

109TH CONGRESS
1ST SESSION

S. 702

To amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

IN THE SENATE OF THE UNITED STATES

APRIL 5, 2005

Mr. BAUCUS (for himself, Mr. BUNNING, Mr. JOHNSON, Mr. TALENT, and Mr. CRAIG) 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 repeal the occupational taxes relating to distilled spirits, wine, and beer.

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. REPEAL OF OCCUPATIONAL TAXES RELATING**
4 **TO DISTILLED SPIRITS, WINE, AND BEER.**

5 (a) REPEAL OF OCCUPATIONAL TAXES.—

6 (1) IN GENERAL.—The following provisions of
7 part II of subchapter A of chapter 51 of the Internal
8 Revenue Code of 1986 (relating to occupational
9 taxes) are hereby repealed:

1 (A) Subpart A (relating to proprietors of
2 distilled spirits plants, bonded wine cellars,
3 etc.).

4 (B) Subpart B (relating to brewer).

5 (C) Subpart D (relating to wholesale deal-
6 ers) (other than sections 5114 and 5116).

7 (D) Subpart E (relating to retail dealers)
8 (other than section 5124).

9 (E) Subpart G (relating to general provi-
10 sions) (other than sections 5142, 5143, 5145,
11 and 5146).

12 (2) NONBEVERAGE DOMESTIC DRAWBACK.—
13 Section 5131 of such Code is amended by striking
14 “, on payment of a special tax per annum,”.

15 (3) INDUSTRIAL USE OF DISTILLED SPIRITS.—
16 Section 5276 of such Code is hereby repealed.

17 (b) CONFORMING AMENDMENTS.—

18 (1)(A) The heading for part II of subchapter A
19 of chapter 51 of the Internal Revenue Code of 1986
20 and the table of subparts for such part are amended
21 to read as follows:

22 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping and registration by dealers.

“Subpart D. Other provisions.”.

1 (B) The table of parts for such subchapter A
 2 is amended by striking the item relating to part II
 3 and inserting the following new item:

“Part II. Miscellaneous provisions.”.

4 (2) Subpart C of part II of such subchapter
 5 (relating to manufacturers of stills) is redesignated
 6 as subpart A.

7 (3)(A) Subpart F of such part II (relating to
 8 nonbeverage domestic drawback claimants) is rededesignated as subpart B and sections 5131 through
 9 5134 are redesignated as sections 5111 through
 10 5114, respectively.
 11

12 (B) The table of sections for such subpart B,
 13 as so redesignated, is amended—

14 (i) by redesignating the items relating to
 15 sections 5131 through 5134 as relating to sec-
 16 tions 5111 through 5114, respectively, and

17 (ii) by striking “and rate of tax” in the
 18 item relating to section 5111, as so redesignated.
 19

20 (C) Section 5111 of such Code, as redesignated
 21 by subparagraph (A), is amended—

22 (i) by striking “**AND RATE OF TAX**” in
 23 the section heading,

24 (ii) by striking the subsection heading for
 25 subsection (a), and

1 (iii) by striking subsection (b).

2 (4) Part II of subchapter A of chapter 51 of
3 such Code is amended by adding after subpart B, as
4 redesignated by paragraph (3), the following new
5 subpart:

6 **“Subpart C—Recordkeeping by Dealers**

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of
premises for inspection.”.

7 (5)(A) Section 5114 of such Code (relating to
8 records) is moved to subpart C of such part II and
9 inserted after the table of sections for such subpart.

10 (B) Section 5114 of such Code is amended—

11 (i) by striking the section heading and in-
12 serting the following new heading:

13 **“SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.”,**

14 and

15 (ii) by redesignating subsection (c) as sub-
16 section (d) and by inserting after subsection (b) the
17 following new subsection:

18 “(c) WHOLESALE DEALERS.—For purposes of this
19 part—

20 “(1) WHOLESALE DEALER IN LIQUORS.—The
21 term ‘wholesale dealer in liquors’ means any dealer
22 (other than a wholesale dealer in beer) who sells, or

1 offers for sale, distilled spirits, wines, or beer, to an-
 2 other dealer.

