the accounting of hogsheads, barrels, and fractional parts of barrels at the next higher quantity shall not apply where the contents of such hogsheads, barrels, or fractional parts of barrels are within the limits of tolerance established by the Secretary or his delegate by regulations which he is hereby authorized to prescribe; and no assessment shall be made and no tax shall be collected for any excess in any case where the contents of the hogsheads, barrels, or fractional parts of barrels heretofore or hereafter used are within the limits of the tolerance so prescribed.

(b) **ASSESSMENT ON MATERIALS USED IN PRODUCTION IN CASE OF FRAUD.**—Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise: *Provided*, That this subsection shall not apply to cases of fraud: *And provided further*, That nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

#### SEC. 5052. DEFINITIONS.

(a) **BEER.**—For purposes of this chapter (except when used with reference to distilling or distilling material) the term “beer” means beer, ale, porter, stout and other similar fermented beverages (including saké or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(b) **GALLON.**—For purposes of this subpart, the term “gallon” means the liquid measure containing 231 cubic inches.

(c) **BREWER.**—

For definition of brewer, see section 5092.

#### SEC. 5053. EXEMPTIONS.

(a) **REMOVALS FOR EXPORT.**—Beer may be removed from the brewery, without payment of tax, for export to a foreign country, in such containers and under such regulations, and on the giving of such notices, entries, and bonds and other security, as the Secretary or his delegate may by regulations prescribe.

(b) **REMOVALS WHEN UNFIT FOR BEVERAGE USE.**—When beer has become sour or damaged, so as to be incapable of use as such, a brewer may remove the same from his brewery without payment of tax, for manufacturing purposes, under such regulations as the Secretary or his delegate may prescribe.

(c) **REMOVALS FOR LABORATORY ANALYSIS.**—Beer may be removed from the brewery, without payment of tax, for laboratory analysis, subject to such limitations and under such regulations as the Secretary or his delegate may prescribe.

(d) **REMOVAL AS SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.**—

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U. S. C. 1309).

**SEC. 5054. PERSONS LIABLE FOR TAX.**

The tax on beer imposed by section 5051 shall be paid by the owner, agent, or superintendent of the brewery in which such beer is made, and in the manner and at the time provided in this subchapter.

**SEC. 5055. DETERMINATION AND COLLECTION OF TAX ON BEER.**

The tax on beer imposed by section 5051 shall be determined on sale or removal for consumption or sale and shall be paid by the brewer or importer thereof in accordance with section 5061. When the Secretary or his delegate finds it necessary for protection of the revenue, he may require stamps, or other devices, evidencing the tax or indicating a compliance with the provisions of this chapter, to be affixed to hogsheads, barrels, or kegs of beer at the time of removal. The Secretary or his delegate shall by regulations prescribe the manner by which such stamps or other devices shall be supplied, affixed, and accounted for. All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

**SEC. 5056. DRAWBACK OF TAX.**

On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary or his delegate may by regulations prescribe. For the purpose of this section, exportation shall include delivery for use as supplies on the vessels and aircraft described in section 309 of the Tariff Act of 1930, as amended (19 U. S. C. 1309).

**SEC. 5057. REFUND AND CREDIT OF TAX, OR RELIEF FROM LIABILITY.**

(a) **BEER REMOVED FROM MARKET.**—Any tax paid on or after the effective date of this chapter by any brewer on beer produced in the United States may be refunded or credited to him, or if the tax has not been paid, the brewer may be relieved of liability therefor, under such regulations as the Secretary or his delegate may prescribe, if such beer is removed from the market before the transfer of title thereto to any other person, and, such beer is returned to the brewery for reconditioning, for use as materials, or is destroyed under the supervision required by such regulations: *Provided*, That the tax imposed by section 5051 shall apply to the beer so reconditioned, such tax to be paid pursuant to section 5055.

(b) **BEER LOST BY FIRE, CASUALTY, OR ACT OF GOD.**—Subject to regulations prescribed by the Secretary or his delegate, the tax paid by any brewer on beer produced in the United States may be refunded or credited, or if the tax has not been paid, the liability may be remitted, if such beer is lost other than by theft, or is destroyed by fire, casualty, or act of God, before the transfer of title thereto to any other person.

(c) **DATE OF FILING.**—No claims under this section shall be allowed unless filed within 6 months after the date of such removal from the market, loss, or destruction, or if the claimant was indemnified by insurance or otherwise in respect of the tax.

**Subpart E—General Provisions**

Sec. 5061. Method of collecting tax.

Sec. 5062. Refund and drawback in case of exportation.

Sec. 5063. Floor stocks tax refunds on distilled spirits, wines, cordials, and beer.

Sec. 5064. Territorial extent of law.

Sec. 5065. Cross references.

**SEC. 5061. METHOD OF COLLECTING TAX.**

(a) **COLLECTION BY RETURN.**—The taxes on distilled spirits, wines, rectified distilled spirits and wines, and beer shall be paid by return. The Secretary or his delegate shall, by regulation, prescribe the period for which such return shall be filed, the time for filing such return, the information to be shown in such return and the time for payment of such tax: *Provided, however,* That, notwithstanding this subsection, the taxes shall continue to be paid by stamp until the Secretary or his delegate shall by regulations provide for the payment of the taxes by return.

(b) **DISCRETIONARY METHOD OF COLLECTION.**—Whether or not the method of collecting any tax imposed by this part is specifically provided in this part, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by stamp, coupon, serially-numbered ticket, or the use of tax-stamp machines, or by such other reasonable device or method as may be necessary or helpful in securing collection of the tax.

(c) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—All administrative and penalty provisions of this title, insofar as applicable, shall apply to the collection of any tax which the Secretary or his delegate determines or prescribes shall be collected in any manner provided in this section.

**SEC. 5062. REFUND AND DRAWBACK IN CASE OF EXPORTATION.**

(a) **REFUND.**—Under such regulations as the Secretary or his delegate may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

(b) **DRAWBACK.**—On the exportation of distilled spirits and wines manufactured or produced in the United States on which an internal revenue tax has been paid, and which are contained in any cask or package or in bottles, packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary or his delegate, a drawback equal in amount to the tax found to have been paid on such distilled spirits and wines: *Provided,* That such distilled spirits and wines have been packaged or bottled especially for export, under regulations prescribed by the Secretary or his delegate. The Secretary or his delegate is authorized to prescribe regulations governing the determination and payment of drawback of internal revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as shall be deemed necessary.

**SEC. 5063. FLOOR STOCKS TAX REFUNDS ON DISTILLED SPIRITS, WINES, CORDIALS AND BEER.**

(a) **GENERAL.**—With respect to any article upon which tax is imposed under this part, upon which internal revenue tax (including floor stocks tax) at the applicable rate prescribed has been paid, and which, on April 1, 1955, is held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be credited or refunded to such person (without interest) subject to such regulations as may be prescribed by the Secretary or his delegate an amount equal to the difference between the tax so paid and the rate made applicable to such articles on and after April 1, 1955, if claim for such credit or refund is filed with the Secretary or his delegate prior to May 1, 1955 or within 30 days from the promulgation of such regulations.

(b) **LIMITATIONS ON ELIGIBILITY FOR CREDIT OR REFUND.**—No person shall be entitled to credit or refund under subsection (a), unless such person, for such period or periods both before and after April 1, 1955 (but not extending beyond 1 year thereafter), as the Secretary or his delegate shall by regulations prescribe, makes and keeps, and files with the Secretary or his delegate, such records of inventories, sales, and purchases as may be prescribed in such regulations.

(c) **OTHER LAWS APPLICABLE.**—All provisions of law, including penalties, applicable in respect of internal revenue taxes on distilled spirits, wines, liqueurs and cordials, imported perfumes containing distilled spirits, and beer shall, insofar as applicable and not inconsistent with this section, be applicable in respect of the credits and refunds provided for in this section to the same extent as if such credits or refunds constituted credits or refunds of such taxes.

**SEC. 5064. TERRITORIAL EXTENT OF LAW.**

The provisions of this part imposing taxes on distilled spirits, wines, and beer shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within an internal revenue district or not.

**SEC. 5065. CROSS REFERENCES.**

For general administrative provisions applicable to the assessment, collection, refund, etc., of taxes, see subtitle F.

**PART II—OCCUPATIONAL TAX**

- Subpart A. Rectifier.
- Subpart B. Brewer.
- Subpart C. Manufacturers of stills.
- Subpart D. Wholesale dealers.
- Subpart E. Retail dealers.
- Subpart F. Nonbeverage domestic Drawback claimants.
- Subpart G. General provisions.

**Subpart A—Rectifier**

- Sec. 5081. Imposition and rate of tax.
- Sec. 5082. Definition of rectifier.
- Sec. 5083. Exemptions.
- Sec. 5084. Cross references.

**SEC. 5081. IMPOSITION AND RATE OF TAX.**

Every rectifier of distilled spirits or wines (as defined in section 5082) shall pay a special tax of \$220 a year: *Provided*, That any

rectifier of less than 500 barrels a year, counting 40 gallons of proof spirits to the barrel, shall pay \$110 a year.

#### SEC. 5082. DEFINITION OF RECTIFIER.

Every person who rectifies, purifies, or refines distilled spirits or wines by any process (other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes, until the manufacture thereof is complete), and every wholesale or retail liquor dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

#### SEC. 5083. EXEMPTIONS.

For exemptions from tax under section 5021 or 5081 in case of—

- (1) Industrial alcohol plants and bonded warehouses, see section 5306
- (2) Absolute alcohol, see section 5025 (a)
- (3) Production of gin and vodka, see section 5025 (b)
- (4) Refining spirits in course of original distillation, see section 5025 (c)
- (5) Redistillation of spirits at distillery, see section 5025 (d)
- (6) Redistillation and mingling of spirits during National Emergency, see section 5217 (a)
- (7) Apothecaries, see section 5025 (g)
- (8) Manufacturers of chemicals and flavoring extracts, see section 5025 (h)
- (9) Distilled spirits and wines, rectified in customs bonded manufacturing warehouses, see section 5523
- (10) Blending beverage brandies in internal revenue bonded warehouses, see section 5023
- (11) Blending of straight whiskies, fruit brandies, or wines, see section 5025 (e)
- (12) Addition of caramel to brandy, see section 5025 (f)
- (13) Winemakers' use or treatment of wines or wine spirits, see section 5391.

#### SEC. 5084. CROSS REFERENCES.

- (1) For provisions relating to the gallonage tax on rectification, see subpart B of part I of this subchapter.
- (2) For provisions relating to the establishment and operation of rectifying plants, see subchapter D.
- (3) For penalties, seizures, and forfeitures relating to rectifying and rectified products, see subchapter J.

#### Subpart B—Brewer

- Sec. 5091. Imposition and rate of tax.  
 Sec. 5092. Definition of brewer.  
 Sec. 5093. Cross references.

#### SEC. 5091. IMPOSITION AND RATE OF TAX.

Every brewer shall pay \$110 a year in respect of each brewery: *Provided*, That any brewer of less than 500 barrels a year shall pay the sum of \$55 a year: *Provided further*, That any beer procured by a brewer in his own hogsheads, barrels, or kegs under the provisions of section 5413 shall be included in calculating the liability to brewers' special

tax of both the brewer who produces the same and the brewer who procures the same.

#### SEC. 5092. DEFINITION OF BREWER.

Every person who brews or produces beer for sale shall be deemed a brewer.

#### SEC. 5093. CROSS REFERENCES.

(1) For exemption of brewers selling at wholesale in hogsheads, barrels, and kegs from special tax as wholesale dealer, see section 5113 (b).

(2) For exemption of brewers selling in eighth-barrel kegs from special tax as retail dealer, see section 5123 (a).

(3) For exemption of brewer from special tax as wholesale or retail dealer in beer by reason of sales at different locations on contiguous brewery premises, see section 5144 (c).

(4) For exemption from special tax in case of sales made on purchaser dealers' premises, see section 5123 (b) (3).

### Subpart C—Manufacturers of Stills

Sec. 5101. Imposition and rate of tax.

Sec. 5102. Definition of manufacturer of stills.

Sec. 5103. Exemptions.

Sec. 5104. Method of payment of tax on stills.

Sec. 5105. Notice of manufacture of and permit to set up still.

Sec. 5106. Drawback.

#### SEC. 5101. IMPOSITION AND RATE OF TAX.

Every manufacturer of stills shall pay a special tax of \$55 a year, and \$22 for each still or worm for distilling made by him.

#### SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS.

Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

#### SEC. 5103. EXEMPTIONS.

For exemption of industrial alcohol plants from the special tax imposed by section 5101, see section 5306.

#### SEC. 5104. METHOD OF PAYMENT OF TAX ON STILLS.

The tax imposed on stills or worms by section 5101 shall be paid by stamp, denoting the tax, under such regulations as the Secretary or his delegate may prescribe.

#### SEC. 5105. NOTICE OF MANUFACTURE OF AND PERMIT TO SET UP STILL.

(a) REQUIREMENT.—Any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling shall, before the same is removed from the place of manufacture, notify the Secretary or his delegate, setting forth in writing, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the Secretary or his delegate for that purpose. The notice required by this section shall be submitted in such form and manner as the Secretary or his delegate may by regulations prescribe.

#### (b) PENALTY.—

(1) For penalty for failure to give notice of manufacture, or for setting up still without permit, see section 5602.

(2) Penalty for failure to register stills or distilling apparatus when set up, see section 5601.

**SEC. 5106. DRAWBACK.**

Under regulations prescribed by the Secretary or his delegate, a drawback shall be allowed on all stills and worms manufactured for export (and actually exported) on which the tax has been paid.

**Subpart D—Wholesale Dealers**

Sec. 5111. Imposition and rate of tax.

Sec. 5112. Definitions of wholesale dealers.

Sec. 5113. Exemptions.

Sec. 5114. Records.

Sec. 5115. Marking and stamping packages filled on premises of wholesale dealers.

Sec. 5116. Sign required on premises.

**SEC. 5111. IMPOSITION AND RATE OF TAX.****(a) WHOLESALE DEALERS IN LIQUORS.—**

(1) **GENERAL.**—Every wholesale dealer in liquors shall pay a special tax of \$200 a year.

(2) **RETAILERS SELLING AT WHOLESALE.**—A qualified retail dealer in liquors may not sell distilled spirits, wines, or beer in quantities of 5 wine gallons or more to the same person at the same time without incurring liability to special tax as a wholesale dealer in liquors. No retail dealer in liquors shall be held to be a wholesale dealer in liquors solely by reason of sales of 5 wine gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

**(b) WHOLESALE DEALERS IN BEER.—**

(1) **GENERAL.**—Wholesale dealers in beer shall pay a special tax of \$100 a year.

(2) **RETAILERS SELLING AT WHOLESALE.**—A qualified retail dealer in beer may not sell such beer in quantities of 5 gallons or more to the same person at the same time without incurring liability to special tax as a wholesale dealer in beer. No retail dealer in beer shall be held to be a wholesale dealer in beer solely by reason of sales of 5 gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

**SEC. 5112. DEFINITIONS OF WHOLESALE DEALERS.**

(a) **WHOLESALE DEALER IN LIQUORS.**—Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or beer in quantities of 5 wine gallons or more to the same person at the same time shall be regarded as a wholesale dealer in liquors. The Secretary or his delegate may, by regulations, provide for the issuance of a stamp denoting payment of such special tax as a "wholesale dealer in wines" or a "wholesale dealer in wines and beer" if, as the case may be, wines only, or wines and beer only, are sold by a wholesale dealer in liquors.

(b) **WHOLESALE DEALER IN BEER.**—Except as otherwise provided, every person who sells, or offers for sale, beer in quantities of 5 gallons or more, to the same person at the same time, and who does not deal in distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in beer.

**SEC. 5113. EXEMPTIONS.**

(a) **DISTILLERS SELLING SPIRITS OF OWN PRODUCTION.**—No distiller who has given the required bond and who sells only distilled spirits of his own production after determination of the tax, at the place of manufacture, or at the place of storage in bond, in the original packages shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales.

(b) **BREWERS SELLING IN BARRELS, ETC.**—No brewer shall be required to pay special tax as a dealer by reason of selling in hogsheads, barrels, or kegs, whether at the place of manufacture or elsewhere, beer manufactured by him, or purchased and procured by him in his own hogsheads, barrels, or kegs, under section 5413, but the quantity of beer so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same.

(c) **WINEMAKERS SELLING WINES OF OWN PRODUCTION.**—Nothing in this chapter shall be construed to impose a special tax on winemakers who have qualified as such under the internal revenue laws and regulations, and who sell wines of their own production where the same are made or at the general business office of such winemaker: *Provided*, That no winemaker shall have more than one place of business for the sale of such wine that shall be exempt from the special tax.

(d) **CASUAL SALES.**—

(1) **SALES BY CREDITORS, FIDUCIARIES AND OFFICERS OF COURT.**—No special tax shall be imposed on a sale of distilled spirits, wines, or beer made by a person who is not otherwise a dealer in liquors, where such spirits, wines, or beer have been received by the person so selling as security for or in payment of a debt, or as executor, administrator, or other fiduciary, or have been levied on by any officer, under order or process of any court or magistrate, and where such liquors are sold by such person in one parcel only, or at public auction in parcels not less than 20 wine gallons.

(2) **SALES BY RETIRING PARTNERS OR REPRESENTATIVES OF DECEASED PARTNERS TO INCOMING OR REMAINING PARTNERS.**—No special tax shall be held to accrue on a sale of distilled spirits, wines, or beer made by a retiring partner, or the representatives of a deceased partner, to the incoming, remaining, or surviving partner or partners of a firm.

(e) **CROSS REFERENCES.**—

(1) For exemption of retail dealers selling in wholesale quantities for consumption on premises, see section 5111.

(2) For exemption of retail dealers selling in liquidation, see section 5123 (d).

**SEC. 5114. RECORDS.**

(a) **REQUIREMENTS.**—Every wholesale liquor dealer who sells, or offers for sale, distilled spirits in quantities of 5 wine-gallons or more to the same person at the same time shall keep daily a record of distilled spirits received and disposed of by him, in such form, at such place and containing such information as the Secretary or his delegate shall by regulations prescribe. Such wholesale liquor dealers shall also render such correct transcripts, summaries and copies of their records at such times and in such form and manner as the Secretary or his delegate may by regulations require. The records

required to be kept under the provisions of this section, and regulations issued pursuant thereto, shall be preserved for a period of 2 years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by internal revenue officers.

(b) **EXEMPTION OF STATES.**—The provisions of subsection (a) shall not apply to States and liquor stores operated by such States that maintain and make available to inspection by internal revenue officers such records as will enable such officers to readily trace all distilled spirits received and disposed of by them: *Provided*, That such States, and the liquor stores operated by them, shall, upon the request of the Secretary or his delegate, furnish him such transcripts, summaries and copies of their records as he shall require.

(c) **CROSS REFERENCES.**—

(1) For provisions relating to the keeping of records by distillers as wholesalers, see section 5197 (a) (2).

(2) For provisions relating to the keeping of records by rectifiers as wholesalers, see section 5285 (b).

(3) For penalty for violation of subsection (a), see sections 5620 and 5621.

#### **SEC. 5115. MARKING AND STAMPING PACKAGES FILLED ON PREMISES OF WHOLESALE DEALERS.**

(a) **REQUIREMENTS.**—Every package of distilled spirits containing 5 wine gallons or more, filled on the premises of a wholesale liquor dealer who has paid the special tax required by law, shall be marked, branded, and stamped by such wholesale liquor dealer in such manner and under such rules and regulations as the Secretary or his delegate may prescribe.

(b) **PENALTY.**—

For penalty for failure to comply with subsection (a), see section 5631

#### **SEC. 5116. SIGN REQUIRED ON PREMISES.**

(a) **REQUIREMENTS.**—Every wholesale liquor dealer, shall, in the manner and form prescribed by regulations issued by the Secretary or his delegate, place and keep conspicuously on the outside of the place of such business a sign, exhibiting, in plain and legible letters, the name or firm of the wholesale dealer, with the words: "wholesale liquor dealer".

(b) **PENALTY.**—

For penalty for failure to post sign, or for posting sign without paying the special tax, see section 5681.

### **Subpart E—Retail Dealers**

Sec. 5121. Imposition and rate of tax.

Sec. 5122. Definitions.

Sec. 5123. Exemptions.

Sec. 5124. Records.

#### **SEC. 5121. IMPOSITION AND RATE OF TAX.**

(a) **RETAIL DEALERS IN LIQUORS.**—

(1) **GENERAL.**—Except as provided in subsection (c), every retail dealer in liquors shall pay a special tax of \$50 a year.

(2) **WHOLESALE SELLING AT RETAIL.**—A qualified wholesale dealer in liquors may not sell distilled spirits, wines, or beer in

quantities of less than 5 wine gallons without incurring liability to special tax as a retail dealer in liquors.

(b) **RETAIL DEALERS IN BEER.**—

(1) **GENERAL.**—Retail dealers in beer shall pay a special tax of \$22 a year.

(2) **WHOLESALE SELLING AT RETAIL.**—A qualified wholesale dealer in beer may not sell such beer in quantities of less than 5 gallons without incurring liability to special tax as a retail dealer in beer.

(c) **LIMITED DEALERS IN WINES AND BEER.**—Notwithstanding the provisions of this part, each person making sales of beer or wine to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization, making sales of beer or wine on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, if such person or organization is not otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail beer dealer, shall pay, before any such sales are made and in lieu of the special taxes imposed by subsections (a) and (b), a special tax of \$2.20 as a retail dealer in beer, if beer only is sold, or a special tax of \$2.20 as a retail dealer in liquors if wine only, or wine and beer only are sold, for each calendar month in which any such sales are made.

**SEC. 5122 DEFINITIONS.**

(a) **RETAIL DEALERS IN LIQUORS.**—Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or beer in quantities of less than 5 wine gallons to the same person at the same time shall be regarded as a retail dealer in liquors: *Provided*, That the Secretary or his delegate may, by regulations, provide for the issuance of a stamp denoting payment of such special tax as a "retail dealer in wines" or a "retail dealer in wines and beer" if, as the case may be, wines only, or wines and beer only, are sold by a retail dealer in liquors.

(b) **RETAIL DEALERS IN BEER.**—Except as otherwise provided, every person who sells, or offers for sale, beer in less quantities than 5 gallons to the same person at the same time, and does not deal in distilled spirits or wines, shall be regarded as a retail dealer in beer.

(c) **RETAIL DRUG STORES OR PHARMACIES.**—The tax required to be paid by section 5121 (a) (1) shall, in the case of a retail drug store or pharmacy making sales of liquors through a duly licensed pharmacist, be designated as a "medicinal spirits stamp tax."

**SEC. 5123. EXEMPTIONS.**

(a) **BREWERS SELLING IN EIGHTH-BARREL PACKAGES.**—No collection of special tax as a retail dealer in beer shall be made from brewers for selling beer of their own manufacture in eighth-barrel packages.

(b) **BUSINESS CONDUCTED IN MORE THAN ONE LOCATION.**—

(1) **RETAIL DEALERS AT LARGE.**—Any retail dealer in liquors or retail dealer in beer whose business is such as to require him to travel from place to place in different States of the United States, may under regulations prescribed by the Secretary or his delegate, procure a special tax stamp "At Large" covering his activities throughout the United States with the payment of but one special

tax as a retail dealer in liquors or as a retail dealer in beer, as the case may be.

(2) **RETAIL DEALERS ON TRAINS, AIRCRAFT, AND BOATS.**—Nothing contained in this chapter shall prevent the issue, under such regulations as the Secretary or his delegate may prescribe, of special tax stamps to persons carrying on the business of retail dealers in liquors, or retail dealers in beer on trains, aircraft, boats or other vessels, engaged in the business of carrying passengers.

(3) **DEALERS MAKING SALES ON PURCHASER DEALERS' PREMISES.**—No wholesale or retail dealer in liquors or wholesale or retail dealer in beer who has paid the special tax as such a dealer shall again be required to pay special tax as such dealer on account of sales of beer to wholesale or retail dealers in liquors or wholesale or retail dealers in beer consummated at the purchaser's place of business.

(c) **SALES BY RETAIL DEALERS IN LIQUIDATION.**—The special tax of a wholesale dealer in liquors or wholesale dealer in beer shall not apply to a retail dealer in liquors or to a retail dealer in beer, because of such retail dealer selling out his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of beer.

(d) **CROSS REFERENCES.**—

(1) For exemption of winemakers selling wines of their own production from special tax, see section 5113 (c).

(2) For provisions relating to sales by creditors, fiduciaries, and officers of courts, see section 5113 (d) (1).

(3) For provisions relating to sales by retiring partners or representatives of deceased partners to incoming or remaining partners, see section 5113 (d) (2).

(4) For exemption from special tax as wholesale dealer of retail dealers making sales of 5 wine gallons or more for immediate consumption on premises where sold, see section 5111.

#### SEC. 5124. RECORDS.

(a) **REQUIREMENT.**—Each retail liquor dealer shall provide at his own expense, and keep in his place of business, a record in book form, or shall keep all invoices of, and bills for, all distilled spirits, wines, and beer received, the quantity thereof, and from whom and the date when received.

(b) **INSPECTION.**—Such records, invoices, and bills shall be open to inspection during the usual business hours of the retailer, by internal revenue officers, on identification and request.

(c) **PRESERVATION.**—Such records, invoices, and bills shall be kept for a period of 2 years after the time of the transactions to which they relate.

(d) **PENALTY.**—

For penalty relating to retail dealers' records, see section 5692.

#### Subpart F—Nonbeverage Domestic Drawback Claimants

Sec. 5131. Eligibility and rate of tax.

Sec. 5132. Registration and regulation.

Sec. 5133. Investigation of claims.

Sec. 5134. Drawback.

#### SEC. 5131. ELIGIBILITY AND RATE OF TAX.

(a) **ELIGIBILITY FOR DRAWBACK.**—Any person using distilled spirits, produced in a domestic registered distillery or industrial

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alcohol plant and on which the tax has been determined, in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, on payment of a special tax per annum, shall be eligible for drawback at the time when such distilled spirits are used in the manufacture of such products as provided for in this subpart.

(b) **RATE OF TAX.**—The special tax imposed by subsection (a) shall be graduated in amount as follows: (1) for total annual withdrawals not exceeding 25 proof gallons, \$25 a year; (2) for total annual withdrawals not exceeding 50 proof gallons, \$50 a year; (3) for total annual withdrawals of more than 50 proof gallons, \$100 a year.

#### **SEC. 5132. REGISTRATION AND REGULATION.**

Every person claiming drawback under this subpart shall register annually with the Secretary or his delegate; keep such books and records as may be necessary to establish the fact that distilled spirits purchased by him and on which the tax has been determined were used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts which were unfit for use for beverage purposes; and be subject to such rules and regulations in relation thereto as the Secretary or his delegate shall prescribe to secure the Treasury against frauds.

#### **SEC. 5133. INVESTIGATION OF CLAIMS.**

The Secretary or his delegate, for the purpose of ascertaining the correctness of any claim filed under this subpart, is authorized, by any officer or employee of the Treasury Department, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be alleged in the claim, and may require the attendance of the person filing the claim or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to any matter covered by the claim, with power to administer oaths to such person or persons.

#### **SEC. 5134. DRAWBACK.**

(a) In the case of distilled spirits on which the tax has been determined and used as provided in this subpart, a drawback shall be allowed—

(1) At the rate of \$6 on each proof gallon upon which tax is paid at a rate of \$9 per proof gallon prior to November 1, 1951;

(2) at the rate of \$9.50 on each proof gallon upon which tax is determined at the rate of \$10.50 per proof gallon on and after November 1, 1951;

(3) at the rate of \$8 on each proof gallon upon which tax is determined at a rate of \$9 per proof gallon after March 31, 1955.

(b) Such drawback shall be due and payable quarterly upon filing of a proper claim with the Secretary or his delegate; except that, where any person entitled to such drawback shall elect in writing to file monthly claims therefor, such drawback shall be due and payable monthly upon filing of a proper claim with the Secretary or his delegate: *Provided, however,* That the Secretary or his delegate may require persons electing to file monthly drawback claims to file with him a bond or other security in such amount and with such conditions as he shall by regulations prescribe. Any such election may be

revoked on filing of notice thereof with the Secretary or his delegate. No claim under this subpart shall be allowed unless filed with the Secretary or his delegate within the 3 months next succeeding the quarter in which the distilled spirits covered by the claim were used as provided in this subpart.

### Subpart G—General Provisions

Sec. 5141. Registration.

Sec. 5142. Payment of tax.

Sec. 5143. Returns.

Sec. 5144. Provisions relating to liability for occupational taxes.

Sec. 5145. Supply of stamps.

Sec. 5146. Posting stamp in place of business.

Sec. 5147. List of special taxpayers for public inspection.

Sec. 5148. Application of State laws.

Sec. 5149. Application of subpart.

#### SEC. 5141. REGISTRATION.

For provisions relating to registration in the case of persons engaged in any trade or business on which a special tax is imposed, see section 7011 (a).

#### SEC. 5142. PAYMENT OF TAX.

(a) **CONDITION PRECEDENT TO DOING BUSINESS.**—No person shall be engaged in or carry on any trade or business subject to tax under this part until he has paid a special tax therefor in the manner provided in this part.

(b) **DATE DUE.**—All special taxes imposed by this part shall become due on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) **METHOD OF PAYMENT.—BY STAMP.**—All special taxes imposed by this part shall be paid by stamps denoting the tax.

(d) **PENALTY.**—

For penalties and forfeitures for nonpayment of special taxes, see section 5691.

#### SEC. 5143. RETURNS.

(a) **TIME FOR FILING.**—Except as provided in section 6081, every special taxpayer referred to in this part shall render his return (duly signed and verified and accompanied by payment of the tax) to the Secretary or his delegate at such time during the calendar month in which the special tax liability commences as will enable the Secretary or his delegate to receive such return not later than the last day of such month.

(b) **PENALTIES.**—

For penalties imposed for failure to file returns or for making false or fraudulent returns, see sections 6651 and 6653.

#### SEC. 5144. PROVISIONS RELATING TO LIABILITY FOR OCCUPATIONAL TAXES.

(a) **PARTNERS.**—Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

(b) **DIFFERENT BUSINESSES OF SAME OWNERSHIP AND LOCATION.**—Whenever more than one of the pursuits or occupations described in this part are carried on in the same place by the same person at the same time, except as otherwise provided in this part, the tax shall be paid for each according to the rates severally prescribed.

(c) **BUSINESSES IN MORE THAN ONE LOCATION.**—The payment of the special tax imposed by this part shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the register of the principal collection officer in such district; but nothing contained in this subsection shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as provided in this chapter for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business: *Provided, That*, by place of business is meant the entire office, plant or area of the business in any one location under the same proprietorship, and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require additional special tax, if the various divisions of the premises are otherwise contiguous.

(d) **DEATH OR CHANGE OF LOCATION.**—When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register of the principal collection officer, at the place to which he removes, without the payment of any additional tax: *Provided, That* all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered in accordance with the provisions of section 7011 (b).

