

INNOVATE LESS LETHAL TO DE-ESCALATE TAX  
MODERNIZATION ACT

---

FEBRUARY 2, 2026.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. SMITH of Missouri, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

DISSENTING AND ADDITIONAL VIEWS

[To accompany H.R. 4242]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4242) to amend the Internal Revenue Code of 1986 to modernize the National Firearms Act to account for advancements in technology and less-than-lethal weapons, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Innovate Less Lethal to De-Escalate Tax Modernization Act”.

**SEC. 2. EXEMPTION OF CERTAIN LESS-THAN-LETHAL PROJECTILE DEVICES FROM FIREARMS AND AMMUNITION TAX.**

(a) IN GENERAL.—Section 4182 of the Internal Revenue Code of 1986 is amended—

- (1) by redesignating subsection (d) as subsection (e), and
- (2) by inserting after subsection (c) the following new subsection:

“(d) LESS-THAN-LETHAL PROJECTILE DEVICES.—

“(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to—

- “(A) any less-than-lethal projectile device,
- “(B) any device contained on the most recent list made available by the Secretary under paragraph (4)(B), and

“(C) any shell or cartridge that meets the requirement of paragraph (2)(B) and is designed for use in a device referred to in subparagraph (A) or (B).

“(2) LESS-THAN-LETHAL PROJECTILE DEVICE.—The term ‘less-than-lethal projectile device’ means a device that—

“(A) is not designed or intended to expel, and may not be readily converted to accept and discharge—

- “(i) ammunition commonly used in handguns, rifles, or shotguns, or
- “(ii) any other projectile at a velocity exceeding 500 feet per second,

“(B) is designed and intended to be used in a manner that is not likely to cause death or serious bodily injury, and

“(C) does not accept, and is not able to be readily modified to accept, ammunition feeding devices—

- “(i) loaded through the inside of a pistol grip, or
- “(ii) commonly used in semiautomatic firearms.

“(3) REQUEST FOR CLASSIFICATION.—Pursuant to a request made by the manufacturer, producer, or importer of a device for a determination as to whether such device satisfies the requirements under paragraph (2), the Secretary shall make such determination not later than 90 days after the date of receipt of such request.

“(4) ANNUAL REVIEW OF NEW AND EMERGING TECHNOLOGIES.—

“(A) LIST OF LESS-THAN-LETHAL PROJECTILE DEVICES.—The Secretary shall make publicly available a list of devices that the Secretary has determined are described in paragraph (2) and shall update such list annually to take into account new devices.

“(B) LIST OF NON-LETHAL DEVICES THE PROJECTILES OF WHICH EXCEED 500 FEET PER SECOND.—

- “(i) IN GENERAL.—The Secretary shall—

“(I) make publicly available a list of devices that the Secretary has determined are not described in paragraph (2) but would be so described if such paragraph were applied without regard to subparagraph (A)(ii) thereof, and

“(II) update such list annually to take into account new devices.

“(ii) REPORT TO CONGRESS.—The Secretary shall annually submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the annual list of devices described in clause (i), including a copy of such list, a description of the devices that were considered for inclusion

on such list, and the reasons for including or excluding such devices from such list.”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

(2) **REQUESTS FOR DETERMINATIONS.**—Section 4182(d)(3) of the Internal Revenue Code of 1986 (as added by this section) shall apply to requests received after the date of the enactment of this Act, except that any request under such section which is received during the 180-day period beginning on the date of the enactment of this Act shall be treated for purposes of such section as received as of the close of such period.

**SEC. 3. EXEMPTION OF CERTAIN LESS-THAN-LETHAL PROJECTILE DEVICES FROM NATIONAL FIREARMS ACT.**

Section 5845(a) of the Internal Revenue Code of 1986 is amended by striking “an antique firearm or” and inserting “any antique firearm, any less-than-lethal projectile device (as defined in section 4182(d)(2)), any device referred to in section 4182(d)(1)(B), or”.

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

The bill, H.R. 4242, the “Innovate Less Lethal to De-Escalate Tax Modernization Act,” as ordered reported by the Committee on Ways and Means on December 10, 2025.

