

1513-0060

26 U.S.C.

Sec. 170. - Charitable, etc., contributions and gifts

(b) Percentage limitations

(1) Individuals

In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

(A) General rule

Any charitable contribution to -

(ii) an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

Sec. 501. - Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

Sec. 5214. - Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers -

(2) free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; or

(3) free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale -

(A) for the use of any educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a), or for the use of any scientific university or college of learning;

(B) for any laboratory for use exclusively in scientific research;

(C) for use at any hospital, blood bank, or sanitarium), (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(D) 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); or

Sec. 5271. - Permits

(a) Requirements

No person shall -

(1) procure or use distilled spirits free of tax under the provisions of section 5214(a)(2) or (3); or

(2) procure, deal in, or use specially denatured distilled spirits; or

(3) recover specially or completely denatured distilled spirits, until he has filed an application with and received a permit to do so from the Secretary.

(b) Form of application and permit

(1) The application required by subsection (a) shall be in such form, shall be submitted at such times, and shall contain such information, as the Secretary shall by regulations prescribe.

(2) Permits under this section shall, under such regulations as the Secretary shall prescribe, designate and limit the acts which are permitted, and the place where and time when such acts may be performed. Such permits shall be issued in such form and under such conditions as the Secretary may by regulations prescribe.

(c) Disapproval of application

Any application submitted under this section may be disapproved and the permit denied if the Secretary, after notice and opportunity for hearing, finds that -

(1) in case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or

(2) the applicant (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

(3) the applicant has failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application; or

(4) the premises on which it is proposed to conduct the business are not adequate to protect the revenue.

(d) Changes after issuance of permit

With respect to any change relating to the information contained in the application for a permit issued under this section, the Secretary may by regulations require the filing of written notice of such change and, where the change affects the terms of the permit, require the filing of an amended application.

(e) Suspension or revocation

If, after notice and hearing, the Secretary finds that any person holding a permit issued under this section -

(1) has not in good faith complied with the provisions of this chapter or regulations issued thereunder; or

(2) has violated the conditions of such permit; or

(3) has made any false statement as to any material fact in his application therefor; or

(4) has failed to disclose any material information required to be furnished;
or

(5) has violated or conspired to violate any law of the United States relating to intoxicating liquor, or has been convicted of any offense under this title punishable as a felony or of any conspiracy to commit such offense; or

(6) is, in the case of any person who has a permit under subsection (a)(1) or (a)(2), by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(7) has, in the case of any person who has a permit under subsection (a)(2), manufactured articles which do not correspond to the descriptions and limitations prescribed by law and regulations; or

(8) has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

such permit may, in whole or in part, be revoked or be suspended for such period as the Secretary deems proper.

(f) Duration of permits

Permits issued under this section, unless terminated by the terms of the permit, shall continue in effect until suspended or revoked as provided in this section, or until voluntarily surrendered.

(g) Posting of permits

Permits issued under this section, to use distilled spirits free of tax, to deal in, or use specially denatured distilled spirits, or to recover specially or completely denatured distilled spirits, shall be kept posted available for inspection on the premises covered by the permit.

(h) Regulations

The Secretary shall prescribe all necessary regulations relating to issuance, denial, suspension, or revocation, of permits under this section, and for the disposition of distilled spirits (including specially denatured distilled spirits) procured under permit pursuant to this section which remain unused when such permit is no longer in effect

Sec. 5272. - Bonds

(a) Requirements

Before any permit required by section 5271(a) is granted, the Secretary 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.

(b) Exceptions

No bond shall be required in the case of permits issued to the United States or any governmental agency thereof, or to the several States or any political subdivision thereof, or to the District of Columbia

Sec. 5273. - Sale, use, and recovery of denatured distilled spirits

(a) Use of specially denatured distilled spirits

Any person using specially denatured distilled spirits in the manufacture of articles shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.

(b) Internal medicinal preparations and flavoring extracts

(1) Manufacture

No person shall use denatured distilled spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remains in the finished product.

(2) Sale

No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remains in the finished product.

(c) Recovery of spirits for reuse in manufacturing

Manufacturers employing processes in which denatured distilled spirits withdrawn under section 5214(a)(1) are expressed, evaporated, or otherwise removed, from the articles manufactured shall be permitted to recover such distilled spirits and to have such distilled spirits restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Secretary may prescribe.