(e) **FEDERAL AGENCIES OR INSTRUMENTALITIES.**—Any tax imposed by this part shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax.

#### **SEC. 5145. SUPPLY OF STAMPS.**

The Secretary or his delegate is required to procure appropriate stamps for the payment of all special taxes imposed by this part, including the tax on stills or worms; and all provisions of law relating to the preparation and issue of stamps shall, so far as applicable, extend to and include such stamps for special taxes; and the Secretary or his delegate shall have authority to make all needful regulations relative thereto.

#### **SEC. 5146. POSTING STAMP IN PLACE OF BUSINESS.**

(1) For provisions relating to posting of special tax stamp, see section 6806 (a); and

(2) For penalty relating to failure to post special tax stamps, see section 7273 (a).

**SEC. 5147. LIST OF SPECIAL TAXPAYERS FOR PUBLIC INSPECTION.**

For provisions relating to the keeping of a list of special taxpayers for public inspection, see section 6107.

**SEC. 5148. APPLICATION OF STATE LAWS.**

The payment of any tax imposed by this part for carrying on any trade or business shall not exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

**SEC. 5149. APPLICATION OF SUBPART.**

The provisions of this subpart, so far as applicable, shall extend to and apply to the special taxes imposed by the other subparts of this part and by chapter 53, and to the persons on whom such taxes are imposed.

(d) Death or Change of Location.—When any person who has paid the special tax for any trade or business dies, his wife or child, or executor or administrator or other legal representative, may occupy the house or premises, and in like manner carry on for the residue of the term for which the tax is paid, the same trade or business as the decedent before carried on, in the same house and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register of the principal collection office, at the place to which he removes, without the payment of any additional tax. That all cases of death, change or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered in accordance with the provisions of section 7017 (b).

(e) Federal Agencies or Institutions.—Any tax imposed by this part shall apply to any agency or institution of the United States unless such agency or institution is granted by statute a specific exemption from such tax.

**SEC. 5150. SUPPLY OF STAMPS.**

The Secretary or his delegate is required to procure appropriate stamps for the payment of all special taxes imposed by this part, including the tax on gifts or women; and all provisions of law relating to the preparation and issue of stamps shall, so far as applicable, extend to and include such stamps for special taxes; and the Secretary or his delegate shall have authority to make all needed regulations relative thereto.

**SEC. 5151. POSTING STAMPS IN PLACE OF BUSINESS.**

(1) For provisions relating to posting of special tax stamps, see section 5306 (a); and

(2) For penalty relating to failure to post special tax stamps, see section 5312 (a).

## Subchapter B—Distilleries

Part I. Establishment.

Part II. Operation.

Part III. General provisions relating to distilleries and distilled spirits.

### Part I—ESTABLISHMENT

Sec. 5171. Premises prohibited for distilling.

Sec. 5172. Conditions precedent to carrying on business of distilling.

Sec. 5173. Distillery fixtures and equipment.

Sec. 5174. Registry of stills.

Sec. 5175. Notice of business of distiller.

Sec. 5176. Distiller's bond.

Sec. 5177. Conditions of approval of distiller's bond.

Sec. 5178. Plan of distillery.

Sec. 5179. Survey of distillery.

Sec. 5180. Sign required on premises.

#### SEC. 5171. PREMISES PROHIBITED FOR DISTILLING.

(a) GENERAL.—No person shall use any still, boiler, or other vessel for the purpose of distilling, in any dwelling house, or in any shed, yard, or inclosure connected with any dwelling house, or on board of any vessel or boat, or on any premises where beer, wines, or vinegar are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on, except that the Secretary or his delegate may by regulations authorize such other business to be carried on by a distiller on the distillery premises as the Secretary or his delegate finds will not jeopardize the revenue: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain, in any building or on any premises where spirits are distilled; but such meal or flour shall be used only for distillation on the premises: *Provided further*, That any boiler used in generating steam or heating water to be used in any distillery may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes. This section shall not prohibit the use of any still, boiler, or other vessel by a rectifier (as defined by section 5082) in a rectifying plant qualified under this chapter.

(b) PENALTY.—

For penalty for violation of subsection (a), see section 5607.

#### SEC. 5172. CONDITIONS PRECEDENT TO CARRYING ON BUSINESS OF DISTILLING.

It shall not be lawful for any distiller to commence the business of distilling until he has given the bond required by law and complied with the provisions of law, relating to the registration of distilleries, and the arrangement and construction of distilleries and the premises connected therewith.

**SEC. 5173. DISTILLERY FIXTURES AND EQUIPMENT.**

(a) **REQUIREMENTS AS TO FERMENTING AND DISTILLING EQUIPMENT, FIXED PIPES AND VESSELS.**—The door of the furnace, or the steam or fuel line, of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting and distilling equipment, and all fixed pipes and vessels, shall be constructed, arranged and identified in such manner as the Secretary or his delegate may by regulations prescribe.

(b) **RECEIVING CISTERNS.**—The proprietor of any distillery shall erect, in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by regulations issued by the Secretary or his delegate, two or more receiving cisterns into which all spirits produced in the distillery shall be deposited when the manufacture thereof is complete. Such cisterns and the room in which they are contained shall be equipped for locking with Government locks. The cisterns shall, as prescribed by regulations issued by the Secretary or his delegate, be connected with the outlet of the worm or condenser by suitable pipes or other apparatus, so constructed as always to be exposed to the view of the Government officer, and so connected and constructed as to prevent the abstraction of the spirits while passing from the worm or condenser back to the still or doubler, or forward to the receiving cistern.

(c) **CHANGES IN APPARATUS AND FASTENINGS.**—The Secretary or his delegate is authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks or seals as he may deem necessary.

**(d) CROSS REFERENCES.**—

(1) For provisions authorizing the Secretary or his delegate to require installation of meters, tanks, and other apparatus, see section 5552.

(2) For penalties for failure of distiller to paint or identify fixed pipes, see section 5618.

**SEC. 5174. REGISTRY OF STILL.**

(a) **REQUIREMENT.**—Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register such still or apparatus with the Secretary or his delegate immediately on its being set up, by subscribing and filing with the Secretary or his delegate a statement, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used: *Provided*, That stills or distilling apparatus not used or intended to be used for the distillation, redistillation, or recovery of distilled spirits are not required to be registered under this section.

**(b) PENALTY.**—

For penalty and forfeiture provisions pertaining to unregistered stills, see section 5601.

**SEC. 5175. NOTICE OF BUSINESS OF DISTILLER.**

(a) **REQUIREMENTS.**—Every person engaged in, or intending to be engaged in, the business of a distiller, shall give notice in writing, subscribed by him, to the Secretary or his delegate, stating his name

and residence, and if a company or firm, the name and residence of each member thereof, the name and residence of every person interested or to be interested in the business, and the precise place where said business is to be carried on; and if such business is carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. The notice shall also state a particular description of the lot or tract of land on which the distillery is situated, and of the buildings thereon, including their size, material, and construction, that said distillery premises are not on any qualified rectifying plant premises, and such additional particulars, as the Secretary or his delegate shall, by regulations, prescribe. In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery, notice thereof in writing, shall be given to the Secretary or his delegate. Every notice required by this section shall be in such form, contain such additional particulars, and be submitted at such time or times, as the Secretary or his delegate shall, by regulations, prescribe.

(b) **PENALTY.**—

For penalty for failure or refusal of distiller to give notice as required by subsection (a) or for giving false notice, see section 5603.

**SEC. 5176. DISTILLER'S BOND.**

(a) **FORM AND APPROVAL.**—Every person intending to commence or to continue the business of a distiller shall, on filing with the Secretary or his delegate his notice of such intention, and before proceeding with such business, and on the first day of May of each succeeding year, execute a bond in the form prescribed by the Secretary or his delegate, conditioned that he shall faithfully comply with all the provisions of law relating to the duties and business of distillers, and shall pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; and that he shall not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien, during the time in which he shall carry on said business. Such bond shall be with such sureties, approved by the Secretary or his delegate, and for a penal sum not less than the amount of tax on the spirits that can be distilled in his distillery during a period of 15 days. Such bond shall not exceed the sum of \$100,000.

(b) **ADDITIONAL BOND.**—No distilled spirits, other than distilled spirits authorized by law to be withdrawn without payment of tax, shall be withdrawn from a distillery except on the payment of tax at the time of withdrawal, unless the distiller has furnished such bond (in addition to the bond required by subsection (a)) to secure payment of the tax, in such form and in such penal sum, and has complied with such other requirements, as the Secretary or his delegate may, by regulations, prescribe.

(c) **NEW BONDS.**—New bonds shall be required in case of the death, insolvency, or removal of any surety, and may be required in any other contingency at the discretion of the Secretary or his delegate.

(d) **WHEN EXEMPT FROM SURVEY REQUIREMENTS.**—Whenever, under authority of law, the Secretary shall relieve a distiller from the survey requirements of section 5179, he may likewise by regulation

fix the penal sum of the distiller's bond, but in no case shall the amount of the minimum bond required under subsection (a) be less than \$5,000 nor the amount of the maximum bond so required be greater than \$100,000.

(e) **CROSS REFERENCES.**—

For deposit of United States bonds or notes in lieu of sureties, see 6 U. S. C. 15, and for penalty and forfeiture for failure or refusal to give bond or for giving false, forged or fraudulent bond, see section 5604, and for carrying on the business of a distiller without giving bond, see section 5606.

**SEC. 5177. CONDITIONS OF APPROVAL OF DISTILLER'S BOND.**

(a) **GENERAL.**—No officer shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Secretary or his delegate in relation to distilleries, in pursuance thereof, have been complied with.

(b) **OWNERSHIP, CONSENT OF OWNER, OR INDEMNITY BOND.**—No bond of a distiller shall be approved unless—

(1) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated; or

(2) The distiller files with the officer designated for the purpose by the Secretary or his delegate, in connection with his notice, the written consent of the owner of the fee, and of any mortgagee, judgment creditor, or other person having a lien, thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of the distillery premises, or any part thereof, the title to the same shall vest in the United States, discharged from such mortgage, judgment, or other encumbrance; or

(3) If consent as required under paragraph (2) cannot be obtained, the distiller, with the approval of the Secretary or his delegate, files with the officer designated by the Secretary or his delegate a bond, approved by the Secretary or his delegate, in the penal sum equal to the appraised value of the lot or tract of land on which the distillery is situated, the distillery, the buildings, and the distilling apparatus. Such value shall be determined, and such bond shall be executed, in such form and with such sureties, and filed with the officer designated by the Secretary or his delegate, under such regulations as the Secretary or his delegate shall prescribe.

(4) In the case of any distillery sold at judicial or other sale in favor of the United States, a bond may be taken at the discretion of the Secretary or his delegate, in lieu of the written consent required by this subsection, and the person giving such bond may be allowed to operate such distillery during the existence of the right of redemption from such sale, on complying with all the other provisions of law.

(c) **SITUATION OF DISTILLERY.**—The officer designated by the Secretary or his delegate may refuse to approve the bond of a distillery when, in his judgment, the situation of the distillery is such

as would enable the distiller to defraud the United States; and in case of such refusal the distiller may appeal to the Secretary or his delegate, whose decision in the matter shall be final.

(d) **PENALTY.**—

For penalty for improper approval of distiller's bond, see section 5605, and for general provisions relating to approval, disapproval and appeal on bonds, see section 5551.

**SEC. 5178. PLAN OF DISTILLERY.**

Every distiller and every person intending to engage in the business of a distiller shall, previous to the approval of his bond, submit an accurate plan and description of the distillery and its equipment, and disclosing such information, in such detail, and in the number of copies as the Secretary or his delegate shall by regulations prescribe. One copy of such plan and description shall be kept in the distillery available for examination by government officers. The accuracy of every such plan and description shall be verified by the Secretary or his delegate, the draftsman, and the distiller; and no alteration shall be made in such distillery without the consent, in advance, of the Secretary or his delegate. Any alteration so made shall be shown on the original, or by a supplemental plan and description, as the Secretary or his delegate may direct; and any such supplemental plan and description shall be executed and preserved in the same manner as the original.

**SEC. 5179. SURVEY OF DISTILLERY.**

(a) **REQUIREMENTS.**—On receipt of notice that any person, firm, or corporation wishes to commence the business of distilling, the Secretary or his delegate shall proceed in person, at the expense of the United States, for the purpose of making surveys of distilleries in that district, to make a survey of such distillery for the purpose of estimating and determining its true spirit-producing capacity for a day of 24 hours. In all surveys 45 gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and 7 gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses; except that in distilleries operated on the sour-mash principle, 60 gallons of beer brewed or fermented from grain shall represent not less than one bushel of grain; and except that in distilleries where the filtration-aeration process is used with the approval of the Secretary or his delegate (that is, where the mash after it leaves the mash tub is passed through a filtering machine before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub) there shall be no limitation on the number of gallons of water which may be used in the process of mashing or filtration for fermentation; but the Secretary or his delegate in order to protect the revenue, shall be authorized to prescribe by regulation such character of survey as he may find suitable for distilleries using such filtration-aeration process. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries. A written report of such survey shall be made of which one copy shall be delivered to the distiller and one copy shall be retained by the officer designated by the Secretary or his delegate and the survey shall take effect upon the delivery of such copy to the distiller. Whenever the Secretary or his delegate is satisfied that any report of the capacity of a distillery is incorrect or needs a revision, he shall direct an officer to make in like manner another survey of

said distillery, and the report thereof shall be made and deposited as hereinbefore required: *Provided*, That the survey of any distillery estimated and stated by the distiller, in his notice of intention to distill, as capable of distilling not more than 150 proof gallons of distilled spirits every 24 hours may be made by the Secretary or his delegate without the aid of an assistant; and that all surveys made for the purpose of correcting clerical errors or errors of computation existing in the report of a previous survey, and all surveys made for the purpose of changing the true spirit producing capacity of any distillery for a day of 24 hours as estimated and determined by a previous survey, but which surveys do not require the remeasuring of the fermenting tubs in a grain or molasses distillery, or the still or stills in a distillery of apples, peaches, or grapes exclusively, may be made without taking the measurements of the fermenting tubs or stills, as the case may be, and without revisiting the distillery: *And provided further*, That the Secretary or his delegate may, whenever he shall deem it proper, designate an officer to make, with or without the aid of a designated assistant, the surveys and resurveys hereinabove provided for.

(b) **WAIVER OF REQUIREMENTS.**—The Secretary or his delegate in the case of any distillery may, under regulations, waive such of the requirements of this section as he determines may be waived without danger to the revenue. Whenever the Secretary or his delegate, by authority of this subsection, waives any or all of the requirements of this section, he may, by regulation, relieve the distiller from such requirements of sections 5007 (e) and 5191 (a) and of such other provisions of law relating or incidental to survey requirements as the Secretary or his delegate determines may be waived without danger to the revenue.

#### **SEC. 5180. SIGN REQUIRED ON PREMISES.**

(a) **REQUIREMENT.**—Every person engaged in distilling shall, in such manner and form as the Secretary or his delegate may by regulations prescribed, place and keep conspicuously on the outside of the place of such business a sign, exhibiting in plain and legible letters the name or firm of the distiller, with the words: “registered distillery.”

(b) **PENALTY.**—

For penalty relating to failure to post sign or improperly posting such sign, see section 5681.

### **PART II—OPERATION**

- Sec. 5191. Commencement, suspension, and resumption of operations.
- Sec. 5192. Supervision of operations by storekeeper-gaugers.
- Sec. 5193. Drawing, gauging, and marking of distilled spirits.
- Sec. 5194. Transfer of spirits at registered distilleries.
- Sec. 5195. Restrictions relating to operations.
- Sec. 5196. Entry and examination of distillery and premises.
- Sec. 5197. Distiller's records and returns.

#### **SEC. 5191. COMMENCEMENT, SUSPENSION, AND RESUMPTION OF OPERATIONS.**

(a) **COMMENCEMENT, SUSPENSION AND RESUMPTION.**—No distiller whose bond has been approved shall commence operations until a storekeeper-gauger has been assigned to the distillery. Any distiller desiring to suspend work in his distillery shall give notice in writing to the Secretary or his delegate, stating when he will suspend work;

and on the day mentioned in said notice a government officer shall adopt such means, by locks and otherwise, as the Secretary or his delegate may, by regulations, prescribe to prevent the use of the stills. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he gives another notice in writing to the Secretary or his delegate, stating the time when he will resume work; and at the time so stated for resuming work a government officer shall attend at the distillery to release the stills for use; and thereupon, and not before, work may be resumed in said distillery. The notices submitted under this section shall be in such form and submitted in such manner as the Secretary or his delegate may by regulations require. Nothing in this section shall apply to suspensions caused by unavoidable accidents; and the Secretary shall prescribe regulations to govern such cases of involuntary suspension.

(b) **WAIVER OF REQUIREMENTS.**—

For authority to relieve distillers of the requirements of this section, see section 5179 (b).

**SEC. 5192. SUPERVISION OF OPERATIONS BY STOREKEEPER-GAUGERS.**

(a) **ASSIGNMENT OF GAUGERS.**—The Secretary or his delegate shall assign to each distillery such number of storekeeper-gaugers as he deems necessary for the proper supervision of the operations conducted on the premises thereof.

(b) **CISTERN ROOM.**—The receiving cisterns in each distillery and the room in which they are contained shall be in charge of a storekeeper-gauger and shall be under such supervision by him as the Secretary or his delegate may, by regulations, prescribe.

(c) **USE OF MATERIALS AND REMOVAL OF SPIRITS.**—The use of materials for the purpose of making mash, wort, or beer or for the production of spirits, and the removal of distilled spirits shall be under such supervision by storekeeper-gaugers as the Secretary or his delegate shall, by regulations, prescribe.

(d) **STOREKEEPER-GAUGERS' RECORDS.**—The storekeeper-gauger assigned to any distillery shall, in addition to all other duties required to be performed by him, keep such records and submit such reports as the Secretary or his delegate shall, by regulations, prescribe.

(e) **PENALTY.**—

For penalty for use of materials or removal of spirits in violation of subsection (c), see section 5612.

**SEC. 5193. DRAWING, GAUGING, AND MARKING OF DISTILLED SPIRITS.**

(a) **GENERAL RULE.**—On or before the third working day after distilled spirits are deposited into receiving cisterns, such spirits shall be drawn off and removed as provided by law. Except as otherwise provided by law, all distilled spirits shall be drawn from receiving cisterns into casks or packages, and thereupon shall be gauged and marked under the supervision of a storekeeper-gauger, and immediately removed into an internal revenue bonded warehouse. The Secretary or his delegate is hereby empowered to prescribe all necessary regulations relating to the drawing off, gauging, and packaging of distilled spirits; the marking, branding, numbering, and stamping of such

packages; and the transfer and transportation to, and the storage of such spirits in, internal revenue bonded warehouses.

(b) **IN WOODEN PACKAGES CONTAINING METALLIC CANS.**—On the application of the distiller and under such regulations as the Secretary or his delegate may prescribe, distilled spirits may be drawn into wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than 5 gallons, wine measure. Such packages shall be filled and used only for exportation from the United States.

(c) **STANDARDS OF FILL.**—The Secretary or his delegate may by regulations prescribe the standards of fill of casks or packages of distilled spirits at each distillery.

(d) **MARKING AND BRANDING BY DISTILLERS.**—The Secretary or his delegate may by regulations require a distiller, at his expense and under the supervision of a storekeeper-gauger, to do such gauging, marking, and branding, and such mechanical labor pertaining to gauging, required under this section as the Secretary or his delegate deems proper and determines may be done without danger to the revenue.

#### **SEC. 5194. TRANSFER OF SPIRITS AT REGISTERED DISTILLERIES.**

(a) **REQUIREMENTS.**—Subject to the provisions of existing law, spirits of 160 degrees of proof or more produced at registered distilleries, including registered fruit distilleries, may be transferred by means of pipelines from receiving cisterns in the distillery direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced or located contiguous thereto, and be warehoused in such storage tanks, or they may be withdrawn from the receiving cisterns, without, or after, reduction in proof, into approved containers and transferred to any internal revenue bonded warehouse for storage therein, or they may, on determination of tax, be withdrawn in such approved containers from the cistern rooms of distilleries without being entered into an internal revenue bonded warehouse. Such spirits may be drawn into approved containers from storage tanks in an internal revenue bonded warehouse. Spirits of 160 degrees of proof, or more, may be transferred in bond in tank cars or tank trucks from cistern rooms of distilleries or from storage tanks in an internal revenue bonded warehouse and be deposited in storage tanks in any internal revenue bonded warehouse. Such spirits in tanks in internal revenue bonded warehouses distilled at or above 190 degrees of proof may be reduced to not less than 111 degrees prior to being drawn into packages. Such spirits, on determination of tax, may be withdrawn in approved containers, including pipelines to contiguous premises. Except as provided in subsections (b) and (c), such spirits may not be withdrawn for denaturation.

(b) **DISTILLATES CONTAINING ALDEHYDES OR FUSEL OIL.**—Under rules and regulations to be prescribed by the Secretary or his delegate, distillers may collect, in locked tanks, distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil (heads and tails) removed in the course of distillation. The distillates so collected may, under regulations prescribed by the Secretary or his delegate, be removed from such distillery for denaturation or be destroyed in the manner prescribed by the Secretary or his delegate,

under the supervision of an internal revenue officer to be designated by the Secretary or his delegate, and when so denatured or destroyed shall not be subject to the tax imposed by law upon distilled spirits. Such distillates so collected in registered fruit distilleries may, under regulations to be prescribed by the Secretary or his delegate, be drawn into approved casks, barrels, or other containers and stored in the brandy deposit room of the registered fruit distillery where produced pending removal for denaturation or destruction.

(c) **TRANSFER OF RUM FOR DENATURATION.**—Rum of not less than 150 degrees of proof may be transferred by pipeline for denaturation from receiving cisterns in the cistern room of any distillery to a denaturing bonded warehouse on the distillery premises or to storage tanks situated in the internal revenue bonded warehouse located on the distillery premises, or from such storage tanks to a denaturing bonded warehouse on the distillery premises.

(d) **TRANSFER OF WINE SPIRITS.**—Wine spirits withdrawn without payment of tax under section 5373, or transferred between any registered fruit distillery and any internal revenue bonded warehouse, may be transferred by pipeline, tank car, tank truck, or other approved containers, as provided by regulations prescribed by the Secretary or his delegate.

(e) **TRANSFER OF GIN AND VODKA.**—

(1) **TO CONTIGUOUS PREMISES.**—Gin and vodka of any proof may be transferred in bond by means of pipelines from receiving cisterns in distilleries direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced, or located contiguous thereto, and be warehoused in such storage tanks. On determination of tax, gin and vodka of any proof may be transferred by pipeline from receiving cisterns in distilleries, or from storage tanks in internal revenue bonded warehouses located on or contiguous to the bonded premises of the producing distillery, to a contiguous tax-paid bottling house or rectifying plant.

(2) **TO OTHER PREMISES.**—Gin and vodka of any proof may be transferred in bond in tank cars or tank trucks from cistern rooms of distilleries or from storage tanks in an internal revenue bonded warehouse and be deposited in storage tanks in any internal revenue bonded warehouse or removed therefrom upon determination of tax in approved containers including tank cars and tank trucks.

(f) **REDISTILLATION OF SPIRITS.**—Distilled spirits of any proof may be transferred in any approved container from a distillery or an internal revenue bonded warehouse to any distillery for redistillation. Such spirits may be transferred by pipeline to a distillery for redistillation from tanks in an internal revenue bonded warehouse located on such distillery premises or located contiguous thereto, or from receiving tanks in a distillery to a contiguous distillery. On removal of distilled spirits to any distillery for redistillation, the consignee distiller shall assume the liability for the payment of the tax on the spirits from the time they leave the internal revenue bonded warehouse or distillery, and the tax liability on the producing distillery or the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax and liens shall become the liability of the consignee distiller: *Provided*, That on redistillation the redistilled spirits shall be treated the same as

if the spirits had been originally produced by the redistiller, and all prior obligations as to taxes and liens shall be superseded.

(g) **REGULATIONS.**—The Secretary or his delegate is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing, redistilling, and transporting of the spirits; the records to be kept and returns to be made; the size and kind of containers to be used; the marking, branding, numbering, and stamping of such containers; and the kind of bond and the penal sum thereof.

(h) **EFFECT ON OTHER LAWS.**—Nothing contained in this section shall be construed as restricting or limiting the provisions of other sections of the internal revenue laws relating to internal revenue bonded warehouses, distilleries, and bonded wineries.

#### **SEC. 5195. RESTRICTIONS RELATING TO OPERATIONS.**

(a) **PROHIBITED HOURS FOR DISTILLING.**—Except as provided in section 5306, no malt, corn, grain, or other material shall be mashed, nor any mash, wort, or beer, brewed or made, nor any still used by a distiller, at any time between 11 p. m. on any Saturday and 1 a. m. on the next succeeding Monday.

(b) **PROHIBITED HOURS FOR REMOVAL OF SPIRITS.**—No person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting in any cask or package containing more than 10 gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored.

#### (c) **CROSS REFERENCES—**

(1) For restrictions relating to the production, removal, etc., of mash, wort or wash, see section 5216.

(2) For limitation on the restrictions in subsection (b) in case of National Emergency transfers of distilled spirits, see section 5217.

(3) For penalty for distilling during prohibited hours, see section 5613, and for penalty for removal of spirits during prohibited hours, see section 5614.

#### **SEC. 5196. ENTRY AND EXAMINATION OF DISTILLERY AND PREMISES**

(a) **KEEPING DISTILLERY ACCESSIBLE.**—Every distiller shall furnish the Secretary or his delegate such keys as may be required for internal revenue officers to gain access to the distillery premises and structures, at any time, and the distillery shall always be kept accessible to any officer having such keys.

(b) **RIGHT OF ENTRY AND EXAMINATION.**—It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, of all spirits and of all materials for making or distilling spirits, which may be in any such distillery or premises, or in possession of the distiller. Whenever any officer, having demanded admittance into a distillery or distillery premises, and having declared his name and office, is not admitted into such distillery or premises by the distiller or other person having charge thereof, it shall be lawful for such officer at all times, as well by night as by day, to break open by

force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter such distillery or premises.

(c) FURNISHING FACILITIES AND ASSISTANCE.—On the demand of any internal revenue officer or agent, every distiller shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer or agent to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the revenue officer in charge.

(d) AUTHORITY TO BREAK UP GROUNDS OR WALLS.—It shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of a distillery, or premises of a distiller, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any mash, wort, or beer, or other liquor, which may be used for the distillation of low wines or spirits, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(e) WORM TUBS OR CONDENSERS.—Whenever any officer or internal revenue agent requires the water contained in any worm tub in a distillery, at any time when the still is not at work, to be drawn off, and the tub and worm cleansed, the water shall forthwith be drawn off, and the tub and worm cleansed by the distiller, or his workmen, accordingly; and the water shall be kept out of such worm tub for the period of 2 hours, or until the officer or agent has finished his examination thereof. It shall be lawful for the officer or agent to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

(f) PENALTIES.—

(1) For penalty for failure to keep distillery accessible, see section 5617.

(2) For penalty for obstructing or refusing to admit officer to distillery premises, see section 5616.

(3) For penalty for refusal of distillers to give assistance to officers, see section 5615.

(4) For penalty for refusal or neglect to comply with subsection (e), see section 5619.

## SEC. 5197. DISTILLER'S RECORDS AND RETURNS.

(a) RECORDS.—

(1) GENERAL.—

(A) REQUIREMENTS.—Every person who makes or distills spirits, or owns any still, boiler, or other vessel used for the purpose of distilling spirits, or who has such still, boiler, or other vessel so used under his superintendence, either as agent or owner,

or who uses any such still, boiler, or other vessel, shall keep a record, in the form and manner prescribed by regulations issued by the Secretary or his delegate, of the receipt on the distillery premises, and the use thereon, of materials intended for use in the distillation of spirits, the kind and quantity of distilled spirits produced, the kind and quantity of distilled spirits removed from the distillery premises, and such additional particulars as may be required by such regulations.

(B) **PRESERVATION AND INSPECTION.**—The records of every distiller required by subparagraph (A) shall be kept at the distillery and be available at all times for inspection by any internal revenue officer, and shall be preserved by the distiller for a period of not less than 2 years.

(2) **RECORDS OF DISTILLERS AS WHOLESALE DEALERS.**—Every distiller shall keep daily a record of distilled spirits of his own production disposed of by him, in such form, at such place and containing such information as the Secretary or his delegate shall by regulations prescribe. Such distillers shall also render such correct transcripts, summaries, and copies of their records at such times and in such form and manner as the Secretary or his delegate may by regulations require. The records required to be kept under this paragraph, and regulations prescribed pursuant thereto, shall be preserved for a period of 2 years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Secretary or his delegate.

(b) **MONTHLY RETURN OF DISTILLER.**—On the first day of each month or within 5 days thereafter, every distiller shall render to the Secretary or his delegate a monthly return of the operations of the preceding month taken from his records, such returns to be in such form and manner, and contain such information as the Secretary or his delegate may by regulations require.

(c) **PENALTIES AND FORFEITURES.**—

(1) For penalty for using unregistered materials, see section 5610.

(2) For penalty and forfeiture for false or omitted entries in distiller's books, see section 5620.

(3) For penalty relating to records and returns of distiller as wholesale dealer, see section 5621.

### **PART III—GENERAL PROVISIONS RELATING TO DISTILLERIES AND DISTILLED SPIRITS**

Sec. 5211. Detention of cases, packages, or containers on suspicion.

Sec. 5212. Prevention and detection of fraud.

Sec. 5213. Return of materials used in the manufacture of distilled spirits.

Sec. 5214. Regulation of traffic in containers of distilled spirits.

Sec. 5215. Exemption of distillers of fruit brandy from certain requirements.

Sec. 5216. Mash, wort, and vinegar; vinegar factories.

Sec. 5217. Exemptions relating to national emergency transfers.

#### **SEC. 5211. DETENTION OF CASKS, PACKAGES, OR CONTAINERS ON SUSPICION.**

It shall be lawful for any internal revenue officer to detain any cask, package, or other container containing, or supposed to contain, distilled spirits, when he has reason to believe that the tax imposed by

law on such distilled spirits has not been paid or determined as required by law, or that such cask, package, or other container is being removed in violation of law; and every such cask, package, or other container, may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 48 hours without process of law or intervention of the officer to whom such detention is to be reported.

#### SEC. 5212. PREVENTION AND DETECTION OF FRAUD.

(a) GENERAL.—For the prevention and detection of frauds, the Secretary or his delegate may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

#### (b) CROSS REFERENCES.—

For other provisions relating to gauging and marking of spirits in case of—

- (1) Transfers at registered distilleries, see section 5194.
- (2) Withdrawals from receiving cisterns for transfer to internal revenue bonded warehouses, see section 5193.
- (3) Removals from internal revenue bonded warehouses, see section 5250.
- (4) Spirits intended to be rectified or received from rectification, see section 5282 (b).
- (5) Packages filled on premises of wholesale dealers, see section 5115 (a).