The proposal amends the Code to provide that the firearms and ammunition excise tax does not apply to (1) a less-than-lethal projectile device, (2) a device contained on the most recent list made publicly available by the Secretary of non-lethal devices with projectiles exceeding 500 feet per second (as described below), and (3) shells or cartridges that (a) are designed and intended to be used in a manner that is not likely to cause death or serious bodily injury and (b) are designed for use in a device described in (1) or (2). The term “less-than-lethal projectile device” is a device that (A) is not designed or intended to expel, and may not be readily converted to accept and discharge, ammunition commonly used in handguns, rifles, or shotguns, or any other projectile at a velocity exceeding 500 feet per second; (B) is designed and intended to be used in a manner that is not likely to cause death or serious bodily injury; and (C) does not accept, and is not able to be readily modified to accept, ammunition feeding devices loaded through the inside of a pistol grip or commonly used in semiautomatic firearms.

The Secretary must make a determination of whether a device satisfies the requirements to be a less-than-lethal projectile device not later than 90 days after the date of receipt of a request for a determination by the manufacturer, producer, or importer of the device. The Secretary must make publicly available a list of devices that the Secretary has determined meet the requirements of being a less-than-lethal projectile device, and the Secretary must update the list annually to take into account new devices. In addition, and as referenced above, the Secretary must make publicly available a list of devices that the Secretary has determined would meet the requirements of less-than-lethal projectile devices, except that the devices are designed or intended to expel, or may be readily converted to accept and discharge, projectiles (other than ammunition commonly used in handguns, rifles, or shotguns) at a velocity exceeding 500 feet per second (the “exempt devices list”). The Secretary is directed to submit an annual written report to the House

Ways and Means Committee and the Senate Finance Committee regarding the exempt devices list, including a copy of the list, a description of the devices that were considered for inclusion on the list, and the reasons for including or excluding the devices from the list.

The proposal also modifies the definition of “firearm” for purposes of the NFA. The proposal provides that less-than-lethal projectile devices and devices contained on the exempt devices list are not firearms for purposes of the NFA and thus are not subject to the occupational, transfer, or making taxes. The term “less-than-lethal projectile devices” has the same meaning given that term under the firearms and ammunition excise tax, as amended under the proposal.

#### B. BACKGROUND AND NEED FOR LEGISLATION

Generally, the Code imposes an excise tax on the sales by the manufacturer, producer, or importer of certain firearms and ammunition. Pistols and revolvers are generally taxable at 10 percent of sales price. Firearms other than pistols and revolvers, shells, and cartridges are generally taxable at 11 percent of sales price. For this purpose, a firearm is a portable weapon, such as a rifle, carbine, machine gun, shotgun, or fowling piece, from which a shot, bullet, or other projectile may be discharged by an explosive.

The National Firearms Act (the “NFA”), requires importers, manufacturers, and dealers in firearms to pay a special occupational tax and register with the Treasury, and also imposes excise taxes on the transfer and making of firearms.

Certain less-than-lethal devices are currently defined under federal regulation as “firearms.” As such, they are subject to the Firearms and Ammunition Excise Tax (FAET) and the National Firearms Act of 1934 (NFA). Due to outdated and misaligned regulatory standards, innovative less-than-lethal devices and technologies are therefore subject to taxes that were never intended to apply to them.

Additionally, the inconsistent classification and regulation of less-than-lethal devices is producing delays, regulatory burdens, and increased costs. Innovative less-than-lethal technology is paramount for protecting the safety of our communities. As technology continues to evolve, our tax code should be harmonized to meet growing needs that prioritize lifesaving innovations and keeping our communities safe.

#### C. LEGISLATIVE HISTORY

##### *Background*

H.R. 4242 was introduced on June 27, 2025, and was referred to the Committee on Ways and Means.

##### *Committee Hearings*

On May 20, 2024, the Committee held Tax Subcommittee Hearing on Tax Subcommittee Field Hearing on Creating More Opportunity and Prosperity in the American Rust Belt. On January 22, 2025, the Committee held a Full Committee Member Day Hearing on matters within the Committee’s jurisdiction.

