

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement - Information Collection Request

OMB Control Number 1513-0073

TTB REC 5530/2 -- Manufacturers of Nonbeverage Products - Records to Support Claims for Drawback

A. Justification

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

The Internal Revenue Code, Sections 5131 through 5134, (26 U.S.C. 5131- 5134) provide that manufacturers using distilled spirits in certain products such as medicines, food, flavors, and perfume may receive drawback for the tax paid on the spirits used for these specified purposes. This drawback (i.e. essentially a refund) allows the manufacturer to recover all but \$1 per proof gallon of the tax imposed on distilled spirits.

The basic regulatory structure to protect the revenue consists of two parts: source records kept at the manufacturing plant, and reports (called "supporting data") submitted with drawback claims. The recordkeeping requirements are covered under this submission, while the reporting requirements are covered under a separate OMB control number (1513-0098).

The recordkeeping requirements included in TTB REC 5530/2 are part of the system that is necessary to prevent diversion of drawback spirits to beverage use. Substantial losses in tax revenues could obviously occur if a manufacturer claimed drawback on tax free spirits, or if he received taxpaid spirits, used them for beverage purposes, and then claimed drawback of tax. The records are necessary to maintain accountability over these spirits. Regulations prescribing these records are in 27 CFR 17.161-67, 17.168(b), 17.169-71, and 17.186.

Required source records kept at the manufacturing plant include information about distilled spirits received, the gauge records, records of receipts, the identification of the person from whom received, evidence of the taxes paid on the spirits, the date the spirits were used, the quantity and kind used in each product (including usage of Puerto Rican and Virgin Islands spirits for compliance with the Caribbean Basin Initiative), receipt and usage of other ingredients (to validate formula compliance), inventory records, records of recovered alcohol, the quantity of intermediate products transferred to other plants, the disposition of each nonbeverage product produced, and the purchasers (except for retail sales). These elements make it possible to trace spirits using audit techniques, thus enabling TTB officers to verify the amount of spirits used in nonbeverage products and subsequently claimed as eligible for drawback of tax.

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

These records are used by TTB personnel during field tax compliance examinations to verify that all distilled spirits can be accounted for, that the tax on which drawback is claimed was in fact paid, and that the drawback is paid only in the amount and for the purposes authorized by law. These field examinations are conducted with variable frequency, depending on the size and other characteristics of the claimant. By ensuring that spirits have not been diverted to beverage use, tax revenues are protected.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the maintenance of required records.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

To avoid duplication, TTB allows records maintained in the ordinary course of business to be used to comply with this recordkeeping requirement.

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

These recordkeeping requirements are considered to be the minimum necessary to ensure compliance. The standards cannot be reduced on the basis of the size of respondent.

6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?

Ordinary business records may be used to satisfy the recordkeeping requirements. The records contain the minimum amount of information necessary to maintain accountability within the system; any less information would impair the integrity of the system itself and pose jeopardy to the revenue. Eliminating these records would leave a significant gap in the audit trail, making it difficult or impossible to trace distilled spirits transactions. Without these requirements, no record of the data elements necessary to verify these transactions would be prescribed.

7. Are there any special circumstances associated with this information collection?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information?

A 60-day Federal Register notice was published for this information collection on Friday, April 25, 2008, 73 FR 22462. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

The records required under TTB REC 5530/2 are maintained at the premises of the regulated person. They may be inspected occasionally by TTB officers. 26 U.S.C 6103 protects the confidentiality of taxpayer information obtained by the Government from regulated persons.

11. What justification is there for questions of a sensitive nature?

Records of a sensitive nature are not required.

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

TTB estimates that it will take each of the 501 respondents an average of 21 hours per year to compile and record the information required by this recordkeeping requirement. This estimate is based on experience and interviews with industry members. Thus, the annual burden is 10,521 hours.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

There is no cost associated with this collection.

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

There is no cost to the Federal Government.

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There is an adjustment reported in Item 13 of the OMB Form 83-I. There is a decrease in the number of respondents, resulting in a decrease in the burden hours.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

The results of this collection are not published.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

It would be inappropriate to display the expiration date for OMB approval because these are records that are maintained by the recordkeeper and unlike a form there is no medium for us to display the date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.