

Public Law 96-598
96th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes.

Dec. 24, 1980
[H.R. 3317]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal
Revenue Code of
1954,
amendment.

SECTION 1. EXCISE TAX REFUNDS IN CASE OF CERTAIN USES OF TREAD RUBBER.

(a) REFUNDS FOR CERTAIN USES.—Subparagraph (G) of section 6416(b)(2) of the Internal Revenue Code of 1954 (relating to special cases in which tax payments considered overpayments) is amended to read as follows:

26 USC 6416.

“(G) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4)—

“(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

“(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

“(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

“(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);”.

(b) USE IN FURTHER MANUFACTURE, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 6416(b) of such Code (relating to tax-paid articles used for further manufacture, etc.) is amended by inserting after subparagraph (C) the following new subparagraph:

“(D) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);”.

(2) TECHNICAL AMENDMENTS.—

26 USC 6416.

(A) Subparagraph (E) of section 6416(b)(2) of such Code is amended by inserting after “paragraph (3)” the following: “(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),”.

(B) Subparagraph (C) of section 6416(a)(1) of such Code is amended by striking out “(b)(3)(C)” and inserting in lieu thereof “(b)(3) (C) or (D)”.

(C) Subparagraph (A) of section 6416(b)(3) of such Code is amended by inserting “(D),” after “(C),”.

(D) Subparagraph (A) of section 6416(b)(4) of such Code is amended by striking out “section 4071” and inserting in lieu thereof “section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,”.

26 USC 6511.

(c) STATUTE OF LIMITATIONS.—Section 6511 of such Code (relating to limitations on credit or refund) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) SPECIAL RULE FOR CERTAIN TREAD RUBBER TAX CREDITS OR REFUNDS.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire if claim therefor is filed before the date which is one year after the day on which such adjustment is made.”.

Ante, p. 3485.

26 USC 4071.

(d) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—Section 4071 of such Code (relating to excise tax on tires and tubes) is amended by adding at the end thereof the following new subsection:

“(f) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—“(1) IN GENERAL.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

“(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

“(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

“(2) EXCEPTION FOR CERTAIN TAXABLE SALES.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061.”.

26 USC 4071
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

26 USC 1034
note.

SEC. 2. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—In the case of an individual—

(1) who sold his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1954) in 1977,

(2) who purchased property on which to construct a new principal residence (within the meaning of such section)—

(A) the construction of which commenced during such year, and

(B) the construction of which was terminated before completion,

(3) who brought an action, and obtained a judgment, against the builder who commenced construction of the new residence but failed to complete it,

(4) who suspended construction of such residence so that the partially constructed residence could be used as evidence in connection with the prosecution of the builder (without regard to whether it was so used), and

(5) who failed to meet the requirements of such section with respect to occupancy of the new principal residence because of such suspension of construction,

the Secretary of the Treasury, in the administration of section 1034(c) of the Internal Revenue Code of 1954 (relating to rules for application of section 1034), shall apply paragraph (5) of such section as if "5 years" were substituted for "2 years" where it appears in the last sentence of such paragraph.

(b) **EFFECTIVE DATE.**—The provisions of the first section of this Act shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1983.

SEC. 3. DISCLOSURE OF TAX RETURNS TO STATE AUDIT AGENCIES.

(a) **GENERAL RULE.**—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows:

26 USC 6103.

"(d) **DISCLOSURE TO STATE TAX OFFICIALS.**—

"(1) **IN GENERAL.**—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

26 USC 1, 1401,
1501, 2001, 2501,
3101, 3301, 3401,
4001, 4061, 4981,
5001, 5701, 4481.

"(2) **DISCLOSURE TO STATE AUDIT AGENCIES.**—

"(A) **IN GENERAL.**—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

“(B) **STATE AUDIT AGENCY.**—For purposes of subparagraph (A), the term ‘State audit agency’ means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.”.

26 USC 6103
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. TREATMENT OF BONNER'S FERRY RESTORIUM UNDER THE SUPPLEMENTARY SECURITY INCOME PROGRAM.

42 USC 1381.

(a) **TREATMENT AS NON-PUBLIC INSTITUTION.**—For purposes of title XVI of the Social Security Act, the Boundary County Restorium (popularly known as the Bonner's Ferry Restorium) in Bonner's Ferry, Idaho, shall not be considered a public institution (within the meaning of section 1611(e)(1)(C) of such Act).

42 USC 1382.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning with November 1980.

SEC. 5. TREATMENT OF CERTAIN EXPENSES INCLUDIBLE IN THE INCOME OF THE RECIPIENT.

26 USC 274.

(a) **IN GENERAL.**—Subsection (e) of section 274 of the Internal Revenue Code of 1954 (relating to specific exceptions to application of disallowance of certain entertainment, etc., expenses) is amended by inserting after paragraph (9) the following new paragraph:

“(10) **EXPENSES INCLUDIBLE IN INCOME OF PERSONS WHO ARE NOT EMPLOYEES.**—Expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less than \$600) in any information return filed by such taxpayer under part III of subchapter A of chapter 61 and is not so included.”

26 USC 6031.

26 USC 274 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to any expenses paid or incurred after December 31, 1980, in taxable years ending after such date.

SEC. 6. PRESERVING EXISTING TAX STATUS OF WINE AND FLAVORS USED IN THE PRODUCTION OF DISTILLED SPIRITS.

(a) **ALLOWANCE OF CREDIT.**—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1954 (relating to distilled spirits) is amended by adding at the end thereof the following new section:

26 USC 5010.

SEC. 5010. CREDIT FOR WINE CONTENT AND FOR FLAVORS CONTENT.

“(a) **ALLOWANCE OF CREDIT.**—

“(1) **WINE CONTENT.**—On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

“(A) \$10.50, over

“(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

“(2) **FLAVORS CONTENT.**—On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to \$10.50.

“(3) **FRACTIONAL PART OF PROOF GALLON.**—In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

“(b) **TIME FOR DETERMINING AND ALLOWING CREDIT.**—

“(1) **IN GENERAL.**—The credit allowable by subsection (a)—

“(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

“(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

“(2) **DETERMINATION OF CONTENT IN THE CASE OF IMPORTS.**—For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **WINE CONTENT.**—

“(A) **IN GENERAL.**—The term ‘wine content’ means alcohol derived from wine.

“(B) **WINE.**—The term ‘wine’—

“(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

“(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

“(2) **FLAVORS CONTENT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘flavors content’ means alcohol derived from flavors of a type for which drawback is allowable under section 5134.

“(B) **EXCEPTIONS.**—The term ‘flavors content’ does not include—

“(i) alcohol derived from flavors made at a distilled spirits plant, and

“(ii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end thereof the following new item:

“Sec. 5010. Credit for wine content and for flavors content.”

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and

(b) shall take effect on January 1, 1980.

26 USC 5010
note.

26 USC 5212.

(d) **TRANSFERS OF ALCOHOL.**—Section 5212 of the Internal Revenue Code of 1954 (relating to the transfer of spirits in bond) is amended by adding at the end thereof the following new sentence: "The provisions of this section restricting transfers to bulk distilled spirits shall not apply to alcohol bottled under the provisions of section 5235 which is to be withdrawn for industrial purposes."

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-560 (Comm. on Ways and Means).

SENATE REPORT No. 96-898 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 27, considered and passed House.

Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.

Dec. 10, House agreed to Senate amendments with amendments.

Dec. 12, Senate agreed to House amendments.