

Calendar No. 1480

91ST CONGRESS }
2d Session }

SENATE }

REPORT
-1468

DISTILLED SPIRITS

DECEMBER 16 (legislative day, DECEMBER 15), 1970.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 10517]

The Committee on Finance, to which was referred the bill (H.R. 10517) to amend certain provisions of the Internal Revenue Code of 1954, relating to distilled spirits, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

The bill, H.R. 10517, makes a series of amendments to the distilled spirits tax provisions of the Internal Revenue Code, which in general are designed to remove restrictions no longer needed for effective enforcement of the revenue and regulatory aspects of these provisions. They can be summarized as follows:

(1) The bill extends the circumstances under which refunds, etc., of tax may be made in the case of losses from accidents occurring on distilled spirits plant premises.

(2) The bill permits voluntary destruction of distilled spirits in other situations, in addition to those now allowed. This voluntary destruction at present is permitted only before completion of bottling; the bill permits destruction after completion of bottling so long as the distilled spirits are on the bottling premises.

(3) Under present law, where voluntary destruction is permitted, refund, etc., is allowed for the basic \$10.50-a-gallon tax on distilled spirits; the bill also authorizes refund, etc., of the taxes on rectification.

(4) The bill liberalizes the application of the loss provisions of present law relating to accidents, casualties, evaporation, etc., and of this bill (No. 1, above) in the case of distilled spirits returned from the market to their initial bottling premises.

(5) The bill provides a mechanism whereby foreign embassies (and others who may acquire imported distilled spirits without payment of internal revenue taxes and customs duties) may acquire domestic distilled spirits without payment of internal revenue taxes.

(6) Present law imposes expensive penal bond requirements when distilled spirits premises are subject to involuntary liens (such as mechanic's liens), even where the liens are in small amounts. The bill permits the proprietor of a distilled spirits plant to protect the interest of the Government in such a case by filing a bond in the amount of the involuntary lien, without the necessity of filing a bond for the entire value of the property subject to the involuntary lien.

(7) To permit more efficient use of bottling facilities, the bill permits distilled spirits to be treated as though bottled in bond, even though bottled in the regular bottling plant premises, if the bottling is done under strict Internal Revenue Service supervision and if the appropriate proof, etc., requirements are met.

The Treasury Department has indicated that it has no objection to the enactment of this bill.

II. GENERAL EXPLANATION

A. *Accidental losses of distilled spirits (first section of the bill and sec. 5008(c) of the code)*

Present law.—The internal revenue tax on distilled spirits generally is determined when the spirits are withdrawn from bond. Refund (credit, abatement or remission) of this tax may be made when distilled spirits which are withdrawn for rectification or bottling are lost either: (1) by accident during removal to the bottling premises or (2) by flood, fire, or other disaster before removal from the premises of the distilled spirits plant (to which the spirits were removed from bond).

In addition, refund, etc., may be made as to losses (including those from accidents or evaporation) occurring before the completion of the bottling process if they resulted from authorized rectifying or bottling procedures. However, these losses are allowable only if they do not, for the fiscal year, exceed a maximum loss allowance schedule set forth in the code.

General reasons for change.—The committee concluded that present law is too restrictive with regard to losses occurring on the distilled spirits plant premises. In 1968, refund, etc., was permitted as to "casualty" losses occurring after completion of the bottling process but before removal from the distilled spirits plant. The committee believes it is appropriate to provide essentially the same type of treatment in the case of other large accidental losses. Since refund, etc., will be allowed under this provision only as to losses occurring before removal from the distilled spirits plant premises, no administrative difficulties are foreseen.

Explanation of provisions.—The bill allows refund, etc., of the basic distilled spirits tax (\$10.50 per gallon, imposed by sec. 5001(a)(1)) if an accidental loss occurs on the distilled spirits plant premises in those cases where the loss from a single accident amounts to at least 10 proof

gallons. This permits the filing of claims on an individual claim basis without regard to the maximum loss allowance schedules referred to above.¹

As a practical matter, the most significant effects of this change are to permit refund, etc., of the tax whether or not the loss is incident to the bottling process, and also even though it may occur after completion of that process. In these cases the bill also allows the loss without regard to the maximum loss allowance schedule.