#### SEC. 5213. RETURN OF MATERIALS USED IN THE MANUFACTURE OF DISTILLED SPIRITS.

(a) REQUIREMENT.—Every person disposing of any substance of the character used in the manufacture of distilled spirits shall, when required by the Secretary or his delegate, render a correct return, in such form and manner as the Secretary or his delegate may by regulations prescribe, showing the names and addresses of the persons to whom such disposition was made, with such details, as to the quantity so disposed of or other information which the Secretary or his delegate may require as to each such disposition, as will enable the Secretary or his delegate to determine whether all taxes due with respect to any distilled spirits manufactured from such substances have been paid. As used in this section—

(1) the term "distilled spirits" includes all products referred to in section 5002 (b); and

(2) the term "substance of the character used in the manufacture of distilled spirits" includes, but not by way of limitation, molasses, corn sugar, cane sugar, and malt sugar.

#### (b) PENALTY.—

For penalty for violation of subsection (a), see section 5609.

#### SEC. 5214. REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS.

(a) REQUIREMENTS.—Whenever in his judgment such action is necessary to protect the revenue, the Secretary or his delegate is

authorized, by the regulations prescribed by him, and permits issued thereunder if required by him—

(1) to regulate the size, branding, marking, sale, resale, possession, use, and re-use of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits (within the meaning of such term as it is used in section 5002 (b) (1) and (2)) for other than industrial use; and

(2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith. Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law and shall apply as well to persons not liable for tax under the internal revenue laws as to persons so liable.

(b) PENALTY.—

For penalty for violation of subsection (a), see section 5642.

**SEC. 5215. EXEMPTION OF DISTILLERS OF FRUIT BRANDY FROM CERTAIN REQUIREMENTS.**

The Secretary or his delegate may by regulation exempt brandy or wine spirits produced (with or without the use of water to facilitate extraction and distillation) exclusively from fresh or dried fruit, or their residues, or the wine or wine residues therefrom, or any person responsible therefor, from any provision of the internal revenue laws relating to the production, storage, or withdrawal of spirits applicable to such brandy or wine spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in the production of natural wine, sugar has been used, the wine or the residuum thereof may, if the unfermented sugars therein are not refermented, be used in the distillation of brandy or wine spirits, and such use shall not prevent the Secretary or his delegate, from exempting such brandy or wine spirits, or persons, from any provision of the internal revenue laws relating to the production, storage or withdrawal of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided further*, That any scientific university, college of learning, or institution of scientific research may, as authorized by regulation and on filing of bond with adequate surety in amount equal to the tax on the maximum quantity received or possessed during any calendar month (but in no case less than \$500), produce, receive, blend, treat, and store brandy or wine spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, in such quantities as may be reasonably necessary for such purposes.

**SEC. 5216. MASH, WORT AND VINEGAR; VINEGAR FACTORIES.**

(a) GENERAL.—

(1) No mash, wort or wash, fit for distillation or for the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person, other than an authorized distiller, shall, by distillation,

or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and (except in the case of vinegar) the tax thereon paid or determined as provided by law. Nothing in this section shall be construed to apply to fermented liquors, or to fermented liquids used for the manufacture of vinegar exclusively. But no worm, goose-neck, pipe, conductor, or contrivance of any description whatsoever whereby vapor might in any manner be conveyed away and converted into distilled spirits, shall be used or employed or be fastened to or connected with any vaporizing apparatus used for the manufacture of vinegar; nor shall any worm be permitted on or near the premises where such vaporizing process is carried on. It shall be lawful for manufacturers of vinegar to separate, by a vaporizing process, the alcoholic property from the mash produced by them, and condense the same by introducing it into the water or other liquid used in making vinegar.

(2) No person, however, shall remove, or cause to be removed, from any vinegar factory or place where vinegar is made, any vinegar or other fluid or material containing a greater proportion than 2 percent of proof spirits.

(3) Section 5196 (b), (c), and (d) shall apply to all premises on which vinegar is manufactured and to all manufacturers of vinegar and their workmen or other persons employed by them.

(4) Notwithstanding paragraph (1), when authorized by regulations prescribed by the Secretary or his delegate, fermented material may be removed from a distillery before being distilled if made and fermented in carrying on a business (other than distilling) authorized by regulations prescribed under section 5171 (a).

(b) PENALTY.—

For penalty for violation of subsection (a), see section 5608.

#### SEC. 5217. EXEMPTIONS RELATING TO NATIONAL EMERGENCY TRANSFERS.

(a) TRANSFERS OF DISTILLED SPIRITS.—Under regulations prescribed by the Secretary or his delegate, distilled spirits of any proof including alcohol (the term “distilled spirits” or “spirits” as hereinafter used in this section shall include alcohol) may be removed in bond in approved containers and pipelines from any registered distillery including a registered fruit distillery (such registered distillery and registered fruit distillery hereinafter referred to in this section as “distillery”), internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse to any distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse for redistillation, or storage, or any other purpose deemed necessary to meet the requirements of the national defense: *Provided*, That any such distilled spirits may be stored in approved tanks in, or constituting a part of, any internal revenue bonded warehouse or industrial alcohol bonded warehouse: *Provided further*, That any such distilled spirits removed to an industrial alcohol plant or industrial alcohol bonded warehouse may be withdrawn therefrom if of a proof of 160 degrees or more for any tax-free

purpose, or on payment of tax for any purpose, authorized by subchapter E; and any such distilled spirits removed to a distillery or internal revenue bonded warehouse may be withdrawn therefrom if of a proof of 160 degrees or more for any tax-free purpose authorized by subchapter E or for any purpose authorized in the case of like spirits produced at a distillery: *Provided further*, That any such distilled spirits, upon removal from a distillery or internal revenue bonded warehouse for transfer to an industrial alcohol plant or industrial alcohol bonded warehouse or for any tax-free purpose authorized by subchapter E shall be subject to the provisions of part I of subchapter E: *Provided further*, That when any distilled spirits are removed under the provisions of this section to a distillery, industrial alcohol plant, or industrial alcohol bonded warehouse, the tax liability of the proprietor of the distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse from which the spirits are removed, and the liens on such distillery, industrial alcohol plant, or industrial alcohol bonded warehouse, shall cease; and at and from the time the distilled spirits leave the distillery, internal revenue bonded warehouse, industrial alcohol plant, or industrial alcohol bonded warehouse, the tax shall be the liability of the proprietor of, and the liens shall be transferred to the premises of, the distillery, industrial alcohol plant, or industrial alcohol bonded warehouse to which the distilled spirits are transferred: *Provided further*, That when any distilled spirits are removed under the provisions of this section to an internal revenue bonded warehouse the proprietor of such warehouse shall be primarily liable for the tax on the spirits at and from the time the spirits leave the premises from which transferred: *Provided further*, That section 5011 (a) shall apply in respect of losses of any distilled spirits transferred, or removed for transfer, under this section to a distillery or internal revenue bonded warehouse; and section 5011 (c) shall apply in respect of losses of any distilled spirits transferred, or removed for transfer, under this section to an industrial alcohol plant or industrial alcohol bonded warehouse: *And provided further*, That section 5195 (a) and (b) shall not apply to the production or redistillation and removal of any such spirits; nor shall sections 5021 and 5081 apply to the redistillation or to the mingling at a distillery or an internal revenue bonded warehouse or in the course of removal, of any such spirits.

(b) EXEMPTION FROM STATUTORY REQUIREMENTS.—The Secretary or his delegate may temporarily exempt proprietors of distilleries, internal revenue bonded warehouses, industrial alcohol plants, or industrial alcohol bonded warehouses from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, whenever in his judgment it may seem expedient to do so to meet the requirements of the national defense. Whenever the Secretary or his delegate shall exercise the authority conferred by this subsection he may prescribe such regulations as may be necessary to accomplish the purpose which caused him to grant the exemption.

(c) TERMINATION OF SECTION.—The authority conferred upon the Secretary or his delegate by this section shall expire at the close of July 11, 1956.

## Subchapter C—Internal Revenue Bonded Warehouses

Part I. Establishment.

Part II. Operation.

### PART I—ESTABLISHMENT

Sec. 5231. Authority to establish.

Sec. 5232. Bond requirements.

Sec. 5233. Establishment of bottling in bond department.

#### SEC. 5231. AUTHORITY TO ESTABLISH.

The Secretary or his delegate is authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be designated as internal revenue bonded warehouses, to be used exclusively for the storage of spirits distilled at a registered distillery, including a registered fruit distillery. No dwelling house shall be used for such a warehouse, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into a distillery. The sole type and kind of bonded warehouse under the internal revenue laws for the storage of spirits distilled at a registered distillery, including a fruit distillery, on which the tax has not been paid, shall be an internal revenue bonded warehouse. The establishment and construction of such internal revenue bonded warehouses shall be under such regulations as the Secretary or his delegate shall prescribe.

#### SEC. 5232. BOND REQUIREMENTS.

(a) GENERAL.—The Secretary or his delegate shall, by regulations, prescribe the form and penal sums of bonds covering distilled spirits in internal revenue bonded warehouses and in transit to and between such warehouses: *Provided*, That the penal sums of such bonds covering distilled spirits shall not exceed in the aggregate \$200,000 for each such warehouse. Such bonds shall be conditioned (1) on the withdrawal of the spirits from the internal revenue bonded warehouse within 8 years from the date of original entry for deposit; (2) on payment of the tax on the spirits as determined on withdrawal from the internal revenue bonded warehouse; and (3) on compliance with all provisions of law and regulations relating to the business of warehousing distilled spirits.

(b) ADDITIONAL BOND.—No distilled spirits, other than distilled spirits authorized by law to be withdrawn without payment of tax, shall be withdrawn from an internal revenue bonded warehouse except on the payment of the tax at the time of withdrawal unless the warehouseman has furnished such bond (in addition to that required in subsection (a)) to secure payment of the tax in such form and in such penal sum, and has complied with such other requirements, as the Secretary or his delegate may by regulations prescribe.

(c) RENEWAL REQUIRED IN CERTAIN CASES.—New bonds shall be required in case of the death, insolvency, or removal of the surety or

sureties, and may be required in any other contingency affecting its validity or impairing its efficiency, at the discretion of the Secretary or his delegate. In case the warehouseman fails or refuses to give the bond required, or to renew the same, or neglects to immediately withdraw the spirits and pay the tax thereon, or if he neglects to withdraw any bonded spirits and pay the tax thereon before the expiration of the time limited in the bond, the Secretary or his delegate shall proceed to collect the tax.

(d) **CROSS REFERENCE.**—

For deposit of United States bonds or notes in lieu of sureties, see section 6 U. S. C. 15.

**SEC. 5233. ESTABLISHMENT OF BOTTLING IN BOND DEPARTMENT.**

For provisions relating to establishment of a separate part of internal revenue bonded warehouse for bottling of distilled spirits in bond, see section 5243.

**PART II—OPERATION**

- Sec. 5241. Supervision of operations.
- Sec. 5242. Deposit of spirits in warehouses.
- Sec. 5243. Bottling of distilled spirits in bond.
- Sec. 5244. Withdrawal of spirits on determination of tax.
- Sec. 5245. Withdrawal of spirits on original gauge.
- Sec. 5246. Transfers of spirits in bond.
- Sec. 5247. Withdrawal of spirits for exportation.
- Sec. 5248. Withdrawal of spirits without payment of tax.
- Sec. 5249. Prohibited hours for removal of spirits.
- Sec. 5250. Gauging, stamping, and branding of spirits removed from warehouse.
- Sec. 5251. Blending of beverage brandies in internal revenue bonded warehouses.
- Sec. 5252. Discontinuance of warehouse and transfer of merchandise.

**SEC. 5241. SUPERVISION OF OPERATIONS.**

(a) **MAINTENANCE AND SUPERVISION.**—The maintenance and supervision of internal revenue bonded warehouses shall be under such regulations as the Secretary or his delegate may prescribe.

(b) **ASSIGNMENT OF GAUGERS.**—Storekeeper-gaugers shall be assigned by the Secretary or his delegate to internal revenue bonded warehouses established by law. Such warehouses shall be under the control of the officer designated by the Secretary or his delegate, and shall be in the joint custody of the storekeeper-gauger or such other officer and the proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper-gauger or other person who may be designated to act for him.

(c) **STOREKEEPER-GAUGERS' RECORDS AND RETURNS.**—Every storekeeper-gauger in charge of an internal revenue bonded warehouse shall keep records, in the form and manner prescribed by regulations issued by the Secretary or his delegate, of all distilled spirits deposited in the warehouse, indicating the date thereof, by whom manufactured or produced, the description of the containers and the number and contents thereof, and such additional particulars as may be required by such regulations; and he shall keep records, in the form and manner prescribed by such regulations, of all distilled spirits removed from the warehouse, indicating the date of removal, the description of the containers and the number and contents thereof, the purpose of removal,

and such additional particulars as may be required by such regulations. The storekeeper-gauger shall submit such reports, in such form and manner, and at such times, as the Secretary or his delegate may, by regulations, require. All records and reports required by this section, or regulations prescribed under this section, shall be open to the examination of any revenue officer.

(d) **CROSS REFERENCES.**—

(1) For provisions relating to gauging, stamping, and branding packages of distilled spirits on determination of tax, and removal from internal revenue bonded warehouses, see section 5250.

(2) For provisions relating to supervision of certain operations in bottling in bond department, see section 5243 (a).

**SEC. 5242. DEPOSIT OF SPIRITS IN WAREHOUSES.**

(a) **GENERAL.**—The distillers of all spirits removed to an internal revenue bonded warehouse shall enter the same for deposit in such warehouse, under such regulations as the Secretary or his delegate may prescribe. Said entry shall be in such form as the Secretary or his delegate shall prescribe.

(b) **CROSS REFERENCES.**—

(1) For provisions relating to transfer of distilled spirits in packages from registered distilleries to internal revenue bonded warehouses, and for authority of the Secretary or his delegate to prescribe regulations relating to transportation to and storage in such warehouses, see section 5193 (a).

(2) For provisions relating to transfer of distilled spirits from distilleries to internal revenue bonded warehouses by pipeline, or in approved containers, see section 5194.

(3) For provisions relating to National Emergency transfers of distilled spirits, see section 5217.

(4) For provisions authorizing transfers in bond between internal revenue bonded warehouses, see section 5246 (a).

(5) For provisions requiring that all distilled spirits entered for deposit in internal revenue bonded warehouses be withdrawn within 8 years from date of entry for deposit, see section 5006 (a).

**SEC. 5243. BOTTLING OF DISTILLED SPIRITS IN BOND.**

(a) **GENERAL REQUIREMENTS.**—Whenever any distilled spirits deposited in the internal revenue bonded warehouse have been duly entered for withdrawal for bottling in bond before tax payment or for export in bond, such spirits shall be dumped, gauged, bottled, packed, and cased in the manner which the Secretary or his delegate shall by regulations prescribe. The bottling of distilled spirits in bond shall be conducted in a separate portion of such warehouse, which shall be set apart and used exclusively for that purpose. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as authorized in this section. The tax on the distilled spirits bottled in bond shall be paid upon the actual quantity of spirits withdrawn from bond except as otherwise provided in section 5011 (a) and (b). The Secretary or his delegate may by regulations prescribe the mode of separating and securing the additional warehouse or portion of

the warehouse required in this subsection to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made by the Government officers, and all such other matters and things, as in his discretion he may deem requisite for a secure and orderly supervision of said business; and he may also prescribe and issue the stamps required.

(b) **BOTTLING REQUIREMENTS.**—The warehouseman may, under the supervision of the storekeeper-gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment, or other like substance, found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to 100 percent proof for spirits for domestic use, or to not less than 80 percent proof for spirits for export purposes, under such regulations as may be prescribed by the Secretary or his delegate; but no spirits (except gin for export) shall be bottled in bond until they have remained in bond in wooden containers for at least 4 years from the date of original gauge as to fruit brandy, or original entry as to all other spirits: *Provided*, That nothing in this subchapter shall authorize the labeling of spirits in bottles contrary to regulations issued pursuant to the Federal Alcohol Administration Act (49 Stat. 977; 27 U. S. C., chapter 8), or any amendment thereof. Distilled spirits, known commercially as gin, of not less than 80 percent proof may at any time within 8 years after entry in bond be bottled in bond for export without the payment of tax, under such regulations as the Secretary or his delegate may prescribe.

(c) **TRADE MARKS ON BOTTLES.**—No trade-marks shall be put on any bottle unless the real name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on such bottle.

(d) **MARKS AND BRANDS FOR CASES.**—There shall be plainly burned, embossed, stenciled, or printed on the side of each case, to be known as the Government side, such marks, brands, and stamps to denote the bottling in bond of the distilled spirits packed therein as the Secretary or his delegate may by regulations prescribe.

(e) **EXPORTATION OF SPIRITS BOTTLED IN BOND.**—All distilled spirits intended for export under this section shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Secretary or his delegate may by regulations prescribe; and the Secretary or his delegate may prescribe such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are extended and made applicable to distilled spirits bottled for export under this section, but no drawback shall be allowed or paid upon any spirits bottled under this section.

(f) **EFFECT ON STATE LAWS.**—Nothing in this section shall be construed to exempt spirits bottled under this section from the operation of the Act of August 8, 1890 (26 Stat. 313; 27 U. S. C. 121).

**(g) CROSS REFERENCE.—**

For provisions relating to stamps and stamping of bottled in bond spirits, see section 5008 (a).

**SEC. 5244. WITHDRAWAL OF SPIRITS ON DETERMINATION OF TAX.**

Any distilled spirits may, on determination of the tax thereon, be withdrawn from warehouse on application to the Secretary or his delegate in such form and manner as the Secretary or his delegate may by regulations prescribe.

**SEC. 5245. WITHDRAWAL OF SPIRITS ON ORIGINAL GAUGE.**

Under such regulations as the Secretary or his delegate may prescribe, distilled spirits deposited in internal revenue bonded warehouses may, upon application, be withdrawn therefrom on the original gauge.

**SEC. 5246. TRANSFERS OF SPIRITS IN BOND.**

(a) **GENERAL.**—Distilled spirits may be transferred in bond between internal revenue bonded warehouses in original packages or in such other packages or containers and under such regulations as the Secretary or his delegate may by regulations prescribe.

**(b) CROSS REFERENCES.—**

(1) For provisions relating to transfers of distilled spirits from internal revenue bonded warehouses to other bonded premises, see section 5194.

(2) For provisions relating to National Emergency transfers, see section 5217.

**SEC. 5247. WITHDRAWAL OF SPIRITS FOR EXPORTATION.**

(a) **ENTRIES, BONDS, AND BILLS OF LADING.**—Distilled spirits may be withdrawn from internal revenue bonded warehouses, at the instance of the owner of the spirits, for exportation in the original casks or packages, or in packages filled from such original casks or packages, without the payment of tax, after making such entries and executing and filing with the Secretary or his delegate such bonds and bills of lading, and giving such other additional security as the Secretary or his delegate may by regulations prescribe. The bonds given under this section shall be canceled or credited upon the submission of such evidence, records and certificates indicating exportation as the Secretary or his delegate by regulations may prescribe.

(b) **MARKS AND PERMITS.**—When the owner of the spirits shall have made the proper entries, filed the bonds, and otherwise complied with all the requirements of the law and regulations, the Secretary or his delegate shall issue to him a permit for the removal and transportation of such spirits to the collector of the port from which they are to be exported, accurately describing the spirits to be shipped, the amount of tax thereon, the State and district from which the spirits are to be shipped, the name of the distiller by whom distilled, the collector of the port to whom the spirits are to be consigned, and the routes over which they are to be sent to the port of shipment. Such shipments shall be made over bonded routes whenever practicable. The collector of the port shall receive such spirits, and permit the exportation thereof, under the same regulations as are prescribed for the exportation of spirits on which the tax has been paid.

(c) **TRANSPORTATION BOND.**—Whenever the owner or owners of distilled spirits shall desire to withdraw such spirits from any internal revenue bonded warehouse for exportation, such owner or owners may

at their option, in lieu of executing an export bond as provided by law, give a transportation bond with sureties satisfactory to the Secretary or his delegate and under such regulations as he may prescribe, conditioned for the due delivery thereof on board an export carrier at a port of exportation to be named therein, and for the due performance on the part of the exporter or owner at the port of export of all the requirements in regard to notice of export, entry, and the giving of bond hereinafter specified in this subsection. In such case, on arrival of the spirits at the port of export, the exporter or owner at that port shall immediately notify the collector of the port of the fact, setting forth his intention to export such spirits, and the designation of the carrier on which such spirits are to be laden, and the port to which they are intended to be exported. He shall, after the quantity of spirits has been determined by inspection or by gauge as regulations prescribed by the Secretary or his delegate shall require, file with the collector of the port an export entry. The Secretary or his delegate may, by regulations, require the exporter or owner also to give bond to the United States, conditioned that the principal named in said bond will export the spirits as specified in such entry to the port designated in such entry, or to some other port without the jurisdiction of the United States. On the lading of such spirits, the collector of the port, after the filing of such bonds as the Secretary or his delegate may, by regulations, require, by the exporter or owner at the port of shipment thereof, shall transmit to the Secretary or his delegate a clearance certificate and a report of the inspection or gauge. Whenever a warehouseman of spirits in bond desires to change the packages in which such spirits are contained, for exportation, the Secretary or his delegate may, under regulations prescribed by him, and on the execution of proper bonds with sufficient sureties, permit the withdrawal of so much spirits from bond and in such packages as the warehouseman desires to export.

(d) **IN TANKS OR TANK CARS.**—Under such regulations as the Secretary or his delegate may prescribe, alcohol or other distilled spirits intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any internal revenue bonded warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under this section.

(e) **LOSSES.**—Section 5011 (a) shall apply to spirits withdrawn for exportation under this section.

#### **SEC. 5248. WITHDRAWAL OF SPIRITS WITHOUT PAYMENT OF TAX.**

(1) For provisions relating to withdrawal of spirits, without payment of tax, to manufacturing bonded warehouses, see section 5522.

(2) For provisions relating to withdrawal of spirits, without payment of tax, as supplies for certain vessels and aircraft, see 19 U. S. C. 1309.

(3) For provisions authorizing regulations for withdrawal of spirits, without payment of tax, for use of United States, see section 7510.

(4) For provisions relating to withdrawal of distilled spirits, without payment of tax, to foreign-trade zones, see 19 U. S. C. 81c.

(5) For provisions relating to withdrawal of wine spirits, without payment of tax, for addition to wine, section 5373.

(6) For provisions relating to withdrawal of rum, without payment of tax, for denaturation, see section 5331 (c).

**SEC. 5249. PROHIBITED HOURS FOR REMOVAL OF SPIRITS.**

For provisions prohibiting removal of distilled spirits from internal revenue bonded warehouses during certain hours, see section 5195 (b).

**SEC. 5250. GAUGING, STAMPING AND BRANDING OF SPIRITS REMOVED FROM WAREHOUSE.**

(a) Except as provided by section 5245, or under section 5006 (a), whenever an application is received for the removal from any internal revenue bonded warehouse of any cask or package of distilled spirits on which the tax is to be paid, the storekeeper-gauger shall inspect and gauge such distilled spirits and determine the tax thereon, and shall, before such cask or package has left the warehouse, place on such cask or package such marks, brands, and stamps as the Secretary or his delegate may by regulations prescribe, which marks, brands, and stamps shall be defaced when such cask or package is emptied.

(b) The Secretary or his delegate may by regulations from time to time require any proprietor, at the proprietor's expense and under supervision of a storekeeper-gauger, to do such marking and branding and stamping and such mechanical labor pertaining to gauging required under this section as the Secretary or his delegate deems proper and determines may be done without danger to the revenue.

**SEC. 5251. BLENDING OF BEVERAGE BRANDIES IN INTERNAL REVENUE BONDED WAREHOUSES.**

For provisions relating to the blending of beverage brandies in internal revenue bonded warehouses, see section 5023.

**SEC. 5252. DISCONTINUANCE OF WAREHOUSE AND TRANSFER OF MERCHANDISE.**

Whenever, in the opinion of the Secretary or his delegate, any internal revenue bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may discontinue such warehouse and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe. Such transfer shall be made under the supervision of such officer as may be designated by the Secretary or his delegate and the expense thereof shall be paid by the owner of the merchandise. Whenever the owner of such merchandise fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Secretary or his delegate, such merchandise may be seized and sold by the Secretary or his delegate in the same manner as goods are sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such merchandise.

## Subchapter D—Rectifying Plants

Part I. Establishment.

Part II. Operation.

### PART I—ESTABLISHMENT

Sec. 5271. Notice of business of rectifier.

Sec. 5272. Bond.

Sec. 5273. Premises.

Sec. 5274. Sign required on premises.

Sec. 5275. Cross references.

#### SEC. 5271. NOTICE OF BUSINESS OF RECTIFIER.

(a) **REQUIREMENTS.**—Every person engaged in, or intending to be engaged in, the business of a rectifier, shall give notice in writing, subscribed by him, to the Secretary or his delegate, stating his name and residence, and if a company or firm, the name and residence of each member thereof, and the name and residence of every person interested or to be interested in the business, the precise place where such business is to be carried on; and if such business is carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. The notice shall also state the process by which the applicant intends to rectify, purify or refine distilled spirits, that such rectifying premises are not on the premises of any distillery registered for the distillation of spirits, and such additional particulars, as the Secretary or his delegate may by regulations prescribe. In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such rectifying establishment, notice thereof, in writing, shall be given to the Secretary or his delegate. Every notice required by this section shall be in such form, contain such additional particulars, and be submitted at such time or times, as the Secretary or his delegate may by regulations prescribe.

(b) **PENALTY.**—

For penalty for violation of this section, see section 5603.

#### SEC. 5272. BOND.

(a) **REQUIREMENT.**—The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits and wines shall be paid, under such bonds as the Secretary or his delegate may by regulations prescribe.

(b) **APPROVAL OF BOND AS CONDITION TO COMMENCING BUSINESS.**—

For provisions relating to approval of bond as condition to commencing business of a rectifier, see section 5551.

#### SEC. 5273. PREMISES.

(a) **GENERAL.**—The premises of a rectifier shall be as described in his notice and, whether they consist of an entire building or of rooms in a building, shall have means of ingress from and egress into a public street or yard, or into a public hall or elevator shaft leading into a

public street or yard, and shall be used exclusively for the business of rectification and the bottling of liquors rectified by him thereon, and the bottling of wines and spirits without rectification.

(b) **CROSS REFERENCES.**—

(1) For provisions authorizing the Secretary or his delegate to require installation of meters, tanks, and other apparatus, see section 5552.

(2) For penalty for unlawful use of rectifying premises, see section 5627.

**SEC. 5274. SIGN REQUIRED ON PREMISES.**

(a) **REQUIREMENT.**—Every person engaged in rectifying spirits shall, in such manner and form as the Secretary or his delegate may by regulations prescribe, place and keep conspicuously on the outside of the place of such business a sign exhibiting in plain and legible letters the name or firm of the rectifier, with the words: "rectifier of spirits".

(b) **PENALTY.**—

For penalty for failure to post sign or improperly posting such sign, see section 5681.

**SEC. 5275. CROSS REFERENCES.**

(1) For provisions requiring the registration of stills, see section 5174.

(2) For provisions requiring permit to set up still, boiler, or other vessel, for distilling, see section 5105.

(3) For provisions requiring payment of special (occupational) tax as rectifier, see section 5081, and as wholesale liquor dealer, see section 5111, and as retail liquor dealer, see section 5121.

**PART II—OPERATION**

Sec. 5281. Regulation of business of rectifier.

Sec. 5282. Rectification of spirits.

Sec. 5283. Examination of premises.

Sec. 5284. Prohibited hours for removal of distilled spirits.

Sec. 5285. Records and returns.

**SEC. 5281. REGULATION OF BUSINESS OF RECTIFIER.**

(a) **GENERAL.**—The business of a rectifier shall be carried on under such regulations as the Secretary or his delegate may prescribe. The Secretary or his delegate may prescribe such regulations under this part and subpart B of part I of subchapter A as he deems necessary. All distilled spirits or wines taxable under sections 5021 and 5022 shall be subject to regulations prescribed by the Secretary or his delegate concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of rectified products.

(b) **CROSS REFERENCES.**—

(1) For requirement that the premises of a rectifier be used exclusively for rectification and bottling of spirits and wines, see section 5273 (a).

(2) For provisions requiring the blending of straight whiskies and pure fruit brandies to be under supervision of a revenue officer and under conditions prescribed by regulations, see section 5025 (e).

**SEC. 5282. RECTIFICATION OF SPIRITS.**

(a) **NOTICE OF INTENTION TO RECTIFY.**—When any rectifier intends to rectify or compound any distilled spirits he shall, before dumping any distilled spirits for that purpose, give notice to the Secretary or his delegate of his intention so to rectify. Such notice shall be

made in such form and contain such particulars as the Secretary or his delegate may by regulations prescribe.

(b) **GAUGING, BRANDING, AND STAMPING RECTIFIED SPIRITS.**—Whenever any cask or package of distilled spirits containing 5 wine gallons or more is dumped by a rectifier for rectification, or filled and received from rectification for sale, shipment, or delivery, the same shall be gauged, marked, branded and stamped by a storekeeper-gauger, whose duty it shall be to mark and brand the same and place thereon a stamp, which shall be in such form and shall show such information as the Secretary or his delegate may by regulations prescribe; but the Secretary or his delegate may by regulations provide that the gauging, marking, stamping, and branding of such packages so dumped for rectification, or received therefrom, be done by the rectifier instead of by a storekeeper-gauger.

(c) **AFFIXING STAMPS.**—The stamps required by this section shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance, and so as to fasten the same securely to the cask or package, and shall be duly canceled, and shall then be immediately covered with a coating of transparent varnish or other substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Secretary or his delegate may by regulations prescribe.

(d) **PENALTY.**—

For penalty for violation of subsections (a) and (b), see section 5630.

#### **SEC. 5283. EXAMINATION OF PREMISES.**

The provisions of section 5196 (c) requiring the giving of assistance to revenue officers for the examination of the premises and section 5196 (d) authorizing revenue officers to break up grounds or walls shall apply in like manner to rectifiers and rectifying premises.

#### **SEC. 5284. PROHIBITED HOURS FOR REMOVAL OF DISTILLED SPIRITS.**

For provisions prohibiting the removal during certain hours of distilled spirits in any cask or package containing more than 10 gallons, see section 5195 (b).

#### **SEC. 5285. RECORDS AND RETURNS.**

(a) **MONTHLY RETURNS.**—Every person engaged in rectifying or compounding distilled spirits shall, on or before the 10th day of every month, render to the Secretary or his delegate a monthly return of the operations of the preceding month, taken from his records, in such form and manner, and containing such information, as the Secretary or his delegate may by regulations prescribe.

(b) **RECORD OF RECTIFIER AS WHOLESALE DEALER.**—Every rectifier who sells, or offers for sale, distilled spirits in quantities of 5 wine-gallons or more to the same person at the same time shall keep daily a record of distilled spirits received and disposed of by him, in such form, at such place and containing such information as the Secretary or his delegate may by regulations prescribe. Such rectifiers shall also render such correct transcripts, summaries, and copies of their records at such times and in such form and manner as the Secretary or his delegate may by regulations require. The records required to be kept under this section, and regulations issued pursuant thereto, shall be

preserved for a period of 2 years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Secretary or his delegate.

