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116TH CONGRESS
1ST SESSION

H. R. 4742

To amend the Internal Revenue Code of 1986 to impose a tax on nicotine used in vaping, etc.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2019

Mr. SUOZZI (for himself and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on nicotine used in vaping, etc.

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

SECTION 1. IMPOSITION OF TAX ON NICOTINE FOR USE IN VAPING, ETC.

(a) IN GENERAL.—Section 5701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NICOTINE.—On taxable nicotine, manufactured in or imported into the United States, there shall be imposed a tax equal to the dollar amount specified in section 5701(b)(1) (or, if greater, \$50.33) per 1,810 milligrams of nicotine (and a proportionate tax at the like rate on any fractional part thereof).''.

(b) TAXABLE NICOTINE.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(q) TAXABLE NICOTINE.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'taxable nicotine' means any nicotine which has been extracted, concentrated, or synthesized.

''(2) EXCEPTION FOR FDA-APPROVED NICOTINE REPLACEMENT THERAPIES.—Such term shall not include any nicotine if the manufacturer or importer thereof demonstrates to the satisfaction of the Secretary that such nicotine will be used in a product which has been approved by the Food and Drug Administration for sale as a nicotine replacement therapy.

''(3) COORDINATION WITH TAXATION OF OTHER TOBACCO PRODUCTS.—Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco shall not be treated as containing taxable nicotine solely because the nicotine naturally occurring in the tobacco from which such product is manufactured has been concentrated during the ordinary course of manufacturing.''.

(c) TAXABLE NICOTINE TREATED AS A TOBACCO PRODUCT.—Section 5702(c) of such Code is amended by striking ''and roll-your-own tobacco'' and inserting ''roll-your-own tobacco, and taxable nicotine''.

(d) MANUFACTURER OF TAXABLE NICOTINE.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(r) MANUFACTURER OF TAXABLE NICOTINE.—

''(1) IN GENERAL.—Any person who extracts, concentrates, or synthesizes nicotine shall be treated as a manufacturer of taxable nicotine (and as manufacturing such taxable nicotine).

''(2) APPLICATION OF RULES RELATED TO MANUFACTURERS OF TOBACCO PRODUCTS.—Any reference to a manufacturer of tobacco products, or to manufacturing tobacco products, shall be treated as including a reference to a manufacturer of taxable nicotine, or to manufacturing taxable nicotine, respectively.''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to articles manufactured or imported in calendar quarters beginning more than 90 days after the date of the enactment of this Act.

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