

117TH CONGRESS
1ST SESSION

S. 2645

To amend the Internal Revenue Code of 1986 to establish an excise tax on plastics.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2021

Mr. WHITEHOUSE 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 establish an excise tax on plastics.

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. SHORT TITLE.**

4 This Act may be cited as the “Rewarding Efforts to
5 Decrease Unrecycled Contaminants in Ecosystems Act of
6 2021” or the “REDUCE Act of 2021”.

7 **SEC. 2. EXCISE TAX ON PLASTICS.**

8 (a) IN GENERAL.—Chapter 38 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end there-
10 of the following new subchapter:

1 **“Subchapter E—Tax on Plastics**

“Sec. 4691. Imposition of tax.
 “Sec. 4692. Definitions and special rules.

2 **“SEC. 4691. IMPOSITION OF TAX.**

3 “(a) GENERAL RULE.—There is hereby imposed—

4 “(1) a tax on any taxable virgin plastic resin
 5 sold by an applicable entity, and

6 “(2) a tax on any imported covered item sold
 7 or used by the importer thereof.

8 “(b) AMOUNT OF TAX.—

9 “(1) TAXABLE VIRGIN PLASTIC RESIN.—

10 “(A) IN GENERAL.—The amount of the
 11 tax imposed under subsection (a)(1) shall be de-
 12 termined in accordance with the following table:

“For any sale during calendar year:	The tax is the following amount per pound of taxable virgin plastic resin:
2022	10 cents
2023	15 cents
2024	20 cents
2025 or thereafter	Adjusted amount.

13 “(B) ADJUSTED AMOUNT.—

14 “(i) IN GENERAL.—For purposes of
 15 subparagraph (A), the adjusted amount for
 16 any sale during any calendar year begin-
 17 ning after December 31, 2024, shall be
 18 equal to the sum of—

1 “(I) 20 cents, plus
2 “(II) an amount equal to—
3 “(aa) 20 cents, multiplied by
4 “(bb) the cost-of-living ad-
5 justment determined under sec-
6 tion 1(f)(3) for the calendar year,
7 determined by substituting ‘cal-
8 endar year 2023’ for ‘calendar
9 year 2016’ in subparagraph
10 (A)(ii) thereof.

11 “(ii) ROUNDING.—If any amount de-
12 termined under clause (i) is not a multiple
13 of 1 cent, such amount shall be rounded to
14 the nearest multiple of 1 cent.

15 “(2) IMPORTED COVERED ITEMS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the amount of the tax im-
18 posed under paragraph (2) of subsection (a) on
19 any imported covered item shall be the amount
20 of tax which would have been imposed by para-
21 graph (1) of such subsection with respect to the
22 amount of any taxable virgin plastic resin con-
23 tained in such item if such resin had been sold
24 in the United States by an applicable entity on
25 the date of the sale of such item.

1 “(B) RATE WHERE IMPORTER DOES NOT
2 FURNISH INFORMATION TO SECRETARY.—If the
3 importer does not furnish to the Secretary (at
4 such time and in such manner as the Secretary
5 shall prescribe) sufficient information to deter-
6 mine under subparagraph (A) the amount of
7 the tax imposed by subsection (a)(2) on any im-
8 ported covered item, the amount of the tax im-
9 posed on such item shall be 10 percent of the
10 appraised value of such item as of the time
11 such item was entered into the United States
12 for consumption, use, or warehousing.

13 “(C) AUTHORITY TO PRESCRIBE ALTER-
14 NATE RATE.—The Secretary may prescribe for
15 each imported covered item a tax which, if pre-
16 scribed, shall apply in lieu of the tax specified
17 in subparagraph (B) with respect to such item.
18 The tax prescribed by the Secretary shall be
19 equal to the amount of tax which would be im-
20 posed by subsection (a) with respect to the im-
21 ported covered item if such item were produced
22 using the predominant method of production of
23 such item.

24 “(c) APPLICABLE ENTITY.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘applicable entity’ means any manu-
3 facturer, producer, or importer of taxable virgin
4 plastic resin which, during the calendar year in
5 which the sale of such resin occurs, manufactures,
6 produces, or imports more than 10 tons of taxable
7 virgin plastic resin.

