

115TH CONGRESS
1ST SESSION

S. 236

To amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2017

Mr. WYDEN (for himself, Mr. BLUNT, Mr. CARPER, Mr. ROBERTS, Ms. STABENOW, Mr. MORAN, Mr. CASEY, Mr. PORTMAN, Mr. BENNET, Mrs. CAPITO, Ms. BALDWIN, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; RULE OF**
4 **CONSTRUCTION.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Craft Beverage Modernization and Tax Reform Act of
7 2017”.

8 (b) TABLE OF CONTENTS.—The table of contents of
9 this Act is as follows:

Sec. 1. Short title; table of contents; rule of construction.

TITLE I—PRODUCTION PERIOD

Sec. 101. Production period for beer, wine, and distilled spirits.

TITLE II—BEER

Sec. 201. Reduced rate of excise tax on beer.

Sec. 202. Use of wholesome products suitable for human food consumption in the production of fermented beverages.

Sec. 203. Simplification of rules regarding records, statements, and returns.

Sec. 204. Transfer of beer between bonded facilities.

TITLE III—WINE

Sec. 301. Reduced rate of excise tax on certain wine.

Sec. 302. Adjustment of alcohol content level for application of excise tax rates.

Sec. 303. Definition of mead and low alcohol by volume wine.

TITLE IV—DISTILLED SPIRITS

Sec. 401. Reduced rate of excise tax on certain distilled spirits.

Sec. 402. Bulk distilled spirits.

TITLE V—FUNDING

Sec. 501. Increased funding for the Alcohol and Tobacco Tax and Trade Bureau.

1 (c) RULE OF CONSTRUCTION.—Nothing in this Act,
2 the amendments made by this Act, or any regulation pro-
3 mulgated under this Act or the amendments made by this
4 Act, shall be construed to preempt, supersede, or other-
5 wise limit or restrict any State, local, or tribal law that
6 prohibits or regulates the production or sale of distilled
7 spirits, wine, or malt beverages.

8 **TITLE I—PRODUCTION PERIOD**

9 **SEC. 101. PRODUCTION PERIOD FOR BEER, WINE, AND DIS-**
10 **TILLED SPIRITS.**

11 (a) IN GENERAL.—Section 263A(f) of the Internal
12 Revenue Code of 1986 is amended—

1 (1) by redesignating paragraph (4) as para-
2 graph (5), and

3 (2) by inserting after paragraph (3) the fol-
4 lowing new paragraph:

5 “(4) EXEMPTION FOR AGING PROCESS OF
6 BEER, WINE, AND DISTILLED SPIRITS.—For pur-
7 poses of this subsection, the production period shall
8 not include the aging period for—

9 “(A) beer (as defined in section 5052(a)),

10 “(B) wine (as described in section
11 5041(a)), or

12 “(C) distilled spirits (as defined in section
13 5002(a)(8)), except such spirits that are unfit
14 for use for beverage purposes.”.

15 (b) CONFORMING AMENDMENT.—Paragraph
16 (5)(B)(ii) of section 263A(f) of the Internal Revenue Code
17 of 1986, as redesignated by this section, is amended by
18 inserting “except as provided in paragraph (4),” before
19 “ending on the date”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to interest costs paid or incurred
22 in taxable years ending on or after December 31, 2018.

TITLE II—BEER

SEC. 201. REDUCED RATE OF EXCISE TAX ON BEER.

(a) IN GENERAL.—Paragraph (1) of section 5051(a) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) IN GENERAL.—

“(A) IMPOSITION OF TAX.—A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be—

“(i) \$16 on the first 6,000,000 barrels of beer—

“(I) brewed by the brewer and removed during the calendar year for consumption or sale, or

“(II) imported by the importer into the United States during the calendar year, and

“(ii) \$18 on any barrels of beer to which clause (i) does not apply.

“(B) BARREL.—For purposes of this section, a barrel shall contain not more than 31 gallons of beer, and any tax imposed under this

1 section shall be applied at a like rate for any
 2 other quantity or for fractional parts of a bar-
 3 rel.”.

4 (b) REDUCED RATE FOR CERTAIN DOMESTIC PRO-
 5 DUCTION.—Subparagraph (A) of section 5051(a)(2) of the
 6 Internal Revenue Code of 1986 is amended—

7 (1) in the heading, by striking “\$7” and insert-
 8 ing “\$3.50”, and

9 (2) by striking “\$7” and inserting “\$3.50”.