*Committee Action*

The Committee on Ways and Means marked up H.R. 4242, the “Innovate Less Lethal to De-Escalate Tax Modernization Act,” on December 10, 2025, and ordered the bill, as amended, favorably reported (with a quorum being present).

**D. DESIGNATED HEARING**

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 4242:

Committee on Ways and Means Tax Subcommittee Field Hearing on Creating More Opportunity and Prosperity in the American Rust Belt

Committee on Ways and Means Member Day Hearing on matters within the Committee’s jurisdiction

**II. EXPLANATION OF THE BILL**

**A. EXEMPTION OF CERTAIN LESS-THAN-LETHAL PROJECTILE DEVICES FROM THE FIREARMS AND AMMUNITION EXCISE TAX AND THE NATIONAL FIREARMS ACT (SECS. 2 AND 3 OF THE BILL AND SECS. 4182 AND 5845 OF THE CODE)**

**PRESENT LAW**

Generally, the Code imposes an excise tax on the sales by the manufacturer, producer, or importer of certain firearms and ammunition.<sup>1</sup> Pistols and revolvers are generally taxable at 10 percent of sales price. Firearms other than pistols and revolvers, shells, and cartridges are generally taxable at 11 percent of sales price.<sup>2</sup> For this purpose, a firearm is a portable weapon, such as a rifle, carbine, machine gun, shotgun, or fowling piece, from which a shot, bullet, or other projectile may be discharged by an explosive.<sup>3</sup>

However, the excise tax does not apply to machine guns and short barreled firearms.<sup>4</sup> In addition, firearms, pistols, and revolvers manufactured, produced, or imported by a person who in aggregate manufactures, produces, or imports less than 50 firearms, pistols, and revolvers during the calendar year are exempt from the excise tax.<sup>5</sup> Sales of firearms, pistols, revolvers, shells, and cartridges to the Department of Defense, the Coast Guard, State and local governments, nonprofit educational organizations, and for use in vessels and aircraft are also exempt from the excise tax.<sup>6</sup>

The National Firearms Act (the “NFA”),<sup>7</sup> which is codified as chapter 53 of the Code, requires importers, manufacturers, and dealers in firearms to pay a special occupational tax and register with the Treasury, and also imposes excise taxes on the transfer and making of firearms.<sup>8</sup> Generally, in order to engage in business, an importer or manufacturer of firearms is required to pay a special occupational tax of \$1,000 for each year and for each place of business; a dealer of firearms is required to pay a special occupa-

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<sup>1</sup> Sec. 4181.

<sup>2</sup> *Ibid.*

<sup>3</sup> See 27 C.F.R. sec. 53.11 (2006).

<sup>4</sup> Sec. 4182(a).

<sup>5</sup> Sec. 4182(c).

<sup>6</sup> Secs. 4182(b) and 4221(a).

<sup>7</sup> Pub. L. No. 73-474.

<sup>8</sup> Secs. 5801 *et seq.*

tional tax of \$500 for each year and for each place of business.<sup>9</sup> However, persons who conduct businesses exclusively with, or on behalf of, the United States or any department or agency of the United States are generally exempt from the special occupational tax.<sup>10</sup> Generally, importers, manufacturers, and dealers in firearms are required to register with the Secretary of the Treasury (the “Secretary”) in each internal revenue district in which the business is carried on.<sup>11</sup>

For calendar quarters beginning prior to January 1, 2026, an excise tax of \$200 is generally imposed on each firearm<sup>12</sup> that is transferred (“transfer tax”) or made (“making tax”).<sup>13</sup> However, a lower excise tax of \$5 is imposed on each transfer of a firearm classified as any other weapon.<sup>14</sup> For calendar quarters beginning on or after January 1, 2026, Public Law 119–21 reduced to \$0 the transfer and making tax for certain firearms.<sup>15</sup> The transfer tax on firearms is reduced from \$200 to \$0 for each firearm transferred, except for machine guns and destructive devices. The transfer tax on firearms classified as any other weapon is reduced from \$5 to \$0. The making tax on firearms is reduced from \$200 to \$0 for each firearm made, except for machine guns and destructive devices.<sup>16</sup>