(d) Prohibited withdrawal or sale

No person shall withdraw or sell denatured distilled spirits, or sell any article containing denatured distilled spirits for beverage purposes.

(e) Cross references

(1) For penalty and forfeiture for unlawful use or concealment of denatured distilled spirits, see section 5607.

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

(3) For definition of "articles", see section 5002(a)(14)

Sec. 5274. - Applicability of other laws

The provisions, including penalties, of sections 9, and 10 of the Federal Trade Commission Act (15 U.S.C., secs. 49, 50), as now or hereafter amended, shall apply to the jurisdiction, powers, and duties of the Secretary under this subtitle, and to any person (whether or not a corporation) subject to the provisions of this subtitle

Sec. 5275. - Records and reports

Every person procuring or using distilled spirits withdrawn under section 5214(a)(2) or (3), or procuring, dealing in, or using specially denatured distilled spirits, or recovering specially denatured or completely denatured distilled spirits, shall keep such records and file such reports of the receipt and use of distilled spirits withdrawn free of tax, of the receipt, disposition, use, and recovery of denatured distilled spirits, the manufacture and disposition of articles, and such other information as the Secretary may be regulations require. The Secretary may require any person

reprocessing, bottling or repackaging articles, or dealing in completely denatured distilled spirits or articles, to keep such records, submit such reports, and comply with such other requirements as he may by regulations prescribe. Records required to be kept under this section and a copy of all reports required to be filed shall be preserved as regulations shall prescribe and shall be kept available for inspection by any internal revenue officer during business hours. Such officer may also inspect and take samples of distilled spirits, denatured distilled spirits, or articles (including any substances for use in the manufacture thereof), to which such records or reports relate

Sec. 5276. - Occupational tax

(a) General rule

Except as otherwise provided in this section, a permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of \$250 with respect to such place.

(b) Certain occupational tax rules to apply

Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section.

(c) Exception for United States

Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States.

(d) Exception for certain educational institutions

Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which -

(1) is issued a permit under section 5271, and

(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of distilled spirits free of tax for experimental or research use but not for consumption (other than organoleptic tests) or sale

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Sec. 22.22 Alternate methods or procedures; and emergency variations from requirements.

(a) Alternate methods or procedures--(1) Application. A permittee, after receiving approval from the appropriate TTB officer, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the appropriate TTB officer. The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) Approval by appropriate TTB officer. The appropriate TTB officer may approve the use of an alternate method or procedure if:

- (i) The applicant shows good cause for its use;
- (ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;
- (iii) It is not contrary to law; and
- (iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) Exceptions. The appropriate TTB officer will not authorize an alternate method or procedure relating to the giving of a bond.

(4) Conditions of approval. A permittee may not employ an alternate method or procedure until the appropriate TTB officer has approved its use. The permittee shall, during the terms of the authorization of an alternate method or procedure, comply with the terms of the approved application.

(b) Emergency variations from requirements--(1) Application. When an emergency exists, a permittee may apply to the appropriate TTB officer for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The permittee shall describe the proposed variation and set forth the reasons for using it.

(2) Approval by appropriate TTB officer. The appropriate TTB officer may approve an emergency variation from requirements if:

- (i) An emergency exists;
 - (ii) The variation from the requirements is necessary;
 - (iii) It will afford the same security and protection to the revenue as intended by the specific regulations;
 - (iv) It will not hinder the effective administration of this part;
- and

(v) It is not contrary to law.

(3) Conditions of approval. A permittee may not employ an emergency variation from the requirements until the appropriate TTB officer has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) Automatic termination of approval. If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) Withdrawal of approval. The appropriate TTB officer may withdraw approval for an alternate method or procedure or an emergency variation from requirements, approved under paragraph (a) or (b) of

this section, if the appropriate TTB officer finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1513-0060)

(Act of August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805); sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-435, 66 FR 5476, Jan. 19, 2001]

Sec. 22.57 Changes affecting applications and permits.

(a) General--(1) Changes affecting application. When there is a change relating to any of the information contained in, or considered a part of the application on Form 5150.22 for a permit, the permittee shall, within 30 days (except as otherwise provided in this subpart) file a written notice with the appropriate TTB officer to amend the application.

(2) Changes affecting waivers. When any waiver under Sec. 22.43 is terminated by a change to the application, the permittee shall include the current information as to the item previously waived with the written notice required in paragraph (a)(1) of this section.

(3) Changes affecting permit. When the terms of a permit are affected by a change, the written notice required by paragraph (a)(1) of this section (except as otherwise provided in this subpart) will serve as an application to amend the permit.