3 “(2) WHOLESALE DEALER IN BEER.—The term
 4 ‘wholesale dealer in beer’ means any dealer who
 5 sells, or offers for sale, beer, but not distilled spirits
 6 or wines, to another dealer.

7 “(3) DEALER.—The term ‘dealer’ means any
 8 person who sells, or offers for sale, any distilled spir-
 9 its, wines, or beer.

10 “(4) PRESUMPTION IN CASE OF SALE OF 20
 11 WINE GALLONS OR MORE.—The sale, or offer for
 12 sale, of distilled spirits, wines, or beer, in quantities
 13 of 20 wine gallons or more to the same person at
 14 the same time, shall be presumptive evidence that
 15 the person making such sale, or offer for sale, is en-
 16 gaged in or carrying on the business of a wholesale
 17 dealer in liquors or a wholesale dealer in beer, as the
 18 case may be. Such presumption may be overcome by
 19 evidence satisfactorily showing that such sale, or
 20 offer for sale, was made to a person other than a
 21 dealer.”.

22 (C) Paragraph (3) of section 5121(d) of such
 23 Code, as so redesignated, is amended by striking
 24 “section 5146” and inserting “section 5123”.

1 (6)(A) Section 5124 of such Code (relating to
2 records) is moved to subpart C of part II of sub-
3 chapter A of chapter 51 of such Code and inserted
4 after section 5121.

5 (B) Section 5124 of such Code is amended—

6 (i) by striking the section heading and in-
7 serting the following new heading:

8 **“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,**

9 (ii) by striking “section 5146” in sub-
10 section (c) and inserting “section 5123”, and

11 (iii) by redesignating subsection (c) as sub-
12 section (d) and inserting after subsection (b)
13 the following new subsection:

14 “(c) RETAIL DEALERS.—For purposes of this sec-
15 tion—

16 “(1) RETAIL DEALER IN LIQUORS.—The term
17 ‘retail dealer in liquors’ means any dealer (other
18 than a retail dealer in beer or a limited retail dealer)
19 who sells, or offers for sale, distilled spirits, wines,
20 or beer, to any person other than a dealer.

21 “(2) RETAIL DEALER IN BEER.—The term ‘re-
22 tail dealer in beer’ means any dealer (other than a
23 limited retail dealer) who sells, or offers for sale,
24 beer, but not distilled spirits or wines, to any person
25 other than a dealer.

1 “(3) LIMITED RETAIL DEALER.—The term ‘lim-
2 ited retail dealer’ means any fraternal, civic, church,
3 labor, charitable, benevolent, or ex-servicemen’s or-
4 ganization making sales of distilled spirits, wine or
5 beer on the occasion of any kind of entertainment,
6 dance, picnic, bazaar, or festival held by it, or any
7 person making sales of distilled spirits, wine or beer
8 to the members, guests, or patrons of bona fide
9 fairs, reunions, picnics, carnivals, or other similar
10 outings, if such organization or person is not other-
11 wise engaged in business as a dealer.

12 “(4) DEALER.—The term ‘dealer’ has the
13 meaning given such term by section 5121(c)(3).”.

14 (7) Section 5146 of such Code is moved to sub-
15 part C of part II of subchapter A of chapter 51 of
16 such Code, inserted after section 5122, and redesign-
17 ated as section 5123.

18 (8) Subpart C of part II of subchapter A of
19 chapter 51 of such Code, as amended by paragraph
20 (7), is amended by adding at the end the following
21 new section:

22 **“SEC. 5124. REGISTRATION BY DEALERS.**

23 “Every dealer who is subject to the recordkeeping re-
24 quirements under section 5121 or 5122 shall register with
25 the Secretary such dealer’s name or style, place of resi-

1 dence, trade or business, and the place where such trade
 2 or business is to be carried on. In case of a firm or com-
 3 pany, the names of the several persons constituting the
 4 same, and the places of residence, shall be so registered.”.

5 (9) Section 7012 of such Code is amended by
 6 redesignating paragraphs (4) and (5) as paragraphs
 7 (5) and (6), respectively, and by inserting after
 8 paragraph (3) the following new paragraph:

9 “(4) For provisions relating to registration by
 10 dealers in distilled spirits, wines, and beer, see sec-
 11 tion 5124.”.

