DESCRIPTION OF THE CHAIRMAN'S MARK OF A PROPOSAL TO REMOVE ALCOHOL BONDING REQUIREMENTS FOR CERTAIN TAXPAYERS

Scheduled for Markup
by the
SENATE COMMITTEE ON FINANCE
on February 11, 2015

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

February 9, 2015
JCX-20-15

CONTENTS

INTRODUCTION

The Senate Committee on Finance has scheduled a committee markup on February 11, 2015, of a proposal to remove the alcohol bonding requirements for certain taxpayers. This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the proposal.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of a Proposal to Remove Alcohol Bonding Requirements for Certain Taxpayers* (JCX-20-15), February 9, 2015. This document can also be found on the Joint Committee on Taxation website at www.jct.gov.

A. Remove Bonding Requirements for Certain Taxpayers Subject to Federal Excise Taxes on Distilled Spirits, Wine, and Beer

Present Law

An excise tax is imposed on all distilled spirits, wine, and beer produced in, or imported into, the United States.[2] 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.[3] The excise tax is paid on the basis of a return[4] 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.[5] 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.[6] Under regulations, wineries with less than $1,000 in annual excise taxes may file and pay on an annual basis.[7] Taxpayers who were liable for a gross amount of 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.[8]

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,[9] 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;[10] such bulk products, if imported, may be transferred without

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

[3] 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.

[4] Sec. 5061.

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

[6] Sec. 5061.

[7] 27 C.F.R. sec. 24.273.

[8] Sec. 5061.

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

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

payment of the tax to domestic bonded premises under certain conditions.[11] 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.[12] 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.[13] The bond amounts are generally set by regulations and determined based on the underlying excise tax liability.[14]

Description of Proposal

The proposal allows any distilled spirits, wine, or beer taxpayer who reasonably expects to be liable for not more than $50,000 per 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 proposal also creates an exemption from the bond requirement in the Code for these taxpayers. The proposal includes conforming changes to the other sections of the Code describing bond requirements.

Additionally, the proposal 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 proposal is effective 90 days after the date of enactment.

---

[11] 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).

[12] 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).

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

[14] 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.

B. Estimated Revenue Effects

The proposal is estimated to have a negligible effect on Federal fiscal year budget receipts for the period 2015-2025.