(4) Form of notice. All written notices to amend an application on Form 5150.22 will--

- (i) Identify the permittee;
- (ii) Contain the permit identification number;
- (iii) Explain the nature of the change and contain any required supporting documents;
- (iv) Identify the serial number of the applicable application, Form 5150.22; and
- (v) Be consecutively numbered and signed by the permittee or any person authorized to sign on behalf of the permittee.

(b) Amended application. The appropriate TTB officer may require a permittee to file an amended application on Form 5150.22 when the number of changes to the previous application are determined to be excessive, or when a permittee has not timely filed the written notice prescribed in paragraph (a)(1) of this section. If items on the amended application remain unchanged, they will be marked ``No change since Form 5150.22, Serial No. -----.''

(c) Changes in officers, directors and stockholders--(1) Officers. In the case of a change in the officers listed under the provisions of Sec. 22.45(a)(2), the notice required by paragraph (a)(1) of this section shall only apply (unless otherwise required, in writing, by the appropriate TTB officer) to those offices, the incumbents of which are responsible for the operations covered by the permit.

(2) Directors. In the case of a change in the directors listed under the provisions of Sec. 22.45(a)(2), the notice required by paragraph (a)(1) of this section shall reflect the changes.

(3) Stockholders. In lieu of reporting all changes, within 30 days, to the list of stockholders furnished under the provisions of Sec.

22.45(c)(1), a permittee may, upon filing written notice to the appropriate TTB officer and establishing a reporting date, file an annual notice of changes. The notice of changes in stockholders does not apply if the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under Sec. 22.58.

(Approved by the Office of Management and Budget under control number 1513-0060)

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

Sec. 22.58 Automatic termination of permits.

(a) Permit not transferable. Permits issued under this part are not transferable. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized by the permit, the permit shall, except as provided for in this section, automatically terminate.

(b) Corporations. (1) If actual or legal control of any corporation holding a permit issued under this part changes, directly or indirectly, whether by reason of a change in stock ownership or control (in the permittee corporation or any other corporation), by operation of law, or in any other manner, the permittee shall within 10 days of the change, give written notice to the appropriate TTB officer. The written notice shall be accompanied by (or within 30 days of the change) an application and supporting documents on Form 5150.22 for a new permit. If an application on Form 5150.22 for a new permit is not filed within 30 days of the change, the outstanding permit will automatically terminate.

(2) If an application on Form 5150.22 for a new permit is filed within the 30-day period prescribed in paragraph (b)(1) of this section, the outstanding permit will remain in effect until final action is taken on the application. When final action is taken, the outstanding permit will automatically terminate and the permittee shall forward it to the appropriate TTB officer for cancellation.

(c) Proprietorships. In the event of a change in proprietorship of a business of a permittee (as for instance, by reason of incorporation, the withdrawal or taking in of additional partners, or succession by any person who is not a fiduciary), the successor shall file written notice and make application on Form 5150.22 for a new permit under the same conditions provided for in paragraph (b) of this section.

(Approved by the Office of Management and Budget under control number 1513-0060)

Sec. 22.61 Change in name of permittee.

When the only change is a change in the individual, firm, or corporation name, a permittee may not conduct operations under the new name until a written notice, accompanied by necessary supporting documents, to amend the application and permit has been filed and an amended permit has been issued by the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513-0060)

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

Sec. 22.62 Change in trade name.

Where there is to be a change in, or addition of, a trade name, the permittee may not conduct operations under the new trade name until a written notice has been filed and an amended permit has been issued by the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513-0060)

Sec. 22.63 Change in location.

When there is to be a change in location, a permittee may not conduct operations at the new location until a written notice, accompanied by necessary supporting information, to amend the application and permit has been filed and an amended permit has been issued by the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513-0060)

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-435, 66 FR 5476, Jan. 19, 2001; T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

Sec. 22.68 Notice of permanent discontinuance.

A permittee who permanently discontinues the use of tax-free alcohol shall file a written notice with the appropriate TTB officer to cover the discontinuance. The notice will be accompanied by the permit, and contain--

- (1) A request to cancel the permit,
- (2) A statement of the disposition made, as provided in Sec. 22.154, of all tax-free and recovered alcohol, and
- (3) The date of discontinuance.

