

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0038

Information Collection Request Title:

Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond.

Information Collections Issued under this Title:

TTB F 5100.16 — Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond.

A. Justification

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

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended (IRC, 26 U.S.C.), pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Public Law 114-113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 332 of the PATH Act amends the IRC to change tax return due dates and remove bond requirements for certain taxpayers with respect to the taxes on distilled spirits, wine, and beer. This law includes amendments to the IRC at 26 U.S.C. 5061(d)(4) (providing for a new annual tax return period) and 26 U.S.C. 5551(d) (providing for a new exemption from bond requirements). This law has an effective date of January 1, 2017.

In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax of \$13.50 per gallon on distilled spirits produced in the United States, a tax rate far exceeding the spirits' production costs. To safeguard this revenue when non-taxpaid distilled spirits are transferred from the premises of one distilled spirits plant (DSP) to another, the IRC at 26 U.S.C. 5005(c) provides that the tax liability for in-transit spirits falls upon the proprietor of the DSP to which the spirits are being transferred, "pursuant to application made by him."

Therefore, under the statutory requirement to make application to receive transferred spirits in bond, when a proprietor of a DSP or an alcohol fuel plant (AFP; a type of DSP) desires to

have spirits or denatured spirits transferred to their plant from another domestic plant, the TTB regulations require that proprietor to file an application for the transfer on TTB F 5110.16, Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond. TTB must approve the application before the transfer may occur. This form notifies TTB that a DSP or AFP intends to receive spirits in bond and allows TTB to ensure that the receiving plant has adequate bond coverage.

The specific TTB regulations requiring or regarding the use of TTB F 5110.16 are found in 27 CFR Part 19, Distilled Spirits Plants, at §§ 19.403–407 and §§ 19.733–739.

Under the IRC at 26 U.S.C. 5551(d), as amended by the PATH Act, certain DSPs are exempt from bond requirements if they are eligible to pay excise taxes quarterly or annually under the IRC at 26 U.S.C. 5061(d)(4). Since these bond-exempt DSPs are treated as if they have a bond as provided under section 5551(d), these DSPs may still transfer spirits in bond in accordance with the regulations.

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application System.

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

A proprietor of a DSP or an AFP desiring to have spirits or denatured spirits transferred to their plant from another domestic plant completes TTB F 5110.16 in triplicate in order to inform TTB that they intend to receive transferred spirits in bond. In order to protect the revenue, TTB personnel at our National Revenue Center use the information provided on TTB F 5110.16 to ensure the receiving DSP or AFP has adequate bond coverage since, under the IRC, the tax liability for the transferred spirits falls upon the receiving plant's proprietor. Once approved by TTB, two copies are returned to the applicant. The applicant keeps one copy of the form and sends the other copy to the shipping DSP as TTB's authorization to make the shipment.

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?

Currently, TTB F 5110.16 may be completed and submitted electronically within TTB's web-based Permits Online (PONL) system. In addition, TTB F 5110.16 is available as a "fillable-printable" form on the TTB website's forms page at <http://www.ttb.gov/forms/index.shtml>.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

TTB F 5110.16 collects information that is pertinent to each respondent and applicable to their specific request to received transferred distilled spirits in bond. As far as TTB can determine, similar information is not available elsewhere.

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

The requirement to make an application to receive transferred distilled spirits in bond is a statutory requirement of the IRC, prescribed to protect the revenue, and it cannot be waived merely because the respondent's business is small. The collected information is minimal and is required so that TTB can determine if the receiving DSP has adequate bond coverage.

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?*

The requirement to make an application to receive transferred distilled spirits in bond is a statutory, and TTB cannot waive this requirement at its option. Since the transferred spirits are non-taxpaid, TTB would be unable to verify that the receiving DSP has adequate bond coverage to protect the revenue without this information collection. Not collecting this information or collecting it less frequently would, therefore, jeopardize the revenue.

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 information collection.

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.*

The general public will be notified of this information collection in a temporary rule and notice of proposed rulemaking that will be published shortly in the Federal Register. The notice will solicit comments from the general public.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

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?*

No specific assurance of confidentiality is provided on this form. However, Federal law at 26 U.S.C. 6103 prohibits disclosure of tax- and taxpayer-related information unless disclosure is specifically authorized by that section. TTB maintains its copy of this form in secure office space with controlled access and in password-protected computer systems.

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact*

Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.

This information collection contains no questions of a sensitive nature. A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB’s PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

Based on recent experience, TTB estimates that 250 respondents complete six TTB F 5110.16 forms per year, for a total of 1,500 annual responses. TTB estimates that each response takes an average of 0.15 hours (9 minutes) to complete, for an estimated total annual burden of 228 hours. This is unchanged from our last submission for this information collection.

The specific burden estimates for the two methods of submitting TTB F 5110.16 are as follows:

TTB F 5110.16 Submitted Via	Respondents	Responses/ Respondent	Annual Responses	Hours/ Response	Total Burden Hours
Paper	130	6	780	0.2	156
PONL	120	6	720	0.1	72
Totals	250	6	1,500	0.15	228

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

We do not believe respondents bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement.

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

Estimates of annual cost to the Federal Government are:

Printing costs	\$ 0
Distribution costs	0

Clerical costs	7,500
Other Salary costs (review, supervisory, etc.)	0
TOTAL COSTS	\$ 7,500

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB Web site at <http://www.ttb.gov/forms/index.shtml>.

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

There are no program changes or adjustments associated with this collection.

On TTB F 5110.16, TTB is updating section 5 of the form to reflect the new bond exemption discussed above under the IRC at 26 U.S.C. 5551(d).

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

TTB will not publish the results of this collection.

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?

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection. By not displaying the expiration date of this collection on the related form, TTB will not have to update the form's expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any marginally-punched continuous printed versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on this form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue in use regardless of when OMB's approval has expired.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.