B. Voluntary destruction of distilled spirits (sec. 2(a) of the bill and sec. 5008(b) of the code)

Present law.—Present law permits the Internal Revenue Service to refund (credit, abate or remit) the \$10.50-per-gallon distilled spirits tax where voluntary destruction of distilled spirits occurs before, but not after, the completion of bottling. The destruction may occur only where the proprietor finds the spirits unsuitable for use.

Voluntary destruction may be accomplished under these provisions only after application to the Internal Revenue Service for the destruction, after gauging to accurately determine the amount to be destroyed, and where the destruction occurs under Service supervision.

General reasons for change.—The committee concluded that the present provisions regarding voluntary destruction of tax-paid or tax-determined distilled spirits are unnecessarily restrictive, in light of the existing authority of the Service to require advance application, gauging, and supervision. So long as such authority continues to be properly exercised, the committee concluded that many of the other restrictions of present law could be substantially relaxed.

Explanation of provisions.—The bill removes the requirement that the decision to destroy the distilled spirits must be made before completion of bottling, but continues to require that at the time of destruction the distilled spirits be on the bottling premises to which they had been removed from bond for the refund, etc., to be available. Voluntary destruction is to be permitted whether those distilled spirits are on the bottling premises because: (1) bottling had not been completed (as under present law); (2) bottling had been completed but the bottled distilled spirits had not been removed from the premises; or (3) the distilled spirits had been removed but were returned to the bottling premises to which they had been originally removed from bond.² To facilitate administration the bill retains the requirement that the distilled spirits be on the bottling premises to which they were removed from bond, rather than on other bottling premises.

Present law permits refund, etc., of only the basic distilled spirits tax (sec. 5001(a)(1)) in the case of voluntary destruction. The committee concluded that there is no more reason to retain the rectification taxes (imposed under sections 5021, 5022, and 5023 at the rates of 30 cents per proof gallon, or \$1.92 per wine gallon, depending upon the applicable provisions) than there was to retain the basic tax of \$10.50 per gallon in such circumstances. Accordingly, the bill provides that the rectification tax may be refunded, etc., in the case of voluntary destruction, in addition to the basic tax.

¹ Losses of less than 10 proof gallons, for which refunds, etc., are allowable under the maximum loss allowance schedule of present law, will continue to be allowable under that schedule.

² Under existing law (secs. 5044 and 5056 of the code), wine and beer may be returned and destroyed and taxes be refunded, etc., under circumstances similar to those provided in this bill as to distilled spirits.

The bill also removes the requirement of present law that the proprietor make a finding that the distilled spirits are "unsuitable for the purpose for which intended to be used." Since this presently is only a finding of the taxpayer, it is in fact largely a matter of form.

C. Returning of distilled spirits (secs. 2(b) and (c) of the bill and secs. 5008(c) and 5215 of the code)

Present law.—Under present law distilled spirits returned to bottling premises are not eligible for refund (or credit, abatement or remission) of taxes on account of the various types of losses allowed under present law (sec. 5008). Moreover, presently distilled spirits may be returned to bonded premises (i.e., the point before which a tax is determined or paid) only if they had been withdrawn in bulk containers, are later found unsuitable before removal from their original containers, and, immediately upon return, are destroyed, redistilled, denatured, or mingled.

General reasons for change.—The committee concluded that appropriate administration of the distilled spirits tax and regulatory provisions does not require such stringent limitations on the return of distilled spirits to bonded premises. It believes that so long as there is an opportunity for adequate supervision by Internal Revenue Service personnel and proper gauging and recordkeeping of the distilled spirits returned, the returns ought to be permitted and, in general, treated thereafter as though the returned distilled spirits had never left the bonded or bottling premises. However, these liberalized rules do not permit storage of distilled spirits in violation of the requirement (sec. 5006(a)(2)) that the tax on distilled spirits be determined within 20 years from the original entry for storage in bonded premises.

