

112TH CONGRESS  
1ST SESSION

# H. R. 777

To amend the Internal Revenue Code of 1986 to reduce the rate of tax on distilled spirits produced by small producers.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2011

Mr. HINCHEY 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 reduce the rate of tax on distilled spirits produced by small producers.

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 “Small Distillery Excise  
5 Tax Act of 2011”.

6 **SEC. 2. REDUCED RATE OF TAX ON DISTILLED SPIRITS**  
7 **PRODUCED BY SMALL PRODUCERS.**

8 (a) IN GENERAL.—Section 5001 of the Internal Rev-  
9 enue Code of 1986 (relating to imposition, rate, and at-  
10 tachment of tax on distilled spirits) is amended by redesignig-

1 nating subsection (c) as subsection (d) and by inserting  
2 after subsection (b) the following new subsection:

3 “(c) CREDIT FOR SMALL PRODUCERS.—

4 “(1) ALLOWANCE OF CREDIT.—In the case of a  
5 small distilled spirits producer, there shall be allowed  
6 as a credit against the tax imposed by this title  
7 (other than chapters 2, 21, and 22) an amount  
8 equal to 80 percent of the otherwise applicable tax  
9 on the first 65,000 of proof gallons of distilled spir-  
10 its produced by such producer during the calendar  
11 year at qualified facilities in the United States.

12 “(2) SMALL DISTILLED SPIRITS PRODUCER.—

13 For purposes of this subsection, the term ‘small dis-  
14 tilled spirits producer’ means any person who pro-  
15 duces not more than 100,000 proof gallons of dis-  
16 tilled spirits during the calendar year.

17 “(3) TIME FOR DETERMINING AND ALLOWING  
18 CREDIT.—The credit allowable by paragraph (1)—

19 “(A) shall be determined at the same time  
20 the tax is determined under subsection (a), and

21 “(B) shall be allowable at the time the tax  
22 imposed by subsection (a) is payable as if the  
23 credit allowable by this subsection constituted a  
24 reduction in the rate of such tax.

1           “(4) CONTROLLED GROUPS.—Rules similar to  
2 rules of section 5051(a)(2)(B) shall apply for pur-  
3 poses of this subsection.

4           “(5) DENIAL OF DEDUCTION.—Any deduction  
5 under subtitle A with respect to any tax against  
6 which a credit is allowed under this subsection shall  
7 only be for the amount of such tax as reduced by  
8 such credit.

9           “(6) CREDIT FOR TRANSFEREE IN BOND.—If—

10           “(A) distilled spirits produced by any per-  
11 son would be eligible for any credit under para-  
12 graph (1) if removed by such person during the  
13 calendar year,

14           “(B) distilled spirits produced by such per-  
15 son is removed during such calendar year by  
16 any other person (hereafter in this paragraph  
17 referred to as the ‘transferee’) to whom such  
18 distilled spirits were transferred in bond and  
19 who is liable for the tax imposed by this section  
20 with respect to such spirits, and

21           “(C) such producer holds title to such spir-  
22 its at the time of its removal and provides to  
23 the transferee such information as is necessary  
24 to properly determine the transferee’s credit  
25 under this paragraph,

1 then, the transferee (and not the producer) shall be  
2 allowed the credit under paragraph (1) which would  
3 be allowed to the producer if the distilled spirits re-  
4 moved by the transferee had been removed by the  
5 producer on that date.

6 “(7) REGULATIONS.—The Secretary may pre-  
7 scribe such regulations as may be necessary to carry  
8 out the purposes of this subsection, including—

9 “(A) regulations to prevent the credit pro-  
10 vided by this subsection from benefiting any  
11 person who produces more than 100,000 proof  
12 gallons of distilled spirits during a calendar  
13 year, and

14 “(B) regulations which reduce the credits  
15 allowable by sections 5010 and 5011 in order to  
16 properly reflect the reduced effective rate of tax  
17 on distilled spirits under this subsection.”.

18 (b) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to distilled spirits produced in cal-  
20 endar years ending after the date of the enactment of this  
21 Act, but shall not apply to distilled spirits on which tax  
22 is required to be paid before the date of the enactment  
23 of this Act.

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