

**(3) Illegally produced beer**

The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections<sup>1</sup> 5053(e) (relating to beer for personal or family use).

**(4) Unlawfully imported beer**

Beer 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.

**(b) Tax on returned beer**

Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

**(c) Applicability of other provisions of law**

All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 94-455, title XIX, §§1905(a)(5), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95-458, §2(b)(2)(B), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 99-509, title VIII, §8011(b)(2), Oct. 21, 1986, 100 Stat. 1953; Pub. L. 100-647, title I, §1018(u)(19), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 105-206, title VI, §6014(a)(1), (2), July 22, 1998, 112 Stat. 820.)

**PRIOR PROVISIONS**

A prior section 5054, act Aug. 16, 1954, ch. 736, 68A Stat. 613, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsecs. (a)(1), (2) and (b) to (d) of this section were contained in prior sections 5055 and 5057(a), act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

**AMENDMENTS**

1998—Subsec. (a)(1). Pub. L. 105-206, §6014(a)(1), in heading inserted “; certain imported beer” after “United States” and in text inserted “, or imported into the United States and transferred to a brewery free of tax under section 5418,” after “United States”.

Subsec. (a)(2). Pub. L. 105-206, §6014(a)(2), inserted “and not transferred to a brewery free of tax under section 5418” after “United States”.

1988—Subsec. (a)(2). Pub. L. 100-647 added period at end.

1986—Subsec. (a)(2). Pub. L. 99-509 substituted “if entered for warehousing, at the time of removal from the 1st such warehouse” for “if entered into customs custody, at the time of removal from such custody, and

shall be paid under such regulations as the Secretary shall prescribe.”.

1978—Subsec. (a)(3). Pub. L. 95-458 inserted provision excluding from tax the beer exempt from tax under section 5053(e).

1976—Subsec. (a)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (c), (d). Pub. L. 94-455, §1905(a)(5), redesignated subsec. (d) as (c) and struck out former subsec. (c) respecting stamps or other devices as evidence of payment of tax.

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates (see section 1421(c) of Pub. L. 105-34 set out as an Effective Date note under section 5418 of this title), see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by section 1905(a)(5) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

**§ 5055. 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 paid on such beer if there is such proof of exportation as the Secretary may by regulations require. 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).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1420(a), Aug. 5, 1997, 111 Stat. 1049.)

**PRIOR PROVISIONS**

A prior section 5055, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to “determination and collection of tax on beer”, prior to the general revision of this chapter by Pub. L. 85-859. See section 5054(a)(1), (2), (c), (d) of this title.

Provisions similar to those comprising this section were contained in prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

<sup>1</sup> So in original. Probably should be “section”.

## AMENDMENTS

1997—Pub. L. 105-34 substituted “paid on such beer if there is such proof of exportation as the Secretary may by regulations require.” for “found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regulations prescribe.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 1420(b) of Pub. L. 105-34 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

### § 5056. Refund and credit of tax, or relief from liability

#### (a) Beer returned or voluntarily destroyed

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under such regulations as the Secretary may prescribe, if such beer is returned to any brewery of the brewer or is destroyed under the supervision required by such regulations. In determining the amount of tax due on beer removed on any day, the quantity of beer returned to the same brewery from which removed shall be allowed, under such regulations as the Secretary may prescribe, as an offset against or deduction from the total quantity of beer removed from that brewery on the day of such return.

#### (b) Beer lost by fire, theft, casualty, or act of God

Subject to regulations prescribed by the Secretary, the tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, if such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God before the transfer of title thereto to any other person. In any case in which beer is lost or destroyed, whether by theft or otherwise, the Secretary may require the brewer 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 first sentence shall not apply unless the brewer establishes to the satisfaction of the Secretary that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

#### (c) Beer received at a distilled spirits plant

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.

#### (d) Limitations

No claim under this section shall be allowed (1) unless filed within 6 months after the date of the return, loss, destruction, rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant or (2) if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 91-673, §1(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1414(c), Aug. 5, 1997, 111 Stat. 1047; Pub. L. 105-206, title VI, §6014(a)(3), July 22, 1998, 112 Stat. 820.)

## PRIOR PROVISIONS

A prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to “drawback of tax” prior to the general revision of this chapter by Pub. L. 85-859. See section 5055 of this title.

A prior section 5057, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to refund and credit of tax or relief from liability, prior to the general revision of this chapter by Pub. L. 85-859.

## AMENDMENTS

1998—Subsecs. (a) to (c). Pub. L. 105-206 substituted “removed for consumption or sale” for “produced in the United States”.

1997—Subsec. (c). Pub. L. 105-34, §1414(c)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-34 redesignated subsec. (c) as (d) and substituted “rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant” for “or rendering unmerchantable”.

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsec. (a). Pub. L. 91-673 inserted provision permitting credit or refund of tax if the beer is returned to any brewery of the brewer who paid the tax, and provided for offset or deduction against amount of beer removed from the brewery on the day of return if the beer is returned to the same brewery from which it was withdrawn.

Subsec. (b). Pub. L. 91-673 inserted provisions for credit or refund or relief from liability of tax when the beer is lost by theft or otherwise or rendered unmerchantable by fire, casualty or act of God, before the transfer of title to any other party, and required the brewer to file claim for relief from the tax and submit proof of the cause of the loss, and in the case of theft, to further prove that such theft occurred before removal from the brewery and without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

Subsec. (c). Pub. L. 91-673 substantially reenacted subsec. (c) to reflect changes in subsec. (b).

## EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105-34, set out as a note under section 5053 of this title.

## EFFECTIVE DATE OF 1971 AMENDMENT

Section 5 of Pub. L. 91-673 provided that: “The amendments made by the first four sections of this Act