Explanation of provisions.—The bill permits distilled spirits returned to bottling premises to be treated, for purposes of the various loss provisions (under sec. 5008(c)) as though they had not been removed from the bottling premises. (One of the changes discussed above made by section 2(a) of the bill, also permits distilled spirits returned to bottling premises to be eligible for refund etc., of tax upon voluntary destruction.) The bill also permits distilled spirits to be returned to bonded premises (with refund, etc., of tax under sec. 5008(d) of the code) and thereafter to generally be treated as though they had not left the bonded premises.

Distilled spirits to qualify under this provision are to be returned only to the bottling premises from which they were removed. Upon return, they are to be dumped and gauged in order to accurately determine the amount of the distilled spirits returned. Thereafter, those distilled spirits would be eligible for refund, etc., of tax in the case of losses in the same manner as distilled spirits which had not been removed from the bottling premises. (See discussion above, under *Accidental losses of distilled spirits*, for a summary of the manner in which taxes may be refunded, etc., in the case of various kinds of losses.³)

The bill also eliminates as no longer necessary several of the requirements of existing law under which distilled spirits may be returned to bonded premises under this provision. First, the distilled spirits may be returned to the bonded premises even though they are no longer in

³ The provision of the bill discussed in this paragraph replaces sec. 5008(c)(5) of the code, an unrelated provision which has become obsolete.

their original container (for example, if they have been bottled or otherwise packaged for retail).⁴ Second, they may be returned even though they were not removed in bulk containers (for example, if they have been bottled in bond). Third, they may be returned without requiring that the proprietor find the spirits unsuitable for the use intended.

In addition distilled spirits returned to bonded premises under this provision need not be "immediately" destroyed (sec. 5008), denatured (sec. 5241), redistilled (sec. 5223), or mingled (sec. 5234). This last change is intended to permit accumulation for short periods of time so that the denaturation, redistillation, or mingling may be accomplished in quantities sufficiently large to make the operation economically worthwhile. Removal of this "immediacy" requirement is not intended to be applied in such a manner as to enable the storage of the returned distilled spirits in bonded premises.

Finally, this provision permits mingling of the distilled spirits upon return to bonded premises where they are heterogeneous with the spirits with which the mingling occurs in accordance with the detailed mingling provisions of section 5234(a)(1)(B). As a result, the only mingling not permitted in the case of the returned distilled spirits is that described under section 5234(a)(1)(C), relating to homogeneous spirits; this is because the mingling, which is done frequently for further storage in bond, may result in avoidance of the "20-year force-out" rule referred to above, and this provision is not intended either to change that rule or to otherwise permit additional storage in bond.

D. Distilled spirits for use of foreign embassies, legations, etc. (sec. 3 of the bill and new sec. 5066 of the code)

Present law.—Under present law, distilled spirits may be withdrawn from bond tax-free for export. Distilled spirits upon which tax has been paid or determined may be exported and the owner may receive repayment of the tax by way of drawback.

Imported distilled spirits are subject to the same taxes that would have been paid on those items had they been produced in the United States. However, items may be imported tax-free for the official or family use of foreign governments, public international organizations, and certain individuals associated with those governments and organizations. This exemption from tax on imported items does not extend to exemption from the internal revenue taxes on a domestically produced item of the same or similar type.

General reasons for change.—Presently, if a bottle of distilled spirits is exported and then returned to the United States and withdrawn from customs by representatives of a foreign government, then neither the internal revenue tax nor the customs duty need be paid. However, it normally is not economically feasible to export an item and then import it. Also, such transactions on a significant scale would cast doubt upon the bona fides of the original exportation and might result in a determination that the distilled spirits should have been taxed in the first place.

⁴ Since the bill eliminates the requirement that the distilled spirits be returned in their original bulk containers, it also strikes out, as no longer needed, the special rule under which pipelines may be treated as such containers. However, since other alcoholic ingredients (such as wines) may have been added after removal from the original container and since refund, etc., should not be allowed for these ingredients at the distilled spirits tax rate, this privilege of returning to bonded premises is not to be available for any products to which alcoholic ingredients other than taxpaid distilled spirits have been added.