(c) PENALTY.—

For penalty for refusal or neglect of rectifier to keep records required under subsection (b), or for false entries therein, etc., see section 5621.

PART I—INDUSTRIAL ALCOHOL PLANTS, BONDED WAREHOUSES, AND DISTILLING PLANTS

PART II—DISTILLATION

PART I—INDUSTRIAL ALCOHOL PLANTS, BONDED WAREHOUSES, AND DISTILLING PLANTS

Sec 5301. Establishment of industrial alcohol plants.

Sec 5302. Establishment of industrial alcohol bonded warehouses.

Sec 5303. Establishment of industrial alcohol distilling plants.

Sec 5304. Section 5304.

Sec 5305. Regulations for establishing, bonding and operation of plants and warehouses.

Sec 5306. Regulation of industrial alcohol plants and warehouses.

Sec 5307. Production, use or sale of alcohol.

Sec 5308. Transfer of alcohol to other plants or warehouses.

Sec 5309. Withdrawal of bonded liquor to industrial alcohol plants.

Sec 5310. Withdrawal of alcohol from tax.

Sec 5311. Impounding of alcohol for industrial purposes.

Sec 5312. Remission and refund of tax on alcohol for loss or leakage.

Sec 5313. Powers and duties of persons enforcing this part.

Sec 5314. Officers and agents authorized to investigate, issue warrants and process for violation.

Sec 5315. Compliance with court process as to testing of products.

Sec 5316. Form of affidavits, information or indictment.

Sec 5317. Applicability of other laws.

Sec 5318. Application of part to Porto Rico and Virgin Islands.

Sec 5319. Enforcement.

Sec 5320. Local laws.

SEC. 5301. ESTABLISHMENT OF INDUSTRIAL ALCOHOL PLANTS.

Any person establishing a plant for the production of industrial alcohol shall before operation make application to the Secretary or his delegate for registration of his plant. The bond and receive permit for the operation of such plant.

SEC. 5302. ESTABLISHMENT OF INDUSTRIAL ALCOHOL BONDED WAREHOUSES.

Warehouses for the storage and distribution of alcohol may be established on filing of application and bond and receipt of permit at such places either in connection with the manufacturing plant or elsewhere. Before the Secretary or his delegate may determine the entry and storage of alcohol therein and the withdrawal of alcohol therefrom shall be made in such quantities and by such means as the Secretary or his delegate by regulation may prescribe. Permitted tanks and other structures located on the industrial alcohol plant premises and approved by the Secretary or his delegate shall be deemed to be warehouses within the meaning of this section.

## Subchapter E—Industrial Alcohol Plants, Bonded Warehouses, Denaturing Plants, and Denaturation

- Part I. Industrial alcohol plants, bonded warehouses, and denaturing plants.  
Part II. Denaturation.

### PART I—INDUSTRIAL ALCOHOL PLANTS, BONDED WAREHOUSES, AND DENATURING PLANTS

- Sec. 5301. Establishment of industrial alcohol plants.  
Sec. 5302. Establishment of industrial alcohol bonded warehouses.  
Sec. 5303. Establishment of industrial alcohol denaturing plants.  
Sec. 5304. Alcohol permits.  
Sec. 5305. Regulations for establishing, bonding, and operation of plants and warehouses.  
Sec. 5306. Exemption of industrial alcohol plants and warehouses from certain laws.  
Sec. 5307. Production, use, or sale of alcohol.  
Sec. 5308. Transfer of alcohol to other plants or warehouses.  
Sec. 5309. Withdrawal of fermented liquors to industrial alcohol plants.  
Sec. 5310. Withdrawal of alcohol free of tax.  
Sec. 5311. Importation of alcohol for industrial purposes.  
Sec. 5312. Remission and refund of tax on alcohol for loss or leakage.  
Sec. 5313. Powers and duties of persons enforcing this part.  
Sec. 5314. Officers and agents authorized to investigate, issue search warrants, and prosecute for violations.  
Sec. 5315. Compliance with court subpoena as to testifying or producing records.  
Sec. 5316. Form of affidavit, information, or indictment.  
Sec. 5317. Applicability of other laws.  
Sec. 5318. Application of part to Puerto Rico and Virgin Islands.  
Sec. 5319. Definitions, etc.  
Sec. 5320. Cross references.

#### SEC. 5301. ESTABLISHMENT OF INDUSTRIAL ALCOHOL PLANTS.

Any person establishing a plant for the production of industrial alcohol shall before operation, make application to the Secretary or his delegate for registration of his plant, file bond, and receive permit for the operation of such plant.

#### SEC. 5302. ESTABLISHMENT OF INDUSTRIAL ALCOHOL BONDED WAREHOUSES.

Warehouses for the storage and distribution of alcohol may be established on filing of application and bond and issuance of permit at such places, either in connection with the manufacturing plant or elsewhere, as the Secretary or his delegate may determine; the entry and storage of alcohol therein and the withdrawals of alcohol therefrom shall be made in such containers and by such means as the Secretary or his delegate by regulation may prescribe. Permanent tanks and other structures located on the industrial alcohol plant premises and approved by the Secretary or his delegate shall be deemed to be warehouses within the meaning of this section.

**SEC. 5303. ESTABLISHMENT OF INDUSTRIAL ALCOHOL DENATURING PLANTS.**

On the filing of application and bond and issuance of permit, denaturing plants may be established on the premises of any industrial alcohol plant, or elsewhere, and shall be used exclusively for the denaturation of alcohol by the admixture of such denaturing materials as shall render the alcohol, or any compound in which it is authorized to be used, unfit for use as an intoxicating beverage.

**SEC. 5304. ALCOHOL PERMITS.****(a) GENERAL RULE.—**

(1) **PERMIT REQUIRED.**—No one shall manufacture alcohol, procure it tax-free, denature it, deal in or use specially denatured alcohol, recover completely or specially denatured alcohol, or transport specially denatured or tax-free alcohol, without first obtaining a permit from the Secretary or his delegate so to do. All such permits may be issued for 1 year, and shall expire on the 31st day of December next succeeding the issuance thereof: *Provided*, That the Secretary or his delegate may without formal application or new bond extend any permit granted under this part after August 31 in any year to December 31 of the succeeding year.

(2) **AUTHORITY TO PRESCRIBE REGULATIONS.**—Permits to purchase or procure specially denatured alcohol and tax-free alcohol shall be issued in such terms and under such conditions as the Secretary or his delegate may by regulation prescribe.

(3) **RESTRICTION ON ISSUANCE OF PERMITS.**—No permit shall be issued to any person who, within 1 year before the application therefor or issuance thereof, shall not in good faith have conformed to the provisions of this chapter, or shall have violated the terms of any permit issued under this section, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor.

(4) **FORM OF APPLICATION AND PERMIT.**—Every permit shall be in writing, dated when issued, and signed by the Secretary or his delegate. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified, written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the alcohol or denatured alcohol is to be used. The Secretary or his delegate may prescribe the form of all permits and applications and the facts to be set forth therein.

(5) **BOND REQUIREMENT.**—Before any permit is granted, the Secretary or his delegate may require a bond, in such form and amount as he may prescribe, to insure compliance with the terms of the permit and the provisions of this chapter.

(6) **REVIEW OF DISAPPROVAL.**—In the event of the refusal by the Secretary or his delegate of any application for a permit, the applicant may have a review of his decision before a court with equity jurisdiction, in the manner provided in subsection (c).

(b) **REVOCATION OF PERMIT.**—If at any time there shall be filed with the Secretary or his delegate a complaint under oath setting forth facts showing, or if the Secretary or his delegate has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this chapter, or has violated the terms of such permit, or has made any false statement in the application therefor, or has willfully failed to disclose any information required by regulation to be furnished, or has violated any law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, relating to intoxicating liquor, the Secretary or his delegate shall immediately issue an order citing such person to appear before him on a day named not more than 30 nor less than 15 days from the date of service on such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the Secretary or his delegate, with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearing shall be held within the judicial district and within 50 miles of the place where the offense is alleged to have occurred unless the parties agree on another place. If it be found that such person is not in good faith conforming to the provisions of this chapter or has violated the terms of his permit, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor, such permit shall be revoked, and no permit shall be granted to such person within 1 year thereafter. Should the permit be revoked by the Secretary or his delegate, the permittee may have a review of his decision before a court with equity jurisdiction in the manner provided in subsection (c). During the pendency of such action such permit shall be temporarily revoked.

(c) **INACCURATE DESCRIPTION OF DENATURED ARTICLES.**—Whenever the Secretary or his delegate has reason to believe that denatured alcohol, denatured rum, or articles do not correspond with the descriptions and limitation as to such alcohol, rum, or articles provided by law and regulations, he shall cause an analysis of such alcohol, rum, or articles to be made, and if on such analysis the Secretary or his delegate shall find that such alcohol, rum, or articles do not so correspond, he shall give not less than 15 days' notice in writing to the person who is the manufacturer thereof to show cause why such alcohol, rum, or articles should not be dealt with as other distilled spirits, such notice to be served personally or by registered mail, as the Secretary or his delegate may determine, and shall specify the time when, the place where, and the name of the agent or official before whom, such person is required to appear. If the manufacturer of such alcohol, rum, or articles fails to show to the satisfaction of the Secretary or his delegate that the alcohol, rum, or articles manufactured by him correspond to the descriptions and limitations as to such alcohol, rum, or articles provided by law and regulations, his permit to manufacture and sell the same shall be revoked. The manufacturer may by appropriate proceeding in a court with equity jurisdiction have the action

of the Secretary or his delegate reviewed, and the court may affirm, modify, or reverse the finding of the Secretary or his delegate as the facts and law of the case may warrant, and during the pendency of such proceeding, may restrain the manufacture, sale, or other disposition of such alcohol, rum, or articles.

(d) **PROVISIONS RELATING TO VENUE.**—In case of a sale of liquor or denatured alcohol or denatured rum, where the delivery thereof was made by a common or other carrier, the sale and delivery for purposes of prosecution or revocation of any permit shall be deemed to be made in the county or district wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county or district wherein the sale was made, or from which the shipment was made, and prosecution for such sale or delivery may be had in any such county or district.

#### **SEC. 5305. REGULATIONS FOR ESTABLISHING, BONDING, AND OPERATION OF PLANTS AND WAREHOUSES.**

The Secretary or his delegate shall issue regulations respecting the establishment, bonding, and operation of industrial alcohol plants, denaturing plants, and bonded warehouses authorized by this subchapter, and the distribution, sale, export, and use of alcohol which may be necessary, advisable, or proper, to secure the revenue, to prevent diversion of the alcohol to illegal uses, and to place the nonbeverage alcohol industry and other industries using such alcohol as a chemical raw material or for other lawful purpose on the highest possible plane of scientific and commercial efficiency consistent with the interests of the Government, and which shall insure an ample supply of such alcohol and promote its use in scientific research and the development of fuels, dyes, and other lawful products.

#### **SEC. 5306. EXEMPTION OF INDUSTRIAL ALCOHOL PLANTS AND WAREHOUSES FROM CERTAIN LAWS.**

Industrial alcohol plants and bonded warehouses established under this part shall be exempt from section 5082 and the special taxes imposed by part II of subchapter A and from sections 5116, 5171, 5172, 5173 (a) and (b), 5174, 5175, 5176, 5178, 5179, 5180, 5191, 5192 (b), (c) and (d), 5193, 5195, 5196 (a) and (e), 5197, 5231, 5232, 5241 (c), 5242, 5244, 5250, 5271, 5274, 5551, 5625 and 5640, and from such other provisions of law relating to distilleries and bonded warehouses as may by regulations be deemed inapplicable to industrial alcohol plants and bonded warehouses established under this part. Regulations may be made embodying any provisions of part II of subchapter A or of the sections above enumerated.

#### **SEC. 5307. PRODUCTION, USE OR SALE OF ALCOHOL.**

Alcohol may be produced at any industrial alcohol plant established under this part, from any raw materials or by any processes suitable for the production of alcohol, and, under regulations, may be used at any industrial alcohol plant or bonded warehouse or sold or disposed of for any lawful purpose.

#### **SEC. 5308. TRANSFER OF ALCOHOL TO OTHER PLANTS OR WAREHOUSES.**

Alcohol produced at any registered industrial alcohol plant or stored in any bonded warehouse may be transferred, under regulations, to any other registered industrial alcohol plant or bonded warehouse for any lawful purpose.

**SEC. 5309. WITHDRAWAL OF FERMENTED LIQUORS TO INDUSTRIAL ALCOHOL PLANTS.**

Fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial alcohol plant, to be used as distilling material, and the residue from such distillation, containing less than one-half of 1 percent of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere. The removal of the taxable fermented liquor from the brewery to the industrial alcohol plant and the operation of such plant and removal of the residue therefrom shall be under the supervision of such officer or officers as the Secretary or his delegate shall deem proper, and the Secretary or his delegate is hereby authorized to make such regulations as may be necessary to give force and effect to this section and to safeguard the revenue.

**SEC. 5310. WITHDRAWAL OF ALCOHOL FREE OF TAX.**

(a) **FOR DENATURATION.**—Alcohol produced at any industrial alcohol plant or stored in any bonded warehouse may, under regulations, be withdrawn tax-free, as provided by existing law from any such plant or warehouse for transfer to any denaturing plant for denaturation, or may, under regulations, before or after denaturation, be removed from any such plant or warehouse for any lawful tax-free purpose. Alcohol lawfully denatured may, under regulations, be sold free of tax either for domestic use or for export.

(b) **FOR USE BY FEDERAL OR STATE AGENCIES.**—Alcohol may be withdrawn tax-free, under regulations, from any industrial alcohol plant or bonded warehouse by the United States or any governmental agency thereof, or by the several States and Territories or any municipal subdivision thereof or by the District of Columbia. Alcohol may be withdrawn tax-free from customs custody by the United States or any governmental agency thereof for its own use, under such regulations as may be prescribed.

(c) **USE IN RESEARCH, HOSPITALS, OR FOR CHARITABLE CLINICS.**—Alcohol may be withdrawn, under regulations, from any industrial alcohol plant or bonded warehouse tax-free for the use of any scientific university or college of learning, for any laboratory for use exclusively in scientific research, or for use in any hospital or sanitarium, or for the use of any clinic operated for charity and not for profit, including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof, but not for sale.

(d) **CONDITIONS OF EXEMPTIONS.**—Any person permitted to obtain alcohol tax-free, except the United States and the several States and Territories and subdivisions thereof, and the District of Columbia, shall first apply for and secure a permit to purchase the same and give the bonds prescribed under section 5304, but alcohol withdrawn for nonbeverage purposes for use of the United States and the several States, Territories, and subdivisions thereof, and the District of Columbia may be purchased and withdrawn subject only to such regulations as may be prescribed.

**SEC. 5311. IMPORTATION OF ALCOHOL FOR INDUSTRIAL PURPOSES.**

Under regulations, and subject from the time of its withdrawal from customs custody to all the applicable provisions of this part, alcohol of 160 proof, or greater, may be imported into the United

States and be withdrawn, in bond, from customs custody, without payment of the internal revenue tax imposed by section 5001 upon the act of importing such alcohol, for transfer to industrial alcohol plants, alcohol bonded warehouses, and denaturing plants for redistillation or denaturation and withdrawal, or withdrawal without redistillation or denaturation, tax-free or taxpaid, as the case may be, for all the purposes authorized by this part.

**SEC. 5312. REMISSION AND REFUND OF TAX ON ALCOHOL FOR LOSS OR LEAKAGE.**

For provisions relating to remission or refund of tax on alcohol for loss or leakage, see section 5011 (c).

**SEC. 5313. POWERS AND DUTIES OF PERSONS ENFORCING THIS PART.**

(a) **SECRETARY AND OTHER PERSONS.**—The Secretary, his assistants, agents, and inspectors, and all other officers, employees, or agents of the United States, whose duty it is to enforce criminal laws, shall have all the rights, privileges, powers, and protection in the enforcement of the provisions of this part or section 5686 which are conferred by law for the enforcement of any laws in respect of the taxation, importation, exportation, transportation, manufacture, possession, or use of, or traffic in, intoxicating liquors.

(b) **POWER TO SECURE RECORDS.**—All records and reports kept or filed under this part, and all liquor or property to which such records or reports relate, shall be subject to inspection at any reasonable hour by the Secretary or any of his agents or by any public prosecutor or by any person designated by him, or by any peace officer in the State where records or reports are kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to the Secretary or his delegate when called for.

**SEC. 5314. OFFICERS AND AGENTS AUTHORIZED TO INVESTIGATE, ISSUE SEARCH WARRANTS, AND PROSECUTE FOR VIOLATIONS.**

The Secretary, his assistants, agents, and inspectors, shall investigate and report violations of this chapter or of section 7302 to the United States Attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and the Secretary, his assistants, agents, and inspectors, may swear out warrants before United States commissioners or other officers or courts authorized to issue warrants for the apprehension of such offenders, and may, subject to the control of such United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 3041 of title 18 of the United States Code is hereby made applicable in the enforcement of this chapter and section 7302. Officers mentioned in section 3041 are authorized to issue search warrants under the limitations provided in chapter 205 of title 18 of the United States Code, and the Federal Rules of Criminal Procedure.

**SEC. 5315. COMPLIANCE WITH COURT SUBPOENA AS TO TESTIFYING OR PRODUCING RECORDS.**

No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court in any suit or proceeding based on or growing out of any alleged violation of this part or section 5686; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

**SEC. 5316. FORM OF AFFIDAVIT, INFORMATION, OR INDICTMENT.**

In any affidavit, information, or indictment for the violation of this subchapter, or of section 5686, separate offenses may be united in separate counts, and the defendant may be tried on all such offenses at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not preclude the trial court from directing the furnishing to the defendant of a bill of particulars when it deems it proper to do so.

**SEC. 5317. APPLICABILITY OF OTHER LAWS.**

(a) **INTERNAL REVENUE LAWS.**—All administrative provisions of internal revenue law, including those relating to assessment, collection, abatement, and refund of taxes and penalties, and the seizure and forfeiture of property, shall apply to this part and section 5686 insofar as they are not inconsistent with the provisions thereof.

(b) **FEDERAL TRADE COMMISSION ACT.**—The provisions, including penalties, of sections 9 and 10 of the Federal Trade Commission Act (U. S. C., title 15, secs. 49, 50), as now or hereafter amended, shall apply to the jurisdiction, powers, and duties of the Secretary under this part, and section 5686, and to any person (whether or not a corporation) subject to the provisions of this part or section 5686.

**SEC. 5318. APPLICATION OF PART TO PUERTO RICO AND VIRGIN ISLANDS.**

This part, sections 5001 (a) (6), (8), and (b), 5004 (b), 5005 (c), 5007 (d), 5011 (c), 5686, and 7302, the penalties of special application thereto, and all provisions of the internal revenue laws relating to the enforcement thereof shall extend and apply to Puerto Rico and the Virgin Islands. The respective insular governments shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary or his delegate for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico and the Virgin Islands of this part, sections 5001 (a) (6), (8), and (b), 5004 (b), 5005 (c), 5007 (d), 5011 (c), 5686, and 7302, and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this section.

**SEC. 5319. DEFINITIONS, ETC.**

For purposes of this part or section 5686—

(1) The term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced. Spirits of proof of less than 160 degrees may under regulations be deemed to be alcohol for the purpose of denaturation.

(2) The term "container" includes any receptacle, vessel, or form of package, tank, or conduit used, or capable of use, for holding, storing, transferring, or shipping alcohol.

(3) The term "application" means a formal written request supported by a verified statement of facts, showing that the Secretary or his delegate may grant the request.

(4) The term "permit" means a formal written authorization by the Secretary or his delegate, setting forth specifically therein the things that are authorized.

(5) The term "bond" means an obligation authorized or required by or under this part or under part II of subchapter C of chapter 26 of the Internal Revenue Code of 1939, or any regulation thereunder, executed in such form and for such penal sum as may have been or shall be required by the Secretary or his delegate or prescribed by regulations.

(6) The term "regulation" means any regulation prescribed by the Secretary or his delegate for carrying out the provisions of this part, and the Secretary or his delegate is authorized to make such regulations.

(7) The term "articles" means any substance or preparation in the manufacture of which denatured alcohol or denatured rum is used. This definition shall also apply to the term "articles" as used in section 5001 (a) (6).

(8) The term "person" means and includes natural persons, firms, partnerships, corporations, and associations.

**SEC. 5320. CROSS REFERENCES.**

(1) For provisions relating to liability of proprietors of industrial alcohol plants and bonded warehouses, see section 5005 (c).

(2) For provisions relating to attachment of lien in case of alcohol, see section 5004 (b).

(3) For provisions relating to penalties and forfeitures, see subchapter J.

**PART II—DENATURATION**

Sec. 5331. Withdrawal from bond free of tax.

Sec. 5332. Recovery of spirits for reuse in manufacturing.

Sec. 5333. Sale of abandoned spirits for denaturation without collection of tax.

Sec. 5334. Cross references.

**SEC. 5331. WITHDRAWAL FROM BOND FREE OF TAX.**

(a) FOR INDUSTRIAL USE.—

(1) DENATURATION REQUIRED.—Domestic alcohol of such degree of proof as may be prescribed by the Secretary or his delegate, may be withdrawn from bond without the payment of internal revenue tax, for use in the arts and industries, and for fuel, light, and power, provided such alcohol shall have been mixed in the presence and

under the direction of an authorized Government officer, after withdrawal from the distillery warehouse, with methyl alcohol or other denaturing material or materials, or admixture of the same, suitable to the use for which the alcohol is withdrawn, but which destroys its character as a beverage and renders it unfit for liquid medicinal purposes; such denaturing to be done on the application of any registered distillery in denaturing bonded warehouses specially designated or set apart for denaturing purposes only, and under conditions prescribed by the Secretary or his delegate.

(2) DENATURING MATERIALS.—The character and quantity of such denaturing material and the conditions under which such alcohol may be withdrawn free of tax shall be prescribed by the Secretary or his delegate, who shall make all necessary regulations for carrying into effect the provisions of this section.

(3) RECORDS.—Distillers, manufacturers, dealers, and all other persons furnishing, handling, or using alcohol withdrawn from bond under this section shall keep such books and records, execute such bonds, and render such returns as the Secretary or his delegate may by regulations require. Such books and records shall be open at all times to the inspection of any internal revenue officer or agent.

(b) FOR USE IN MANUFACTURE OF CHEMICALS.—Notwithstanding anything contained in subsection (a), domestic alcohol when suitably denatured may be withdrawn from bond without the payment of internal revenue tax and used in the manufacture of ether and chloroform and other definite chemical substances where said alcohol is changed into some other chemical substance and does not appear in the finished product as alcohol.

(c) WITHDRAWAL OF RUM.—Rum of not less than 150 degrees proof may be withdrawn, for denaturation only, in accordance with subsection (a).

#### SEC. 5332. RECOVERY OF SPIRITS FOR REUSE IN MANUFACTURING.

Manufacturers employing processes in which alcohol or rum, used free of tax under section 5331, is expressed or evaporated from the articles manufactured, shall be permitted to recover such alcohol or rum and to have such alcohol or rum restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Secretary or his delegate may prescribe.

#### SEC. 5333. SALE OF ABANDONED SPIRITS FOR DENATURATION WITHOUT COLLECTION OF TAX.

Notwithstanding any other provision of law, any distilled spirits abandoned to the United States may be sold, in such cases as the Secretary or his delegate may by regulation provide, to the proprietor of any industrial alcohol plant for denaturation, or redistillation and denaturation, without the payment of the internal revenue tax thereon.

#### SEC. 5334. CROSS REFERENCES.

(1) For penalty for unlawful use or concealment of denatured alcohol, see section 5647.

(2) For applicability of all provisions of law relating to alcohol that is not denatured, including those requiring payment of tax, to denatured alcohol, denatured rum or articles produced, withdrawn, sold, transported, or used in violation of law or regulations, see section 5001 (a) (6).

## Subchapter F—Bonded and Taxpaid Wine Premises

- Part I. Establishment.
- Part II. Operations.
- Part III. Cellar treatment and classification of wine.
- Part IV. General.

### PART I—ESTABLISHMENT

- Sec. 5351. Bonded wine cellar.
- Sec. 5352. Taxpaid wine bottling house.
- Sec. 5353. Bonded wine warehouse.
- Sec. 5354. Bond.
- Sec. 5355. General provisions relating to bonds.
- Sec. 5356. Application.
- Sec. 5357. Premises.

#### SEC. 5351. BONDED WINE CELLAR.

Any person establishing premises for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine (other than wine produced exempt from tax under section 5042), including the use of wine spirits in wine production, shall, before commencing operations, make application to the Secretary or his delegate and file bond and receive permission to operate. Such premises shall be known as "bonded wine cellars": *Provided*, That any such premises engaging in production operations may, in the discretion of the Secretary or his delegate, be designated as a "bonded winery".

#### SEC. 5352. TAXPAID WINE BOTTLING HOUSE.

Any person bottling, packaging, or repackaging taxpaid wines at premises other than a rectifying plant or a taxpaid distilled spirits bottling house shall, before commencing such operations, make application to the Secretary or his delegate and receive permission to operate. Such premises shall be known as "taxpaid wine bottling houses".

#### SEC. 5353. BONDED WINE WAREHOUSE.

Any responsible warehouse company or other responsible person may, upon filing application with the Secretary or his delegate and consent of the proprietor and the surety on the bond of any bonded wine cellar, under regulations prescribed by the Secretary or his delegate, establish on such premises facilities for the storage of wines and allied products for credit purposes, to be known as a "bonded wine warehouse". The proprietor of the bonded wine cellar shall remain responsible in all respects for operations in the warehouse and the tax on the wine or wine spirits stored therein.

#### SEC. 5354. BOND.

The bond for a bonded wine cellar shall be in such form, on such conditions, and with such adequate surety, as regulation issued by the Secretary or his delegate shall prescribe, and shall be in a penal sum not less than the tax on any wine or wine spirits possessed or in

transit at any one time, but not less than \$1,000 nor more than \$50,000: *Provided*, That where the tax on such wine and on such wine spirits exceeds \$250,000, the penal sum of the bond shall be not more than \$100,000: *And provided further*, That where additional liability arises as a result of deferral of payment of tax payable on any return, the Secretary or his delegate may require the proprietor to file a supplemental bond in such amount as may be necessary to protect the revenue. The liability of any person on any such bond shall apply whether the transaction or operation on which the liability of the proprietor is based occurred on or off the proprietor's premises.

#### SEC. 5355. GENERAL PROVISIONS RELATING TO BONDS.

The provisions of section 5551 (relating to bonds) shall be applicable to the bonds required under section 5354.

#### SEC. 5356. APPLICATION.

The application required by this part shall disclose, as regulations issued by the Secretary or his delegate shall provide, such information as may be necessary to enable the Secretary or his delegate to determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.

#### SEC. 5357. PREMISES.

Bonded wine cellar premises, including noncontiguous portions thereof, shall be so located, constructed and equipped, as to afford adequate protection to the revenue, as regulations prescribed by the Secretary or his delegate may provide.

### PART II—OPERATIONS

- Sec. 5361. Bonded wine cellar operations.
- Sec. 5362. Removals of wine from bonded premises.
- Sec. 5363. Taxpaid wine bottling house operations.
- Sec. 5364. Standard wine premises.
- Sec. 5365. Segregation of operations.
- Sec. 5366. Supervision.
- Sec. 5367. Records.
- Sec. 5368. Gauging, marking, and stamping.
- Sec. 5369. Inventories.
- Sec. 5370. Losses.
- Sec. 5371. Insurance coverage.
- Sec. 5372. Sampling.
- Sec. 5373. Wine spirits.

#### SEC. 5361. BONDED WINE CELLAR OPERATIONS.

In addition to the operations described in section 5351, the proprietor of a bonded wine cellar may, subject to regulations prescribed by the Secretary or his delegate, on such premises receive unmerchandise taxpaid wine for return to bond, reconditioning, or destruction; prepare for market and store commercial fruit products and by-products not taxable as wines; produce or receive distilling material or vinegar stock; produce or receive heavy bodied blending wines, Spanish-type blending sherries, and similar wine products made from fruit, with or without added wine spirits, and without added sugar, subject to tax as wine but not for sale or consumption as beverage wine; and such other operations as may be conducted in a manner that will not jeopardize the revenue or conflict with wine operations.

**SEC. 5362. REMOVALS OF WINE FROM BONDED PREMISES.**

Wine may be removed from bonded wine cellars subject to payment of the tax. Wine may also be removed from the premises without liability for tax being incurred by reason of such removal, under such regulations and bonds as the Secretary or his delegate may deem necessary to protect the revenue, for the following purposes:

- (1) transfer to any bonded wine cellar;
- (2) export by the proprietor or by any authorized exporter;
- (3) transfer to any foreign trade zone;
- (4) use on vessels and aircraft;
- (5) transfer to any class 6 customs manufacturing warehouse;
- (6) use in the production of vinegar;
- (7) distillation in any registered fruit distillery, registered distillery or industrial alcohol plant;
- (8) experimental or research purposes by any scientific university, college of learning, or institution of scientific research;
- (9) use by or for the account of the proprietor or his agents for analysis or testing, organoleptically or otherwise; and
- (10) use by the Government of the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and Territories and the District of Columbia or of any subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

**SEC. 5363. TAXPAID WINE BOTTLING HOUSE OPERATIONS.**

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bottling house may, subject to regulations issued by the Secretary or his delegate, on such premises mix wine of the same kind and taxable grade to facilitate handling; preserve, filter, or clarify wine; and conduct operations not involving wine where such operations will not jeopardize the revenue or conflict with wine operations. This subchapter shall apply to any wine received in any rectifying plant or taxpaid distilled spirits bottling house for bottling, packaging, or repackaging, and to all operations relative thereto: *Provided*, That any blending, mixing, or treatment of taxpaid wine, other than as provided in this section or in section 5025 (e), shall constitute taxable rectification.

**SEC. 5364. STANDARD WINE PREMISES.**

Except as otherwise specifically provided in this subchapter, no proprietor of a bonded wine cellar or taxpaid wine bottling house engaged in producing, receiving, storing or using any standard wine, shall produce, receive, store, or use any wine other than standard wine. The limitation contained in the preceding sentence shall not prohibit the production or receipt of heavy bodied blending wine, Spanish-type blending sherry or similar wine products, high fermentation wines, distilling material, or vinegar stock in any bonded wine cellar, as authorized by section 5361.

**SEC. 5365. SEGREGATION OF OPERATIONS.**

The Secretary or his delegate may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between un taxpaid wine operations and such other

operations as are authorized in this subchapter, or to prevent substitution with respect to the several methods of producing effervescent wines.

#### **SEC. 5366. SUPERVISION.**

The Secretary or his delegate may by regulations require that operations at a bonded wine cellar or taxpaid wine bottling house be supervised by a Government officer where necessary for the protection of the revenue or for the proper enforcement of this subchapter.