10 (c) APPLICATION OF REDUCED TAX RATE FOR FOR-
 11 EIGN MANUFACTURERS AND IMPORTERS.—Subsection (a)
 12 of section 5051 of the Internal Revenue Code of 1986 is
 13 amended—

14 (1) in subparagraph (A)(i)(II) of paragraph (1),
 15 as amended by subsection (a) of this section, by in-
 16 serting “but only if the importer is an electing im-
 17 porter under paragraph (4) and the barrels have
 18 been assigned to the importer pursuant to such
 19 paragraph” after “during the calendar year”, and

20 (2) by adding at the end the following new
 21 paragraph:

22 “(4) REDUCED TAX RATE FOR FOREIGN MANU-
 23 FACTURERS AND IMPORTERS.—

24 “(A) IN GENERAL.—In the case of any
 25 barrels of beer which have been brewed or pro-

1 duced outside of the United States and im-
2 ported into the United States, the rate of tax
3 applicable under clause (i) of paragraph (1)(A)
4 (referred to in this paragraph as the ‘reduced
5 tax rate’) may be assigned by the brewer (pro-
6 vided that the brewer makes an election de-
7 scribed in subparagraph (B)(ii)) to any electing
8 importer of such barrels pursuant to the re-
9 quirements established by the Secretary of the
10 Treasury under subparagraph (B).

11 “(B) ASSIGNMENT.—The Secretary of the
12 Treasury, in consultation with the Secretary of
13 Health and Human Services and the Secretary
14 of the Department of Homeland Security, shall,
15 through such rules, regulations, and procedures
16 as are determined appropriate, establish proce-
17 dures for assignment of the reduced tax rate
18 provided under this paragraph, which shall in-
19 clude—

20 “(i) a limitation to ensure that the
21 number of barrels of beer for which the re-
22 duced tax rate has been assigned by a
23 brewer—

24 “(I) to any importer does not ex-
25 ceed the number of barrels of beer

1 brewed or produced by such brewer
2 during the calendar year which were
3 imported into the United States by
4 such importer, and

5 “(II) to all importers does not
6 exceed the 6,000,000 barrels to which
7 the reduced tax rate applies,

8 “(ii) procedures that allow the election
9 of a brewer to assign and an importer to
10 receive the reduced tax rate provided under
11 this paragraph,

12 “(iii) requirements that the brewer
13 provide any information as the Secretary
14 determines necessary and appropriate for
15 purposes of carrying out this paragraph,
16 and

17 “(iv) procedures that allow for revoca-
18 tion of eligibility of the brewer and the im-
19 porter for the reduced tax rate provided
20 under this paragraph in the case of any er-
21 roneous or fraudulent information provided
22 under clause (iii) which the Secretary
23 deems to be material to qualifying for such
24 reduced rate.

1 “(C) CONTROLLED GROUP.—For purposes
 2 of this section, any importer making an election
 3 described in subparagraph (B)(ii) shall be
 4 deemed to be a member of the controlled group
 5 of the brewer, as described under paragraph
 6 (5).”.

7 (d) CONTROLLED GROUP AND SINGLE TAXPAYER
 8 RULES.—Subsection (a) of section 5051 of the Internal
 9 Revenue Code of 1986, as amended by this section, is
 10 amended—

11 (1) in paragraph (2)—

12 (A) by striking subparagraph (B), and

13 (B) by redesignating subparagraph (C) as
 14 subparagraph (B), and

15 (2) by adding at the end the following new
 16 paragraph:

17 “(5) CONTROLLED GROUP AND SINGLE TAX-
 18 PAYER RULES.—

19 “(A) IN GENERAL.—Except as provided in
 20 subparagraph (B), in the case of a controlled
 21 group, the 6,000,000 barrel quantity specified
 22 in paragraph (1)(A)(i) and the 2,000,000 barrel
 23 quantity specified in paragraph (2)(A) shall be
 24 applied to the controlled group, and the
 25 6,000,000 barrel quantity specified in para-

graph (1)(A)(i) and the 60,000 barrel quantity specified in paragraph (2)(A) shall be apportioned among the brewers who are members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

“(B) FOREIGN MANUFACTURERS AND IMPORTERS.—For purposes of paragraph (4), in the case of a controlled group, the 6,000,000 barrel quantity specified in paragraph (1)(A)(i) shall be applied to the controlled group and apportioned among the members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of

1 the preceding sentence, the term ‘controlled
 2 group’ has the meaning given such term under
 3 subparagraph (A). Under regulations prescribed
 4 by the Secretary or his delegate, principles simi-
 5 lar to the principles of the preceding two sen-
 6 tences shall be applied to a group of brewers
 7 under common control where one or more of the
 8 brewers is not a corporation.