In contrast, a bottle of distilled spirits produced in a foreign country, imported into the United States, and withdrawn for proper purposes by a representative of a foreign government would bear less transportation costs and would clearly be exempt from both customs duties and our internal revenue taxes on distilled spirits. The result is that representatives of foreign governments find it significantly less expensive to import foreign distilled spirits than to buy domestic distilled spirits.

The purpose of this provision is to enable domestic distilled spirits to compete in this segment of the market. In effect, this provision permits domestically produced distilled spirits placed in customs warehouses to be treated in the same manner as imported distilled spirits for purposes of making them available to foreign embassies on a competitive basis. Distilled spirits entered into customs bonded warehouses and then withdrawn for other purposes would be subject to customs duties.

Distilled spirits (whether domestic or imported) are allowed to be withdrawn by embassies free of tax on the basis that they are for the use of the embassy. In view of the indication that some lesser employees of embassies have in the past resold distilled spirits illegally, the committee believes the Internal Revenue Service should keep a record of distilled spirits (whether domestic or imported) which the embassies obtain free of tax. If there is any indication that an unusual unexplained volume of distilled spirits was obtained free of tax, the Service should report the matter to the committee with suggestions as to legislative changes needed to deal with the problem.

Explanation of provisions.—This provision specifies that distilled spirits bottled in bond may be withdrawn from bonded premises and transferred to customs bonded warehouses without payment of tax for the use of foreign governments, public international organizations, and individuals who are entitled to withdraw imported distilled spirits from these warehouses free of tax. (As provided in items 822.10, 822.20, 822.30, and 822.40 of part 2 and items 841.10 and 841.20 of part 3 of schedule 8 of the Tariff Schedules of the United States (TSUS), 19 U.S.C. 1202.) Distilled spirits upon which tax has been paid (or determined) also may be entered into one of these warehouses for the same purpose. Where this is done they are to be treated as having been exported (and thus eligible for drawback of tax) at the time they are entered into the warehouses.

Domestic distilled spirits which have been entered into customs bonded warehouses under these provisions may be withdrawn from those warehouses free of tax for consumption in the United States by representatives of the foreign governments, etc., who are entitled to withdraw from such warehouses free of customs duties. They must be withdrawn by the person entitled to withdraw for the official or family use of that person; they may not be withdrawn as an accommodation for other people, for sale, or for consumption outside the United States.

Domestic distilled spirits which have been entered into customs bonded warehouses under this provision tax-free (or upon drawback of tax) may be withdrawn for regular domestic use. However, where this occurs they will then be treated as American goods exported and returned, and customs duties must be paid in amounts equal to the

internal revenue taxes that otherwise would have applied. (See item 804.00 of part 1 of schedule 8, TSUS). Distilled spirits withdrawn from a customs bonded warehouse which are improperly withdrawn or which are sold or improperly used, and any persons improperly withdrawing or selling, or improperly using such spirits, will be subject to all the provisions of law relating to taxable distilled spirits (including those imposing taxes) providing for forfeitures, and otherwise providing criminal or civil sanctions.

E. Involuntary liens on distilleries, etc. (sec. 4 of the bill and sec. 5173(b) of the code)

Present law.—The basic \$10.50-per-gallon tax on distilled spirits is a first lien on the distillery used for producing the distilled spirits, the stills, vessels, and fixtures in the distillery, the land on which the distillery is located, and any buildings on the land. If any part of that property is encumbered by any other lien, then the distiller is required to file a penal bond in an amount equal to the appraised value of the property subject to that other lien, up to a maximum of \$300,000. This filing has the effect of lifting the statutory lien.

General reasons for change.—A consequence of the present law is that if property subject to the tax lien on the distillery (described above) is encumbered by a judgment lien for any amount, even if very small in comparison with the value of the property and even if the judgment is almost certain to be satisfied entirely out of other assets of the distiller, then the distiller must file a bond for up to \$300,000.

The committee, of course, is concerned that the interests of the United States in collecting the taxes due it should be properly protected. However, this penal bond provision results at times in requiring expenditures to secure a bond in an amount that is unreasonable relative to the protection needed by the Government. For example, a \$100 mechanic's lien may result in payment of many times that amount in order to secure a \$300,000 bond.

