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CRAFT BEVERAGE BOND SIMPLIFICATION ACT OF 2015

APRIL 14, 2015.—Ordered to be printed

Mr. HATCH, from the Committee on Finance,
submitted the following

R E P O R T

[To accompany S. 904]

The Committee on Finance, having considered an original bill, S. 904, to amend the Internal Revenue Code of 1986 to remove bond requirements and extend filing periods for certain taxpayers with limited excise tax liability, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. LEGISLATIVE BACKGROUND

The Committee on Finance, having considered S. 904, the “Craft Beverage Bond Simplification Act of 2015,” a bill to amend the Internal Revenue Code of 1986 to remove bond requirements and extend filing periods for certain taxpayers with limited excise tax liability, reports favorably thereon without amendment and recommends that the bill do pass.

49–010

Background and need for legislative action

Background.—Based on a proposal recommended by Ranking Member Wyden, the Committee on Finance marked up original legislation (the "Craft Beverage Bond Simplification Act of 2015") on February 11, 2015, and, with a majority present, ordered the bill favorably reported.

Need for legislative action.—Taxpayers liable for not more than $50,000 per year in alcohol excise taxes have the option to pay taxes quarterly but may choose to pay taxes semi-monthly because the taxpayers would have to increase their bond amounts to cover the full amount of taxes paid on a quarterly basis. By eliminating the bond requirements for these taxpayers, it will be less burdensome for them to file excise taxes quarterly and less burdensome to administer the collection of these taxes. Taxpayers with less than $1,000 in excise tax liability on wine during the previous calendar year may file their excise taxes annually; however, taxpayers with less than $1,000 in excise tax liability on distilled spirits or beer during the previous calendar year are not eligible to file taxes annually.

II. EXPLANATION OF THE BILL

A. Remove Bonding Requirements for Certain Taxpayers Subject to Federal Excise Taxes on Distilled Spirits, Wine, and Beer (sec. 1 of the bill and secs. 5061(d), 5173(a), 5351, 5401 and 5551 of the Code)

PRESENT LAW

An excise tax is imposed on all distilled spirits, wine, and beer produced in, or imported into, the United States.[1] The tax liability legally comes into existence the moment the alcohol is produced or imported but payment of the tax is not required until a subsequent withdrawal or removal from the distillery, winery, brewery, or, in the case of an imported product, from customs custody or bond.[2] The excise tax is paid on the basis of a return[3] and is paid at the time of removal unless the taxpayer has a withdrawal bond in place. In that case, the taxes are paid with semi-monthly returns, the periods for which run from the 1st to the 15th of the month and from the 16th to the last day of the month, with the returns and payments due not later than 14 days after the close of the respective return period.[4] For example, payments of taxes with respect to removals occurring from the 1st to the 15th of the month are due with the applicable return on the 29th. Taxpayers who expect to be liable for not more than $50,000 in excise taxes for the calendar year may pay quarterly.[5] Under regulations, wineries with less than $1,000 in annual excise taxes may file and pay on an annual basis.[6] Taxpayers who were liable for a gross amount of

[1] Secs. 5001, 5041, and 5051. Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

[2] Secs. 5006, 5043, and 5054. In general, proprietors of distilled spirit plants, proprietors of bonded wine cellars, brewers, and importers are liable for the tax. Secs. 5005, 5043, and 5054. Customs and Border Protection (CBP) collects the excise tax on imported products.

[3] Sec. 5061.

[4] Under a special rule, September has three return periods. Sec. 5061.

[5] Sec. 5061.

[6] 27 C.F.R. sec. 24.273.

taxes of $5,000,000 or more for the preceding calendar year must make deposits of tax for the current calendar year by electronic funds transfer.[7]

Certain removals or transfers are exempt from tax. For example, distilled spirits, wine, and beer may be removed either free of tax or without immediate payment of tax for certain uses,[8] such as for export or an industrial use. Bulk distilled spirits, as well as wine and beer, may be transferred without payment of the tax between bonded premises under certain conditions specified in the regulations;[9] such bulk products, if imported, may be transferred without payment of the tax to domestic bonded premises under certain conditions.[10] The tax liability accompanies such a product that is transferred in bond.