9 “(C) SINGLE TAXPAYER.—Pursuant to
 10 rules issued by the Secretary, two or more enti-
 11 ties (whether or not under common control)
 12 that produce beer marketed under a similar
 13 brand, license, franchise, or other arrangement
 14 shall be treated as a single taxpayer for pur-
 15 poses of the application of this subsection.”.

16 (e) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Subject to paragraph (2),
 18 the amendments made by this section shall apply to
 19 beer removed after September 30, 2019.

20 (2) PRORATION.—For purposes of the fourth
 21 calendar quarter of 2019, the Secretary of the
 22 Treasury (or the Secretary’s delegate) shall issue
 23 such guidance, rules, or regulations as are deemed
 24 appropriate to provide that the amendments made

1 by this section are applied on a prorated basis for
 2 purposes of beer removed during such quarter.

3 **SEC. 202. USE OF WHOLESOME PRODUCTS SUITABLE FOR**
 4 **HUMAN FOOD CONSUMPTION IN THE PRO-**
 5 **DUCTION OF FERMENTED BEVERAGES.**

6 (a) IN GENERAL.—Not later than the date that is
 7 1 year after the date of the enactment of this Act, the
 8 Secretary of the Treasury or the Secretary of the Treas-
 9 ury’s delegate shall amend subpart F of part 25 of sub-
 10 chapter A of chapter I of title 27, Code of Federal Regula-
 11 tions, to ensure that, for purposes of such part, wholesome
 12 fruits, vegetables, and spices suitable for human food con-
 13 sumption that are generally recognized as safe for use in
 14 an alcoholic beverage and that do not contain alcohol are
 15 generally recognized as a traditional ingredient in the pro-
 16 duction of fermented beverages.

17 (b) DEFINITION.—For purposes of this section, the
 18 term “fruit” means whole fruit, fruit juices, fruit puree,
 19 fruit extract, or fruit concentrate.

20 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
 21 tion shall be construed to revoke, prescribe, or limit any
 22 other exemptions from the formula requirements under
 23 subpart F of part 25 of subchapter A of chapter I of title
 24 27, Code of Federal Regulations, for any ingredient that
 25 has been recognized before, on, or after the date of the

1 enactment of this Act as a traditional ingredient in the
 2 production of fermented beverages.

3 **SEC. 203. SIMPLIFICATION OF RULES REGARDING**
 4 **RECORDS, STATEMENTS, AND RETURNS.**

5 (a) IN GENERAL.—Subsection (a) of section 5555 of
 6 the Internal Revenue Code of 1986 is amended by adding
 7 at the end the following: “The Secretary shall permit a
 8 person to employ a unified system for any records, state-
 9 ments, and returns required to be kept, rendered, or made
 10 under this section for any beer produced in the brewery
 11 for which the tax imposed by section 5051 has been deter-
 12 mined, including any beer which has been removed for
 13 consumption on the premises of the brewery.”.

14 (b) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to any calendar quarters beginning
 16 more than 1 year after the date of the enactment of this
 17 Act.

18 **SEC. 204. TRANSFER OF BEER BETWEEN BONDED FACILI-**
 19 **TIES.**

20 (a) IN GENERAL.—Section 5414 of the Internal Rev-
 21 enue Code of 1986 is amended to read as follows:

22 **“SEC. 5414. TRANSFER OF BEER BETWEEN BONDED FACILI-**
 23 **TIES.**

24 “(a) IN GENERAL.—Beer may be removed from one
 25 brewery to another bonded brewery, without payment of

1 tax, and may be mingled with beer at the receiving brew-
 2 ery, subject to such conditions, including payment of the
 3 tax, and in such containers, as the Secretary by regula-
 4 tions shall prescribe, which shall include—

5 “(1) any removal from one brewery to another
 6 brewery belonging to the same brewer,

7 “(2) any removal from a brewery owned by one
 8 corporation to a brewery owned by another corpora-
 9 tion when—

10 “(A) one such corporation owns the con-
 11 trolling interest in the other such corporation,
 12 or

13 “(B) the controlling interest in each such
 14 corporation is owned by the same person or per-
 15 sons, and

16 “(3) any removal from one brewery to another
 17 brewery when—

18 “(A) the proprietors of transferring and
 19 receiving premises are independent of each
 20 other and neither has a proprietary interest, di-
 21 rectly or indirectly, in the business of the other,
 22 and

23 “(B) the transferor has divested itself of
 24 all interest in the beer so transferred and the

1 transferee has accepted responsibility for pay-
 2 ment of the tax.