Accordingly, this provision specifies that in involuntary lien situations the bond required to be filed need be only as large as is needed to protect the interest of the United States.

Explanation of provisions.—If a judgment or other lien is imposed on the distillery property upon which the United States has a first lien (under sec. 5004(b)(1) of the code) for the \$10.50-per-gallon distilled spirits tax, and this judgment or other lien is imposed without the consent of the distiller, then the distiller may satisfy the additional penal bonding requirement to protect the United States by filing a bond in the amount of the judgment or other lien.

This will have no effect in the case of judgments or other liens larger than \$300,000. However, in the case of smaller judgments or liens it will permit the distiller to file (and to pay the cost of) a commensurately smaller bond so long as the bond is large enough to assure that the interests of the United States have not been decreased by the judgment or other lien.

F. Bottling in bond (sec. 5 of the bill and sec. 5178 of the code)

Present law.—Although most bottling of distilled spirits is done on the bottling premises after the distilled spirits have been withdrawn from bond on payment (or determination) of tax, present law permits

bottling in bond under certain circumstances.⁵ The bottling of distilled spirits in bond must be done under the supervision of assigned Internal Revenue Service personnel, the spirits must be at least 100 proof if for domestic use and at least 80 proof if for export, the spirits must have been kept in bond in wooden containers at least 4 years, and the other conditions and requirements of section 5233 of the code must be met.

General reasons for change.—As indicated above, most distilled spirits are not bottled in bond. Many distillers do not have a sufficient volume of operations to economically maintain bottling facilities within the bonded premises in addition to, and separate from, the facilities on their bottling premises. To permit more economical operations, the bill authorizes the use of a distiller's regular bottling facilities to produce "bottled in bond" distilled spirits under such supervision as is necessary to ensure that the product meets the same requirements as to proof, etc., as are imposed in the case of distilled spirits bottled in the distiller's bonded premises.

Explanation of provisions.—This provision permits a product to be stamped and labeled as distilled spirits bottled on bonded premises even though a proprietor of a distilled spirits plant uses bottling facilities outside of his bonded premises, but only if the bottling occurs under the same supervision required for, and in accordance with the conditions and requirements applicable to, distilled spirits bottled in bond. The taxes on distilled spirits bottled under these provisions will continue to be determined on withdrawal from bonded premises and before bottling.

G. Effective dates (sec. 6 of the bill)

The amendments made by this bill are to take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of the bill.

The provisions dealing with losses and voluntary destruction apply to losses and voluntary destruction occurring on or after that date; those treating returned distilled spirits as though they had not been withdrawn from the bonded or bottling premises, apply to returns of distilled spirits on or after that date; those dealing with bonds required in the case of involuntary liens apply to bonds filed on or after that date without regard to the time when the judgement or other lien may have arisen.

III. CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

⁵ For fiscal 1969, approximately 3 percent of the total taxable withdrawals of distilled spirits were taxable withdrawals of distilled spirits bottled in bond. *IRS, Alcohol and Tobacco Summary Statistics*, Publication 87(3-70), tables 12 and 14, pp. 10 and 11.

INTERNAL REVENUE CODE OF 1954
CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

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Subchapter A—Gallonage and Occupational Taxes

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PART I—GALLONAGE TAXES

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Subpart A—Distilled Spirits

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**SEC. 5008. ABATEMENT, REMISSION, REFUND, AND ALLOWANCE FOR
LOSS OR DESTRUCTION OF DISTILLED SPIRITS**

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(b) **VOLUNTARY DESTRUCTION.**—

(1) **DISTILLED SPIRITS IN BOND.**—The proprietor of the distilled spirits plant or other persons liable 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.

