(c) Allowance of drawback even where certain requirements not met

(1) In general
No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant’s establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for beverage purposes.

(2) Penalty

(A) In general
In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

(B) Penalty may not exceed amount of claim
The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

(3) Penalty treated as tax
The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).


SUBPART G—GENERAL PROVISIONS

§ 5141. Registration

For provisions relating to registration in the case of persons engaged in any trade or business on which a special tax is imposed, see section 7011(a).


PRIOR PROVISIONS


AMENDMENTS

1994—Subsec. (c)(2)(D). Pub. L. 103–465 substituted “flavoring extracts, or perfume” for “or flavoring extracts”.

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the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) How paid

(1) Payment by return

The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

(2) Stamp denoting payment of tax

After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.


PRIOR PROVISIONS

A prior section 5142, act Aug. 16, 1954, ch. 736, 68A Stat. 624, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5142(d) also contained a cross reference to a penalty and forfeiture provision for nonpayment of special taxes. See section 5144(1) of this title.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94–455 substituted provisions under which the special taxes would be paid on the basis of a return for provisions under which the special taxes were paid by stamps denoting the tax.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94–455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94–455, set out as a note under section 5055 of this title.

§ 5143. Provisions relating to liability for occupational taxes

(a) Partners

Any number of persons doing business in partnership at any one place shall be required to pay but one special tax.

(b) Different businesses of same ownership and location

Whenever more than one of the pursuits or occupations described in this part are carried on in the same place by the same person at the same time, except as otherwise provided in this part, the tax shall be paid for each according to the rates severally prescribed.

(c) Businesses in more than one location

(1) Liability for tax

The payment of a special tax imposed by this part shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the register kept in the office of the official in charge of the internal revenue district.

(2) Storage

Nothing contained in paragraph (1) shall require a special tax for the storage of liquors at a location other than the place where liquors are sold or offered for sale.

(3) Definition of place

The term “place” as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises, shall not be deemed sufficient separation to require additional special tax, if the various divisions are otherwise contiguous.

(d) Death or change of location

Certain persons, other than the person who has paid the special tax under this part for the carrying on of any business at any place, may secure the right to carry on, without incurring additional special tax, the same business at the same place for the remainder of the taxable period for which the special tax was paid. The persons who may secure such right are:

(1) the surviving spouse or child, or executor or administrator or other legal representative, of a deceased taxpayer;

(2) a husband or wife succeeding to the business of his or her living spouse;

(3) a receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(4) the partner or partners remaining after death or withdrawal of a member of a partnership.

When any person moves to any place other than the place for which special tax was paid for the carrying on of any business, he may secure the right to carry on, without incurring additional special tax, the same business at his new location for the remainder of the taxable period for which the special tax was paid. To secure the right to carry on the business without incurring additional special tax, the successor, or the person relocating his business, must register the succession or relocation with the Secretary in accordance with regulations prescribed by the Secretary.

(e) Federal agencies or instrumentalties

Any tax imposed by this part shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax.


PRIOR PROVISIONS

A prior section 5143, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to time for filing returns and cross-referred to penalty provisions for failure to file returns or for making false or fraudulent returns, prior to the general revision of this chapter by Pub. L. 85–859. See subtitle F of this title.

Provisions similar to those comprising this section were contained in a prior section 5144, act Aug. 16, 1954, ch. 736, 68A Stat. 624, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (d)(4). Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5093 of this title.