3 “(b) TRANSFER OF LIABILITY FOR TAX.—For pur-
 4 poses of subsection (a)(3), such relief from liability shall
 5 be effective from the time of removal from the transferor’s
 6 bonded premises, or from the time of divestment of inter-
 7 est, whichever is later.”.

8 (b) REMOVAL FROM BREWERY BY PIPELINE.—Sec-
 9 tion 5412 of the Internal Revenue Code of 1986 is amend-
 10 ed by inserting “pursuant to section 5414 or” before “by
 11 pipeline”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to any calendar quarters beginning
 14 more than 1 year after the date of the enactment of this
 15 Act.

16 **TITLE III—WINE**

17 **SEC. 301. REDUCED RATE OF EXCISE TAX ON CERTAIN** 18 **WINE.**

19 (a) IN GENERAL.—Section 5041(c) of the Internal
 20 Revenue Code of 1986 is amended—

21 (1) in the heading, by striking “FOR SMALL
 22 DOMESTIC PRODUCERS”,

23 (2) by amending paragraph (1) to read as fol-
 24 lows:

25 “(1) ALLOWANCE OF CREDIT.—

1 “(A) IN GENERAL.—There shall be allowed
2 as a credit against any tax imposed by this title
3 (other than chapters 2, 21, and 22) an amount
4 equal to the sum of—

5 “(i) \$1 per wine gallon on the first
6 30,000 wine gallons of wine, plus

7 “(ii) 90 cents per wine gallon on the
8 first 100,000 wine gallons of wine to which
9 clause (i) does not apply, plus

10 “(iii) 53.5 cents per wine gallon on
11 the first 620,000 wine gallons of wine to
12 which clauses (i) and (ii) do not apply,

13 which are produced by the producer and re-
14 moved during the calendar year for consump-
15 tion or sale, or which are imported by the im-
16 porter into the United States during the cal-
17 endar year.

18 “(B) ADJUSTMENT OF CREDIT FOR HARD
19 CIDER.—In the case of wine described in sub-
20 section (b)(6), subparagraph (A) of this para-
21 graph shall be applied—

22 “(i) in clause (i) of such subpara-
23 graph, by substituting ‘6.2 cents’ for ‘\$1’,

1 “(ii) in clause (ii) of such subpara-
 2 graph, by substituting ‘5.6 cents’ for ‘90
 3 cents’, and

4 “(iii) in clause (iii) of such subpara-
 5 graph, by substituting ‘3.3 cents’ for ‘53.5
 6 cents’.”,

7 (3) by striking paragraph (2),

8 (4) by redesignating paragraphs (3) through
 9 (7) as paragraphs (2) through (6), respectively, and

10 (5) by amending paragraph (6), as redesignated
 11 by paragraph (4) of this subsection, to read as fol-
 12 lows:

13 “(6) REGULATIONS.—The Secretary may pre-
 14 scribe such regulations as may be necessary to carry
 15 out the purposes of this subsection, including regula-
 16 tions to ensure proper calculation of the credit pro-
 17 vided in this subsection.”.

18 (b) CONTROLLED GROUP AND SINGLE TAXPAYER
 19 RULES.—Paragraph (3) of section 5041(c), as redesi-
 20 gnated by subsection (a)(4), is amended by striking “sec-
 21 tion 5051(a)(2)(B)” and inserting “section 5051(a)(5)”.