#### **SEC. 5367. RECORDS.**

The proprietor of a bonded wine cellar or a taxpaid wine bottling house shall keep such records and file such returns, in such form and containing such information, as the Secretary or his delegate may by regulations provide.

#### **SEC. 5368. GAUGING, MARKING, AND STAMPING.**

(a) **GAUGING AND MARKING.**—All wine or wine spirits shall be locked, sealed, gauged, marked, branded, labeled, or otherwise identified, in such manner as the Secretary or his delegate may by regulations prescribe.

(b) **STAMPING.**—Wines shall be removed in such containers (including vessels, vehicles and pipelines) bearing such marks, labels and stamps, evidencing compliance with this chapter, as the Secretary or his delegate may by regulations prescribe.

#### **SEC. 5369. INVENTORIES.**

Each proprietor of premises subject to the provisions of this subchapter shall take and report such inventories as the Secretary or his delegate may by regulations prescribe.

#### **SEC. 5370. LOSSES.**

(a) **GENERAL.**—Notwithstanding section 5041, no such tax shall be collected in respect of any wines lost or destroyed while in bond, except that such tax shall be collected—

(1) **THEFT.**—In the case of loss by theft, unless the Secretary or his delegate shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor or other person responsible for the tax, or the owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(2) **VOLUNTARY DESTRUCTION.**—In the case of voluntary destruction, unless the wine was destroyed under Government supervision, or on such adequate notice to, and approval by, the Secretary or his delegate as regulations shall provide.

(b) **PROOF OF LOSS.**—In any case in which the wine is lost or destroyed, whether by theft or otherwise, the Secretary or his delegate may require by regulations the proprietor of the bonded wine cellar or other person responsible for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be on the proprietor or other person responsible for the tax to establish to the satisfaction of the Secretary or his delegate, that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier or the agents, or employees of any of them.

**SEC. 5371. INSURANCE COVERAGE.**

Any remission, abatement, refund, or credit of, or other relief from, taxes on wines or wine spirits authorized by law shall be allowed only to the extent that the claimant is not indemnified or recompensed for the tax.

**SEC. 5372. SAMPLING.**

Under regulations prescribed by the Secretary or his delegate, wine may be utilized in any bonded wine cellar for testing, tasting, or sampling, free of tax.

**SEC. 5373. WINE SPIRITS.**

(a) **IN GENERAL.**—The wine spirits authorized for use in wine production shall include spirits or brandy produced from the distilling material authorized for use in fruit distillery operations under section 5215, but shall not be reduced with water from distillation proof, nor be distilled, unless regulations otherwise provide, at less than 140 degrees proof: *Provided*, That commercial brandy aged in wood for a period of not less than 2 years and barreled at not less than 100 degrees proof shall be deemed wine spirits for the purpose of this subsection.

**(b) WITHDRAWAL OF WINE SPIRITS.**—

(1) The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from any registered fruit distillery or internal revenue bonded warehouse, or from any bonded wine cellar as provided in paragraph (2), for use in the production of natural wine, for addition to concentrated or un-concentrated juice for use in wine production, or for such other uses as may be authorized in this subchapter.

(2) Wine spirits so withdrawn, and not used in wine production or as otherwise authorized in this subchapter, may, as provided by regulations prescribed by the Secretary or his delegate, be transferred to any internal revenue bonded warehouse or bonded wine cellar, or may be tax paid and removed as provided by law.

(3) On such use, transfer, or taxpayment, the Secretary or his delegate shall credit the proprietor with the amount of wine spirits so used or transferred or taxpaid and, in addition, with such portion of wine spirits so withdrawn, as may have been lost either in transit or on the bonded wine cellar premises, to the extent allowable under section 5011 (a). Where the proprietor has used wine spirits in actual wine production but in violation of the requirements of this subchapter, the Secretary or his delegate shall also extend such credit to the wine spirits so used if the proprietor satisfactorily shows that such wine spirits were not knowingly used in violation of law.

(4) Suitable samples of brandy or wine spirits may, under regulations prescribed by the Secretary or his delegate, be withdrawn free of tax from any registered fruit distillery, internal revenue bonded warehouse, bonded wine cellar, or authorized experimental premises, for analysis or testing.

### PART III—CELLAR TREATMENT AND CLASSIFICATION OF WINE

- Sec. 5381. Natural wine.
- Sec. 5382. Cellar treatment of natural wine.
- Sec. 5383. Amelioration and sweetening limitations for natural grape wines.
- Sec. 5384. Amelioration and sweetening limitations for natural fruit and berry wines.
- Sec. 5385. Specially sweetened natural wines.
- Sec. 5386. Special natural wines.
- Sec. 5387. Agricultural wines.
- Sec. 5388. Designation of wines.

#### SEC. 5381. NATURAL WINE.

Natural wine is the product of the juice or must of sound, ripe grapes or other sound, ripe fruit, made with such cellar treatment as may be authorized under section 5382 and containing not more than 21 percent by weight of total solids. Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine and shall, unless the condition is corrected, be removed in due course for distillation, destroyed under Government supervision, or transferred to premises in which wines other than natural wine may be stored or used.

#### SEC. 5382. CELLAR TREATMENT OF NATURAL WINE.

(a) GENERAL.—Proper cellar treatment of natural wine constitutes those practices and procedures in the United States and elsewhere, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice. Where a particular treatment has been used in customary commercial practice, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary or his delegate finding such treatment not to be a proper cellar treatment within the meaning of this subsection.

(b) SPECIFICALLY AUTHORIZED TREATMENTS.—The practices and procedures specifically enumerated in this subsection shall be deemed proper cellar treatment for natural wine:

(1) The preparation and use of pure concentrated or unconcentrated juice or must. Concentrated juice or must reduced with water to its original density or to not less than 22 degrees Brix or unconcentrated juice or must reduced with water to not less than 22 degrees Brix shall be deemed to be juice or must, and shall include such amounts of water to clear crushing equipment as regulations prescribed by the Secretary or his delegate may provide;

(2) The addition to natural wine, or to concentrated or unconcentrated juice or must, from one kind of fruit, of wine spirits (whether or not taxpaid) distilled in the United States from the same kind of fruit: *Provided*, That the wine, juice, or concentrate shall not have an alcoholic content in excess of 24 percent by volume after the addition of wine spirits, and that, in the case of still wines, wine spirits may be added only to natural wines of the winemaker's own production made without added sugar or reserved as provided in sections 5383 (b) and 5384 (b).

(3) Amelioration and sweetening of natural grape wines in accordance with section 5383.

(4) Amelioration and sweetening of natural wines from fruits other than grapes in accordance with section 5384.

(5) In the case of effervescent wines such preparations for refermentation and for dosage as may be acceptable in good commercial practice: *Provided*, That the alcoholic content of the finished product shall not exceed 14 percent by volume.

(6) The natural darkening of the sugars or other elements in juice, must or wine due to storage, concentration, heating processes, or natural oxidation.

(7) The blending of natural wines with each other or with heavy-bodied blending wine, concentrated or unconcentrated juice containing wine spirits, from the same kind of fruit.

(8) The use of acids to correct natural deficiencies and to stabilize the wine as may be acceptable in good commercial practice.

(c) OTHER AUTHORIZED TREATMENT.—The Secretary or his delegate may by regulations prescribe limitations on the preparation and use of clarifying, stabilizing, preserving, fermenting, and corrective methods or materials, to the extent that such preparation or use is not acceptable in good commercial practice.

#### SEC. 5383. AMELIORATION AND SWEETENING LIMITATIONS FOR NATURAL GRAPE WINES.

(a) SWEETENING OF GRAPE WINES.—Any natural grape wine made under this section may, if not in reserve inventory as hereinafter provided, be sweetened after fermentation and before taxpayment with pure dry sugar if the sugar solids content of the finished wine does not exceed 10 percent of the weight of the wine and the alcoholic content of the finished wine after sweetening is less than 14 percent by volume.

(b) HIGH ACID WINES.—

(1) Any natural grape wine of a winemaker's own production may, under this subsection, be ameliorated to correct high acid content, and, whether or not ameliorated, may be reserved as herein provided.

(2) To wines produced under this subsection there may be added to the juice or to the wine, or both, before or during fermentation (including wines held pursuant to regulation in intermediate storage for completion of amelioration), ameliorating material consisting of either water, or pure dry sugar, or a combination of water and pure dry sugar, in such total volume as may be necessary to reduce the natural fixed acid content of the mixture of juice and such ameliorating material to a minimum of 5 parts per thousand (calculated before fermentation and as tartaric acid), but in no event shall the volume of such ameliorating material exceed 35 percent of the total volume of such ameliorated juice (calculated exclusive of pulp); and the wine so made shall be transferred to a reserve inventory established as regulation issued by the Secretary or his delegate shall require: *Provided*, That such wine containing less than 14 percent alcohol by volume after complete fermentation or after complete fermentation and sweetening, need not be transferred into reserve inventory if all claim to further amelioration is waived.

(3) The wines in the reserve inventory may be sweetened with dry sugar in an amount not exceeding, for the aggregate of the inventory—

(i) the dry sugar equivalent of any volume of authorized ameliorating material not used for wine so transferred, plus

(ii) nine-tenths pound of dry sugar for each gallon of wine so transferred and such unused ameliorating material combined.

(4) Wines so reserved may be blended together, sweetened with pure dry sugar to the extent provided in paragraph (3) or with concentrated or unconcentrated grape juice, and may have wine spirits added if such wine contains less than 14 percent of alcohol by volume at the time of such addition (unless wine spirits were previously added). Any wines withdrawn from reserve inventory shall have an alcoholic content of less than 14 percent by volume and a total solids content not exceeding 21 percent by weight, except that, if wine spirits have been added and the alcoholic content is 14 percent by volume or more, the sugar solids content shall not exceed 15 percent by weight.

(5) The winemaker shall maintain and balance for his reserve inventory such accounts as regulations issued by the Secretary or his delegate shall prescribe.

**SEC. 5384. AMELIORATION AND SWEETENING LIMITATIONS FOR NATURAL FRUIT AND BERRY WINES.**

(a) **IN GENERAL.**—To natural wine made from berries or fruit other than grapes, pure dry sugar may be added to the juice in the fermenter, or to the wine after fermentation: *Provided*, That such wine shall have less than 14 percent alcohol by volume after complete fermentation or after complete fermentation and sweetening, and a total solids content not in excess of 21 percent by weight.

(b) **RESERVE FRUIT AND BERRY WINES.**—

(1) Any natural fruit or berry wine (other than grape wine) of a winemaker's own production may, if not made under subsection (a) of this section, be ameliorated to correct high acid content, and, whether or not ameliorated, may be reserved as herein provided. Separate reserve inventories shall be established for wines made from each different kind of fruit.

(2) To wines made under this subsection there may be added, for the purpose of correcting natural deficiencies, sufficient pure dry sugar to adjust the juice to a total solids content, prior to fermentation, of not more than 23 degrees (Brix). Thereafter the wine shall be treated and accounted for as provided in section 5383 (b), covering the production of reserved high acid grape wines, except that—

(A) Natural fixed acid shall be calculated as malic acid for apple wine and as citric acid for other fruit and berry wines, instead of tartaric acid;

(B) Juice adjusted with pure dry sugar as provided in this paragraph shall be treated in the same manner as original natural juice under the provisions of section 5383 (b);

(C) Wines made under this subsection may be withdrawn from reserve inventory with a total solids content of not more than 21 percent by weight, whether or not wine spirits have been added;

(D) Wines made exclusively from loganberries, currants, or gooseberries, shall be entitled to a volume of ameliorating material not in excess of 60 percent (in lieu of 35 percent).

**SEC. 5385. SPECIALLY SWEETENED NATURAL WINES.**

(a) Specially sweetened natural wine is the product made by adding to natural wine of the winemaker's own production a sufficient quantity of pure dry sugar, or juice or concentrated juice from the same kind of fruit, separately or in combination, to produce a finished product having a sugar solids content in excess of 15 percent by weight and an alcoholic content of less than 14 percent by volume, and shall include extra sweet kosher wine and similarly heavily sweetened wines.

(b) The winemaker may blend specially sweetened natural wine from the same kind of fruit either before or after the special sweetening, or with additional natural wine or heavy bodied blending wine from the same kind of fruit in the further production of specially sweetened natural wine only, and may cellar treat any such wines as provided in section 5382 (c). Wine spirits may not be added to specially sweetened natural wine, nor may such wine be blended except to produce a specially sweetened natural wine.

**SEC. 5386. SPECIAL NATURAL WINES.**

(a) Special natural wines are the products made, pursuant to a formula approved under this section, from a base of natural wine (including heavy bodied blending wine) exclusively, with the addition, before, during or after fermentation, of natural herbs, spices, fruit juices, aromatics, essences, and other natural flavorings in such quantities or proportions as to enable such products to be distinguished from any natural wine not so treated, and with or without carbon dioxide naturally or artificially added, and with or without the addition, separately or in combination, of pure dry sugar or a solution of pure dry sugar and water, or caramel. No added wine spirits or alcohol or other spirits shall be used in any wine under this section except as may be contained in the natural wine (including heavy bodied blending wine) used as a base or except as may be necessary in the production of approved essences or similar approved flavorings. The Brix degree of any solution of pure dry sugar and water used may be limited by regulations prescribed by the Secretary or his delegate in accordance with good commercial practice.

(b) Special natural wines may be cellar treated as provided in section 5382 (c).

**SEC. 5387. AGRICULTURAL WINES.**

(a) Wines made from agricultural products other than the juice of fruit shall be made in accordance with good commercial practice as may be prescribed by the Secretary or his delegate by regulations. Wines made in accordance with such regulations shall be classed as "standard agricultural wines". Wines made under this section may be cellar treated as provided in section 5382 (c).

(b) No wine spirits may be added to wines produced under this section, nor shall any coloring material or herbs or other flavoring material (except hops in the case of honey wine) be used in their production.

(c) Wine from different agricultural commodities shall not be blended together.

**SEC. 5388. DESIGNATION OF WINES.**

(a) Standard wines may be removed from premises subject to the provisions of this subchapter and be marked, transported, and sold under their proper designation as to kind and origin, or, if there is no such designation known to the trade or consumers, then under a truthful and adequate statement of composition.

(b) Wines other than standard wines may be removed for consumption or sale and be marked, transported or sold only under such designation as to kind and origin as adequately describe the true composition of such products and as adequately distinguish them from standard wines, as regulations prescribed by the Secretary or his delegate shall provide.

**PART IV—GENERAL**

Sec. 5391. Exemption from rectifying and spirits taxes.

Sec. 5392. Definitions.

**SEC. 5391. EXEMPTION FROM RECTIFYING AND SPIRITS TAXES.**

Notwithstanding any other provision of law, the taxes imposed by sections 5001 and 5021 on distilled spirits generally and on rectified spirits and wines shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use or treatment of wine, or use of wine spirits in wine production, in such premises: *Provided*, That whenever wine or wine spirits are used in violation of this subchapter the appropriate tax shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law.

**SEC. 5392. DEFINITIONS.**

(a) **STANDARD WINE.**—For purposes of this subchapter the term “standard wine” means natural wine, specially sweetened natural wine, special natural wine and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387, respectively.

(b) **HEAVY BODIED BLENDING WINE.**—For purposes of this subchapter the term “heavy bodied blending wine” means wine made from fruit without added sugar, and with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

(c) **PURE SUGAR.**—For purposes of this subchapter the term “pure sugar” means pure refined cane or beet sugar, or pure refined anhydrous or monohydrate dextrose sugar, of not less than 95 percent purity calculated on a dry basis: *Provided*, That invert sugar syrup produced from such pure sugar by recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar, authorized in this subchapter.

(d) **TOTAL SOLIDS.**—For purposes of this subchapter the term “total solids”, in the case of wine, means the degrees Brix of the dealcoholized wine.

(e) **SAME KIND OF FRUIT.**—For purposes of this subchapter the term “same kind of fruit” includes, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other

than grapes, this term includes all of the several species and varieties of any given kind: *Provided*, That this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) OWN PRODUCTION.—For purposes of this subchapter the term "own production", when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar.

PART I—ESTABLISHMENT

Sec. 5401. Qualifying documents.  
 Sec. 5402. Definition.  
 Sec. 5403. Gross references.

SEC. 5401. QUALIFYING DOCUMENTS.

(a) Notice.—Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary or his delegate a notice in writing in such form and containing such information as the Secretary or his delegate shall by regulation prescribe as necessary to protect and insure collection of the revenue.

(b) Bonds.—Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary or his delegate shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; and that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053 (a), which beer is not exported or returned to the brewery; and that he shall in all respects faithfully comply without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary or his delegate, the brewer shall execute a new bond in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond shall be in lieu of any former bond or bonds of such brewer in respect to all liabilities accruing after its approval.

SEC. 5402. DEFINITIONS.

(a) Brewery.—The brewery shall consist of the land and buildings described in the brewer's notice.  
 (b) Brewer.—

For definition of brewer, see section 5092.

SEC. 5403. GROSS REFERENCES.

(1) For authority of Secretary or his delegate to disapprove brewers' bonds, see section 5251.  
 (2) For authority of Secretary to require the installation and use of meters, tanks and other apparatus, see section 5252.  
 (3) For deposit of United States bonds or notes in lieu of sureties, see U. S. C. 12.

## Subchapter G—Breweries

Part I. Establishment.

Part II. Operations.

### PART I—ESTABLISHMENT

Sec. 5401. Qualifying documents.

Sec. 5402. Definitions.

Sec. 5403. Cross references.

#### SEC. 5401. QUALIFYING DOCUMENTS.

(a) NOTICE.—Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary or his delegate a notice in writing, in such form and containing such information as the Secretary or his delegate shall by regulations prescribe as necessary to protect and insure collection of the revenue.

(b) BONDS.—Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary or his delegate shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; and that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053 (a), which beer is not exported or returned to the brewery; and that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary or his delegate, the brewer shall execute a new bond in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond shall be in lieu of any former bond or bonds of such brewer in respect to all liabilities accruing after its approval.

#### SEC. 5402. DEFINITIONS.

(a) BREWERY.—The brewery shall consist of the land and buildings described in the brewer's notice.

(b) BREWER.—

For definition of brewer, see section 5092.

#### SEC. 5403. CROSS REFERENCES.

(1) For authority of Secretary or his delegate to disapprove brewers' bonds, see section 5551.

(2) For authority of Secretary to require the installation and use of meters, tanks, and other apparatus, see section 5552.

(3) For deposit of United States bonds or notes in lieu of sureties, see 6 U. S. C. 15.

**PART II—OPERATIONS**

Sec. 5411. Use of brewery.

Sec. 5412. Removal of beer in containers or by pipeline.

Sec. 5413. Brewers procuring beer from other brewers.

Sec. 5414. Removals from one brewery to another belonging to the same brewer.

Sec. 5415. Records and returns.

Sec. 5416. Definitions of bottle and bottling.

**SEC. 5411. USE OF BREWERY.**

The brewery shall be used under regulations to be prescribed by the Secretary or his delegate only for the purpose of producing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other by-products; of bottling beer and cereal beverages; of drying spent grain from the brewery; of recovering carbon dioxide and yeast; of producing and bottling soft drinks; and for such other purposes as the Secretary or his delegate by regulation may find will not jeopardize the revenue. The bottling of beer and cereal beverages shall be conducted only in the brewery bottle house which shall consist of a separate portion of the brewery designated for that purpose.

**SEC. 5412. REMOVAL OF BEER IN CONTAINERS OR BY PIPELINE.**

Beer may be removed from the brewery for consumption or sale only in hogsheads, barrels, kegs, bottles, and similar containers, marked, branded, and labeled in such manner as the Secretary or his delegate may by regulation require: *Provided*, That beer may be removed from the brewery by pipeline to contiguous industrial alcohol plants under section 5309.

**SEC. 5413. BREWERS PROCURING BEER FROM OTHER BREWERS.**

A brewer, under such regulations as the Secretary or his delegate shall prescribe, may obtain beer in his own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5055.

**SEC. 5414. REMOVALS FROM ONE BREWERY TO ANOTHER BELONGING TO THE SAME BREWER.**

Beer may be removed from one brewery to another brewery belonging to the same brewer, without payment of tax, and may be mingled with the beer of the second brewery, subject to such conditions, including payment of tax, and in such containers, as the Secretary or his delegate by regulations shall prescribe.

**SEC. 5415. RECORDS AND RETURNS.**

(a) **RECORDS.**—Every brewer shall keep records, in such form and containing such information as the Secretary or his delegate shall prescribe by regulation as necessary for protection of the revenue. These records shall be preserved for a period of at least two years after the date of the transactions to which they relate, and shall be available during business hours for examination and taking of abstracts therefrom by any internal revenue officer.

(b) **RETURNS.**—Every brewer shall make true and accurate returns of his operations and transactions in the form, at the times, and for such periods as the Secretary or his delegate shall by regulation prescribe.

SEC. 5416. DEFINITIONS OF BOTTLE AND BOTTLING.

For purposes of this subchapter, the word "bottle" means a bottle, can, or similar container, and the word "bottling" means the filling of bottles, cans, and similar containers.

SEC. 5417. REMOVAL OF BEER IN CONTAINERS OR BY PIPELINE. (b) Beer may be removed from the brewery for consumption or sale only in kegs, barrels, kegs, bottles, and similar containers, marked, branded, and labeled in such manner as the Secretary or his delegate may by regulation require. (c) Beer may be removed from the brewery by pipeline to contiguous industrial alcohol plants under section 5300.

SEC. 5418. BREWERS PRODUCING BEER FROM OTHER BREWERIES.

A brewer, under such regulations as the Secretary or his delegate shall prescribe, may obtain beer in his own kegs, barrels, and kegs, marked with his name and address, from another brewer, with payment thereof to be by the producer in the manner prescribed by section 5055.

SEC. 5419. RECORDS AND RETURNS.

(a) Records.—Every brewer shall keep records, in such form and containing such information as the Secretary or his delegate shall prescribe by regulation as necessary for protection of the revenue. These records shall be preserved for a period of at least two years after the date of the transactions to which they relate, and shall be available during business hours for examination and taking of abstracts herefrom by any internal revenue officer.

SEC. 5420. USE OF BREWERY.

The brewery shall be used under regulations to be prescribed by the Secretary or his delegate only for the purpose of producing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamin, sea-malt, malt, and other by-products, of brewing, of recovering carbon dioxide and yeast, of producing and bottling soft drinks, and for such other purposes as the Secretary or his delegate by regulation may find will not jeopardize the revenue. The bottling of beer and cereal beverages shall be conducted only in the brewery bottle house which shall consist of a separate portion of the brewery designed for that purpose.

SEC. 5421. REMOVAL OF BEER FROM OTHER BREWERIES.

A brewer, under such regulations as the Secretary or his delegate shall prescribe, may obtain beer in his own kegs, barrels, and kegs, marked with his name and address, from another brewer, with payment thereof to be by the producer in the manner prescribed by section 5055.

SEC. 5422. REMOVAL OF BEER IN CONTAINERS OR BY PIPELINE.

(b) Beer may be removed from the brewery for consumption or sale only in kegs, barrels, kegs, bottles, and similar containers, marked, branded, and labeled in such manner as the Secretary or his delegate may by regulation require. (c) Beer may be removed from the brewery by pipeline to contiguous industrial alcohol plants under section 5300.

SEC. 5423. BREWERS PRODUCING BEER FROM OTHER BREWERIES.

A brewer, under such regulations as the Secretary or his delegate shall prescribe, may obtain beer in his own kegs, barrels, and kegs, marked with his name and address, from another brewer, with payment thereof to be by the producer in the manner prescribed by section 5055.

SEC. 5424. RECORDS AND RETURNS.

(a) Records.—Every brewer shall keep records, in such form and containing such information as the Secretary or his delegate shall prescribe by regulation as necessary for protection of the revenue. These records shall be preserved for a period of at least two years after the date of the transactions to which they relate, and shall be available during business hours for examination and taking of abstracts herefrom by any internal revenue officer.

SEC. 5425. USE OF BREWERY.

The brewery shall be used under regulations to be prescribed by the Secretary or his delegate only for the purpose of producing beer, cereal beverages containing less than one-half of 1 percent of alcohol by volume, vitamin, sea-malt, malt, and other by-products, of brewing, of recovering carbon dioxide and yeast, of producing and bottling soft drinks, and for such other purposes as the Secretary or his delegate by regulation may find will not jeopardize the revenue. The bottling of beer and cereal beverages shall be conducted only in the brewery bottle house which shall consist of a separate portion of the brewery designed for that purpose.

## Subchapter H—Miscellaneous Plants and Warehouses

- Part I. Vinegar factories.  
 Part II. Volatile fruit-flavor concentrate plants.  
 Part III. Manufacturing bonded warehouses.

### PART I—VINEGAR FACTORIES

- Sec. 5501. Establishment and operation.  
 Sec. 5502. Distilled vinegar.

#### SEC. 5501. ESTABLISHMENT AND OPERATION.

For provisions pertaining to the establishment and operation of vinegar factories, see section 5216.

#### SEC. 5502. DISTILLED VINEGAR.

Nothing in this chapter shall require manufacturers of distilled vinegar to raise the proof of any alcohol used in such manufacture or to denature the same.

### PART II—VOLATILE FRUIT-FLAVOR CONCENTRATE PLANTS

- Sec. 5511. Establishment and operation.  
 Sec. 5512. Control of products after tax-free manufacture.

#### SEC. 5511. ESTABLISHMENT AND OPERATION.

This chapter (other than sections 5171, 5173 (c), and 5174 and other than sections 5196 (b), (c), and (d), and 5552) shall not be applicable with respect to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

- (1) such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and
- (2) such concentrate is rendered unfit for use as a beverage before removal from the place of manufacture; and
- (3) the manufacturer thereof keeps such records, renders such reports, files such bonds, and complies with such other regulations with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Secretary or his delegate may prescribe as necessary for the protection of the revenue imposed by this chapter.

#### SEC. 5512. CONTROL OF PRODUCTS AFTER TAX-FREE MANUFACTURE.

For applicability of all provisions of this chapter pertaining to distilled spirits and wines, including those requiring payment of tax, to volatile fruit-flavor concentrates sold, transported, or used in violation of law or regulations, see section 5001 (a) (7).

**PART III—MANUFACTURING BONDED WAREHOUSES**

Sec. 5521. Establishment and operation.

Sec. 5522. Withdrawal of distilled spirits to manufacturing bonded warehouse.

Sec. 5523. Special provisions relating to distilled spirits and wines rectified in manufacturing bonded warehouses.

**SEC. 5521. ESTABLISHMENT AND OPERATION.**

(a) **ESTABLISHMENT.**—All medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, intended for exportation, as provided by law, in order to be manufactured and sold or removed, without being charged with duty and without having a stamp affixed thereto, shall, under such regulations as the Secretary or his delegate may prescribe, be made and manufactured in warehouses similarly constructed to those known and designated in Treasury regulations as bonded warehouses, class six: *Provided*, That such manufacturer shall first give satisfactory bonds to the Secretary or his delegate for the faithful observance of all the provisions of law and the regulations as aforesaid, in amount not less than half of that required by the regulations of the Secretary or his delegate from persons allowed bonded warehouses.

(b) **SUPERVISION.**—All labor performed and services rendered under this section shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.

(c) **MATERIALS FOR MANUFACTURE.**—

(1) **EXPORTABLE FREE OF TAX.**—Any manufacturer of the articles specified in subsection (a), or of any of them, having such bonded warehouse, shall be at liberty, under such regulations as the Secretary or his delegate may prescribe, to convey therein any materials to be used in such manufacture which are allowed by the provisions of law to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of such manufactured articles; and every article so used shall be exempt from the payment of stamp and excise duty by such manufacturer. Articles and materials so to be used may be transferred from any bonded warehouse under such regulations as the Secretary or his delegate may prescribe, into any bonded warehouse in which such manufacture may be conducted, and may be used in such manufacture, and when so used shall be exempt from stamp and excise duty; and the receipt of the officer in charge shall be received as a voucher for the manufacture of such articles.

(2) **IMPORTED MATERIALS.**—Any materials imported into the United States may, under such regulations as the Secretary or his delegate may prescribe, and under the direction of the proper officer, be removed in original packages from on shipboard, or from the bonded warehouse in which the same may be, into the bonded warehouse in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, shall be taken therefrom except for exportation, under the direction

of the proper officer having charge thereof, whose certificate, describing the articles by their mark or otherwise, the quantity, the date of importation, and name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bond, or return of the amount of foreign import duties.

(d) REMOVALS.—

(1) IN GENERAL.—Such goods, when manufactured in such warehouses, may be removed for exportation under the direction of the proper officer having charge thereof, who shall be designated by the Secretary or his delegate, without being charged with duty and without having a stamp affixed thereto.

(2) TRANSPORTATION FOR EXPORT.—Any article manufactured in a bonded warehouse established under subsection (a) may be removed therefrom for transportation to a customs bonded warehouse at any port, for the purpose only of being exported therefrom, under such regulations and on the execution of such bonds or other security as the Secretary or his delegate may prescribe.

**SEC. 5522. WITHDRAWAL OF DISTILLED SPIRITS TO MANUFACTURING BONDED WAREHOUSES.**

(a) AUTHORIZATION.—Under such regulations and requirements as to stamps, bonds, and other security as shall be prescribed by the Secretary or his delegate, any manufacturer of medicines, preparations, compositions, perfumeries, cosmetics, cordials, and other liquors, for export, manufacturing the same in a duly constituted manufacturing warehouse, shall be authorized to withdraw, from any internal revenue bonded warehouse, so much distilled spirits as he may require for such purpose, without the payment of the internal revenue tax thereon.

(b) ALLOWANCE FOR LOSS OR LEAKAGE.—Section 5011 (a) (relating to distilled spirits lost or destroyed in bond) shall apply to spirits withdrawn for transportation to manufacturing bonded warehouses under subsection (a).

**SEC. 5523. SPECIAL PROVISIONS RELATING TO DISTILLED SPIRITS AND WINES RECTIFIED IN MANUFACTURING BONDED WAREHOUSES.**

Distilled spirits and wines which are rectified in manufacturing bonded warehouses, class six, and distilled spirits which are reduced in proof and bottled or packaged in such warehouses, shall be deemed to have been manufactured within the meaning of section 311 of the Tariff Act of 1930 (19 U. S. C. 1311), and may be withdrawn as provided in such section, and likewise for shipment in bond to Puerto Rico, subject to the provisions of such section, and under such regulations as the Secretary or his delegate may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That no internal revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with such section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier.

## Subchapter I—Miscellaneous General Provisions

- Sec. 5551. General provisions relating to bonds.
- Sec. 5552. Installation of meters, tanks, and other apparatus.
- Sec. 5553. Supervision of premises and operations.
- Sec. 5554. Pilot plant operations.
- Sec. 5555. Records, statements, and returns.
- Sec. 5556. Regulations.
- Sec. 5557. Other provisions applicable.

