

108TH CONGRESS  
1ST SESSION

# S. 374

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

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2003

Mr. BAUCUS (for himself, Mr. BUNNING, Mr. ENZI, Mr. ENSIGN, Mr. CRAPO, Mr. BURNS, Mr. JOHNSON, Mr. BAYH, Mr. COCHRAN, Mr. INHOFE, Mr. ALLEN, Mr. NICKLES, Mr. WARNER, and Mr. MILLER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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

1 Revenue Code of 1986 (relating to occupational  
2 taxes) are hereby repealed:

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

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

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

9 (D) Subpart E (relating to retail dealers)  
10 (other than section 5124).

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

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

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18 Section 5276 of such Code is hereby repealed.

19 (b) CONFORMING AMENDMENTS.—

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

23 **“PART II—MISCELLANEOUS PROVISIONS**

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping 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 redesi-  
9 gnated as subpart B and sections 5131 through  
10 5134 are redesignated as sections 5111 through  
11 5114, respectively.

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 redesi-  
19 gnated.

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 (e) as sub-  
16 section (d) and by inserting after subsection (b)  
17 the 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) who sells, or offers for  
19 sale, distilled spirits, wines, or beer, to any person  
20 other than a dealer.

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

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

3           (7) Section 5146 of such Code is moved to sub-  
4 part C of part II of subchapter A of chapter 51 of  
5 such Code, inserted after section 5122, and redesign-  
6 nated as section 5123.

7           (8) Part II of subchapter A of chapter 51 of  
8 such Code is amended by inserting after subpart C  
9 the following new subpart:

10                           **“Subpart D—Other Provisions**

                          “Sec. 5131. Packaging distilled spirits for industrial uses.  
                          “Sec. 5132. Prohibited purchases by dealers.”

11           (9) Section 5116 of such Code is moved to sub-  
12 part D of part II of subchapter A of chapter 51 of  
13 such Code, inserted after the table of sections, redesi-  
14 gnated as section 5131, and amended by inserting  
15 “(as defined in section 5121(c))” after “dealer” in  
16 subsection (a).

17           (10) Subpart D of part II of subchapter A of  
18 chapter 51 of such Code is amended by adding at  
19 the end thereof the following new section:

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

21           “(a) IN GENERAL.—Except as provided in regula-  
22 tions prescribed by the Secretary, it shall be unlawful for  
23 a dealer to purchase distilled spirits from any person other

1 than a wholesale dealer in liquors who is required to keep  
 2 the records prescribed by section 5121.

3 “(b) PENALTY AND FORFEITURE.—

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

4 (11) Subsection (b) of section 5002 of such  
 5 Code is amended—

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

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

10 (C) by striking “section 5122” and insert-  
 11 ing “section 5122(c)”.

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

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

17 “(d) BREWER.—For purposes of this chapter, the  
 18 term ‘brewer’ means any person who brews beer or pro-  
 19 duces beer for sale. Such term shall not include any person  
 20 who produces only beer exempt from tax under section  
 21 5053(e).”

22 (14) The text of section 5182 of such Code is  
 23 amended to read as follows:

1           “For provisions requiring recordkeeping by  
2           wholesale liquor dealers, see section 5112, and by re-  
3           tail liquor dealers, see section 5122.”

4           (15) Subsection (b) of section 5402 of such  
5           Code is amended by striking “section 5092” and in-  
6           serting “section 5052(d)”.

7           (16) Section 5671 of such Code is amended by  
8           striking “or 5091”.

9           (17)(A) Part V of subchapter J of chapter 51  
10          of such Code is hereby repealed.

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

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

19          (B) Section 5732 of such Code, as redesignated  
20          by subparagraph (A), is amended by striking “(ex-  
21          cept the tax imposed by section 5131)” each place  
22          it appears.

23          (C) Subsection (c) of section 5733 of such  
24          Code, as redesignated by subparagraph (A), is

1 amended by striking paragraph (2) and by redesignig-  
2 nating paragraph (3) as paragraph (2).

3 (D) The table of sections for subchapter D of  
4 chapter 52 of such Code is amended by adding at  
5 the end thereof the following:

“Sec. 5732. Payment of tax.

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

“Sec. 5734. Application of State laws.”

6 (E) Section 5731 of such Code is amended by  
7 striking subsection (c) and by redesignating sub-  
8 section (d) as subsection (c).

9 (19) Subsection (c) of section 6071 of such  
10 Code is amended by striking “section 5142” and in-  
11 sserting “section 5732”.

12 (20) Paragraph (1) of section 7652(g) of such  
13 Code is amended—

14 (A) by striking “subpart F” and inserting  
15 “subpart B”, and

16 (B) by striking “section 5131(a)” and in-  
17 sserting “section 5111(a)”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on the date of the enactment  
20 of this Act, but shall not apply to taxes imposed for peri-  
21 ods before such date.

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