(Approved by the Office of Management and Budget under control number 1513-0060)

[T.D. ATF-199, 50 FR 9183, Mar. 6, 1985, as amended by T.D. ATF-443, 66 FR 13015, Mar. 2, 2001]

Sec. 22.122 Losses in transit.

(a) Reporting losses. Upon discovering any loss of tax-free alcohol while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's appropriate TTB officer of the facts and circumstances relating to the loss.

(b) Recording losses. At the time the shipment or report of loss is received, the consignee shall determine the quantity of tax-free alcohol lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in Sec. 22.113. For the purpose of maintaining the

records prescribed in subpart M of this part, receipts of tax-free alcohol shall only include the quantity actually received.

(c) Claims. A claim for allowances of losses of tax-free alcohol shall, as prescribed in Sec. 22.125, be filed:

(1) If the quantity lost in transit exceeds 1 percent of the total quantity shipped and is more than 5 proof gallons, the consignee shall file a claim for allowance of the entire quantity lost; or

(2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowances of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)

Sec. 22.142 Destruction.

(a) A permittee may destroy tax-free or recovered alcohol upon

(1) The filing of a notice of intention to destroy with the appropriate TTB officer at least 7 days prior to the proposed date of destruction, or

(2) Furnishing the notice to an appropriate TTB officer at the premises who may supervise the destruction or transmit the notice to the appropriate TTB officer.

(b) The notice of intention to destroy shall contain--

(1) The reason for destruction,

(2) The date, time, location and manner of destruction, and

(3) The quantity involved and, if applicable, the package identification numbers of containers.

(c) If, by the date and time specified in the notice, an appropriate TTB officer has not supervised the destruction, or the appropriate TTB officer has not advised the permittee to the contrary, the spirits may be destroyed in the manner stated in the notice.

(d) Following the destruction, if unsupervised by an TTB officer, the permittee shall annotate a copy of the notice with the name of the individual who accomplished or supervised the destruction. This notice shall serve as a record of destruction and shall be maintained with the records required by Sec. 22.161.

(Approved by the Office of Management and Budget under control number 1513-0060)

Sec. 22.154 Disposition on permanent discontinuance of use.

(a) Tax-free alcohol. Tax-free alcohol on hand at the time of discontinuance of use, may be disposed of by

(1) Returning the spirits to a distilled spirits plant, as provided in Sec. 22.151,

(2) Destruction, as provided in Sec. 22.142, or

(3) Shipping to another permittee, in accordance with Sec. 22.155.

(b) Recovered tax-free alcohol. Upon permanent discontinuance of use, a permittee may dispose of recovered tax-free alcohol by

(1) Shipment to a distilled spirits plant, as provided in Sec. 22.133,

(2) Destruction, as provided in Sec. 22.142, or

(3) Upon the filing of an application with the appropriate TTB officer, any other approved method.

(Approved by the Office of Management and Budget under control number 1513-0060)

Sec. 22.155 Emergency disposition to another permittee.

(a) In the case of an emergency, a permittee may, upon the filing of a notice with the appropriate TTB officer, dispose of tax-free alcohol to another permittee, when the quantity involved does not exceed 10 proof gallons. In the case of a medical emergency or disaster, the appropriate TTB officer is authorized to verbally approve, with the required notice to follow, disposals of tax-free alcohol to another permittee or Government agency in excess of 10 proof gallons. The tax-free alcohol disposed of shall be in original unopened containers. The consignor shall prepare a record of shipment in the same manner prescribed in Sec. 22.134.

(b) The notice required by this section shall (1) explain the nature of the emergency, (2) identify the consignee by name, address and permit number, and (3) list the quantity of alcohol and package identification number of the container(s) involved.

(c) The consignor permittee may not receive remuneration for tax-free alcohol given to another permittee in case of an emergency, as authorized by this section.

(Notice approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)

Sec. 22.162 Inventories.

Each permittee shall take a physical inventory of the tax-free and recovered alcohol in its possession semi-annually for the periods ending June 30 and December 31 of each year; or other inventory periods which are approximately 6 months apart, upon filing written notice with the appropriate TTB officer establishing other inventory periods. These inventories may be recorded separately or as an entry in the record of usage with any necessary adjustments (losses or gains). If an inventory results in a loss in excess of the quantities prescribed by Subpart I of this part, the permittee shall file a claim for allowance of loss.

(Notice approved by the Office of Management and Budget under control number 1513-0060; recordkeeping approved by the Office of Management and Budget under control number 1513-0059)