### SEC. 5551. GENERAL PROVISIONS RELATING TO BONDS.

(a) **APPROVAL AS CONDITION TO COMMENCING BUSINESS.**—No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, rectifier, brewer, or winemaker, shall commence or continue the business of a distiller, rectifier, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Secretary or the officer designated by him.

(b) **DISAPPROVAL.**—The Secretary or any officer designated by him may disapprove any such bond or bonds if the individual, firm, partnership, corporation, or association giving such bond or bonds, or owning, controlling, or actively participating in the management of the business of the individual or firm, partnership, corporation, or association giving such bond or bonds, shall have been previously convicted, in a court of competent jurisdiction, of—

(1) any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal-revenue or customs taxation of distilled spirits, wines, or beer, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise, or

(2) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(c) **APPEAL FROM DISAPPROVAL.**—In case the disapproval is by an officer designated by the Secretary to approve or disapprove such bonds, the individual, firm, partnership, corporation, or association giving the bond may appeal from such disapproval to the Secretary or an officer designated by him to hear such appeals, and the disapproval of the bond by the Secretary or officer designated to hear such appeals shall be final.

### SEC. 5552. INSTALLATION OF METERS, TANKS, AND OTHER APPARATUS.

The Secretary or his delegate is authorized to require at distilleries, breweries, rectifying plants, and at any other premises established pursuant to this chapter as in his judgment may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the

person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Secretary or his delegate shall not be permitted to conduct business on such premises.

#### SEC. 5553. SUPERVISION OF PREMISES AND OPERATIONS.

(a) **ASSIGNMENT OF STOREKEEPER-GAUGERS.**—The Secretary or his delegate is authorized to assign to any premises established under the provisions of this chapter such number of storekeeper-gaugers as may be deemed necessary.

(b) **FUNCTIONS OF STOREKEEPER-GAUGER.**—When used in this chapter, the term "storekeeper-gauger" means the internal revenue officer assigned by the Secretary or his delegate to duties at premises established and operated under the provisions of this chapter.

#### SEC. 5554. PILOT PLANT OPERATIONS.

For the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over distilleries, internal revenue bonded warehouses, rectifying plants, industrial alcohol plants, industrial alcohol bonded warehouses, industrial alcohol denaturing plants, or similar premises established under this chapter or of chapter 26 of the Internal Revenue Code of 1939, the Secretary or his delegate is authorized to waive any regulatory provisions of this chapter for temporary pilot or experimental operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter. The authority under this section shall terminate on December 31, 1955.

#### SEC. 5555. RECORDS, STATEMENTS, AND RETURNS.

(a) **GENERAL.**—Every person liable to any tax imposed by this chapter, or for the collection thereof, or for the affixing of any stamp required to be affixed by this chapter, shall keep such records, render such statements, make such returns, and comply with such rules and regulations, as the Secretary or his delegate may prescribe.

(b) **AUTHORITY TO WAIVE.**—Whenever in this chapter any record is required to be made or kept, or statement or return is required to be made by any person, the Secretary or his delegate may by regulation waive, in whole or in part, such requirement when he deems such requirement to no longer serve a necessary purpose: *Provided*, That this subsection shall not be construed as authorizing the waiver of the payment of any tax.

#### SEC. 5556. REGULATIONS.

The Secretary or his delegate shall prescribe all regulations necessary for the enforcement of this chapter.

#### SEC. 5557. OTHER PROVISIONS APPLICABLE.

All provisions of subtitle F, insofar as applicable (and not inconsistent with the provisions of this subtitle), are hereby extended to and made a part of this subtitle.

## Subchapter J—Penalties, Seizures, and Forfeitures Relating to Liquors

- Part I. Penalty, seizure, and forfeiture provisions applicable to distilling, rectifying, and distilled and rectified products.
- Part II. Penalty and forfeiture provisions applicable to wine and wine production.
- Part III. Penalty, seizure, and forfeiture provisions applicable to beer and brewing.
- Part IV. Penalty, seizure, and forfeiture provisions common to liquors.
- Part V. Penalties and forfeitures applicable to occupational taxes.

### PART I—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO DISTILLING, RECTIFYING, AND DISTILLED AND RECTIFIED PRODUCTS

- Sec. 5601. Penalty and forfeiture for possession of unregistered still or distilling apparatus.
- Sec. 5602. Penalty and forfeiture for setting up still without permit.
- Sec. 5603. Penalty for failure or refusal of distiller or rectifier to give notice of intention to engage in such business.
- Sec. 5604. Penalty and forfeiture for failure or refusal of distiller to give bond.
- Sec. 5605. Penalty for improper approval of distiller's bond.
- Sec. 5606. Penalty and forfeiture for distilling without giving bond.
- Sec. 5607. Penalty for distilling on prohibited premises.
- Sec. 5608. Penalty for making or fermenting mash on unauthorized premises; illegal use of spirits; unlawful removal of vinegar; etc.
- Sec. 5609. Penalty relating to return of materials used in the manufacture of distilled spirits.
- Sec. 5610. Penalty for using unregistered materials for producing spirits.
- Sec. 5611. Penalty for using false weights and measures.
- Sec. 5612. Penalty for using material or removing spirits without supervision.
- Sec. 5613. Penalty for distilling during prohibited hours.
- Sec. 5614. Penalty and forfeiture for removal of spirits during prohibited hours.
- Sec. 5615. Penalty for refusal or neglect of distillers and rectifiers to give assistance to officers.
- Sec. 5616. Penalty for obstructing or refusing to admit officer to distillery premises.
- Sec. 5617. Penalty for failure to keep distillery accessible.
- Sec. 5618. Penalty for failure of distiller to identify fixed pipes.
- Sec. 5619. Penalty for refusal or neglect to draw off water and clean condensers or worm tanks.
- Sec. 5620. Penalty and forfeiture for false or omitted entries in distiller's books and records.
- Sec. 5621. Penalty relating to records and returns of distiller as wholesaler dealers, rectifiers, and wholesale dealers.
- Sec. 5622. Disposal of forfeited equipment and material for distilling.
- Sec. 5623. Destruction of distilling apparatus.
- Sec. 5624. Release of distillery before judgment.
- Sec. 5625. Forfeiture of tax-paid distilled spirits remaining on distillery premises.
- Sec. 5626. Penalty and forfeiture for tax fraud by distiller.

- Sec. 5627. Penalty for unlawful use of rectifying premises.
- Sec. 5628. Penalty for rectification without payment of tax, increasing volume, etc.
- Sec. 5629. Penalty for unlawful rectifying.
- Sec. 5630. Penalty for noncompliance by rectifiers with provisions relating to rectifying, gauging, branding, and stamping.
- Sec. 5631. Penalty and forfeiture for failure to comply with warehousing and removal requirements.
- Sec. 5632. Penalty and forfeiture for unlawful removal or concealment of spirits.
- Sec. 5633. Penalty of officer in charge of warehouse for unlawful removal of spirits.
- Sec. 5634. Penalty and forfeiture for creation of fictitious proof.
- Sec. 5635. Penalty for buying or selling used casks bearing inspection marks.
- Sec. 5636. Penalty and forfeiture for failure to efface, etc., stamps and brands on emptied packages.
- Sec. 5637. Penalty for changing stamps or shifting spirits.
- Sec. 5638. Penalty and forfeiture for affixing imitation stamps on packages of distilled spirits.
- Sec. 5639. Forfeiture of distilled spirits in unstamped casks or packages.
- Sec. 5640. Forfeiture of spirits in unstamped containers.
- Sec. 5641. Penalty and forfeiture relating to containers of distilled spirits.
- Sec. 5642. Penalties for transporting, possessing, etc., distilled spirits in unstamped containers, or counterfeiting of stamps, etc.
- Sec. 5643. Penalty and forfeiture for reuse of stamps or bottles, tampering and unlawful removal.
- Sec. 5644. Penalty for counterfeiting bottled in bond stamps.
- Sec. 5645. Penalty for unlawful affixing, cancelling, or issue of stamps by officer.
- Sec. 5646. Penalty for evasion of distilled spirits tax.
- Sec. 5647. Penalty and forfeiture for unlawful use or concealment of denatured alcohol.
- Sec. 5648. Penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding.
- Sec. 5649. Burden of proof in case of seizure of spirits.
- Sec. 5650. Penalty and forfeiture for operating distillery after giving notice of suspension.

**SEC. 5601. PENALTY AND FORFEITURE FOR POSSESSION OF UNREGISTERED STILL OR DISTILLING APPARATUS.**

Every still or distilling apparatus not registered as required by section 5174, together with all personal property in the possession or custody, or under the control of the person required by section 5174 to register the still or distilling apparatus, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited. Every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not registered, as required by section 5174, shall pay a penalty of \$500, and shall be fined not more than \$1,000, and imprisoned not more than 2 years.

**SEC. 5602. PENALTY AND FORFEITURE FOR SETTING UP STILL WITHOUT PERMIT.**

Any person who sets up any still, boiler, or other vessel, to be used for the purpose of distilling spirits, without first obtaining a permit from the Secretary or his delegate, as required by section 5105 (a), or who fails to give the notice required by such section, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

**SEC. 5603. PENALTY FOR FAILURE OR REFUSAL OF DISTILLER OR RECTIFIER TO GIVE NOTICE OF INTENTION TO ENGAGE IN SUCH BUSINESS.**

Every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, who fails or refuses to give notice, as required by sections 5175 (a) and 5271 (a), shall pay a penalty of \$1,000 and shall be fined not more than \$2,000; and every person who gives a false or fraudulent notice shall, in addition to such penalty or fine, be imprisoned not more than 2 years.

**SEC. 5604. PENALTY AND FORFEITURE FOR FAILURE OR REFUSAL OF DISTILLER TO GIVE BOND.**

Every person who fails or refuses to give the bond required by section 5176 (a), or to renew the same, or who gives any false, forged, or fraudulent bond, shall forfeit the distillery, distilling apparatus, and all real estate and premises connected therewith, and shall be fined not more than \$5,000, and imprisoned not more than 2 years.

**SEC. 5605. PENALTY FOR IMPROPER APPROVAL OF DISTILLER'S BOND.**

Every officer who approves the bond of any distiller in violation of section 5177 (a) shall forfeit and pay \$2,000, and be dismissed from office.

**SEC. 5606. PENALTY AND FORFEITURE FOR DISTILLING WITHOUT GIVING BOND.**

Any person who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not more than \$5,000 and imprisoned not more than 2 years. All distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises, and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person, who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

**SEC. 5607. PENALTY FOR DISTILLING ON PROHIBITED PREMISES.**

Every person who does any of the acts prohibited by section 5171 (a), or aids or assists therein, or causes or procures the same to be done, shall be fined \$1,000, and imprisoned not more than 2 years, in the discretion of the court, for each such offense.

**SEC. 5608. PENALTY FOR MAKING OR FERMENTING MASH ON UNAUTHORIZED PREMISES; ILLEGAL USE OF SPIRITS; UNLAWFUL REMOVAL OF VINEGAR; ETC.**

(a) **VIOLATION OF SECTION 5216.**—Every person who violates any provision of section 5216 shall be fined for each offense not more than \$5,000, and be imprisoned not more than 2 years.

(b) **UNLAWFUL REMOVAL OF VINEGAR.**—Every person, who shall remove, or cause to be removed, from any vinegar factory or place where vinegar is made, any vinegar or other fluid or material containing a greater proportion than 2 percent of proof spirits shall incur a forfeiture of the vinegar, fluid, or material containing such proof spirits.

(c) **APPLICABILITY OF SECTIONS 5615 AND 5616 TO MANUFACTURERS OF VINEGAR.**—The penalties provided in sections 5615 and 5616 shall apply to persons carrying on the operations described in section 5216.

**SEC. 5609. PENALTY RELATING TO RETURN OF MATERIALS USED IN THE MANUFACTURE OF DISTILLED SPIRITS.**

Any person who willfully violates any provision of section 5213 (a), or of any rules or regulations issued thereunder, and any officer, director, or agent of any such person who knowingly participates in such violation, shall upon conviction be fined not more than \$500 or be imprisoned for not more than 1 year, or both.

**SEC. 5610. PENALTY FOR USING UNREGISTERED MATERIALS FOR PRODUCING SPIRITS.**

Any person who uses any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, without recording the receipt thereof as required under section 5197 (a) (1) (A), shall forfeit and pay the sum of \$1,000 for each such offense.

**SEC. 5611. PENALTY FOR USING FALSE WEIGHTS AND MEASURES.**

Every person who knowingly uses any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, shall be fined not more than \$5,000, and imprisoned not more than 3 years.

**SEC. 5612. PENALTY FOR USING MATERIAL OR REMOVING SPIRITS WITHOUT SUPERVISION.**

Every distiller or person employed in any distillery who uses, or causes or permits to be used, any material for the purpose of making mash, wort, or beer, or for the production of spirits, or removes any spirits, in the absence of such supervision by storekeeper-gaugers as may be prescribed under section 5192 (c), shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto be liable to a penalty of \$1,000.

**SEC. 5613. PENALTY FOR DISTILLING DURING PROHIBITED HOURS.**

Every person who violates the provisions of section 5195 (a) shall be liable to a penalty of \$1,000.

**SEC. 5614. PENALTY AND FORFEITURE FOR REMOVAL OF SPIRITS DURING PROHIBITED HOURS.**

Every person who violates section 5195 (b) shall be liable to a penalty of \$100 for each cask, barrel, or package of spirits so removed; and such spirits, together with any package containing the same, and

any vessel, vehicle or aircraft used in the removal thereof, shall be forfeited to the United States.

**SEC. 5615. PENALTY FOR REFUSAL OR NEGLECT OF DISTILLERS AND RECTIFIERS TO GIVE ASSISTANCE TO OFFICERS.**

Every distiller or rectifier who, on the demand of any internal revenue officer or agent, neglects or refuses to furnish facilities and give assistance for examination of premises as required by section 5196 (c) shall pay a penalty of \$500 for every refusal or neglect so to do.

**SEC. 5616. PENALTY FOR OBSTRUCTING OR REFUSING TO ADMIT OFFICER TO DISTILLERY PREMISES.**

Whenever any internal revenue officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any distiller or by any workman, or other person acting for such distiller, or in his employ, from entering into any distillery or building or place which such officer is authorized to enter under section 5196 (b); or having demanded admittance and declared his name and office, is not admitted into the distillery or premises by the distiller or other person having charge thereof; or any such officer is by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under the internal revenue laws, in any respect, the distiller shall forfeit a sum of not more than \$1,000.

**SEC. 5617. PENALTY FOR FAILURE TO KEEP DISTILLERY ACCESSIBLE.**

Every person who violates any of the provisions of section 5196 (a) by negligence or refusal, or otherwise, shall pay a penalty of \$500.

**SEC. 5618. PENALTY FOR FAILURE OF DISTILLER TO IDENTIFY FIXED PIPES.**

Whenever any distiller uses fixed pipes which are not identified as required by section 5173 (a), or regulations issued thereunder, he shall forfeit the sum of \$1,000.

**SEC. 5619. PENALTY FOR REFUSAL OR NEGLECT TO DRAW OFF WATER AND CLEAN CONDENSERS OR WORM TANKS.**

For any refusal or neglect to comply with any provision of section 5196 (e) the distiller shall forfeit a sum of not more than \$1,000.

**SEC. 5620. PENALTY AND FORFEITURE FOR FALSE OR OMITTED ENTRIES IN DISTILLER'S BOOKS AND RECORDS.**

Whenever any false entry is made in, or any entry required to be made is omitted from the records required under section 5197 (a) (1) with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in such records, or to mislead in reference thereto; or any distiller omits or refuses to provide such records, or cancels, obliterates, or destroys any part of such records or any entry therein, with intent to defraud, or permits the same to be done, or willfully refuses to produce such records when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property on said premises used in the business there carried on, shall be forfeited to the United States. And every person who makes such false entry, or omits to make any entry required to be made, with intent aforesaid, or who causes or procures the same to be done, or fraudulently cancels, obliterates, or destroys any part of said records,

or any entry therein, or willfully fails to produce such records, shall be fined not more than \$5,000, and imprisoned not more than 2 years.

**SEC. 5621. PENALTY RELATING TO RECORDS AND RETURNS OF DISTILLER AS WHOLESALE DEALERS, RECTIFIERS, AND WHOLESALE DEALERS.**

Every distiller, rectifier, and wholesale liquor dealer who refuses or neglects to keep the records required under sections 5197 (a) (2), 5285 (b) or 5114 (a) in the form prescribed by the Secretary or his delegate, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of \$100 and, on conviction, shall be fined not more than \$5,000, and imprisoned not more than 3 years. Every distiller, rectifier, and wholesale liquor dealer who refuses or neglects to render transcripts or summaries of such records in the form required by the Secretary or his delegate shall, upon conviction, be fined not more than \$100 for each such neglect or refusal.

**SEC. 5622. DISPOSAL OF FORFEITED EQUIPMENT AND MATERIAL FOR DISTILLING.**

All boilers, stills, or other vessels, tools and implements, used in distilling or rectifying, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law.

**SEC. 5623. DESTRUCTION OF DISTILLING APPARATUS.**

When a judgment of forfeiture, in any case of seizure, is recovered against any distillery used or fit for use in the production of distilled spirits, because no bond has been given, or against any distillery used or fit for use in the production of spirits, having a registered producing capacity of less than 150 gallons a day, for any violation of law, of whatever nature, every still, doubler, worm, worm tub, mash tub, and fermenting tub therein shall be so destroyed as to prevent the use of the same or of any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property. In case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, for any offense involving forfeiture of the same, where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same only so far as to prevent the use thereof, or any part thereof, for the purpose of distilling (except in the case of a registered distillery). Such destruction shall be in the presence of at least one credible witness, and such witness shall unite with the said officer in a duly sworn report of said seizure and destruction, to be made to the Secretary or his delegate, in which report they shall set forth the grounds of the claim of forfeiture, the reasons for such seizure and destruction, their

estimate of the fair cash value of the apparatus destroyed, and also of the materials remaining after such destruction, and a statement that, from facts within their own knowledge, they have no doubt whatever that said distilling apparatus was set up for use for distillation, redistillation or recovery of distilled spirits and not registered, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove the same to a place of safe storage. Within 1 year after such destruction the owner of the apparatus so destroyed may make application to the Secretary or his delegate for reimbursement of the value of the same; and, unless it shall be made to appear to the satisfaction of the Secretary or his delegate that said apparatus had been used in the unlawful distillation of spirits, the Secretary or his delegate shall make an allowance to said owner, not exceeding the value of said apparatus, less the value of said materials as estimated in said report; and if the claimant shall thereupon satisfy the Secretary or his delegate that said unlawful use of the apparatus had been without his consent or knowledge, he shall still be entitled to such compensation, but not otherwise. In case of a wrongful seizure and destruction of property under this section, the owner thereof shall have right of action on the official bond of the officer who occasioned the destruction for all damages caused thereby.

#### **SEC. 5624. RELEASE OF DISTILLERY BEFORE JUDGMENT.**

Any distillery or distilling apparatus seized for any violation of law may, in the discretion of the court, be released before final judgment to a receiver appointed by the court to operate such distillery or apparatus. Such receiver shall give bond, which shall be approved in open court, with two or more competent personal sureties, or one approved corporate surety, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court. Funds obtained from such operation shall be impounded as the court shall direct pending such final judgment.

#### **SEC. 5625. FORFEITURE OF TAXPAID DISTILLED SPIRITS REMAINING ON DISTILLERY PREMISES.**

No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery or internal revenue bonded warehouse premises, under the penalty of a forfeiture of all spirits so found.

#### **SEC. 5626. PENALTY AND FORFEITURE FOR TAX FRAUD BY DISTILLER.**

Whenever any person engaged in carrying on the business of a distiller defrauds or attempts to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall—

- (1) forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and—
- (2) be fined not more than \$5,000, and imprisoned not more than 3 years.

No discontinuance or nolle prosequi of any prosecution under this subsection shall be allowed without the permission in writing of the Attorney General.

**SEC. 5627. PENALTY FOR UNLAWFUL USE OF RECTIFYING PREMISES.**

Any rectifier who uses his rectifying premises contrary to the provisions of section 5273 (a) shall be fined not more than \$50 with respect to each day upon which any such use occurs, but shall not, on account of such use, be subject to the penalties prescribed in section 5628.

**SEC. 5628. PENALTY FOR RECTIFICATION WITHOUT PAYMENT OF TAX, INCREASING VOLUME, ETC.**

Except as provided in section 5627, whoever violates any of the provisions of section 5021, 5022, 5272 or 5281 (a), or regulations issued thereunder, shall upon conviction, be fined not more than \$1,000, or imprisoned not more than 2 years, and shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given.

**SEC. 5629. PENALTY FOR UNLAWFUL RECTIFYING.**

Every person who engages in, or carries on, the business of a rectifier with intent to defraud the United States of the tax on the spirits rectified by him, or any part thereof, or with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits, or who shall purchase or receive or rectify any distilled spirits which have been removed from a distillery to a place other than the internal revenue bonded warehouse provided by law, knowing or having reasonable grounds to believe that the tax on said spirits has not been determined or paid as required by law, shall, for every such offense, be fined not more than \$5,000, and imprisoned not more than 2 years.

**SEC. 5630. PENALTY FOR NONCOMPLIANCE BY RECTIFIERS WITH PROVISIONS RELATING TO RECTIFYING, GAUGING, BRANDING AND STAMPING.**

Every rectifier or wholesale liquor dealer who refuses or willfully neglects to comply with the requirements of sections 5282 (a) and (b) and 5115 (a) as to giving the notice or the return specified in such sections, and as to marking, branding, and stamping, in accordance with the law and the regulations made in pursuance thereof, the packages of spirits filled on his premises as aforesaid shall, for each such offense, be fined not more than \$1,000.

**SEC. 5631. PENALTY AND FORFEITURE FOR FAILURE TO COMPLY WITH WAREHOUSING AND REMOVAL REQUIREMENTS.**

In case any distilled spirits removed from an internal revenue bonded warehouse for deposit in another internal revenue bonded warehouse shall fail to be so deposited or if any distilled spirits deposited in any internal revenue bonded warehouse shall be taken therefrom, for export or otherwise, without full compliance with the provisions of subchapter C (except section 5243), and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, or if any distilled spirits which have been deposited in an internal revenue bonded warehouse shall be found elsewhere, not having been removed therefrom according to law, any person who shall be guilty of such failure, or any person who shall in any manner violate any provision of subchapter C (except section 5243), shall be subject, on conviction, to a fine of not more than \$5,000, or to imprisonment for not more than 3 years for each such

failure or violation; and the spirits as to which such failure or violation or unlawful removal shall take place shall be forfeited to the United States.

**SEC. 5632. PENALTY AND FORFEITURE FOR UNLAWFUL REMOVAL OR CONCEALMENT OF SPIRITS.**

All distilled spirits found elsewhere than in a distillery or internal revenue bonded warehouse, not having been removed therefrom according to law, shall be forfeited to the United States. Whenever any person removes, or aids or abets in the removal of, any distilled spirits on which the tax has not been determined or paid, to a place other than the internal revenue bonded warehouse provided by law, or conceals or aids in the concealment of any spirits so removed, or removes, or aids or abets in the removal of, any distilled spirits from any such warehouse authorized by law, in any manner other than as provided by law, or conceals or aids in the concealment of any spirits so removed, he shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall be fined not more than \$5,000, and imprisoned not more than 3 years.

**SEC. 5633. PENALTY OF OFFICER IN CHARGE OF WAREHOUSE FOR UNLAWFUL REMOVAL OF SPIRITS.**

Whenever any storekeeper-gauger or other person in the employment of the United States, having charge of a bonded warehouse, removes or allows to be removed therefrom any cask or other package, or removes or allows to be removed any part of the contents of any cask or package deposited therein, otherwise than as provided by law, he shall be immediately dismissed from office or employment, and be fined not more than \$2,000, and imprisoned not more than 2 years.

**SEC. 5634. PENALTY AND FORFEITURE FOR CREATION OF FICTITIOUS PROOF.**

Every person who adds, or causes to be added, any ingredient or substance to any distilled spirits before the tax is paid thereon, or determined as provided by law, for the purpose of creating a fictitious proof, shall be fined not more than \$1,000 for each cask or package so adulterated, and imprisoned not more than 2 years; and every such cask or package, with its contents, shall be forfeited to the United States.

**SEC. 5635. PENALTY FOR BUYING OR SELLING USED CASKS BEARING INSPECTION MARKS.**

Whenever any person knowingly purchases or sells, with inspection marks thereon, any cask or package, after the same has been used for distilled spirits, he shall forfeit and pay the sum of \$200 for every such cask so purchased or sold.

**SEC. 5636. PENALTY AND FORFEITURE FOR FAILURE TO EFFACE, ETC. STAMPS AND BRANDS ON EMPTIED PACKAGES.**

Every cask or package from which the mark, brand, or stamp is not effaced and obliterated as required by section 5010 (c) shall be forfeited to the United States, and may be seized by any officer of internal revenue, wherever found. And every railroad company or other transportation company, or person who receives or transports, or has in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by

law to be placed on any cask or package containing distilled spirits, shall forfeit \$300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and every vessel, aircraft, railroad car, or other vehicle, and draft animal used in carrying or transporting the same, shall be forfeited to the United States. Every person who fails to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who receives any such cask or package, or any part thereof, with the intent aforesaid, or who transports the same, or knowingly aids or assists therein, or who removes any stamp provided by law from any cask or package containing, or which had contained, distilled spirits, without defacing and destroying the same at the time of such removal, or who aids or assists therein, or who has in his possession any such stamp so removed as aforesaid, or has in his possession any canceled stamp, or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and shall be fined not more than \$10,000, and imprisoned not more than 5 years.

**SEC. 5637. PENALTY FOR CHANGING STAMPS OR SHIFTING SPIRITS.**

Whenever any person changes or alters any stamp, mark, or brand on any cask or package containing distilled spirits, or puts into any cask or package spirits of greater strength than is indicated by the inspection-mark thereon, or fraudulently uses any cask or package having any inspection-mark or stamp thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected therein, he shall forfeit and pay the sum of \$200 for every cask or package on which the stamp or mark is so changed or altered, or which is so fraudulently used, and shall be fined for each such offense not more than \$1,000, and imprisoned not more than 1 year.

**SEC. 5638. PENALTY AND FORFEITURE FOR AFFIXING IMITATION STAMPS ON PACKAGES OF DISTILLED SPIRITS.**

If any person shall affix, or cause to be affixed, to or upon any cask or package containing, or intended to contain, distilled spirits, any imitation stamp or other engraved, printed, stamped, or photographed label, device, or token, whether the same be designed as a trade mark, caution notice, caution, or otherwise, and which shall be in the similitude or likeness of, or shall have the resemblance or general appearance of, any internal revenue stamp required by law to be affixed to or upon any cask or package containing distilled spirits, he shall, for each offense, be liable to a penalty of \$100, and, on conviction, shall be fined not more than \$1,000, and imprisoned not more than 3 years, and the cask or package with its contents shall be forfeited to the United States.

**SEC. 5639. FORFEITURE OF DISTILLED SPIRITS IN UNSTAMPED CASKS OR PACKAGES.**

All distilled spirits found in any cask or package containing 5 gallons or more, without having thereon each mark and stamp required therefor by law, shall be forfeited to the United States.

**SEC. 5640. FORFEITURE OF SPIRITS IN UNSTAMPED CONTAINERS.**

All distilled spirits found in any container required by this chapter to bear a stamp, which container is not stamped in compliance with

this chapter and regulations issued thereunder, shall be forfeited to the United States.

**SEC. 5641. PENALTY AND FORFEITURE RELATING TO CONTAINERS OF DISTILLED SPIRITS.**

Whoever willfully violates the provisions of any regulation prescribed, or the terms or conditions of any permit issued, pursuant to the authorization contained in section 5214, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than \$1,000, or be imprisoned not more than 2 years, or both; and, notwithstanding any criminal conviction, the containers involved in such violation shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for forfeitures, seizures, and condemnations for violations of the internal revenue laws, and any such containers so seized and condemned shall be destroyed and not sold.

**SEC. 5642. PENALTIES FOR TRANSPORTING, POSSESSING, ETC. DISTILLED SPIRITS IN UNSTAMPED CONTAINERS OR COUNTERFEITING OF STAMPS, ETC.**

Any person who violates any provision of section 5008 (b), or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under such section, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be destroyed by such section, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required to be destroyed by such section, or who places any distilled spirits in any bottle which has been filled and stamped under such section without destroying the stamp previously affixed to such bottle, or who affixes any stamp issued under such section to any container of distilled spirits on which any tax due is undetermined or unpaid, or who makes any false statement in any application for stamps under such section, or who has in his possession any such stamps obtained by him otherwise than as provided in section 5008 (b) (2), shall on conviction be punished by a fine of not more than \$1,000, or by imprisonment at hard labor for not more than 5 years, or both. Any officer authorized to enforce any provision of law relating to internal revenue stamps is authorized to enforce this section and section 5644 (relating to the bottling of distilled spirits in bond).

**SEC. 5643. PENALTY AND FORFEITURE FOR REUSE OF STAMPS OR BOTTLES, TAMPERING AND UNLAWFUL REMOVAL.**

Any person who shall reuse any stamp provided under sections 5008 and 5243 after the same shall have been once affixed to a bottle as provided therein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of such sections without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of such sections or of the regulations issued thereunder remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of such sections or who shall bottle or case any such spirits in violation of such sections or of any regulation issued thereunder, or who shall,

during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense be fined not more than \$1,000, and imprisoned not more than 2 years, in the discretion of the court, and such spirits shall be forfeited to the United States.

**SEC. 5644. PENALTY FOR COUNTERFEITING BOTTLED IN BOND STAMPS.**

Every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of sections 5008 (a) and 5243 or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by such sections, shall on conviction be punished by a fine of not more than \$1,000, or by imprisonment at hard labor not more than 5 years, or both.

**SEC. 5645. PENALTY FOR UNLAWFUL AFFIXING, CANCELLING, OR ISSUE OF STAMPS BY OFFICER.**

Whenever any revenue officer affixes or cancels, or causes or permits to be affixed or canceled, any stamp relating to distilled spirits provided for by law, in any other manner or in any other place, or issues the same to any other person than as provided by law, or by regulation made in pursuance thereof, or knowingly affixes, or permits to be affixed, any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, he shall, for every such offense, be fined not more than \$3,000, and imprisoned not more than 3 years.

**SEC. 5646. PENALTY FOR EVASION OF DISTILLED SPIRITS TAX.**

Whenever any person evades, or attempts to evade, the payment of the tax on any distilled spirits, in any manner whatever, he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded.