In addition, a firearm may be transferred to the United States, or a department, independent establishment, or agency of the United States, without payment of the transfer tax.<sup>17</sup> A firearm may also be transferred or made without payment of the transfer tax or making tax, respectively, if the firearm is transferred or made by or on behalf of a State, possession of the United States, any political subdivision, or any official police organization of a government entity engaged in criminal investigations.<sup>18</sup> Further, a firearm registered to a person that is qualified under the NFA to engage in business as an importer, manufacturer, or dealer may be transferred without payment of transfer tax to any other person qualified to manufacture, import, or deal in that type of firearm.<sup>19</sup> A manufacturer qualified under the NFA may also make the type of firearm which the manufacturer is qualified to manufacture without payment of the making tax.<sup>20</sup>

Under the NFA, a “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches

<sup>9</sup> Sec. 5801(a).

<sup>10</sup> Sec. 5851.

<sup>11</sup> Sec. 5802.

<sup>12</sup> Sec. 5845(a) (definition of “firearm”). The term “firearm” includes machine guns, certain rifles and shotguns, silencers, and weapons classified as any other weapon.

<sup>13</sup> Secs. 5811 and 5821.

<sup>14</sup> As defined in sec. 5845(e). The term “any other weapon” includes, for example, a weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell. The term does not include a pistol or a revolver having a rifled bore or a weapon that is designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

<sup>15</sup> Pub. L. No. 119–21, sec. 70436. Section 70436 is effective for calendar quarters beginning more than 90 days after the date of enactment of Public Law No. 119–21 (July 4, 2025). Therefore, the provision is effective for calendar quarters beginning on or after January 1, 2026.

<sup>16</sup> Pub. L. No. 119–21, sec. 70436.

<sup>17</sup> Sec. 5852(a).

<sup>18</sup> Sec. 5853.

<sup>19</sup> Sec. 5852(d).

<sup>20</sup> Sec. 5852(c).

in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon;<sup>21</sup> (6) a machine gun; (7) a silencer; and (8) a destructive device. The term "firearm" does not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.<sup>22</sup>

#### REASONS FOR CHANGE

The Committee believes that innovative less-than-lethal projectile devices are necessary for protecting our communities and should be promoted. However, the Committee is concerned that current and future non-lethal projectile devices may be subject to Federal excise taxes and regulations, which may stifle the development, production, and availability of these important devices. The provision addresses these concerns by providing that less-than-lethal projectile devices, and similar devices that the Secretary identifies on a publicly available list, are exempted from the firearms and ammunition excise tax and the National Firearms Act.

#### B. EXPLANATION OF PROVISIONS

##### *Exemption of certain less-than-lethal projectile devices from the firearms and ammunition excise tax*

The provision amends the Code to provide that the firearms and ammunition excise tax does not apply to (1) a less-than-lethal projectile device, (2) a device contained on the most recent list made publicly available by the Secretary of less-than-lethal devices with projectiles exceeding 500 feet per second (as described below), and (3) shells or cartridges that (a) are designed and intended to be used in a manner that is not likely to cause death or serious bodily injury and (b) are designed for use in a device described in (1) or (2). The term "less-than-lethal projectile device" is a device that (A) is not designed or intended to expel, and may not be readily converted to accept and discharge, ammunition commonly used in handguns, rifles, or shotguns, or any other projectile at a velocity exceeding 500 feet per second; (B) is designed and intended to be used in a manner that is not likely to cause death or serious bodily injury; and (C) does not accept, and is not able to be readily modified to accept, ammunition feeding devices loaded through the inside of a pistol grip or commonly used in semiautomatic firearms.