22 (c) ALLOWANCE OF CREDIT FOR FOREIGN MANU-
 23 FACTURERS AND IMPORTERS.—Subsection (c) of section
 24 5041 of the Internal Revenue Code of 1986, as amended
 25 by subsection (a), is amended—

1 (1) in subparagraph (A) of paragraph (1), by
 2 inserting “but only if the importer is an electing im-
 3 porter under paragraph (6) and the wine gallons of
 4 wine have been assigned to the importer pursuant to
 5 such paragraph” after “into the United States dur-
 6 ing the calendar year”,

7 (2) by redesignating paragraph (6) as para-
 8 graph (7), and

9 (3) by inserting after paragraph (5) the fol-
 10 lowing new paragraph:

11 “(6) ALLOWANCE OF CREDIT FOR FOREIGN
 12 MANUFACTURERS AND IMPORTERS.—

13 “(A) IN GENERAL.—In the case of any
 14 wine gallons of wine which have been produced
 15 outside of the United States and imported into
 16 the United States, the credit allowable under
 17 paragraph (1) (referred to in this paragraph as
 18 the ‘tax credit’) may be assigned by the person
 19 who produced such wine (referred to in this
 20 paragraph as the ‘foreign producer’), provided
 21 that such person makes an election described in
 22 subparagraph (B)(ii), to any electing importer
 23 of such wine gallons pursuant to the require-
 24 ments established by the Secretary of the
 25 Treasury under subparagraph (B).

1 “(B) ASSIGNMENT.—The Secretary of the
2 Treasury, in consultation with the Secretary of
3 Health and Human Services and the Secretary
4 of the Department of Homeland Security, shall,
5 through such rules, regulations, and procedures
6 as are determined appropriate, establish proce-
7 dures for assignment of the tax credit provided
8 under this paragraph, which shall include—

9 “(i) a limitation to ensure that the
10 number of wine gallons of wine for which
11 the tax credit has been assigned by a for-
12 eign producer—

13 “(I) to any importer does not ex-
14 ceed the number of wine gallons of
15 wine produced by such foreign pro-
16 ducer during the calendar year which
17 were imported into the United States
18 by such importer, and

19 “(II) to all importers does not
20 exceed the 750,000 wine gallons of
21 wine to which the tax credit applies,

22 “(ii) procedures that allow the election
23 of a foreign producer to assign and an im-
24 porter to receive the tax credit provided
25 under this paragraph,

1 “(iii) requirements that the foreign
 2 producer provide any information as the
 3 Secretary determines necessary and appro-
 4 priate for purposes of carrying out this
 5 paragraph, and

6 “(iv) procedures that allow for revoca-
 7 tion of eligibility of the foreign producer
 8 and the importer for the tax credit pro-
 9 vided under this paragraph in the case of
 10 any erroneous or fraudulent information
 11 provided under clause (iii) which the Sec-
 12 retary deems to be material to qualifying
 13 for such credit.

14 “(C) CONTROLLED GROUP.—For purposes
 15 of this section, any importer making an election
 16 described in subparagraph (B)(ii) shall be
 17 deemed to be a member of the controlled group
 18 of the foreign producer, as described under
 19 paragraph (3).”.

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Subject to paragraph (2),
 22 the amendments made by this section shall apply to
 23 wine removed after September 30, 2019.

24 (2) PRORATION.—For purposes of the fourth
 25 calendar quarter of 2019, the Secretary of the

1 Treasury (or the Secretary’s delegate) shall issue
 2 such guidance, rules, or regulations as are deemed
 3 appropriate to provide that the amendments made
 4 by this section are applied on a prorated basis for
 5 purposes of wine removed during such quarter.

6 **SEC. 302. ADJUSTMENT OF ALCOHOL CONTENT LEVEL FOR**
 7 **APPLICATION OF EXCISE TAX RATES.**

8 (a) IN GENERAL.—Paragraphs (1) and (2) of section
 9 5041(b) of the Internal Revenue Code of 1986 are amend-
 10 ed by striking “14 percent” each place it appears and in-
 11 serting “16 percent”.

12 (b) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to wine removed during calendar
 14 years beginning after December 31, 2018.

15 **SEC. 303. DEFINITION OF MEAD AND LOW ALCOHOL BY**
 16 **VOLUME WINE.**

17 (a) IN GENERAL.—Section 5041 of the Internal Rev-
 18 enue Code of 1986 is amended—

19 (1) in subsection (a), by striking “Still wines”
 20 and inserting “Subject to subsection (h), still
 21 wines”, and

22 (2) by adding at the end the following new sub-
 23 section:

24 “(h) MEAD AND LOW ALCOHOL BY VOLUME
 25 WINE.—

1 “(1) IN GENERAL.—For purposes of sub-
 2 sections (a) and (b)(1), mead and low alcohol by vol-
 3 ume wine shall be deemed to be still wines con-
 4 taining not more than 16 percent of alcohol by vol-
 5 ume.

