

CRAFT BEVERAGE MODERNIZATION AND TAX REFORM ACT

General Provisions

Sec. 101 Exempt aging period of beer, wine, and spirits from certain capitalization rules.

Under present law, taxpayers may generally deduct interest expense on a loan in the year in which it is incurred, along with certain costs of goods sold. Interest expense and other direct and indirect costs related to the production of goods for sale generally must be capitalized over the production period and recovered when the goods are sold. The IRS has held that producers of wine must include the time that wine ages in bottles as part of the production period, which concludes when the wine vintage is officially released to the distribution chain. In addition, those same rules apply to barrel aging of beer, wine, and distilled spirits. This proposal would exclude aging periods for beer, wine, and distilled spirits from the production period for purposes of the interest expense capitalization rules. This proposal draws on the AGED Spirits Act (S.1179) sponsored by Senators McConnell and Paul.

Beer Provisions

Sec. 201 Reduce excise taxes for brewers.

Beer is currently taxed at \$18 per barrel (31 gallons). Present law provides a reduced \$7 per barrel rate for the first 60,000 barrels for brewers producing less than 2 million barrels annually. This provision would provide a rate of \$16 per barrel on the first 6 million barrels for all brewers and beer importers. Domestic breweries producing less than 2 million barrels annually would be eligible for a rate of \$3.50 per barrel on the first 60,000 barrels, and \$16 per barrel on the subsequent 1,940,000 barrels.

Sec. 202 Simplify beer formulation approvals.

TTB requires case-by-case “formula approval” for any ingredients or production methods that are not generally recognized as a “traditional process” in the production of beer. This approval process has previously taken more than 60 days to complete. In 2014 and 2015 TTB expanded the list of ingredients not requiring formula approval to include a limited list of specific fruits, spices and other ingredients. This provision would provide that for the purpose of label approvals, the “traditional process” for the production of beer shall include the addition of any wholesome fruits, vegetables, or spices suitable for human food consumption not containing alcohol and safe for use in an alcoholic beverage.

Sec. 203 Simplify beer recordkeeping and inventory rules.

Brewers are subject to an array of complex inventory rules. For example, separate records and physical separation are required for taxpaid and nontaxpaid beer. In addition, TTB may require inventories of taxpaid beer destined for a brewpub be held separately from taxpaid beer intended for wholesale. Taxpaid beer inventory received from another brewery must also be held separate from taxpaid beer produced on the brewery premises. This provision would require TTB to allow common inventory and storage systems for beer produced by the brewer on which tax has already been paid. This provision would reduce tax compliance burdens for brewpubs.

Sec. 204 Allow transfer of beer in bond to breweries.

Under present law, wine and distilled spirits may be transferred in bond without payment of tax between bonded facilities regardless of who owns the facilities, provided the receiving facility assumes such tax liability. Beer, however, may only be transferred in bond between two breweries if both breweries are owned by the same brewer. This special restriction on brewers significantly limits

collaboration between breweries and limits sharing of bottling and storage facilities between breweries. This proposal would permit the transfer of beer in bond between two breweries regardless of who owns such facility.

Wine Provisions

Sec. 301 Expand excise tax credit for small wine producers.

Under present law, wine is subject to an excise tax of between \$1.07 and \$3.40 per gallon, based on alcohol content and carbonation level. Qualifying small domestic wineries producing 250,000 wine gallons or less are eligible for a tax credit generally equal to 90 cents per gallon on the first 100,000 gallons produced, with that benefit phasing out between 150,000 gallons and 250,000 gallons. Hard cider is taxed as wine, subject to lower rates and a reduced credit amount. This provision removes the phaseout and replaces the credit with a new tiered credit system for wine produced in the U.S. or imported as follows: \$1.00 for the first 30,000 wine gallons, \$0.90 for the next 100,000 wine gallons, and \$0.535 for the next 620,000 wine gallons. In addition, this provision removes the existing prohibition against claiming the credit for naturally sparkling wines. Conforming expansions are made to the cider credit.

Sec. 302 Expand alcohol threshold for certain wines.

Under current law, still wine is taxed at different rates based on alcohol content. Still wine containing not more than 14 percent ABV is taxed at \$1.07. Still wine above 14 percent and less than 21 percent ABV is taxed at \$1.57 per gallon. For labeling purposes only, alcohol content in wine may vary from the stated amount within certain tolerances, however no such tolerances exist for tax purposes. This proposal would provide that wines up to 16 percent ABV may qualify for the \$1.07 tax rate, in order to provide more certainty for wine producers.

Sec. 303 Increased carbonation tolerances for certain low ABV wines.

Present law provides a tolerance for still wine of 0.392 gram of carbon dioxide per hundred milliliters of wine, which is generally taxed at \$1.07 per wine gallon. Wines exceeding this limitation are taxed as “sparkling wine” at either \$3.30 or \$3.40 per wine gallon. This provision would increase that tolerance to 0.64 gram of carbon dioxide per hundred milliliters of wine for wines produced primarily from grape or solely from honey and water, which do not contain any other fruit and contains no more than 8.5 percent ABV.

Distilled Spirits Provisions

Sec. 401 Reduce excise taxes for small distilleries.

Distilled spirit are generally taxed at \$13.50 per proof gallon. Unlike beer and wine, no reduced tax rate exists for small distillers. This provision would establish a reduced rate of \$2.70 per proof gallon for the first 100,000 proof gallons of distilled spirits produced or imported annually, and a rate of \$13.34 per proof gallon for the next 22,130,000 proof gallons of distilled spirits. Production in excess of 22,230,000 proof gallons would be subject to \$13.50 per proof gallon.

Sec. 402 Allow transfer of bottled spirits in bond.

Under present law, wine in bottles may be transferred in bond without payment of tax between bonded facilities provided the receiving entity assumes such tax liability. Similarly, present law as amended by Sec. 204 of this bill provides that beer in bottles may be transferred in bond between breweries. Distillers however are currently prohibited from transferring spirits in bond in containers smaller than

one gallon. This provision would remove such prohibition and allow distillers to transfer spirits in approved containers smaller than one gallon in bond without payment of tax, similar to wine and beer.

TTB Funding and Process Streamlining

Sec. 501 Increased funding authorization for critical TTB programs.

The Alcohol and Tobacco Tax and Trade Bureau within the Department of the Treasury is responsible for alcohol excise tax administration and enforcement of certain regulatory requirements under the Federal Alcohol Administration Act. These responsibilities include regulation of labeling and advertising, permitting of facilities, and enforcement of fair marketplace rules, among others. The PATH Act passed at the end of 2015 increased TTB funding by \$5 million for FY 2016 to accelerate processing of formula and label applications. FY 2017 appropriations bills passed by both the Senate and House Appropriations Committees continue the \$5 million funding increase for formula and label application processing and provides an additional \$5 million increase for enforcement of fair trade practices violations. This provision authorizes TTB appropriations increases for FY2017 and FY2018 as follows: \$5 million each year in continued additional funding for accelerating processing of formula and label applications, \$5 million each year in additional funding for enforcement of fair trade practices violations, and \$5 million each year in additional funding for costs of implementation of the Craft Beverage Modernization and Tax Reform Act (including accelerating processing of permit applications).