(2) **DISTILLED SPIRITS WITHDRAWN FOR RECTIFICATION OR BOTTLING.**—**[**Whenever any distilled spirits withdrawn from bond on or after July 1, 1959, on payment or determination of tax for rectification or bottling are (before the completion of the bottling and casing or other packaging of such spirits for removal from the bottling premises of the distilled spirits plant to which removed from bond) found by the proprietor who withdrew such spirits to be unsuitable for the purpose for which intended to be used such spirits may, on application to the Secretary or his delegate, be destroyed after such gauge and under such supervision as the Secretary or his delegate may by regulations prescribe**]** *Any distilled spirits withdrawn from bond on payment or determination of tax for rectification or bottling may, before removal from the bottling premises of the distilled spirits plant to which removed from bond or after return to such bottling premises, on application to the Secretary or his delegate, be destroyed after such gauge and under such supervision as the Secretary or his delegate may by regulations prescribe.* If a claim is filed within 6 months from the date of such destruction, the Secretary or his delegate shall, under such regulations as he may prescribe, abate, remit, or, without interest, credit or refund the **[tax]** taxes imposed under section 5001(a)(1) or under subpart B of this part on the spirits so destroyed, to the proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax.

(c) LOSS OF DISTILLED SPIRITS WITHDRAWN FROM BOND FOR RECTIFICATION OR BOTTLING.—

(1) GENERAL.—Whenever any distilled spirits withdrawn from bond on payment or determination of tax for rectification or bottling are lost before removal from the premises of the distilled spirits plant to which removed from bond, the Secretary or his delegate shall, under such regulations as he may prescribe, abate, remit, or, without interest, credit or refund the tax imposed on such spirits under section 5001(a)(1) to the proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax for removal to his bottling premises, if it is established to the satisfaction of the Secretary or his delegate that—

(A) such loss occurred (i) by reason of accident while being removed from bond to bottling premises, or (ii) by reason of flood, fire, or other disaster, or (iii) by reason of accident while on the distilled spirits plant premises and amounts to 10 proof gallons or more in respect of any one accident; or

* * * * *

[(5) APPLICABILITY.—This subsection shall apply in respect of losses of distilled spirits withdrawn from bond on or after July 1, 1959. This subsection shall also apply in respect of losses, occurring on or after July 1, 1959, and after dumping for rectification or bottling, of distilled spirits withdrawn from bond prior to July 1, 1959, and such spirits shall be considered as having been withdrawn from bond on payment or determination of tax by the proprietor of the bottling premises at which the spirits are dumped for rectification or bottling.]

(5) DISTILLED SPIRITS RETURNED TO BOTTLING PREMISES—*Distilled spirits withdrawn from bond on payment or determination of tax for rectification or bottling which are removed from bottling premises and subsequently returned to the premises from which removed may be dumped and gauged after such return under such regulations as the Secretary or his delegate may prescribe, and subsequent to such gauge shall be eligible for allowance of loss under this subsection as though they had not been removed from such bottling premises.*

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Subpart E—General Provisions

Sec. 5061. Method of collecting tax.

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

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

Sec. 5064. Losses caused by disaster.

Sec. 5065. Territorial extent of law.

[Sec. 5066. Cross reference.]

Sec. 5066. *Distilled spirits for use of foreign embassies, legations, etc.*

Sec. 5067. Cross reference.

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SEC. 5066. DISTILLED SPIRITS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) ENTRY INTO CUSTOMS BONDED WAREHOUSES.—

(1) DISTILLED SPIRITS BOTTLED IN BOND FOR EXPORT.—Under such regulations as the Secretary or his delegate may prescribe, distilled spirits bottled in bond for export under the provisions of section 5233 may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b). For the purposes of this chapter, the withdrawal of distilled spirits from bonded premises under the provisions of this paragraph shall be treated as a withdrawal for exportation and all provisions of law applicable to distilled spirits withdrawn for exportation under the provisions of section 5214(a)(4) shall apply with respect to spirits withdrawn under this paragraph.

(2) BOTTLED DISTILLED SPIRITS ELIGIBLE FOR EXPORT WITH BENEFIT OF DRAWBACK. Under such regulations as the Secretary or his delegate may prescribe, distilled spirits stamped or restamped, and marked, especially for export under the provisions of section 5062(b) may be shipped to a customs bonded warehouse in which imported distilled spirits are permitted to be stored, and entered in such warehouses pending withdrawal therefrom as provided in subsection (b), and the provisions of this chapter shall apply in respect of such distilled spirits as if such spirits were for exportation.

