

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Requirement

OMB Control Number 1513-0088

TTB REC 5000/24 Alcohol, Tobacco, and Firearms Related Documents for Tax Returns and Claims

A. Justification

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

A change in this supporting statement reflects changes to section numbers as recodified in the final rule for the revision of part 19 of the TTB regulations. (See TTB Notice No. 83)

The Internal Revenue Code of 1986 (IRC) imposes excise taxes on firearms, ammunition, distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes. TTB is delegated the authority to collect these taxes. These excise taxes, plus certain special occupational taxes related to tobacco products and cigarette papers and tubes are required to be collected on the basis of a return. To safeguard the revenue, Congress has provided for a comprehensive system for the regulation of these industries and the collection these taxes. Specifically, 26 U.S.C. 5555 authorizes the Secretary to prescribe the regulations requiring every person liable for tax imposed on distilled spirits, wine, and beer to prepare any records, statements, or returns as necessary. Section 5741 of the IRC (26 U.S.C. 5741) authorizes the Secretary to prescribe by regulation records relating to tobacco products and cigarette papers and tubes. Section 5843 of the IRC (26 U.S.C. 5843) provides similar authorization regarding firearms and ammunition.

In addition to the standard accounting of taxes payable, tax returns must also reflect when there are additional taxes:

- (a) on commodities that were not declared upon importation and are now due;
- (b) on tax samples; and
- (c) on shortages.

These records are integral to the accountability system established in regulations found in 27 CFR Parts 17, 19, 24, 25, 26, 27, 29, 31, 40, 41, 44, 45, 46, 53, and 70. The Federal revenue is protected in part through audits of these required operational records.

Records that are required to be kept include commercial records such as invoices, inventories, and/or affidavits that would support a claim or a return.

Documentation is also essential to substantiate when there is a change in control in the business through death, bankruptcy, withdrawal of a partner, or movement of a business to another location. Examples are: 27 CFR 31.94, change in one or more business partners; 27 CFR 24.129, change in location of business; 27 CFR 19.116, change in the proprietor of the business; or 27 CFR 25.74, change in business stockholders.

Claims for the abatement or refund of taxes paid are submitted on TTB Form 5620.8 (OMB 1513-0030). Documentation created or maintained by the claimant (affidavits, invoices and inventories) must be able to establish that, if the claim is due to a loss, the loss was not a result of negligence, fraud, or collusion. In cases where the loss is due to specific circumstances, such as fire or natural disaster, records must justify and support such a claim. Other circumstances for claims may be a withdrawal from the market of taxpaid product (for example, of tobacco products made unmerchantable due to soiled packaging) or an overpayment of tax. The maintenance of records is necessary to determine the appropriate tax liability, verify computations on tax returns, determine the adequacy of bond coverage, and verify the correctness of claims and other adjustments to tax liability.

A list of all statutory and regulatory requirements associated with this collection is attached.

This information collection is aligned with:

Treasury Strategic Goal: Effectively Manage U.S. Government Finances.

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

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

Without these collections of information, we would be unable to adequately determine the amount of tax rightfully due and, as a result, would be unable to appropriately process returns or claims. For example, in the absence of the required recordkeeping, we could not verify taxable removals, taxes due, adequacy of withdrawal bonds, or correctness of claims for refund or abatement, and we would be unable to adequately protect the revenue.

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?

We will consider the use of improved technology on a case-by-case basis.

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?

The information collected on the supporting documentation is pertinent to the taxpayers' or claimants' specific tax-related circumstances only. As far as we can determine, similar information is not available anywhere else. Documentation used to support tax determinations may include records that would be kept in the ordinary course of business.

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

This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. Everyone, regardless of size, is required to maintain these records; however, the proprietor with the smaller business will maintain a smaller number of records.

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?

This recordkeeping requirement is considered to be the minimum necessary to ensure protection of the revenue. Tax records prescribed by these parts constitute a continuing recording of ongoing activities. Less frequent recordkeeping would create jeopardy to the revenue as it would significantly hinder our ability to verify that the appropriate tax payments were made.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

No special circumstances are associated with this collection of information.

8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

A NPRM for the revision to part 19 was published on May 8, 2008 (73 FR 26200). In response to Notice No. 83, TTB received 7 comments. Six of the comments expressed strong support for the revisions to part 19 and commented on specific areas of agreement and recommendations for further changes. The comments were supportive of efforts to reduce burden of forms by allowing letterhead applications and notices where possible. No comments were opposed to changes that are affected by this information collection. As a result, a final rule (T.D. TTB-92, 76 FR 9080) was published to reflect the changes that were proposed in Notice No. 83. For this collection, several section numbers were changed and letterhead notices are accepted to amend registrations of distilled spirits plants rather than submitting a prescribed form.

A 60-day Federal Register notice was published to renew this information collection on Friday, June 29, 2012, 77 FR 38886. 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 remuneration 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

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for the assurance in statute, regulations, or agency policy?

The confidentiality of the information prepared in this supporting documentation to substantiate tax returns and claims is protected by 26 U.S.C. 6103.

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

We do not ask questions of a sensitive nature in this collection.

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

There is no change in burden from the previous submission. 503,921 (respondents) X 1 (times filed annually) = 503,921 (responses) X 1 hour (processing time) = 503,921 (total burden hours).

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above)?

Tax records currently prescribed by parts 17, 19, 24, 25, 26, 27, 29, 31, 40, 41, 44, 45, 46, 53, and 70 are usual and customary records which impose no cost burden to the respondents under the provisions of 5 CFR 1320.7(b).

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

Estimates of annual cost to the Federal Government are as follows:

Printing	\$ 482.00
Distribution	208.00
Clerical Cost	517.00
Other Salary (review, supervisory, etc.)	<u>937.00</u>
Total	\$2,144.00

15. What is the reason for any program changes or adjustments?

No program changes or adjustments are associated with this collection. The revision is being made to incorporate final rule 27 CFR Parts 1, 17, 19, et al., *Revision of Distilled Spirits Plant Regulations* (February 16, 2011, at 75 FR 9080) with this information collection. The rule modernized requirements for operating distilled spirits plants and included a number of operational changes (renumbering) to improve the layout of the regulatory text. This submission is being made to renew the OMB clearance.

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

The results of this collection will not be 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 this is a recordkeeping requirement and, unlike the form, there is no medium on which to place an expiration date.

18. What are the exceptions to the certification statement?

- (c) See item 5 above
- (i) No statistics are involved
- (j) See item 3 above

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.