The Secretary must make a determination of whether a device satisfies the requirements to be a less-than-lethal projectile device not later than 90 days after the date of receipt of a request for a determination by the manufacturer, producer, or importer of the device. The Secretary must make publicly available a list of devices that the Secretary has determined meet the requirements of being a less-than-lethal projectile device, and the Secretary must update

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<sup>21</sup>The term "any other weapon" includes weapons or devices capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, certain pistols or revolvers having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, and certain weapons with combination shotgun and rifle barrels.

<sup>22</sup>Sec. 5845(a).

the list annually to take into account new devices. In addition, and as referenced above, the Secretary must make publicly available a list of devices that the Secretary has determined would meet the requirements of less-than-lethal projectile devices, except that the devices are designed or intended to expel, or may be readily converted to accept and discharge, projectiles (other than ammunition commonly used in handguns, rifles, or shotguns) at a velocity exceeding 500 feet per second (the “additional exempt devices list”). The Secretary is directed to submit an annual written report to the House Ways and Means Committee and the Senate Finance Committee regarding the additional exempt devices list, including a copy of the list, a description of the devices that were considered for inclusion on the list, and the reasons for including or excluding the devices from the list.

*Exemption of certain less-than-lethal projectile devices from the National Firearms Act*

The provision modifies the definition of “firearm” for purposes of the NFA. The provision provides that less-than-lethal projectile devices and devices contained on the additional exempt devices list are not firearms for purposes of the NFA and thus are not subject to the occupational, transfer, or making taxes. The term “less-than-lethal projectile devices” has the same meaning given that term under the firearms and ammunition excise tax, as amended under the provision.

**C. EFFECTIVE DATE**

The provision is generally effective on the date of enactment. The part of the provision relating to the exemption of certain devices from the firearms and ammunition excise tax generally applies to articles sold by the manufacturer, producer, or importer after the date of enactment. However, with respect to requests to Treasury for determinations of less-than-lethal projectile devices, the provision applies to requests received after the date of enactment, except that requests received during the 180-day period beginning on the date of enactment are treated as received as of the close of that period.

**III. VOTES OF THE COMMITTEE**

In compliance with the Rules of the House Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 4242, the “Innovate Less Lethal to De-Escalate Tax Modernization Act”, on December 10, 2025.

The vote on the amendment offered by Mr. Larson to the amendment in the nature of a substitute to H.R. 4242, which would strike section 3 was not agreed to by a roll call vote of 17 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO) .....	.....	X	.....	Mr. Neal .....	X	.....	.....
Mr. Buchanan .....	.....	X	.....	Mr. Doggett .....	X	.....	.....
Mr. Smith (NE) .....	.....	X	.....	Mr. Thompson .....	X	.....	.....
Mr. Kelly .....	.....	X	.....	Mr. Larson .....	X	.....	.....
Mr. Schweikert .....	.....	X	.....	Mr. Davis .....	X	.....	.....

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. LaHood .....	.....	X	.....	Ms. Sánchez .....	.....	.....	.....
Mr. Arrington .....	.....	.....	.....	Ms. Sewell .....	X	.....	.....
Mr. Estes .....	.....	X	.....	Ms. DelBene .....	X	.....	.....
Mr. Smucker .....	.....	.....	.....	Ms. Chu .....	X	.....	.....
Mr. Hern .....	.....	X	.....	Ms. Moore (WI) .....	X	.....	.....
Mrs. Miller (WV) .....	.....	X	.....	Mr. Boyle .....	X	.....	.....
Dr. Murphy .....	.....	X	.....	Mr. Beyer .....	X	.....	.....
Mr. Kustoff .....	.....	X	.....	Mr. Evans .....	X	.....	.....
Mr. Fitzpatrick .....	.....	.....	.....	Mr. Schneider .....	X	.....	.....
Mr. Steube .....	.....	X	.....	Mr. Panetta .....	X	.....	.....
Ms. Tenney .....	.....	X	.....	Mr. Gomez .....	X	.....	.....
Mrs. Fischbach .....	.....	X	.....	Mr. Horsford .....	X	.....	.....
Mr. Moore (UT) .....	.....	X	.....	Ms. Plaskett .....	.....	.....	.....
Ms. Van Duyne .....	.....	X	.....	Mr. Suozzi .....	X	.....	.....
Mr. Feenstra .....	.....	X	.....				
Ms. Malliotakis .....	.....	X	.....				
Mr. Carey .....	.....	X	.....				
Mr. Yakym .....	.....	X	.....				
Mr. Miller (OH) .....	.....	X	.....				
Mr. Bean .....	.....	X	.....				
Mr. Moran .....	.....	X	.....				