(3) TIME DEEMED EXPORTED.—For the purposes of this chapter, distilled spirits entered into a customs bonded warehouse as provided in this subsection shall be deemed exported at the time so entered.

(b) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES.—Notwithstanding any other provisions of law, distilled spirits entered into customs bonded warehouses under the provisions of subsection (a) or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2) may, under such regulations as the Secretary or his delegate may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Distilled spirits transferred to customs bonded warehouses under the provisions of this section shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary or his delegate may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported distilled spirits.

(c) WITHDRAWAL FOR DOMESTIC USE.—Distilled spirits entered into customs bonded warehouses as authorized by this section may be withdrawn therefrom for domestic use, in which event they shall be treated as American goods exported and returned.

(d) SALE OR UNAUTHORIZED USE PROHIBITED.—No distilled spirits withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of such foreign governments, organizations, or individuals as are authorized to obtain distilled spirits free of tax shall be sold, or shall be disposed of or possessed

for any use other than an authorized use. The provisions of section 5001(a)(5) are hereby extended and made applicable to any person selling, disposing of, or possessing any distilled spirits in violation of the preceding sentence, and to the distilled spirits involved in any such violation.

SEC. [5066] 5067. CROSS REFERENCE.

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

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Subchapter B—Qualification Requirements for Distilled Spirits Plants

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SEC. 5173. QUALIFICATION BONDS.

(a) **GENERAL PROVISIONS.**—Every person intending to commence or to continue the business of a distiller, bonded warehouseman, or rectifier, on filing with the Secretary or his delegate an application for registration of his plant, and before commencing or continuing such business, shall file bond in the form prescribed by the Secretary or his delegate, conditioned that he shall faithfully comply with all the provisions of law and regulations relating to the duties and business of a distiller, bonded warehouseman, or rectifier, as the case may be (including the payment of taxes imposed by this chapter), and shall pay all penalties incurred or fines imposed on him for violation of any of the said provisions.

(b) **DISTILLER'S BOND.**—Every person intending to commence or continue the business of a distiller shall give bond in a penal sum not less than the amount of tax on spirits that will be produced in his distillery during a period of 15 days, except that such bond shall be in a sum of not less than \$5,000 nor more than \$100,000.

(1) **CONDITIONS OF APPROVAL.**—In addition to the requirements of subsection (a), the distiller's bond shall be conditioned that he shall not suffer the property, or any part thereof, subject to lien under section 5004(b)(1) to be encumbered by mortgage, judgment, or other lien during the time in which he shall carry on such business (except that this condition shall not apply during the term of any bond given under subparagraph (C) or to any judgment or other lien covered by a bond given under paragraph (4)), and no bond of a distiller shall be approved unless the Secretary or his delegate is satisfied that the situation of the land and buildings which will constitute his bonded premises (as described in this application for registration) is not such as would enable the distiller to defraud the United States, and unless—

(A) the distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land subject to lien under section 5004(b)(1); or

(B) the distiller files with the officer designated for the purpose by the Secretary or his delegate in connection with his application for registration, 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 such 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 on distilled spirits produced thereon and penalties relating thereto, shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of such 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

(C) the distiller files a bond, approved by the Secretary or his delegate, in the penal sum equal to the appraised value of the property subject to lien under section 5004(b)(1), except that such bond shall not exceed the sum of \$300,000. 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.

(2) CANCELLATION OF INDEMNITY BOND.—When the liability for which an indemnity bond given under paragraph (1)(C) or (4) ceases to exist, such bond may be cancelled upon application to the Secretary or his delegate.

(3) JUDICIAL SALE.—In the case of any distillery sold at judicial or other sale in favor of the United States, a bond in lieu of consent under paragraph (1)(B) may be taken at the discretion of the Secretary or his delegate, 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.

(4) *Involuntary lien.*—In the case of a judgment on other lien imposed on the property subject to lien under section 5004(b)(1) without the consent of the distiller, the distiller may file bond, approved by the Secretary or his delegate, in the amount of such judgment or other lien to indemnify the United States for any loss resulting from such encumbrance.

