Excise Tax Relief for Breweries, Wineries and Distilleries

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The new tax law formerly referred to as the Tax Cuts and Jobs Act of 2017, provides a temporary reduction in alcohol beverage excise taxes for US brewers, winemakers, distillers and beverage importers. Temporary tax relief is available for beer, wine and spirits removed from a US manufacturing facility or released from Custom’s custody after January 1, 2018, and prior to December 31, 2019. Several provisions of the new law will require the Alcohol and Tobacco Tax and Trade Bureau (TTB) to quickly promulgate new regulations.

The new law also modifies existing sections of federal excise tax laws so that commonly owned manufacturers and importers get “one bite at the apple” for each beverage category (beer, wine and distilled spirits). Groups of related breweries, wineries or distilleries are treated as a single taxpayer.

A modified version of the “controlled group” rules in the Internal Revenue Code is used to determine whether breweries, wineries or distilleries are commonly owned. The general approach is that taxpayers with ownership interests greater than 50 percent in more than one facility must aggregate the worldwide production volume to calculate the volume of eligible for the reduced tax rates. Additional language treating certain entities as a “single taxpayer” will require guidance from TTB.

In addition to the controlled group rules, brewers in other countries must formally designate the US importers that will receive the benefit of the reduced tax rate.

Basic excise tax computations vary significantly for beer, wine and spirits, requiring detailed calculations for each taxpayer and each beverage category.

- Beer is taxed at a standard rate on the number of 31-gallon barrels produced by each brewer or controlled group of brewers.
- Wine is taxed under at a standard rate per gallon on a sliding scale at rates that vary based on alcohol content and the type of wine.
- Distilled spirits are taxed on a standard rate per “proof gallon” produced, and the actual rate for each product is based on the alcohol content.

Excise tax relief in the new legislation is not permanent. Even the best crystal ball cannot predict the political and economic landscape in two years. Manufacturers and importers must keep in mind the fact that the pre-2018 rates will apply again beginning in 2020 unless Congress extends the temporary excise tax rates. The table below summarizes the changes in rates.

<table>
<thead>
<tr>
<th>Beverage</th>
<th>Excise Tax Rates and Credits for Calendar Years 2017 and 2020</th>
<th>Temporary Excise Tax Rates and Credits for Calendar Years 2018 and 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Brewers and importers (and controlled</td>
<td>US brewers and importers (and controlled</td>
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</table>
Beer

- Controlled groups) with volume exceeding 2 million barrels:
  - $18.00/barrel (Barrel = 31 US gallons)
- US brewers producing fewer than 2 million barrels:
  - $7.00/barrel on the first 60,000 barrels

Wine and Hard Cider

- Wines lower than 14% alcohol by volume (ABV):
  - $1.07/gallon
- Wines above 14% and below 21% ABV:
  - $3.57/gallon
- Wines 21 and 24% ABV:
  - $3.15/gallon
- Champagne and other naturally sparkling wines and ciders:
  - $3.40/gallon
- Artificially carbonated wines and ciders:
  - $3.30/gallon
- Hard cider (still) wine:
  - $.226/gallon
- A $0.90 credit is available for the first 100,000 gallons removed by a small winery producing not more than 250,000 gallons in a calendar year.
- The credit is reduced by 1% for each 1,000 gallons above the 100,000 gallon threshold produced by a winery (and controlled group) up to 250,000 gallons in each calendar year.
- The credit for hard cider is $0.056/gallon

Distilled spirits: $13.50/proof gallon

The first 100,000 proof gallons produced or imported:

The alcohol content ranges for two wine tax rates are changed as follows:

- Wines lower than 16% alcohol by volume (ABV):
  - $1.07/gallon
- Wines above 16% and below 21% ABV:
  - $3.57/gallon
- No other alcohol content criteria for wine tax rates changes.
- The tax credit previously available to small domestic wineries is modified and made available to each winery and importer (and each controlled group).
- Credits are provided based on various production thresholds for wine up to a total of 750,000 gallons per calendar year:
  - $1.00/gallon on the first 30,000 gallons;
  - $0.90/gallon on the next 100,000 gallons; and
  - $0.535/gallon on the next 620,000 gallons.
- Credits are adjusted for various production thresholds for hard cider:
  - $0.062/gallon on the first 30,000 gallons;
  - $0.056/gallon on the next 100,000 gallons; and
  - $0.033/gallon on the next 620,000 gallons.
Distilled Spirits

- Distilled spirits at 50% ABV. The actual rate is adjusted for spirits products above and below 50% ABV. For example a distilled spirits product containing 40% ABV is $10.80/gallon.

- A credit is provided for any wine and flavor content in distilled spirits.

- $2.70/proof gallon

- The next 22,130,000 proof gallons produced or imported:

- $13.34/proof gallon

- All other production or imports are taxed at the standard $13.50/proof gallon rate.

- Credits for wine and spirits content remain available.

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