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 4242, the “Innovate Less Lethal to De-Escalate Tax Modernization Act,” on December 10, 2025.

H.R. 4242 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 26 yeas to 15 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO) .....	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE) .....	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly .....	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert .....	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. LaHood .....	X	.....	.....	Ms. Sánchez .....	.....	.....	.....
Mr. Arrington .....	X	.....	.....	Ms. Sewell .....	.....	X	.....
Mr. Estes .....	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Smucker .....	.....	.....	.....	Ms. Chu .....	.....	X	.....
Mr. Hern .....	X	.....	.....	Ms. Moore (WI) .....	.....	X	.....
Mrs. Miller (WV) .....	X	.....	.....	Mr. Boyle .....	X	.....	.....
Dr. Murphy .....	X	.....	.....	Mr. Beyer .....	.....	X	.....
Mr. Kustoff .....	X	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Fitzpatrick .....	.....	.....	.....	Mr. Schneider .....	.....	X	.....
Mr. Steube .....	X	.....	.....	Mr. Panetta .....	.....	X	.....
Ms. Tenney .....	X	.....	.....	Mr. Gomez .....	.....	X	.....
Mrs. Fischbach .....	X	.....	.....	Mr. Horsford .....	.....	X	.....
Mr. Moore (UT) .....	X	.....	.....	Ms. Plaskett .....	.....	.....	.....
Ms. Van Duyne .....	X	.....	.....	Mr. Suozzi .....	.....	X	.....
Mr. Feenstra .....	X	.....	.....				
Ms. Malliotakis .....	X	.....	.....				
Mr. Carey .....	X	.....	.....				
Mr. Yakym .....	X	.....	.....				
Mr. Miller (OH) .....	X	.....	.....				
Mr. Bean .....	X	.....	.....				
Mr. Moran .....	X	.....	.....				

## **IV. BUDGET EFFECTS OF THE BILL**

### **A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4242, as reported.

The provision is estimated to reduce Federal receipts by less than \$500,000 over the budget window.

### **B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

### **C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE**

The Congressional Budget Act of 1974, as amended stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (“JCT”) will be the official estimates for all tax legislation considered by Congress. As such CBO incorporates these estimates into its cost estimates of the effects of the legislation. The estimates for the revenue provisions of H.R. 4242, as reported were provided by JCT (see Part IV, A).

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

### **B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

### **C. APPLICABILITY OF HOUSE RULE XXI, CLAUSE 5(b)**

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.”

The Committee has carefully reviewed the bill, and states that the bill does not provide such a Federal income tax rate increase.

### **D. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

**E. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

**F. DUPLICATION OF FEDERAL PROGRAMS**

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

**G. TAX COMPLEXITY ANALYSIS**

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows.

**CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

## INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

**Subtitle D—Miscellaneous Excise Taxes**

\* \* \* \* \*

**CHAPTER 32—MANUFACTURERS EXCISE TAXES**

\* \* \* \* \*

**Subchapter D—RECREATIONAL EQUIPMENT**

\* \* \* \* \*

**PART III—FIREARMS**

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**SEC. 4182. EXEMPTIONS.**

(a) MACHINE GUNS AND SHORT BARRELLED FIREARMS.—The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid. For purposes of the preceding sentence, any firearm described in section 5811(a)(2) shall be deemed to be a firearm on which the tax provided by section 5811 has been paid.

(b) SALES TO DEFENSE DEPARTMENT.—No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for the military department shall be subject to any tax imposed on the sale or transfer of such articles.

(c) SMALL MANUFACTURERS, ETC.—

(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).