12 (10) Part II of subchapter A of chapter 51 of
 13 such Code is amended by inserting after subpart C
 14 the following new subpart:

15 **“Subpart D—Other Provisions**

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”.

16 (11) Section 5116 of such Code is moved to
 17 subpart D of part II of subchapter A of chapter 51
 18 of such Code, inserted after the table of sections, re-
 19 designated as section 5131, and amended by insert-
 20 ing “(as defined in section 5121(c))” after “dealer”
 21 in subsection (a).

22 (12) Subpart D of part II of subchapter A of
 23 chapter 51 of such Code is amended by adding at
 24 the end the following new section:

1 **“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.**

2 “(a) IN GENERAL.—Except as provided in regula-
 3 tions prescribed by the Secretary, it shall be unlawful for
 4 a dealer to purchase distilled spirits for resale from any
 5 person other than a wholesale dealer in liquors who is re-
 6 quired to keep the records prescribed by section 5121.

7 “(b) LIMITED RETAIL DEALERS.—A limited retail
 8 dealer may lawfully purchase distilled spirits for resale
 9 from a retail dealer in liquors.

10 “(c) PENALTY AND FORFEITURE.—

“For penalty and forfeiture provisions applicable to violations of subsection
 (a), see sections 5687 and 7302.”.

11 (13) Subsection (b) of section 5002 of such
 12 Code is amended—

13 (A) by striking “section 5112(a)” and in-
 14 serting “section 5121(c)(3)”,

15 (B) by striking “section 5112” and insert-
 16 ing “section 5121(c)”,

17 (C) by striking “section 5122” and insert-
 18 ing “section 5122(c)”.

19 (14) Subparagraph (A) of section 5010(c)(2) of
 20 such Code is amended by striking “section 5134”
 21 and inserting “section 5114”.

22 (15) Subsection (d) of section 5052 of such
 23 Code is amended to read as follows:

1 “(d) BREWER.—For purposes of this chapter, the
 2 term ‘brewer’ means any person who brews beer or pro-
 3 duces beer for sale. Such term shall not include any person
 4 who produces only beer exempt from tax under section
 5 5053(e).”.

6 (16) The text of section 5182 of such Code is
 7 amended to read as follows:

“For provisions requiring recordkeeping by wholesale liquor dealers, see
 section 5112, and by retail liquor dealers, see section
 5122.”.

8 (17) Subsection (b) of section 5402 of such
 9 Code is amended by striking “section 5092” and in-
 10 sserting “section 5052(d)”.

11 (18) Section 5671 of such Code is amended by
 12 striking “or 5091”.

13 (19)(A) Part V of subchapter J of chapter 51
 14 of such Code is hereby repealed.

15 (B) The table of parts for such subchapter J is
 16 amended by striking the item relating to part V.

17 (20)(A) Sections 5142, 5143, and 5145 of such
 18 Code are moved to subchapter D of chapter 52 of
 19 such Code, inserted after section 5731, redesignated
 20 as sections 5732, 5733, and 5734, respectively, and
 21 amended by striking “this part” each place it ap-
 22 pears and inserting “this subchapter”.

23 (B) Section 5732 of such Code, as redesignated
 24 by subparagraph (A), is amended by striking “(ex-

1 cept the tax imposed by section 5131)” each place
2 it appears.

3 (C) Paragraph (2) of section 5733(c) of such
4 Code, as redesignated by subparagraph (A), is
5 amended by striking “liquors” both places it appears
6 and inserting “tobacco products and cigarette papers
7 and tubes”.

8 (D) The table of sections for subchapter D of
9 chapter 52 of such Code is amended by adding at
10 the end the following:

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”.

11 (E) Section 5731 of such Code is amended by
12 striking subsection (c) and by redesignating sub-
13 section (d) as subsection (c).

14 (21) Subsection (c) of section 6071 of such
15 Code is amended by striking “section 5142” and in-
16 serting “section 5732”.

17 (22) Paragraph (1) of section 7652(g) of such
18 Code is amended—

19 (A) by striking “subpart F” and inserting
20 “subpart B”, and

21 (B) by striking “section 5131(a)” and in-
22 serting “section 5111”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on July 1, 2005, but shall
3 not apply to taxes imposed for periods before such date.

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