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SEC. 5178. PREMISES OF DISTILLED SPIRITS PLANTS.

(a) LOCATION, CONSTRUCTION, AND ARRANGEMENT.—

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(4) BOTTLING FACILITIES.—

[(A) The proprietor of a distilled spirits plant authorized to store distilled spirits in casks, packages, cases, or similar portable approved containers on bonded premises may establish a separate portion of such premises for the bottling in bond of distilled spirits under section 5233 prior to payment or determination of the internal revenue tax.]

(A) *The proprietor of a distilled spirits plant authorized to store distilled spirits in casks, packages, cases, or similar portable approved containers on bonded premises—*

(i) may establish a separate portion of such premises for the bottling in bond of distilled spirits under section 5233 prior to payment or determination of tax, or

(ii) may elect to use facilities on his bottling premises established under subparagraph (B) or (C) for bottling in accordance with the conditions and requirements of section 5233 and under the supervision provided for in section 5202 (g), but after determination of tax.

Distilled spirits bottled after determination of the internal revenue tax under clause (ii) shall be stamped and labeled in the same manner as distilled spirits bottled before determination of tax under clause (i).

(B) Facilities for rectification of distilled spirits or wines upon which the tax has been paid or determined, may be established as a separate distilled spirits plant or as a part of a distilled spirits plant qualified for the production or bonded warehousing of distilled spirits. Such facilities, when qualified, may be used for the rectification of distilled spirits or wines, or the bottling or packaging of rectified or unrectified distilled spirits or wines on which the tax has been paid or determined.

(C) Facilities for bottling or packaging any distilled spirits upon which the tax has been paid or determined (other than bottling facilities established under subparagraph (B)), may be established and maintained only by a State or political subdivision thereof, or by the proprietor of a distilled spirits plant qualified for the production or bonded warehousing of distilled spirits, as a part of such plant or as a separate distilled spirits plant. Such facilities, when qualified, may be used for the bottling or packaging of rectified or unrectified distilled spirits or wines but may not be used for the rectification of distilled spirits or wines.

(D) Bottling premises established under subparagraphs (B) or (C) may not be located on bonded premises, and if the distilled spirits plant contains both bonded premises and bottling premises they shall be separated by such means or in such manner as the Secretary or his delegate may by regulations prescribe.

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Subchapter C—Operation of Distilled Spirits Plants

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PART II—OPERATIONS ON BONDED PREMISES

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Subpart A—General

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SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

[(a) GENERAL.—On such application and under such regulations as the Secretary or his delegate may prescribe, distilled spirits withdrawn from bonded premises in bulk containers on or after July 1, 1959, on payment or determination of tax may be returned to the bonded premises of a distilled spirits plant, if such spirits have been found to be unsuitable for the purpose for which intended to be used before any processing thereof and before removal from the original

container in which such distilled spirits were withdrawn from bonded premises. Such returned distilled spirits shall immediately be destroyed, redistilled, or denatured, or may, in lieu of destruction, redistillation, or denaturation, be mingled on bonded premises as authorized in section 5234(a)(1)(A), (a)(1)(D), or (a)(1)(E). All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.】

(a) *GENERAL.*—On such application and under such regulations as the Secretary or his delegate may prescribe, distilled spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such distilled spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Such returned distilled spirits shall be destroyed, denatured, or redistilled, or shall be mingled as authorized in section 5234(a)(1) (other than subparagraph (C) thereof). All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

【(b) *DISTILLED SPIRITS WITHDRAWN BY PIPELINE.*—In the case of distilled spirits removed by pipeline, “original container in which such distilled spirits were withdrawn from bonded premises” as used in this section shall mean the bulk tank into which the distilled spirits were originally deposited from pipeline, and the permitted return of the spirits to bonded premises may be made by pipeline or by other approved containers.】

【(c) (b) *CROSS REFERENCE.*—

For provisions relating to the remission, abatement, credit, or refund of tax on distilled spirits returned to bonded premises under provisions of this section, see section 5008(d).

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