8 “(2) AGGREGATION RULE.—For purposes of
9 this subsection, all persons treated as a single em-
10 ployer under subsection (a) or (b) of section 52, or
11 subsection (m) or (o) of section 414, shall be treated
12 as a single manufacturer, producer, or importer.

13 “(d) EXPORTATION.—Pursuant to regulations pre-
14 scribed by the Secretary, no tax shall be imposed under
15 this section upon the sale of any taxable virgin plastic
16 resin for export, and in due course so exported.

17 **“SEC. 4692. DEFINITIONS AND SPECIAL RULES.**

18 “(a) DEFINITIONS.—For purposes of this sub-
19 chapter—

20 “(1) COVERED ITEM.—

21 “(A) IN GENERAL.—The term ‘covered
22 item’ means a single-use product which contains
23 taxable virgin plastic resin, including packaging,
24 food service products, beverage containers, and
25 bags.

1 “(B) EXCLUSION.—The term ‘covered
2 item’ shall not include—

3 “(i) a medical product that the Sec-
4 retary of Health and Human Services de-
5 termines needs to be made of virgin plastic
6 for public health or the health of the user,

7 “(ii) a container for—

8 “(I) a drug regulated under the
9 Federal Food, Drug, and Cosmetic
10 Act,

11 “(II) infant formula, or

12 “(III) a meal replacement liquid,

13 “(iii) a personal or feminine hygiene
14 product that could be unsafe or unsanitary
15 to recycle,

16 “(iv) a sexual health product, or

17 “(v) packaging—

18 “(I) for a product described in
19 clauses (i) through (iv), or

20 “(II) used for the shipment of
21 hazardous materials that is prohibited
22 from being composed of used mate-
23 rials under section 178.509 or
24 178.522 of title 49, Code of Federal

1 Regulations (as in effect on the date
2 of enactment of this subchapter).

3 “(C) OTHER TERMS.—

4 “(i) BAG.—The term ‘bag’ means a
5 container made of flexible material with an
6 opening at the top, used for carrying
7 items.

8 “(ii) BEVERAGE CONTAINER.—The
9 term ‘beverage container’ means a pre-
10 packaged beverage container the volume of
11 which is not greater than 3 liters.

12 “(iii) FOOD SERVICE PRODUCT.—The
13 term ‘food service product’ means an item
14 intended to deliver a food product, includ-
15 ing a utensil, straw, drink cup, drink lid,
16 food package, food container, plate, bowl,
17 meat tray, or food wrap.

18 “(iv) PACKAGING.—The term ‘pack-
19 aging’ means a package, container, pack-
20 ing materials, or other material used for
21 the containment, protection, handling, de-
22 livery, and presentation of goods.

23 “(v) SINGLE-USE PRODUCT.—The
24 term ‘single-use product’ means a product
25 which is—

1 “(I) routinely disposed of after a
2 single use or after its contents have
3 been used or unpackaged, and typi-
4 cally not refilled, and

5 “(II) not durable, washable, or
6 routinely used for its original purpose
7 multiple times before disposal.

8 “(2) IMPORTED COVERED ITEM.—The term
9 ‘imported covered item’ means any covered item en-
10 tered into the United States for consumption, use,
11 or warehousing.

12 “(3) TAXABLE VIRGIN PLASTIC RESIN.—

13 “(A) IN GENERAL.—The term ‘taxable vir-
14 gin plastic resin’ means any resin—

15 “(i) which is derived from petroleum
16 or gas (including ethylene, propylene, poly-
17 ethylene, polypropylene, polystyrene, and
18 polyvinyl chloride), and

19 “(ii) which is manufactured or pro-
20 duced in the United States or entered into
21 the United States for consumption, use, or
22 warehousing.

23 “(B) EXCLUSION OF POST-CONSUMER RE-
24 CYCLED RESIN.—The term ‘taxable virgin plas-
25 tic resin’ shall not include any resin which has

1 been reprocessed from recovered material so it
2 can be used for its original purpose or for other
3 purposes in place of resin described in clause (i)
4 of subparagraph (A).