**SEC. 5647. PENALTY AND FORFEITURE FOR UNLAWFUL USE OR CONCEALMENT OF DENATURED ALCOHOL.**

Any person who withdraws alcohol free of tax under the provisions of section 5331 (a) and regulations made in pursuance thereof, and who removes or conceals same, or is concerned in removing, depositing, or concealing same for the purpose of preventing the same from being denatured under governmental supervision, and any person who uses alcohol withdrawn from bond under the provisions of said section for manufacturing any beverage or liquid medicinal preparation, or knowingly sells any beverage or liquid medicinal preparation made in whole or in part from such alcohol, or knowingly violates any of the provisions of section 5331 (a) or 5332, or (except as provided in section 5332) who shall recover or attempt to recover by redistillation or by any other process or means, any alcohol rendered unfit for beverage or liquid medicinal purposes under the provisions of section 5331 (a), or who knowingly uses, sells, conceals, or otherwise disposes of alcohol so recovered or redistilled, shall on conviction of each

offense be fined not more than \$5,000, or imprisoned not more than 5 years, or both, and shall, in addition, forfeit to the United States all personal property used in connection with his business, together with the buildings and lots or parcels of ground constituting the premises on which said unlawful acts are performed or permitted to be performed.

**SEC. 5648. PENALTY AND FORFEITURE FOR FRAUDULENT CLAIMS FOR EXPORT DRAWBACK OR UNLAWFUL RELANDING.**

(a) **FRAUDULENT CLAIM FOR DRAWBACK.**—Every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than 10 years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not exceeding \$5,000 and imprisoned not more than 1 year, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(b) **UNLAWFUL RELANDING.**—Every person who intentionally relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not exceeding \$5,000 and imprisoned not more than 3 years; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all vessels, vehicles, or aircraft used in relanding and removing such distilled spirits, shall be forfeited to the United States.

**SEC. 5649. BURDEN OF PROOF IN CASES OF SEIZURE OF SPIRITS.**

Whenever seizure is made of any distilled spirits found elsewhere than in a distillery or internal revenue bonded warehouse or other warehouse authorized by law, or than in the store or place of business of a rectifier, or of a wholesale liquor dealer, or than in transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books or records of the owner of such spirits, or of the storekeeper-gauger, wholesale dealer, or rectifier, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with.

**SEC. 5650. PENALTY AND FORFEITURE FOR OPERATING DISTILLERY AFTER GIVING NOTICE OF SUSPENSION.**

Every distiller who, after the time fixed in the notice given under section 5191 (a) declaring his intention to suspend work, carries on the business of a distiller in the distillery covered by such notice, or has mash, wort, or beer in such distillery, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures and be subject to the same punishment as provided for persons who carry on the business of a distiller without having given the bonds required by law.

**PART II—PENALTY AND FORFEITURE PROVISIONS APPLICABLE TO WINE AND WINE PRODUCTION**

Sec. 5661. Penalty and forfeiture for violation of laws and regulations relating to wine.

Sec. 5662. Penalty for alteration of wine labels.

Sec. 5663. Cross reference.

**SEC. 5661. PENALTY AND FORFEITURE FOR VIOLATION OF LAWS AND REGULATIONS RELATING TO WINE.**

(a) **FRAUDULENT OFFENSES.**—Whoever, with intent to defraud the United States, fails to pay any tax imposed upon wine or violates, or fails to comply with, any requirement of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or recovers or attempts to recover any spirits from wine, shall, on conviction, be punished for each such offense by a fine not exceeding \$5,000, or imprisonment for not more than 5 years, or both, and in addition thereto by a penalty of double the tax due, to be assessed, levied and collected in the same manner as taxes are collected, and all products and materials used in any such violation shall be forfeited to the United States.

(b) **OTHER OFFENSES.**—Any proprietor of premises subject to the provisions of subchapter F, or any employee or agent of such proprietor, or any other person, who otherwise than with intent to defraud the United States violates or fails to comply with any provision of subchapter F or subpart C of part I of subchapter A, or of any regulations issued thereunder, or who aids or abets in any such violation, shall, upon conviction, be punished for each such offense by a fine not exceeding \$1,000, or imprisonment for not more than 1 year, or both.

**SEC. 5662. PENALTY FOR ALTERATION OF WINE LABELS.**

Any person who, without the permission of the Secretary or his delegate, so alters as to materially change the meaning of any mark, brand, label, or stamp required to appear upon any wine upon its removal from premises subject to the provisions of subchapter F, or from customs custody, or who, after such removal, represents any wine, whether in its original containers or otherwise, to be of an identity or origin other than its proper identity or origin as shown by such brand, mark, label, or stamp, shall upon conviction, be punished for each such offense by a fine not exceeding \$1,000, or imprisonment for not more than 1 year, or both.

**SEC. 5663. CROSS REFERENCE.**

For penalties of common application pertaining to liquors, including wines, see part IV and for penalties for rectified products, see part I.

### **PART III—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO BEER AND BREWING**

- Sec. 5671. Penalty and forfeiture for evasion of beer tax and fraudulent noncompliance with requirements.
- Sec. 5672. Penalty for failure of brewer to comply with requirements and to keep records and file returns.
- Sec. 5673. Forfeiture for flagrant and willful removal of beer without tax payment.
- Sec. 5674. Penalty for unlawful removal of beer.
- Sec. 5675. Penalty for intentional removal or defacement of brewer's marks and brands.
- Sec. 5676. Penalties relating to beer stamps.

#### **SEC. 5671. PENALTY AND FORFEITURE FOR EVASION OF BEER TAX AND FRAUDULENT NONCOMPLIANCE WITH REQUIREMENTS.**

Whoever evades or attempts to evade any tax imposed by sections 5051 and 5091, or fraudulently neglects or refuses to keep and file true and accurate records and returns as required by section 5415, shall, on conviction, be punished for each such offense by a fine of not exceeding \$5,000, or imprisonment for not more than 5 years, or both, and shall forfeit for every such offense all the beer made by him or for him, and all the vessels, utensils, and apparatus used in making the same.

#### **SEC. 5672. PENALTY FOR FAILURE OF BREWER TO COMPLY WITH REQUIREMENTS AND TO KEEP RECORDS AND FILE RETURNS.**

Every brewer who, without intent to defraud, neglects or refuses to keep the records and file the returns required by section 5415, or refuses to permit the proper officer to inspect his records in the manner provided, or violates any of the provisions of subchapter G or regulations issued pursuant thereto shall, on conviction, be punished for each such offense by a fine of not exceeding \$1,000, or imprisonment for not more than 1 year, or both.

#### **SEC. 5673. FORFEITURE FOR FLAGRANT AND WILLFUL REMOVAL OF BEER WITHOUT TAXPAYMENT.**

For flagrant and willful removal of taxable beer for consumption or sale, with intent to defraud the United States of the tax thereon, all the right, title, and interest of each person who has knowingly suffered or permitted such removal, or has connived at the same, in the lands and buildings constituting the brewery shall be forfeited by a proceeding in rem in the District Court of the United States having jurisdiction thereof.

#### **SEC. 5674. PENALTY FOR UNLAWFUL REMOVAL OF BEER.**

Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with requirements of section 5055 or regulations issued pursuant thereto shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

#### **SEC. 5675. PENALTY FOR INTENTIONAL REMOVAL OR DEFAACEMENT OF BREWER'S MARKS AND BRANDS.**

Every person other than the owner, or his agent authorized so to do, who intentionally removes or defaces the marks and brands required by section 5412 shall be liable to a penalty of \$50 for each barrel or

other container from which the marks or brands are so removed or defaced.

**SEC. 5676. PENALTIES RELATING TO BEER STAMPS.**

If stamps or other devices evidencing the tax on beer or indicating compliance with the provisions of this chapter, are required by the Secretary under section 5055, the following subsections shall apply—

(1) **PENALTY FOR SALE, REMOVAL, OR RECEIPT WITHOUT PROPER STAMP OR DEVICE.**—Any brewer, or other person who sells, removes, receives, or purchases, or in any way aids in the sale, removal, receipt, or purchase of, any beer contained in any hogshead, barrel, keg, or other container from any brewery upon which the stamp, or device, in case of removal, has not been affixed, or on which a false or fraudulent stamp, or device, in case of removal, is affixed with knowledge that it is such, or on which a stamp, or device, in case of removal, once cancelled, is used a second time, shall be fined not more than \$1,000, or imprisoned for not more than 1 year, or both.

(2) **PENALTY FOR WITHDRAWAL FROM IMPROPERLY STAMPED CONTAINERS OR WITHOUT DESTROYING STAMPS OR DEVICES.**—Any person who withdraws or aids in the withdrawal of any beer from any hogshead, barrel, keg, or other container, without destroying or defacing the stamp or device affixed thereon, or withdraws or aids in the withdrawal of any beer from any hogshead, barrel, keg, or other container, upon which the proper stamp or device has not been affixed or on which a false or fraudulent stamp or device is affixed, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(3) **PENALTY FOR COUNTERFEITING STAMPS AND DEVICES AND TRAFFICKING IN USED STAMPS, OR DEVICES.**—Every person who makes, sells, or uses any false or counterfeit stamp or device, or die for printing or making stamps or devices, which is in imitation of or purports to be a lawful stamp or device, or die of the kind mentioned in section 5055, or regulations issued pursuant thereto, or who procures the same to be done, and every person who shall remove, or cause to be removed, from any hogshead, barrel, keg, or other container of beer, any stamp or device required by regulations issued pursuant to section 5055, with intent to reuse such stamp or device, or who, with intent to defraud the revenue, knowingly uses, or permits to be used, any stamp or device removed from another hogshead, barrel, keg, or other container, or receives, buys, sells, gives away, or has in his possession any such stamp or device so removed, or makes any fraudulent use of any such stamp or device for beer, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.

(4) **FORFEITURE OF UNSTAMPED CONTAINERS.**—The ownership or possession by any person of any beer in hogsheads, barrels, kegs, or other similar containers which do not bear the stamps or devices required by regulations issued pursuant to section 5055 shall render such hogsheads, barrels, kegs and other similar containers, and the beer contained therein, liable to seizure wherever found and to forfeiture.

(5) **PENALTY FOR REMOVAL OR DEFAACEMENT OF STAMPS, DEVICES OR LABELS.**—Every person who intentionally removes, alters or defaces any stamp, device or label required by section 5055 or

regulations issued thereunder to be placed on containers of beer, other than in the manner and at the time required by law or regulations issued by the Secretary or his delegate, shall be liable to a fine of not more than \$500 for each such container from which the stamp, device or label is removed, altered or defaced.

#### **PART IV—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS COMMON TO LIQUORS**

- Sec. 5681. Penalty and forfeiture for failure to post or unlawfully posting signs of distillers, rectifiers or wholesale liquor dealers.
- Sec. 5682. Penalty for breaking locks or gaining access.
- Sec. 5683. Penalty and forfeiture for removal of liquors or wines under improper brands.
- Sec. 5684. Penalties relating to the payment and collection of liquor taxes.
- Sec. 5685. Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws.
- Sec. 5686. Miscellaneous penalties.
- Sec. 5687. Penalties and forfeitures applicable to distillers, rectifiers and wholesale liquor dealers for offenses not specifically covered.
- Sec. 5688. Disposition and release of seized property.
- Sec. 5689. Penalty and forfeiture for tampering with a stamp machine.
- Sec. 5690. Definition of the term "person".

#### **SEC. 5681. PENALTY AND FORFEITURE FOR FAILURE TO POST OR UNLAWFULLY POSTING SIGNS OF DISTILLERS, RECTIFIERS OR WHOLESALE LIQUOR DEALERS.**

Every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer, who fails or refuses to post the sign required by sections 5116, 5180, or 5274 shall pay a penalty of \$500. Every person, other than a rectifier or wholesale liquor dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by such sections, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, or wholesale liquor dealer, shall forfeit and pay \$1,000, and shall be imprisoned not more than 6 months. Every person who works in any distillery, rectifying establishment, or wholesale liquor store, on which no such sign is placed and kept, as required by law, and every person who knowingly receives at, or carries or conveys any distilled spirits to or from, any such distillery, rectifying establishment, warehouse, or store, or who knowingly carries and delivers any grain, molasses, or other raw material to any distillery on which such sign is not placed and kept, shall forfeit all vehicles, aircraft or vessels used in carrying or conveying such property, and shall be fined not more than \$1,000, or imprisoned not more than 6 months.

#### **SEC. 5682. PENALTY FOR BREAKING LOCKS OR GAINING ACCESS.**

Every person who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any room, building, tank, vessel or apparatus, by the duly authorized officers of the revenue, or opens said lock, seal, room, building, tank, vessel or apparatus, or in any manner gains access to the contents therein, in the absence of the proper officer, or otherwise than as authorized by law, shall be fined not more than \$5,000 and imprisoned not more than 3 years.

**SEC. 5683. PENALTY AND FORFEITURE FOR REMOVAL OF LIQUORS OR WINES UNDER IMPROPER BRANDS.**

Whenever any person ships, transports, or removes any spirituous liquors or beer or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit such liquors or beer or wines, and casks or packages, and be subject to pay a fine of \$500.

**SEC. 5684. PENALTIES RELATING TO THE PAYMENT AND COLLECTION OF LIQUOR TAXES.**

(a) Any person required to pay, or to collect, account for and pay over any tax on distilled spirits, wines, or beer, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 5628, or 5661, or 6651 (a), or 6653 (b), or for any offense for which a penalty has been recovered under section 5646.

**SEC. 5685. PENALTY AND FORFEITURE RELATING TO POSSESSION OF DEVICES FOR EMITTING GAS, SMOKE, ETC., EXPLOSIVES AND FIREARMS, WHEN VIOLATING LIQUOR LAWS.**

(a) **PENALTY FOR POSSESSION OF DEVICES FOR EMITTING GAS, SMOKE, ETC.**—Whoever, when violating any law of the United States, or of any Territory or possession of the United States, or of the District of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or beer, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of smoke, gas, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 5848), except a machine gun, or a shotgun or rifle having a barrel or barrels less than 18 inches in length, shall be fined not more than \$5,000 or imprisoned not more than 10 years, or both, and all persons engaged in any such violation or in aiding in any such violation

shall be held to be in possession or control of such device, firearm, or explosive.

(b) **PENALTY FOR POSSESSION OF MACHINE GUN, ETC.**—Whoever, when violating any such law, has in his possession or in his control a machine gun, or any shotgun or rifle having a barrel or barrels less than 18 inches in length, shall be punished by imprisonment for not more than 20 years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(c) **FORFEITURE OF FIREARMS, DEVICES, ETC.**—Every such firearm or device for emitting gas, smoke, or fumes, and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law, shall be seized and shall be forfeited and disposed of in the manner provided by section 5862.

(d) **DEFINITION OF MACHINE GUN.**—As used in this section the term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger.

#### **SEC. 5686. MISCELLANEOUS PENALTIES.**

(a) **FOR OFFENSES AS TO OPERATION OF INDUSTRIAL ALCOHOL OR DENATURING PLANTS OR UNLAWFUL WITHDRAWAL OF TAXABLE ALCOHOL.**—Whoever operates an industrial alcohol plant or a denaturing plant without complying with the provisions of part I of subchapter E and lawful regulations made thereunder, or whoever withdraws or attempts to withdraw or secure tax-free any alcohol subject to tax, or whoever otherwise violates any of the provisions of such part or of regulations lawfully made thereunder, shall be liable to a fine not to exceed \$5,000, or to imprisonment for not more than 1 year, or both. It shall be lawful for the Secretary or his delegate in all cases of second or cognate offense to refuse to issue for a period of 1 year a permit for the manufacture or use of alcohol upon the premises of any person responsible in any degree for the violation. Any person violating the provisions of such part I of subchapter E or of any regulations issued thereunder, for which offense a special penalty is not prescribed, shall be liable to the penalty or penalties prescribed in this subsection.

(b) **PENALTY FOR HAVING, POSSESSING OR USING LIQUOR OR PROPERTY INTENDED TO BE USED IN VIOLATING PROVISIONS OF THIS CHAPTER.**—It shall be unlawful to have or possess any liquor or property intended for use in violating the provisions of this chapter, or regulations prescribed thereunder, or which has been so used, and every person so having or possessing or using such liquor or property, shall be liable to a fine not to exceed \$5,000, or to imprisonment for not more than 1 year, or both.

(c) **CROSS REFERENCE.**—

For seizure and forfeiture of liquor and property had, possessed or used in violation of subsections (a) and (b), see section 7302.

#### **SEC. 5687. PENALTIES AND FORFEITURES APPLICABLE TO DISTILLERS, RECTIFIERS AND WHOLESALE LIQUOR DEALERS FOR OFFENSES NOT SPECIFICALLY COVERED.**

If any distiller, rectifier, or wholesale liquor dealer, shall knowingly or willfully omit, neglect or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his

business, or shall do anything by this title prohibited, if there be no specific penalty or punishment imposed by any other section of this title for the neglecting, omitting or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and all distilled spirits or liquors owned by him or in which he has any interest as owner, shall be forfeited to the United States.

#### SEC. 5688. DISPOSITION AND RELEASE OF SEIZED PROPERTY.

##### (a) FORFEITURE.—

(1) DELIVERY.—All distilled spirits, wine, and beer forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Administrator of General Services to be disposed of as hereinafter provided.

(2) DISPOSAL.—The Administrator of General Services shall dispose of all distilled spirits, wine, and beer which have been delivered to him pursuant to paragraph (1)—

(A) by delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wine, or beer for medicinal, scientific, or mechanical purposes; or

(B) by gifts to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wine, or beer for medicinal purposes; or

(C) by destruction.

(3) LIMITATION ON DISPOSAL.—Except as otherwise provided by law, no distilled spirits, wine, or beer which have been seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this subsection.

(4) REGULATIONS.—The Administrator of General Services is authorized to make all rules and regulations necessary to carry out the provisions of this subsection.

(5) REMISSION OR MITIGATION OF FORFEITURES.—Nothing in this section shall affect the authority of the Secretary or his delegate, under the customs or internal revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wine, or beer, or the authority of the Secretary or his delegate, to compromise any civil or criminal case in respect of such distilled spirits, wines, or beer prior to commencement of suit thereon, or the authority of the Secretary or his delegate to compromise any claim under the customs laws in respect to such distilled spirits, wines, or beer.

(b) DISTRRAINT OR JUDICIAL PROCESS.—Except as provided in section 5333, all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon, pursuant to the applicable provisions of this chapter and in accordance with regulations to be prescribed by the Secretary or his delegate.

(c) RELEASE OF SEIZED VESSELS OR VEHICLES BY COURTS.—Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof.

As used in this subsection, the word "vessel" includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word "vehicle" includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(d) **RELEASE OF SEIZED PROPERTY BY SECRETARY OR HIS DELEGATE.**—When any property is seized for violation of part I of subchapter E, it may be released to the claimant or to any intervening party, in the discretion of the Secretary or his delegate, on a bond given and approved.

**SEC. 5689. PENALTY AND FORFEITURE FOR TAMPERING WITH A STAMP MACHINE.**

Whoever manufactures, procures, possesses, uses, or tampers with a tax-stamp machine which may be required under section 5061 (b) with intent to evade the internal revenue tax imposed upon alcohol, distilled spirits, rectified spirits, wines and beer, and whoever, with intent to defraud, makes, alters, simulates, or counterfeits any stamp of the character imprinted by such stamp machines, or who procures, possesses, uses, or sells any forged, altered, counterfeited, or simulated tax stamp, or any plate, die, or device intended for use in forging, altering, counterfeiting, or simulating any such stamps, shall pay a penalty of \$5,000, and shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both, and any machine, device, equipment, or materials used in violation of this section shall be forfeited to the United States and after condemnation shall be destroyed. But this provision shall not exclude any other penalty or forfeiture provided by law.

**SEC. 5690. DEFINITION OF THE TERM "PERSON".**

The term "person", as used in this subchapter, includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

**PART V—PENALTIES AND FORFEITURES APPLICABLE TO OCCUPATIONAL TAXES**

Sec. 5691. Penalties and forfeitures for nonpayment of special taxes relating to liquors.

Sec. 5692. Penalty relating to records of retail liquor dealers.

Sec. 5693. Penalties relating to posting of special tax stamps.

**SEC. 5691. PENALTIES AND FORFEITURES FOR NONPAYMENT OF SPECIAL TAXES RELATING TO LIQUORS.**

Any person who shall carry on the business of a brewer, rectifier, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or manufacturer of stills, and willfully fails to pay the special tax as required by law, shall, for every such offense, be fined not more than \$5,000, and imprisoned not more than 2 years. All distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal

property found in the distillery or rectifying establishment, or in any building, room, yard, or enclosure connected therewith and used with or constituting a part of the premises, shall be forfeited to the United States.

**SEC. 5692. PENALTY RELATING TO RECORDS OF RETAIL LIQUOR DEALERS.**

For each willful violation of the provisions of section 5124 the retailer shall be subject to a fine of \$25.

**SEC. 5693. PENALTIES RELATING TO POSTING OF SPECIAL TAX STAMPS.**

**For penalty for failure to post special tax stamps, see section 7273 (a).**



## CHAPTER 52—TOBACCO, CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

- SUBCHAPTER A. Definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax.
- SUBCHAPTER B. Qualification requirements for manufacturers of articles and dealers in tobacco materials.
- SUBCHAPTER C. Operations by manufacturers of articles.
- SUBCHAPTER D. Operations by dealers in tobacco materials.
- SUBCHAPTER E. Records of manufacturers of articles and dealers in tobacco materials.
- SUBCHAPTER F. General provisions.
- SUBCHAPTER G. Fines, penalties and forfeitures.

### Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax

- Sec. 5701. Rate of tax.
- Sec. 5702. Definitions.
- Sec. 5703. Liability for tax and method of payment.
- Sec. 5704. Exemption from tax.
- Sec. 5705. Refund or allowance of tax.
- Sec. 5706. Drawback of tax.
- Sec. 5707. Floor stocks refund on cigarettes.

#### SEC. 5701. RATE OF TAX.

(a) **TOBACCO.**—On tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 10 cents per pound.

(b) **CIGARS.**—On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) **SMALL CIGARS.**—On cigars, weighing not more than 3 pounds per thousand, 75 cents per thousand;

(2) **LARGE CIGARS.**—On cigars, weighing more than 3 pounds per thousand;

(A) If removed to retail at not more than 2½ cents each, \$2.50 per thousand;

(B) If removed to retail at more than 2½ cents each and not more than 4 cents each, \$3 per thousand;

(C) If removed to retail at more than 4 cents each and not more than 6 cents each, \$4 per thousand;

(D) If removed to retail at more than 6 cents each, and not more than 8 cents each, \$7 per thousand;

(E) If removed to retail at more than 8 cents each and not more than 15 cents each, \$10 per thousand;

(F) If removed to retail at more than 15 cents each and not more than 20 cents each, \$15 per thousand;

(G) If removed to retail at more than 20 cents each, \$20 per thousand.

In determining the retail price, for tax purposes, regard shall be had to the ordinary retail price of a single cigar in its principal market.

(c) **CIGARETTES.**—On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) **SMALL CIGARETTES.**—On cigarettes, weighing not more than 3 pounds per thousand, \$4 per thousand until April 1, 1955, and \$3.50 per thousand on and after April 1, 1955;

(2) **LARGE CIGARETTES.**—On cigarettes, weighing more than 3 pounds per thousand, \$8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette.

(d) **CIGARETTE PAPERS.**—On cigarette papers, manufactured in or imported into the United States, there shall be imposed, on each package, book, or set containing more than 25 papers, a tax of ½ cent for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette paper.

(e) **CIGARETTE TUBES.**—On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 1 cent for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette tube.

(f) **IMPORTED ARTICLES.**—The taxes imposed on articles by this section shall be in addition to any import duties imposed on such articles.

#### SEC. 5702. DEFINITIONS.

(a) **MANUFACTURED TOBACCO.**—“Manufactured tobacco” means all tobacco, other than cigars and cigarettes, prepared, processed, manipulated, or packaged for consumption by smoking or for use in the mouth or nose. Any other tobacco not exempt from tax under this chapter, which is sold or delivered to any person contrary to this chapter and regulations prescribed thereunder, shall be regarded as manufactured tobacco.

(b) **MANUFACTURER OF TOBACCO.**—“Manufacturer of tobacco” means any person who manufactures tobacco by any method of preparing, processing, or manipulating, except for his own personal consumption or use; or who packages any tobacco for consumption by smoking or for use in the mouth or nose; or who sells or delivers any tobacco, not exempt from tax under this chapter, to any person, contrary to the provisions of this chapter and regulations prescribed thereunder. The term “manufacturer of tobacco” shall not include—

(1) a farmer or grower of tobacco who sells leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco which sells only leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm; or

(2) a dealer in tobacco materials who handles tobacco solely for sale, shipment, or delivery, in bulk, to another dealer in such materials or to a manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States.

(c) CIGAR.—“Cigar” means any roll of tobacco wrapped in tobacco.

(d) CIGARETTE.—“Cigarette” means any roll of tobacco, wrapped in paper or any substance other than tobacco.

(e) MANUFACTURER OF CIGARS AND CIGARETTES.—“Manufacturer of cigars and cigarettes” means every person who produces cigars or cigarettes, except for his own personal consumption.

(f) TOBACCO PRODUCTS.—“Tobacco products” means manufactured tobacco, cigars, and cigarettes.

(g) CIGARETTE PAPER.—“Cigarette paper” means paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

(h) CIGARETTE TUBE.—“Cigarette tube” means cigarette paper made into a hollow cylinder for use in making cigarettes.

(i) MANUFACTURER OF CIGARETTE PAPERS AND TUBES.—“Manufacturer of cigarette papers and tubes” means any person who makes up cigarette paper into packages, books, sets, or tubes, except for his own personal use or consumption.

(j) ARTICLES.—“Articles” means manufactured tobacco, cigars, cigarettes, and cigarette papers and tubes.

(k) TOBACCO MATERIALS.—“Tobacco materials” means tobacco in process, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, dust, stems, and waste.

(l) DEALER IN TOBACCO MATERIALS.—“Dealer in tobacco materials” means any person who handles tobacco materials for sale, shipment, or delivery solely to another dealer in such materials, to a manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, but shall not include—

(1) an operator of a warehouse who stores tobacco materials solely for a dealer in tobacco materials, for a manufacturer of tobacco products, for a farmer or grower of tobacco, or for a bona fide association of farmers or growers of tobacco; or

(2) a farmer or grower of tobacco who sells leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco which sells only leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm.

(m) REMOVAL OR REMOVE.—“Removal” or “remove” means removal of articles from the factory or from internal revenue bond, as the Secretary or his delegate shall, by regulation, prescribe, or from customs custody, and shall also include the smuggling or other unlawful importation of articles into the United States.

(n) IMPORTER.—“Importer” means any person in the United States to whom nontaxpaid articles manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned, and any person who smuggles or otherwise unlawfully brings such nontaxpaid articles into the United States.

### SEC. 5703. LIABILITY FOR TAX AND METHOD OF PAYMENT.

(a) PERSONS LIABLE TO MAKE RETURN AND PAY TAX.—The taxes imposed by section 5701 shall be determined at the time of removal of the articles and shall be paid by the manufacturer or the importer thereof by return. The Secretary or his delegate shall, by regulation, prescribe the period for which the return shall be made, the information to be furnished on such return, the time for making such return,

and the time for payment of such tax: *Provided, however,* That notwithstanding the provisions of this section the tax shall continue to be paid by stamp until the Secretary or his delegate shall, by regulation, provide for the payment of the tax by return. All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(b) **STAMPS TO EVIDENCE THE TAX.**—If the Secretary or his delegate shall, by regulation, require the use of stamps to evidence the tax or indicate compliance with this chapter, the Secretary or his delegate shall cause to be prepared suitable stamps to be issued to manufacturers and importers of articles, to be used and accounted for, in accordance with such regulations as the Secretary or his delegate shall prescribe.

(c) **USE OF GOVERNMENT DEPOSITARIES.**—The Secretary or his delegate may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) **ASSESSMENT.**—Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary or his delegate, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required: *Provided, however,* That no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment.

#### SEC. 5704. EXEMPTION FROM TAX.

(a) **TOBACCO PRODUCTS FURNISHED FOR EMPLOYEE USE OR EXPERIMENTAL PURPOSES.**—Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary or his delegate shall, by regulation, prescribe.

(b) **ARTICLES TRANSFERRED OR REMOVED IN BOND FROM DOMESTIC FACTORIES.**—A manufacturer may transfer articles produced by him, without payment of tax, to the bonded premises of another manufacturer, or remove such articles, without payment of tax, for use of the United States, or for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States, in accordance with such regulations and upon the filing of such bonds as the Secretary or his delegate shall prescribe.

(c) **TOBACCO MATERIALS SHIPPED OR DELIVERED IN BOND.**—A dealer in tobacco materials or a manufacturer of tobacco products may ship or deliver tobacco materials, without payment of tax, to another such dealer or manufacturer, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, in

accordance with such regulations and upon the filing of such bonds as the Secretary or his delegate shall prescribe.

(d) **ARTICLES AND TOBACCO MATERIALS RELEASED IN BOND FROM CUSTOMS CUSTODY.**—Articles and tobacco materials imported or brought into the United States may be released from customs custody, without payment of tax, for delivery to the bonded premises of a manufacturer of articles and such tobacco materials may be similarly released for delivery to the bonded premises of a dealer in tobacco materials, in accordance with such regulations and upon the filing of such bond as the Secretary or his delegate shall prescribe.

#### **SEC. 5705. REFUND OR ALLOWANCE OF TAX.**

(a) **REFUND.**—Refund of any tax imposed by this chapter shall be made to the manufacturer or importer on proof satisfactory to the Secretary or his delegate that the claimant manufacturer or importer has paid the tax on articles withdrawn by him from the market; or on articles which are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the claimant; or where the tax has been paid in error.

(b) **ALLOWANCE.**—If the tax has not yet been paid on articles proved to have been lost or destroyed as aforesaid, relief from the tax on such articles may be extended upon the filing, with the return, of a claim for allowance of loss in the same manner as a claim for refund.

(c) **LIMITATION.**—Claims for refund of tax imposed by this chapter shall be filed within 3 years of the date of payment of tax, and shall be in such form and contain such information as the Secretary or his delegate shall by regulation prescribe.

#### **SEC. 5706. DRAWBACK OF TAX.**

There shall be an allowance of drawback of tax paid on articles, when shipped from the United States, in accordance with such regulations and upon the filing of such bond as the Secretary or his delegate shall prescribe.

#### **SEC. 5707. FLOOR STOCKS REFUND ON CIGARETTES.**

(a) **IN GENERAL.**—With respect to cigarettes, weighing not more than 3 pounds per thousand, upon which the tax imposed by subsection (c) (1) of section 5701 has been paid, and which, on April 1, 1955, are held by any person and intended for sale, or are in transit from foreign countries or insular possessions of the United States to any person in the United States for sale, there shall be credited or refunded to such person (without interest), subject to such regulations as shall be prescribed by the Secretary or his delegate, an amount equal to the difference between the tax paid on such cigarettes and the tax made applicable to such articles on April 1, 1955, if claim for such credit or refund is filed with the Secretary or his delegate before July 1, 1955.

(b) **LIMITATIONS ON ELIGIBILITY FOR CREDIT OR REFUND.**—No person shall be entitled to credit or refund under subsection (a) of this section unless such person, for such period or periods both before and after April 1, 1955 (but not extending beyond 1 year thereafter), as the Secretary or his delegate shall, by regulation, prescribe, makes and keeps, and files with the Secretary or his delegate such records of inventories, sales, and purchases as shall be prescribed in such regulations.