Before commencing operations, a distiller must register, a winery must qualify, and a brewery must file a notice with the Alcohol and Tobacco Tax and Trade Bureau (TTB) and receive approval to operate.[11] Various types of bonds (including operations bonds and tax deferral or withdrawal bonds) are required for any person operating a distilled spirits plant, winery, or brewery.[12] The bond amounts are generally set by regulations and determined based on the underlying excise tax liability.[13]

REASONS FOR CHANGE

Taxpayers liable for not more than $50,000 per year in alcohol excise taxes have the option to pay taxes quarterly but may choose to pay taxes semi-monthly because the taxpayers would have to increase their bond amounts to cover the full amount of taxes paid on a quarterly basis. By eliminating the bond requirements for these taxpayers, it will be less burdensome for them to file excise taxes quarterly and less burdensome to administer the collection of these taxes.

Taxpayers with less than $1,000 in excise tax liability on wine during the previous calendar year may file their excise taxes annually; however, taxpayers with less than $1,000 in excise tax liability on distilled spirits or beer during the previous calendar year are not eligible to file taxes annually.

EXPLANATION OF PROVISION

The provision allows any distilled spirits, wine, or beer taxpayer who reasonably expects to be liable for not more than $50,000 per

[7] Sec. 5061.

[8] Such uses are specified in sections 5053, 5214, 5362, and 5414.

[9] See, *e.g.*, sec. 5212. Domestic bottled distilled spirits cannot be transferred in bond between distilleries. See 27 C.F.R. sec. 19.402.

[10] Secs. 5005, 5232, 5364, and 5418. Imported bottled distilled spirits, wine, and beer cannot be transferred in bond from customs custody to a distillery, winery, or brewery. See sec. 5061(d)(2)(B).

[11] Secs. 5171, 5351–53, and 5401; 27 C.F.R. sec. 19.72(b) (distilled spirits plant), 27 C.F.R. sec. 24.106 (wine producer), 27 C.F.R. sec. 25.61(a) (brewer).

[12] Secs. 5173, 5354, 5401, and 5551; 27 C.F.R. parts 19 (Distilled Spirits), 24 (Wine), and 25 (Beer).

[13] See, *e.g.*, 27 CFR sec. 19.166(c) requiring a withdrawal bond for distilled spirits in the amount of excise tax that has not been paid (up to a maximum of $1 million); 27 CFR sec. 24.148(a)(2) requiring a wine bond to cover the amount of tax deferred (up to a maximum of $250,000); 27 CFR sec. 25.93(a) requiring a bond equal to 10 percent of the maximum excise tax for which the brewer will be liable to pay during a calendar year for brewers required to file tax returns and remit excise taxes semimonthly and a bond equal to $1,000 for brewers who were liable for not more than $50,000 in excise taxes with respect to beer in the previous year and who reasonably expect to be liable for not more than $50,000 in such taxes during the current year.

year in alcohol excise taxes (and who was liable for not more than $50,000 in such taxes in the preceding calendar year) to file and pay such taxes quarterly, rather than semi-monthly. The provision also creates an exemption from the bond requirement in the Code for these taxpayers. The provision includes conforming changes to the other sections of the Code describing bond requirements.

Additionally, the provision allows any distilled spirits, wine, or beer taxpayer with a reasonably expected alcohol excise tax liability of not more than $1,000 per year to file and pay such taxes annually rather than on a quarterly basis.

EFFECTIVE DATE

The provision is effective 90 days after the date of enactment.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provision of the "Craft Beverage Bond Simplification Act of 2015" as reported.

The provision is estimated to reduce Federal fiscal year budget receipts by less than $500,000 for the period 2015–2025.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Congressional Budget and Impoundment Control Act of 1974 ("Budget Act"),[14] the Committee states that no provisions of the bill as reported involve new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the provisions of the bill have a negligible effect on tax expenditures (see part A., above).

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has not submitted a statement on the bill. The letter from the Congressional Budget Office will be provided separately.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority present, the "Craft Beverage Bond Simplification Act of 2015" was ordered favorably reported by voice vote on February 11, 2015.

[14] Pub. L. No. 93–344.

V. REGULATORY IMPACT AND OTHER MATTERS

A. Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill.

Impact on individuals and businesses, personal privacy and paperwork

The bill removes bond requirements for taxpayers with limited alcohol excise tax liability. The provisions of the bill are not expected to impose additional administrative requirements or regulatory burdens on individuals or businesses.

The provisions of the bill do not impact personal privacy.

B. Unfunded Mandates Statement

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 tax provisions of the reported bill do not contain Federal private sector mandates or Federal intergovernmental mandates on State, local, or tribal governments within the meaning of Public Law 104–4, the Unfunded Mandates Reform Act of 1995.

C. 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 the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

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