6 “(2) DEFINITIONS.—

7 “(A) MEAD.—For purposes of this section,
 8 the term ‘mead’ means a wine—

9 “(i) containing not more than 0.64
 10 gram of carbon dioxide per hundred milli-
 11 liters of wine, except that the Secretary
 12 may by regulations prescribe such toler-
 13 ances to this limitation as may be reason-
 14 ably necessary in good commercial prac-
 15 tice,

16 “(ii) which is derived solely from
 17 honey and water,

18 “(iii) which contains no fruit product
 19 or fruit flavoring, and

20 “(iv) which contains less than 8.5 per-
 21 cent alcohol by volume.

22 “(B) LOW ALCOHOL BY VOLUME WINE.—
 23 For purposes of this section, the term ‘low alco-
 24 hol by volume wine’ means a wine—

“(i) containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary may by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice,

“(ii) which is derived—

“(I) primarily from grapes, or

“(II) from grape juice concentrate and water,

“(iii) which contains no fruit product or fruit flavoring other than grape, and

“(iv) which contains less than 8.5 percent alcohol by volume.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wine removed during calendar years beginning after December 31, 2018.

TITLE IV—DISTILLED SPIRITS

SEC. 401. REDUCED RATE OF EXCISE TAX ON CERTAIN DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5001 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

1 “(c) REDUCED RATE.—

2 “(1) IN GENERAL.—In the case of a distilled
3 spirits operation, the otherwise applicable tax rate
4 under subsection (a)(1) shall be—

5 “(A) \$2.70 per proof gallon on the first
6 100,000 proof gallons of distilled spirits, and

7 “(B) \$13.34 per proof gallon on the first
8 22,130,000 of proof gallons of distilled spirits
9 to which subparagraph (A) does not apply,
10 which have been distilled or processed by such oper-
11 ation and removed during the calendar year for con-
12 sumption or sale, or which have been imported by
13 the importer into the United States during the cal-
14 endar year.

15 “(2) CONTROLLED GROUPS.—

16 “(A) IN GENERAL.—In the case of a con-
17 trolled group, the proof gallon quantities speci-
18 fied under subparagraphs (A) and (B) of para-
19 graph (1) shall be applied to such group and
20 apportioned among the members of such group
21 in such manner as the Secretary or his delegate
22 shall by regulations prescribe.

23 “(B) DEFINITION.—For purposes of sub-
24 paragraph (A), the term ‘controlled group’ shall
25 have the meaning given such term by subsection

1 (a) of section 1563, except that ‘more than 50
 2 percent’ shall be substituted for ‘at least 80
 3 percent’ each place it appears in such sub-
 4 section.

5 “(C) RULES FOR NON-CORPORATIONS.—
 6 Under regulations prescribed by the Secretary,
 7 principles similar to the principles of subpara-
 8 graphs (A) and (B) shall be applied to a group
 9 under common control where one or more of the
 10 persons is not a corporation.

11 “(D) SINGLE TAXPAYER.—Pursuant to
 12 rules issued by the Secretary, two or more enti-
 13 ties (whether or not under common control)
 14 that produce distilled spirits marketed under a
 15 similar brand, license, franchise, or other ar-
 16 rangement shall be treated as a single taxpayer
 17 for purposes of the application of this sub-
 18 section.”.

19 (b) CONFORMING AMENDMENT.—Section 7652(f)(2)
 20 of the Internal Revenue Code of 1986 is amended by strik-
 21 ing “section 5001(a)(1)” and inserting “subsection (a)(1)
 22 of section 5001, determined as if subsection (c)(1) of such
 23 section did not apply”.

24 (c) APPLICATION OF REDUCED TAX RATE FOR FOR-
 25 EIGN MANUFACTURERS AND IMPORTERS.—Subsection (c)

1 of section 5001 of the Internal Revenue Code of 1986,
2 as added by subsection (a), is amended—

3 (1) in paragraph (1), by inserting “but only if
4 the importer is an electing importer under para-
5 graph (3) and the proof gallons of distilled spirits
6 have been assigned to the importer pursuant to such
7 paragraph” after “into the United States during the
8 calendar year”, and

9 (2) by adding at the end the following new
10 paragraph:

11 “(3) REDUCED TAX RATE FOR FOREIGN MANU-
12 FACTURERS AND IMPORTERS.—

13 “(A) IN GENERAL.—In the case of any
14 proof gallons of distilled spirits which have been
15 produced outside of the United States and im-
16 ported into the United States, the rate of tax
17 applicable under paragraph (1) (referred to in
18 this paragraph as the ‘reduced tax rate’) may
19 be assigned by the distilled sprits operation
20 (provided that such operation makes an election
21 described in subparagraph (B)(ii)) to any elect-
22 ing importer of such proof gallons pursuant to
23 the requirements established by the Secretary
24 of the Treasury under subparagraph (B).