(c) PENALTY AND ADMINISTRATIVE PROCEDURES.—All provisions of law, including penalties, applicable in respect of internal revenue taxes on cigarettes shall, insofar as applicable and not inconsistent with this section, be applicable in respect of the credits and refunds provided for in this section to the same extent as if such credits or refunds constituted credits or refunds of such taxes.

without payment of duties and such tobacco materials may be similarly manufactured or articles and such tobacco materials may be similarly used for delivery to the bonded premises of a dealer in tobacco products in accordance with such regulations and upon the filing of such bond as the Secretary or his delegate shall prescribe.

SEC. 5707. REFUND OR ALLOWANCE OF TAX.

(a) REFUND.—If a refund of any tax imposed by this chapter shall be made by the Commissioner or importer on proof satisfactory to the Secretary or his delegate that the claimant manufacturer or importer has paid the tax on articles withdrawn by him from the market; or on articles which are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the claimant; or where the tax had been paid in error.

(b) ALLOWANCE.—If the tax has not yet been paid on articles proved to have been lost or destroyed as aforesaid, relief from the tax on such articles may be granted upon the filing with the Bureau of a claim for allowance of tax in the same manner as a claim for refund.

(c) LIMITATION.—Claims for refund of tax imposed by this chapter shall be filed within 3 years of the date of payment of tax, and shall be in such form and contain such information as the Secretary or his delegate shall by regulation prescribe.

SEC. 5708. REFUND OF TAX.

There shall be an allowance of drawback of tax paid on articles when shipped from the United States in accordance with such regulations and upon the filing of such bond as the Secretary or his delegate shall prescribe.

SEC. 5709. STAMP REFUND ON CIGARETTES.

(a) GENERAL.—With respect to cigarettes weighing not more than 3 pounds per thousand, upon which the tax imposed by subsection (c) of section 5701 has been paid, and which on April 1, 1955, are held by any person and intended for sale or use in transit from foreign countries or border possessions of the United States to any person in the United States for sale, there shall be credited or refunded to such person (without interest) subject to such regulations as shall be prescribed by the Secretary or his delegate, an amount equal to the difference between the tax paid on such cigarettes and the tax made applicable to such articles on April 1, 1955. A claim for such credit or refund is filed with the Secretary or his delegate before July 1, 1955.

(b) EXEMPTIONS OR EXEMPTIONS FOR CREDIT OR REFUND.—Under subsection (a) of this section no credit or refund shall be made for such period or periods both before and after July 1, 1955 (but not extending beyond 1 year thereafter), as the Secretary or his delegate shall, by regulation, prescribe, makes and keeps, and files with the Secretary or his delegate such records of inventories, sales, and purchases as shall be prescribed in such regulations.

## Subchapter B—Qualification Requirements for Manufacturers of Articles and Dealers in Tobacco Materials

- Sec. 5711. Bond.  
 Sec. 5712. Application for permit.  
 Sec. 5713. Permit.

### SEC. 5711. BOND.

(a) **WHEN REQUIRED.**—Every person, before commencing business as a manufacturer of articles or dealer in tobacco materials, shall file such bond, conditioned upon compliance with this chapter and regulations issued thereunder, in such form, amount, and manner as the Secretary or his delegate shall by regulation prescribe. A new or additional bond may be required whenever the Secretary or his delegate considers such action necessary for the protection of the revenue.

(b) **APPROVAL OR DISAPPROVAL.**—No person shall engage in such business until he receives notice of approval of such bond. A bond may be disapproved, upon notice to the principal on the bond, if the Secretary or his delegate determines that the bond is not adequate to protect the revenue.

(c) **CANCELLATION.**—Any bond filed hereunder may be canceled, upon notice to the principal on the bond, whenever the Secretary or his delegate determines that the bond no longer adequately protects the revenue.

### SEC. 5712. APPLICATION FOR PERMIT.

Every person, before commencing business as a manufacturer of articles or dealer in tobacco materials, and at such other time as the Secretary or his delegate shall by regulation prescribe, shall make application for the permit provided for in section 5713. The application shall be in such form as the Secretary or his delegate shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary or his delegate, after notice and opportunity for hearing, finds that—

(1) the premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(2) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefor.

No person subject to this section, who is engaged in business on the effective date of this chapter, shall be denied the right to carry on such business pending reasonable opportunity to make application for permit and final action thereon.

**SEC. 5713. PERMIT.**

(a) **ISSUANCE.**—A person shall not engage in business as a manufacturer of articles or dealer in tobacco materials without a permit or permits to engage in such business. Such permit, conditioned upon compliance with this chapter and regulations issued thereunder, shall be issued in such form and in such manner as the Secretary or his delegate shall by regulation prescribe, to every person properly qualified under sections 5711 and 5712. A new permit may be required at such other time as the Secretary or his delegate shall by regulation prescribe.

(b) **POSTING.**—Such permit shall be posted in accordance with such regulations as the Secretary or his delegate shall prescribe.

(c) **REVOCATION.**—If the Secretary or his delegate has reason to believe that any person holding a permit has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud, or has violated the conditions of such permit, failed to disclose any material information required or made any material false statement in the application for such a permit, or has failed to maintain his premises in such manner as to protect the revenue, the Secretary or his delegate shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked. If, after hearing, the Secretary or his delegate finds that such person has not in good faith complied with this chapter, or with other provisions of this title involving intent to defraud, or has violated the conditions of such permit, failed to disclose any material information required or made any material false statement in the application therefor, or has failed to maintain his premises in such manner as to protect the revenue, such permit shall be revoked or suspended for such period as to the Secretary or his delegate may seem proper.

(d) **LIMITATION.**—No permit shall be issued to any person within 1 year after revocation of an existing permit or after rejection of an application.

## Subchapter C—Operations by Manufacturers of Articles

Sec. 5721. Inventories.

Sec. 5722. Reports.

Sec. 5723. Packages, labels, notices, and stamps.

### SEC. 5721. INVENTORIES.

Every manufacturer of articles shall make a true and accurate inventory at the time of commencing business, at the time of concluding business, and at such other times, in such manner and form, and to include such items, as the Secretary or his delegate shall by regulation prescribe. Such inventories shall be subject to verification by any revenue officer.

### SEC. 5722. REPORTS.

Every manufacturer of articles shall make reports containing such information, in such form, at such times, and for such periods as the Secretary or his delegate shall by regulation prescribe.

### SEC. 5723. PACKAGES, LABELS, NOTICES, AND STAMPS.

(a) **PACKAGES, LABELS, NOTICES, AND STAMPS.**—All articles shall, before removal, be put up in packages having such labels, notices, and stamps as the Secretary or his delegate shall by regulation prescribe.

(b) **LOTTERY FEATURES.**—No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of articles.

(c) **INDECENT OR IMMORAL MATERIAL PROHIBITED.**—No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of articles.

(d) **EXCEPTIONS.**—Tobacco products furnished for employee use or consumption or for experimental purposes, and articles removed for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, and so shipped, may be exempted from subsections (a) and (b) in accordance with such regulations as the Secretary or his delegate shall prescribe.

## Subchapter D—Operations by Dealers in Tobacco Materials

Sec. 5731. Shipments and deliveries restricted.

Sec. 5732. Statement of shipments and deliveries.

### SEC. 5731. SHIPMENTS AND DELIVERIES RESTRICTED.

Every dealer in tobacco materials shall make all shipments or deliveries of tobacco materials in accordance with such regulations as the Secretary or his delegate shall prescribe. Tobacco materials shipped or delivered in violation of such regulations shall be regarded as manufactured tobacco and subject to tax, and the dealer shipping or delivering the same shall be regarded as a manufacturer of tobacco and subject, as such, to this chapter.

### SEC. 5732. STATEMENT OF SHIPMENTS AND DELIVERIES.

A dealer in tobacco materials shall furnish, upon demand of any revenue officer, a true and complete statement of the quantity of such materials shipped or delivered to any person named in such demand.

## Subchapter E—Records of Manufacturers of Articles and Dealers in Tobacco Materials

Sec. 5741. Records to be maintained.

### SEC. 5741. RECORDS TO BE MAINTAINED.

Every manufacturer of articles and dealer in tobacco materials shall keep such records in such form as the Secretary or his delegate shall by regulation prescribe.

**Subchapter F—General Provisions**

Sec. 5751. Purchase, receipt, possession, or sale of articles, after removal, not exempt from tax.

Sec. 5752. Restrictions relating to used labels, stamps, and packages.

Sec. 5753. Disposal of forfeited, condemned, and abandoned articles and tobacco materials.

**SEC. 5751. PURCHASE, RECEIPT, POSSESSION, OR SALE OF ARTICLES, AFTER REMOVAL, NOT EXEMPT FROM TAX.**

(a) **RESTRICTION.**—No person shall purchase, receive, possess, sell, or offer for sale any articles not exempt from tax, after removal, which are not put up in packages bearing the labels, notices, or stamps, prescribed by the Secretary or his delegate: *Provided, however,* That this section is not intended to prevent the sale of articles at retail, directly from proper packages, nor to apply to such articles when so sold.

(b) **LIABILITY TO TAX.**—Any person who possesses articles in violation of subsection (a) of this section, shall incur liability to the tax thereon in addition to the penalties prescribed elsewhere in this title.

**SEC. 5752. RESTRICTIONS RELATING TO USED LABELS, STAMPS, AND PACKAGES.**

If the Secretary or his delegate shall, by regulation, prescribe that a label or stamp be affixed to any package of articles, no person shall—

(1) empty any such package without destroying such label or stamp; or

(2) remove, or cause to be removed, any such label or stamp, or purchase, receive, possess, sell, or dispose of, by gift or otherwise, any such label or stamp which has been so removed; or

(3) purchase, receive, possess, sell, or dispose of, by gift or otherwise, any such package which has been emptied, upon which the label or stamp has not been destroyed.

**SEC. 5753. DISPOSAL OF FORFEITED, CONDEMNED, AND ABANDONED ARTICLES AND TOBACCO MATERIALS.**

If it appears that any forfeited, condemned, or abandoned articles and tobacco materials, when offered for sale, will not bring a price equal to the tax due and payable thereon, and the expenses incident to the sale thereof, such articles and tobacco materials shall not be sold for consumption in the United States but shall be disposed of in accordance with such regulations as the Secretary or his delegate shall prescribe.

## Subchapter G—Fines, Penalties, and Forfeitures

Sec. 5761. Civil penalties.

Sec. 5762. Criminal penalties.

Sec. 5763. Forfeitures.

### SEC. 5761. CIVIL PENALTIES.

(a) **OMITTING THINGS REQUIRED OR DOING THINGS FORBIDDEN.**—Whoever willfully omits, neglects, or refuses to comply with any duty imposed upon him by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall, in addition to any other penalty provided in this title, be liable to a penalty of \$1,000, to be recovered, with costs of suit, in a civil action, except where a penalty under subsection (b) of this section or under section 6651, 6652, or 6653 may be collected from such person by assessment.

(b) **WILLFULLY FAILING TO PAY TAX.**—Whoever willfully omits, neglects, or refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to any other penalty provided in this title, be liable to a penalty of the amount of tax evaded, or not paid, which penalty shall be added to the tax and assessed and collected at the same time, in the same manner, and as a part of the tax.

(c) **FAILING TO PAY TAX.**—Whoever fails to pay tax at the time prescribed shall, in addition to any other penalty provided in this title, be liable to a penalty of 5 percent of the tax due but unpaid, together with interest at the rate of 6 percent per annum upon such tax from the time the tax became due; but no interest for a fraction of a month shall be demanded. The penalties provided in this subsection shall be added to the tax and assessed and collected at the same time, in the same manner, and as a part of the tax.

### SEC. 5762. CRIMINAL PENALTIES.

(a) Whoever, with intent to defraud the United States—

(1) **ENGAGING IN BUSINESS UNLAWFULLY.**—Engages in business as a manufacturer of articles or dealer in tobacco materials without filing the bond and obtaining the permit required by this chapter or regulations thereunder; or

(2) **FAILING TO FURNISH INFORMATION OR FURNISHING FALSE INFORMATION.**—Fails to keep or make any record, return, report, inventory, or statement, or keeps or makes any false or fraudulent record, return, report, inventory, or statement, required by this chapter or regulations thereunder; or

(3) **REFUSING TO PAY OR EVADING TAX.**—Refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or

(4) **REMOVING ARTICLES UNLAWFULLY.**—Removes any articles subject to tax under this chapter, contrary to this chapter or regulations thereunder; or

(5) **PURCHASING, RECEIVING, POSSESSING, OR SELLING ARTICLES UNLAWFULLY.**—Purchases, receives, possesses, or sells articles not exempt from tax under this chapter, upon which the tax has not been paid in the manner and at the time prescribed by this chapter or regulations thereunder, or which, after removal, are not put up in packages bearing proper labels, stamps, or notices, prescribed; or

(6) **AFFIXING IMPROPER LABELS OR STAMPS.**—Affixes to any package containing articles subject to tax any improper or counterfeit label or stamp, or a label or stamp, prescribed by this chapter or regulations thereunder, which has been previously used on a package; or

(7) **PACKAGING WITH IMPROPER NOTICES.**—Puts articles subject to tax into any package bearing an improper notice to evidence the tax; or

(8) **REFILLING PACKAGES BEARING LABELS, STAMPS, OR NOTICES.**—Puts articles subject to tax into any package which previously contained such articles, without destroying the label, stamp, or notice, prescribed by this chapter or regulations thereunder, and affixing a new one thereto; or

(9) **REMOVING LABELS OR STAMPS OR POSSESSING USED LABELS OR STAMPS.**—Removes, or causes to be removed, from any package any label or stamp, prescribed by this chapter or regulations thereunder, or purchases, receives, or has in his possession any such label or stamp which has been so removed, with intent to reuse the same; or

(10) **POSSESSING EMPTIED PACKAGES BEARING LABELS, STAMPS, OR NOTICES.**—Purchases, receives, or has in his possession any emptied package which previously contained articles subject to tax, upon which the label, stamp, or notice, prescribed by this chapter or regulations thereunder, has not been destroyed, with intent to reuse the same, shall, for each such offense, be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(b) Whoever otherwise violates any provision of this chapter, or of regulations prescribed thereunder, shall, for each such offense, be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

#### SEC. 5763. FORFEITURES.

(a) **ARTICLES UNLAWFULLY POSSESSED.**—All articles not exempt from tax which, after removal, are possessed with intent to defraud, or which, regardless of intent, are not put up in packages bearing proper labels, notices, and stamps, prescribed pursuant to section 5723, shall be forfeited to the United States: *Provided, however,* That this section shall not apply to articles sold at retail directly from proper packages.

(b) **PERSONAL PROPERTY OF QUALIFIED MANUFACTURERS AND DEALERS WITH INTENT TO DEFRAUD.**—All articles, tobacco materials, packages, internal revenue stamps, machinery, fixtures, equipment, and all other materials and personal property on the premises of any qualified manufacturer of articles or dealer in tobacco materials who, with intent to defraud, fails to keep or make any record, return, report, inventory, or statement, or keeps or makes any false or fraudulent record, return, report, inventory, or statement, required by this chapter; or refuses to pay any tax imposed by this chapter, or at-

tempts in any manner to evade or defeat the tax or the payment thereof; or removes any articles subject to tax under this chapter, contrary to any provision of this chapter, shall be forfeited to the United States.

(c) REAL AND PERSONAL PROPERTY OF ILLICIT OPERATORS.—All articles, tobacco materials, machinery, fixtures, equipment, and other materials and personal property on the premises of any person engaged in business as a manufacturer of articles or dealer in tobacco materials, without filing the bond and obtaining the permit required by this chapter, together with all his right, title, and interest in the building in which such business is conducted, and the lot or tract of ground on which the building is located, shall be forfeited to the United States.

(d) GENERAL.—All property intended for use in violating the provisions of this chapter, or which has been so used, shall be forfeited to the United States as provided in section 7302.



## CHAPTER 53—MACHINE GUNS AND CERTAIN OTHER FIREARMS

- SUBCHAPTER A. Taxes.
- SUBCHAPTER B. General provisions.
- SUBCHAPTER C. Unlawful acts.
- SUBCHAPTER D. Penalties and forfeitures.

### Subchapter A—Taxes

- Part I. Special (occupational) taxes.
- Part II. Transfer tax.
- Part III. Tax on making firearms.
- Part IV. Other taxes.

#### PART I—SPECIAL (OCCUPATIONAL) TAXES

- Sec. 5801. Tax.
- Sec. 5802. Registration.
- Sec. 5803. Exemptions.

##### SEC. 5801. TAX.

(a) **RATE.**—On first engaging in business, and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special tax at the following rates:

- (1) **IMPORTERS OR MANUFACTURERS.**—Importers or manufacturers, \$500 a year;
- (2) **DEALERS OTHER THAN PAWNBROKERS.**—Dealers, other than pawnbrokers, \$200 a year;
- (3) **PAWNBROKERS.**—Pawnbrokers, \$300 a year:

*Provided,* That manufacturers and dealers in guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, guns designed to be held in one hand when fired and having a barrel 12 inches or more but less than 18 inches in length, from which only a single discharge can be made without manual reloading, or guns of both types, shall pay the following taxes: Manufacturers, \$25 a year; dealers, \$1 a year.

(b) **COMPUTATION OF TAX.**—Where the tax is payable on the first day of July in any year it shall be computed for 1 year; where the tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability to the tax accrued to the first day of July following.

(c) **CROSS REFERENCE.**—

For license to transport, ship, or receive firearms or ammunition under the Federal Firearms Act, see section 3 of the Act of June 30, 1938 (52 Stat. 1251; 15 U. S. C. 903).

##### SEC. 5802. REGISTRATION.

**IMPORTERS, MANUFACTURERS, AND DEALERS.**—On first engaging in business, and thereafter on or before the first day of July of each

year, every importer, manufacturer, and dealer in firearms shall register with the Secretary or his delegate in each internal revenue district in which such business is to be carried on his name or style, principal place of business, and places of business in such district.

#### SEC. 5803. EXEMPTIONS.

For provisions exempting certain transfers, see section 5812.

### PART II—TRANSFER TAX

Sec. 5811. Tax.

Sec. 5812. Exemptions.

Sec. 5813. Stamps.

Sec. 5814. Order forms.

#### SEC. 5811. TAX.

(a) **RATE.**—There shall be levied, collected, and paid on firearms transferred in the United States a tax at the rate of \$200 for each firearm: *Provided*, That the transfer tax on any gun with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, or any gun designed to be held in one hand when fired and having a barrel 12 inches but less than 18 inches in length from which only a single discharge can be made without manual reloading, shall be at the rate of \$1. The tax imposed by this section shall be in addition to any import duty imposed on such firearm.

(b) **BY WHOM PAID.**—Such tax shall be paid by the transferor.

(c) **HOW PAID.**—

(1) **STAMPS.**—Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Secretary or his delegate.

(d) **CROSS REFERENCE.**—

(1) For assessment in case of omitted taxes payable by stamp, see sections 6155 (a), 6201 (a) (2) (A), 6601 (c) (4), and 6201 (a).

(2) For requirements as to registration and special tax, see sections 5801 and 5802.

(3) For excise tax on pistols, revolvers, and firearms, see section 4181.

#### SEC. 5812. EXEMPTIONS.

(a) **TRANSFERS EXEMPT.**—This chapter shall not apply to the transfer of firearms—

(1) to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia;

(2) to any peace officer or any Federal officer designated by regulations of the Secretary or his delegate;

(3) to the transfer of any firearm which is unserviceable and which is transferred as a curiosity or ornament.

(b) **NOTICE OF EXEMPTION.**—If the transfer of a firearm is exempted as provided in subsection (a), the person transferring such firearm shall notify the Secretary or his delegate of the name and address of the applicant, the number or other mark identifying such firearm, and the date of its transfer, and shall file with the Secretary or his delegate such documents in proof thereof as the Secretary or his delegate may by regulations prescribe.

## (c) EXEMPTION FROM OTHER TAXES.—

For exemption from excise tax on pistols, revolvers, and firearms, see section 4182(a).

## SEC. 5813. STAMPS.

(a) AFFIXING.—The stamps provided for in section 5811 (c) (1) shall be affixed to the order for such firearm, provided for in section 5814.

## (b) OTHER LAWS APPLICABLE.—

For provisions relating to the engraving, issuance, sale, accountability, cancellation, and distribution of taxpaid stamps, see section 5846.

## SEC. 5814. ORDER FORMS.

(a) GENERAL REQUIREMENTS.—It shall be unlawful for any person to transfer a firearm except in pursuance of a written order from the person seeking to obtain such article, on an application form issued in blank in duplicate for that purpose by the Secretary or his delegate. Such order shall identify the applicant by such means of identification as may be prescribed by regulations under this chapter: *Provided*, That, if the applicant is an individual, such identification shall include fingerprints and a photograph thereof.

(b) CONTENTS OF ORDER FORM.—Every person so transferring a firearm shall set forth in each copy of such order the manufacturer's number or other mark identifying such firearm, and shall forward a copy of such order to the Secretary or his delegate. The original thereof, with stamp affixed, shall be returned to the applicant.

(c) DOCUMENTS TO ACCOMPANY TRANSFERS.—No person shall transfer a firearm unless such person, in addition to complying with subsection (b), transfers therewith (in compliance with such regulations as may be prescribed under this chapter for proof of payment of all taxes on such firearm)—

(1) for each prior transfer of such firearm which was subject to the tax imposed by section 5811(a), the stamp-affixed order provided in this section, and

(2) for any making of such firearm which was subject to the tax imposed by section 5821(a), the stamp-affixed declaration provided in section 5821.

(d) EXEMPTION IN CASE OF REGISTERED IMPORTERS, MANUFACTURERS, AND DEALERS.—Importers, manufacturers, and dealers who have registered and paid the tax as provided for in this chapter shall not be required to conform to the provisions of this section with respect to transactions in firearms with dealers or manufacturers if such dealers or manufacturers have registered and have paid such tax, but shall keep such records and make such reports regarding such transactions as may be prescribed by regulations under this chapter.

(e) SUPPLY.—The Secretary or his delegate shall cause suitable forms to be prepared for the purposes of subsection (a), and shall cause the same to be distributed to officers designated by him.

**PART III.—TAX ON MAKING FIREARMS**

Sec. 5821. Rate, exceptions, etc.

**SEC. 5821. RATE, EXCEPTIONS, ETC.**

(a) **RATE.**—There shall be levied, collected, and paid upon the making in the United States of any firearm (whether by manufacture, putting together, alteration, any combination thereof, or otherwise) a tax at that rate provided in section 5811 (a) which would apply to any transfer of the firearm so made.

(b) **EXCEPTIONS.**—The tax imposed by subsection (a) shall not apply to the making of a firearm—

(1) by any person who is engaged within the United States in the business of manufacturing firearms;

(2) from another firearm with respect to which a tax has been paid, prior to such making, under either section 5811 (a) or under subsection (a) of this section; or

(3) for the use of—  
 (A) the United States Government, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, or

(B) any peace officer or any Federal officer designated by regulations of the Secretary or his delegate.

Any person who makes a firearm in respect of which the tax imposed by subsection (a) does not apply by reason of the preceding sentence shall make such report in respect thereof as the Secretary or his delegate may by regulations prescribe.

(c) **BY WHOM PAID; WHEN PAID.**—The tax imposed by subsection (a) shall be paid by the person making the firearm. Such tax shall be paid in advance of the making of the firearm.

(d) **HOW PAID.**—Payment of the tax imposed by subsection (a) shall be represented by appropriate stamps to be provided by the Secretary or his delegate.

(e) **DECLARATION.**—It shall be unlawful for any person subject to the tax imposed by subsection (a) to make a firearm unless, prior to such making, he has declared in writing his intention to make a firearm, has affixed the stamp described in subsection (d) to the original of such declaration, and has filed such original and a copy thereof. The declaration required by the preceding sentence shall be filed at such place, and shall be in such form and contain such information, as the Secretary or his delegate may by regulations prescribe. The original of the declaration, with the stamp affixed, shall be returned to the person making the declaration. If the person making the declaration is an individual, there shall be included as part of the declaration the fingerprints and a photograph of such individual.

**PART IV.—OTHER TAXES****SEC. 5831. CROSS REFERENCE.**

For excise tax on pistols, revolvers, and firearms, see section 4181.

## Subchapter B—General Provisions

- Sec. 5841. Registration of persons in general.
- Sec. 5842. Books, records and returns.
- Sec. 5843. Identification of firearms.
- Sec. 5844. Exportation.
- Sec. 5845. Importation.
- Sec. 5846. Other laws applicable.
- Sec. 5847. Regulations.
- Sec. 5848. Definitions.

### SEC. 5841. REGISTRATION OF PERSONS IN GENERAL.

Every person possessing a firearm shall register, with the Secretary or his delegate, the number or other mark identifying such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and, if such person is other than a natural person, the name and home address of an executive officer thereof. No person shall be required to register under this section with respect to a firearm which such person acquired by transfer or importation or which such person made, if provisions of this chapter applied to such transfer, importation, or making, as the case may be, and if the provisions which applied thereto were complied with.

### SEC. 5842. BOOKS, RECORDS AND RETURNS.

Importers, manufacturers, and dealers shall keep such books and records and render such returns in relation to the transactions in firearms specified in this chapter as the Secretary or his delegate may by regulations require.

### SEC. 5843. IDENTIFICATION OF FIREARMS.

Each manufacturer and importer of a firearm shall identify it with a number or other identification mark approved by the Secretary or his delegate, such number or mark to be stamped or otherwise placed thereon in a manner approved by the Secretary or his delegate.

### SEC. 5844. EXPORTATION.

Under such regulations as the Secretary or his delegate may prescribe, and upon proof of the exportation of any firearm to any foreign country (whether exported as part of another article or not) with respect to which the transfer tax under section 5811 has been paid by the manufacturer, the Secretary or his delegate shall refund to the manufacturer the amount of the tax so paid, or, if the manufacturer waives all claim for the amount to be refunded, the refund shall be made to the exporter.

### SEC. 5845. IMPORTATION.

No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction, except that, under regulations prescribed by the Secretary or his delegate, any firearm may be so imported or brought in when—

- (1) the purpose thereof is shown to be lawful and
- (2) such firearm is unique or of a type which cannot be obtained within the United States or such territory.

**SEC. 5846. OTHER LAWS APPLICABLE.**

All provisions of law (including those relating to special taxes, to the assessment, collection, remission, and refund of internal revenue taxes, to the engraving, issuance, sale, accountability, cancellation, and distribution of taxpaid stamps provided for in the internal revenue laws, and to penalties) applicable with respect to the taxes imposed by sections 4701 and 4721, and all other provisions of the internal revenue laws shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5811 (a), 5821 (a) and 5801.

**SEC. 5847. REGULATIONS.**

The Secretary or his delegate shall prescribe such regulations as may be necessary for carrying the provisions of this chapter into effect.

**SEC. 5848. DEFINITIONS.**

For purposes of this chapter—

(1) **FIREARM.**—The term "firearm" means a shotgun or rifle having a barrel of less than 18 inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition, but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is 16 inches or more in length.

(2) **MACHINE GUN.**—The term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger.

(3) **RIFLE.**—The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed and made to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(4) **SHOTGUN.**—The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed and made to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(5) **ANY OTHER WEAPON.**—The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, but such term shall not include pistols or revolvers or weapons designed, made or intended to be fired from the shoulder and not capable of being fired with fixed ammunition.

(6) **IMPORTER.**—The term "importer" means any person who imports or brings firearms into the United States for sale.

(7) **MANUFACTURER.**—The term "manufacturer" means any person who is engaged within the United States in the manufacture of firearms, or who otherwise produces therein any firearm for sale or disposition.

(8) DEALER.—The term “dealer” means any person not a manufacturer or importer, engaged within the United States in the business of selling firearms. The term “dealer” shall include wholesalers, pawnbrokers, and dealers in used firearms.

(9) INTERSTATE COMMERCE.—The term “interstate commerce” means transportation from any State or Territory or District, or any insular possession of the United States, to any other State or to the District of Columbia.

(10) TO TRANSFER OR TRANSFERRED.—The term “to transfer” or “transferred” shall include to sell, assign, pledge, lease, loan, give away, or otherwise dispose of.

(11) PERSON.—The term “person” includes a partnership, company, association, or corporation, as well as a natural person.

### Subchapter C—Unlawful Acts

Sec. 5851. Possessing firearms unlawfully transferred or made.

Sec. 5852. Removing or changing identification marks.

Sec. 5853. Importing firearms illegally.

Sec. 5854. In case of failure to register and pay special tax.

#### SEC. 5851. POSSESSING FIREARMS UNLAWFULLY TRANSFERRED OR MADE.

It shall be unlawful for any person to receive or possess any firearm which has at any time been transferred in violation of sections 5811, 5812 (b), 5813, 5814, 5844, or 5846, or which has at any time been made in violation of section 5821. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of such firearm, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such possession to the satisfaction of the jury.

#### SEC. 5852. REMOVING OR CHANGING IDENTIFICATION MARKS.

It shall be unlawful for anyone to obliterate, remove, change, or alter the number or other identification mark required by section 5843. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of any firearm upon which such number or mark shall have been obliterated, removed, changed, or altered, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such possession to the satisfaction of the jury.

#### SEC. 5853. IMPORTING FIREARMS ILLEGALLY.

It shall be unlawful—

(1) fraudulently or knowingly to import or bring any firearm into the United States or any territory under its control or jurisdiction, in violation of the provisions of this chapter; or

(2) knowingly to assist in so doing; or

(3) to receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of any such firearm after being imported or brought in, knowing the same to have been imported or brought in contrary to law.

Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of such firearm, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such possession to the satisfaction of the jury.

#### SEC. 5854. IN CASE OF FAILURE TO REGISTER AND PAY SPECIAL TAX.

(a) **IMPORTATION, MANUFACTURE OR DEALING IN FIREARMS.**—It shall be unlawful for any person required to register under the provisions of section 5802 to import, manufacture, or deal in firearms without having registered and paid the tax imposed by section 5801.

(b) **TRANSPORTATION IN INTERSTATE COMMERCE.**—It shall be unlawful for any person who is required to register as provided in section 5841 and who shall not have so registered, or any other person who has not in his possession a stamp-affixed order as provided in section 5814 or a stamp-affixed declaration as provided in section 5821, to ship, carry, or deliver any firearm in interstate commerce.

## Subchapter D—Penalties and Forfeitures

Sec. 5861. Penalties.  
Sec. 5862. Forfeitures.

### SEC. 5861. PENALTIES.

Any person who violates or fails to comply with any of the requirements of this chapter shall, upon conviction, be fined not more than \$2,000, or be imprisoned for not more than 5 years, or both, in the discretion of the court.

### SEC. 5862. FORFEITURES.

(a) LAWS APPLICABLE.—Any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeiture of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) DISPOSAL.—In the case of the forfeiture of any firearm by reason of a violation of this chapter: No notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary or his delegate to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, Territory, or possession, or political subdivision thereof, or the District of Columbia, or at the request of the Secretary or his delegate may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