(d) LESS-THAN-LETHAL PROJECTILE DEVICES.—

(1) IN GENERAL.—*The tax imposed by section 4181 shall not apply to—*

(A) *any less-than-lethal projectile device,*

(B) *any device contained on the most recent list made available by the Secretary under paragraph (4)(B), and*

(C) *any shell or cartridge that meets the requirement of paragraph (2)(B) and is designed for use in a device referred to in subparagraph (A) or (B).*

(2) LESS-THAN-LETHAL PROJECTILE DEVICE.—*The term “less-than-lethal projectile device” means a device that—*

(A) *is not designed or intended to expel, and may not be readily converted to accept and discharge—*

(i) *ammunition commonly used in handguns, rifles, or shotguns, or*

(ii) any other projectile at a velocity exceeding 500 feet per second,

(B) is designed and intended to be used in a manner that is not likely to cause death or serious bodily injury, and

(C) does not accept, and is not able to be readily modified to accept, ammunition feeding devices—

(i) loaded through the inside of a pistol grip, or

(ii) commonly used in semiautomatic firearms.

(3) REQUEST FOR CLASSIFICATION.—Pursuant to a request made by the manufacturer, producer, or importer of a device for a determination as to whether such device satisfies the requirements under paragraph (2), the Secretary shall make such determination not later than 90 days after the date of receipt of such request.

(4) ANNUAL REVIEW OF NEW AND EMERGING TECHNOLOGIES.—

(A) LIST OF LESS-THAN-LETHAL PROJECTILE DEVICES.—The Secretary shall make publicly available a list of devices that the Secretary has determined are described in paragraph (2) and shall update such list annually to take into account new devices.

(B) LIST OF NON-LETHAL DEVICES THE PROJECTILES OF WHICH EXCEED 500 FEET PER SECOND.—

(i) IN GENERAL.—The Secretary shall—

(I) make publicly available a list of devices that the Secretary has determined are not described in paragraph (2) but would be so described if such paragraph were applied without regard to subparagraph (A)(ii) thereof, and

(II) update such list annually to take into account new devices.

(ii) REPORT TO CONGRESS.—The Secretary shall annually submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the annual list of devices described in clause (i), including a copy of such list, a description of the devices that were considered for inclusion on such list, and the reasons for including or excluding such devices from such list.

[(d)] (e) RECORDS.—Notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal license under chapter 44 of title 18, United States Code, shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts for the aforesaid types of ammunition.

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## Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

\* \* \* \* \*

## CHAPTER 53—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

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### Subchapter B—GENERAL PROVISIONS AND EXEMPTIONS

\* \* \* \* \*

#### PART I—GENERAL PROVISIONS

\* \* \* \* \*

##### SEC. 5845. DEFINITIONS.

For the purpose of this chapter—

(a) FIREARM.—The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term “firearm” shall not include ~~an antique firearm or~~ any antique firearm, any less-than-lethal projectile device (as defined in section 4182(d)(2)), any device referred to in section 4182(d)(1)(B), or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.

(b) MACHINEGUN.—The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) RIFLE.—The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) SHOTGUN.—The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single

projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) ANY OTHER WEAPON.—The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) DESTRUCTIVE DEVICE.—The term "destructive device" means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10, United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) ANTIQUE FIREARM.—The term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) UNSERVICEABLE FIREARM.—The term "unserviceable firearm" means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) MAKE.—The term "make", and the various derivatives of such word, shall include manufacturing (other than by one qualified to

engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) TRANSFER.—The term “transfer” and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) DEALER.—The term “dealer” means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) IMPORTER.—The term “importer” means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) MANUFACTURER.—The term “manufacturer” means any person who is engaged in the business of manufacturing firearms.