1 “(B) ASSIGNMENT.—The Secretary of the
2 Treasury, in consultation with the Secretary of
3 Health and Human Services and the Secretary
4 of the Department of Homeland Security, shall,
5 through such rules, regulations, and procedures
6 as are determined appropriate, establish proce-
7 dures for assignment of the reduced tax rate
8 provided under this paragraph, which shall in-
9 clude—

10 “(i) a limitation to ensure that the
11 number of proof gallons of distilled spirits
12 for which the reduced tax rate has been as-
13 signed by a distilled spirits operation—

14 “(I) to any importer does not ex-
15 ceed the number of proof gallons pro-
16 duced by such operation during the
17 calendar year which were imported
18 into the United States by such im-
19 porter, and

20 “(II) to all importers does not
21 exceed the 22,230,000 proof gallons of
22 distilled spirits to which the reduced
23 tax rate applies,

24 “(ii) procedures that allow the election
25 of a distilled spirits operation to assign

1 and an importer to receive the reduced tax
2 rate provided under this paragraph,

3 “(iii) requirements that the distilled
4 spirits operation provide any information
5 as the Secretary determines necessary and
6 appropriate for purposes of carrying out
7 this paragraph, and

8 “(iv) procedures that allow for revoca-
9 tion of eligibility of the distilled spirits op-
10 eration and the importer for the reduced
11 tax rate provided under this paragraph in
12 the case of any erroneous or fraudulent in-
13 formation provided under clause (iii) which
14 the Secretary deems to be material to
15 qualifying for such reduced rate.

16 “(C) CONTROLLED GROUP.—

17 “(i) IN GENERAL.—For purposes of
18 this section, any importer making an elec-
19 tion described in subparagraph (B)(ii)
20 shall be deemed to be a member of the
21 controlled group of the distilled spirits op-
22 eration, as described under paragraph (2).

23 “(ii) APPORTIONMENT.—For purposes
24 of this paragraph, in the case of a con-

1 trolled group, rules similar to section
2 5051(a)(5)(B) shall apply.”.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 the amendments made by this section shall apply to
6 distilled spirits removed after September 30, 2019.

7 (2) PRORATION.—For purposes of the fourth
8 calendar quarter of 2019, the Secretary of the
9 Treasury (or the Secretary’s delegate) shall issue
10 such guidance, rules, or regulations as are deemed
11 appropriate to provide that the amendments made
12 by this section are applied on a prorated basis for
13 purposes of distilled spirits removed during such
14 quarter.

15 **SEC. 402. BULK DISTILLED SPIRITS.**

16 (a) IN GENERAL.—Section 5212 of the Internal Rev-
17 enue Code of 1986 is amended—

18 (1) by striking “Bulk distilled spirits on which”
19 and inserting “Distilled spirits on which”, and

20 (2) by striking “bulk” each place it appears.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply distilled spirits transferred in bond
23 in any calendar quarters beginning more than 1 year after
24 the date of the enactment of this Act.

TITLE V—FUNDING

SEC. 501. INCREASED FUNDING FOR THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU.

(a) IN GENERAL.—For necessary expenses of carrying out section 1111(d) of the Homeland Security Act of 2002 (6 U.S.C. 531(d)), there are authorized to be appropriated—

(1) for fiscal year 2017, \$116,439,000, to remain available until September 30, 2018; and

(2) for fiscal year 2018, \$119,081,000, to remain available until September 30, 2019.

(b) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated under subsection (a), for each of fiscal years 2017 and 2018—

(1) \$5,000,000 shall be for the costs of accelerating the processing of formula and label applications;

(2) \$5,000,000 shall be for the costs of programs to enforce trade practice violations of the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); and

(3) \$5,000,000 shall be for the purpose of carrying out the provisions of this Act and the amendments made by this Act, including accelerating the

- 1 processing of permit applications for non-industrial
- 2 alcohol production and distribution.