5 “(4) UNITED STATES.—The term ‘United
6 States’ has the meaning given such term by section
7 4612(a)(4).

8 “(5) IMPORTER.—The term ‘importer’ means
9 the person entering the taxable virgin plastic resin
10 or covered item for consumption, use, or
11 warehousing.

12 “(b) FRACTION OF A POUND.—In the case of a frac-
13 tion of a pound, the tax imposed by section 4691 shall
14 be the same fraction of the amount of such tax imposed
15 on a whole pound.

16 “(c) USE TREATED AS SALE.—If any applicable enti-
17 ty manufactures, produces, or imports any taxable virgin
18 plastic resin and uses such resin, then such person shall
19 be liable for tax under section 4691 in the same manner
20 as if such resin were sold by such entity.

21 “(d) REFUND OR CREDIT FOR CERTAIN USES.—
22 Under regulations prescribed by the Secretary, if—

23 “(1) a tax under section 4691(a)(1) was paid
24 with respect to any taxable virgin plastic resin, and

1 “(2) such resin was used by any person in the
2 manufacture or production within the United States
3 of any product which is not a covered item,
4 then an amount equal to the tax so paid shall be allowed
5 as a credit or refund (without interest) to such person in
6 the same manner as if it were an overpayment of tax im-
7 posed by such section.

8 “(e) DISPOSITION OF REVENUES FROM PUERTO
9 RICO AND THE VIRGIN ISLANDS.—The provisions of sub-
10 sections (a)(3) and (b)(3) of section 7652 shall not apply
11 to any tax imposed by section 4691.

12 “(f) REGULATIONS.—The Secretary shall prescribe
13 such regulations as may be necessary to carry out the pro-
14 visions of this subchapter.”.

15 (b) PLASTIC WASTE REDUCTION FUND.—Sub-
16 chapter A of chapter 98 of the Internal Revenue Code of
17 1986 is amended by adding at the end the following new
18 section:

19 **“SEC. 9512. PLASTIC WASTE REDUCTION FUND.**

20 “(a) ESTABLISHMENT AND FUNDING.—There is
21 hereby established in the Treasury of the United States
22 a trust fund to be referred to as the ‘Plastic Waste Reduc-
23 tion Fund’, consisting of such amounts as may be appro-
24 priated or credited to such trust fund as provided for in
25 this section and section 9602(b).

1 “(b) TRANSFERS TO THE PLASTIC WASTE REDUC-
2 TION FUND.—There are hereby appropriated to the Plas-
3 tic Waste Reduction Fund amounts equivalent to the taxes
4 received in the Treasury under section 4691 (minus any
5 refunds or credits pursuant to section 4692(d)).

6 “(c) EXPENDITURES FROM THE PLASTIC WASTE
7 REDUCTION FUND.—Amounts in the Plastic Waste Re-
8 duction Fund shall be available, as provided by appropria-
9 tion Acts, for making expenditures—

10 “(1) to carry out reduction and recycling activi-
11 ties, including making improvements to recycling in-
12 frastructure,

13 “(2) to carry out plastic waste and marine de-
14 bris reduction, detection, monitoring, and cleanup
15 activities of—

16 “(A) the grant programs established under
17 section 302 of the Save Our Seas 2.0 Act (33
18 U.S.C. 4282),

19 “(B) the Marine Debris Program estab-
20 lished by section 3 of the Marine Debris Act
21 (33 U.S.C. 1952),

22 “(C) the Marine Debris Foundation estab-
23 lished by section 111 of the Save Our Seas 2.0
24 Act (33 U.S.C. 4211), and

1 “(D) other Federal programs carrying out
2 such activities, and

3 “(3) to address environmental justice and pollu-
4 tion impacts from plastic production.”.

5 (c) CLERICAL AMENDMENTS.—

6 (1) The table of subchapters for chapter 38 of
7 the Internal Revenue Code of 1986 is amended by
8 adding at the end the following new item:

 “SUBCHAPTER E—TAX ON PLASTICS”.

9 (2) The table of sections for subchapter A of
10 chapter 98 of such Code is amended by adding at
11 the end the following new item:

 “Sec. 9512. Plastic Waste Reduction Fund.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on January 1, 2022.

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