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## VII. DISSENTING AND ADDITIONAL VIEWS

### DISSENTING VIEWS

Last year, Republicans marked up a similar bill that would ensure more dangerous weapons would end up in the hands of individuals who should not possess them. That bill reflected a poorly executed attempt at what may have been a well-intentioned goal to help law enforcement and protect the public. Republicans claimed at the time that the bill is designed to lower barriers for law enforcement to access devices such as TASERs by redefining "firearm" in the Gun Control Act of 1968 to make less-than-lethal weapons more readily available. However, law enforcement officers are already exempt from much of the Gun Control Act and are able to procure both firearms and less-than-lethal projectile devices free of tax. Moreover, redefining "firearm" to exclude less-than-lethal projectile devices from background check requirements is of grave concern for public safety. If enacted, that bill would have enabled people who are currently unable to obtain weapons classified as firearms—such as people convicted of domestic abuse or violent felonies—to more easily obtain dangerous projectile weapons which may be easily modified.

In the year between the last markup and this one, Republicans passed a party-line bill in which they removed any taxes on the purchase of silencers, short-barreled rifles, and short-barreled shot-guns. So it comes as no surprise that the repackaged version of last year's bill—now called the "Innovate Less Lethal to De-Escalate Tax Modernization Act"—is also primarily aimed at lowering taxes on dangerous weapons without meaningfully assisting law enforcement. While we support good faith efforts to aid law enforcement with reducing the use of lethal force, this bill does not move towards that goal. Enabling the public to obtain projectile weapons more easily will only put both law enforcement and the public at risk and potentially escalate confrontations with law enforcement.

Moreover, the term "less-than-lethal projectile device" is both subjective and a misnomer. Many of the weapons that are captured by this term can still cause serious injury and death, with the majority of these deaths occurring after what began as a nonviolent encounter. Furthermore, these weapons can easily be modified by devices available on the market or by personally manufactured parts. The result is a dangerous loophole in the background check system whereby a prohibited purchaser may acquire one of these devices, modify it to have the lethality of a firearm they are not allowed to purchase, and then engage in devastating criminal activity.

Rather than weaken firearm regulations in the name of helping law enforcement, Republicans should focus on strengthening laws that actually protect law enforcement, invest in programs that en-

hance public safety, and prevent people intent on causing harm from easily accessing dangerous weapons.

RICHARD E. NEAL,  
*Ranking Member.*

## ADDITIONAL VIEWS

Thank you, Ranking Member Neal. Mr. Chairman, I appreciate the comments of my friend, Mr. Schweikert, although I think they touched on just one portion of what it is he's trying to do. I'm not sure that there's a lot of disagreement on what you talked about; it's the other things that I think have raised some concern with folks. But like Mr. Schweikert, I support the adoption of less lethal devices, including tasers, which can be used by law enforcement to reduce deadly engagement with civilians and be used by civilians as well to save lives. This is especially true in rural areas, such as the areas that I represent, where backup for law enforcement can be 30 minutes away or more.

As chair of the Gun Violence Prevention Task Force and as the father of a deputy sheriff, I understand the value of better tasers, and so I have concerns in that regard as well. I can also tell you that there are a lot of bad actors who've exploited loopholes in our laws that are used to devastate communities with products like ghost guns, short-barreled rifles, and others.

What I don't understand, and what nobody's been able to satisfactorily explain, are a couple of things in this bill. Law enforcement doesn't currently pay the excise tax on guns nor on tasers. How does eliminating the excise tax on tasers help make tasers more accessible to law enforcement when they don't pay the excise tax?

I'm also told that the main proponent of this bill makes zero products regulated by the National Firearms Act, which is the statute that regulates especially dangerous devices such as machine guns, sawed-off shotguns, short-barreled rifles, and silencers. So, if the new taser isn't regulated under the National Firearms Act, why do the proponents of this bill include Section 3, which will create a new loophole in the National Firearms Act?

Mr. Chairman, I've been talking to proponents of innovative tasers in the gun violence prevention community for months. I can tell you that there's broad support for making tasers more accessible to law enforcement and also a lot of interest in addressing access issues in regards to the excise tax.

But I just find it troubling that this bill would weaken the National Firearms Act under the auspices of supporting taser innovation when tasers aren't regulated under this section of the law. Unless we can sort this out, or unless some of the amendments that are being offered today are adopted, I'm going to have to be a "no" and urge the rest of the committee to be a "no" on this.

MIKE THOMPSON.

