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# R SHEET ON GOP TAX REFORM IMPACT ON BOOZE

January 2018

## BACKGROUND

This past December, Congress and President Donald Trump passed the “Tax Cuts and Jobs Act,” which significantly reduced federal taxes across the board.<sup>1</sup> While the legislation’s impact on general corporations and individuals was the subject of substantial analysis, its overhaul of federal alcohol taxes has received much less attention.

However, the reform bill incorporated a version of the Craft Beverage Modernization and Tax Reform Act,<sup>2</sup> which reduced federal excise taxes for all kinds of alcoholic beverages, from beer to distilled spirits and wine. This marks the first decrease in federal wine excise taxes in over 80 years,<sup>3</sup> and the first in distilled spirit excise taxes since the Civil War.<sup>4</sup>

Estimates have predicted that the tax reduction will save the alcohol industry up to \$4.2 billion over the next two years.<sup>5</sup> While substantial, this tax savings may also prove transient, as the alcohol tax reductions are slated to expire in two years, on December 31, 2019.<sup>6</sup> It’s also worth keeping in mind that alcohol producers remain subject to state-level excise taxes—which can vary significantly from state to state<sup>7</sup>—as well as state-imposed markups in control states.<sup>8</sup>

This R Sheet summarizes the various tax treatments that alcoholic beverages will receive as a result of the Tax Cuts and Jobs Act.

## BEER

Under prior law, the beer excise tax was \$18 per barrel,<sup>9</sup> although smaller breweries (those producing less than 2 million barrels annually) paid a reduced excise tax of \$7 on their first 60,000 barrels. The new tax reform both reduces the topline \$18 per barrel rate, as well as the small-brewer rate:

Prior Taxes	New Taxes
\$7 per barrel on first 60,000 barrels from producers making less than 2 million barrels annually; then reverts to \$18 per barrel	\$3.50 per barrel on first 60,000 barrels from producers making less than 2 million barrels annually; then reverts to \$16 per barrel
\$18 per barrel for producers making more than 2 million barrels annually <sup>9</sup>	\$16 per barrel on the first 6 million barrels brewed by a producer making more than 2 million barrels annually; then reverts to \$18 per barrel <sup>11</sup>

## WINE

In recent years, the excise tax for wine has been set at \$1.07 per gallon, but there was an additional tax credit for smaller producers (which gradually phased out for wineries that produced over 250,000 gallons annually).<sup>12</sup> The new law expands the wine tax credit for all wineries:

Prior Taxes	New Taxes
\$1.07 per gallon	\$1.07 per gallon
Tax credit of \$.90 on first 100,000 gallons for wineries that produce less than 150,000 gallons annually (decreasing credits apply to wineries that produce up to 250,000 gallons annually)	Tax credit of \$1 on first 30,000 gallons produced for all size wineries  Tax credit of \$.90 on 30,000 to 130,000 gallons produced for all size wineries  Tax credit of \$.535 on 130,000 to 750,000 gallons produced for all size wineries; tax credit phases out at 750,000 gallons <sup>13</sup>

The new law also adjusts the alcohol level at which these tax rates and credits apply. Under prior law, the \$1.07 per gallon excise level applied to all wine with an Alcohol by Volume (ABV) of 14% or lower; wines from 14% to 21% ABV faced an excise tax of \$1.57; and wines from 21% to 24% faced a \$3.15 excise tax. The new law raises the ABV threshold for the \$1.07 rate from 14% to 16%, thereby extending the lower rate to more alcoholic wine types.

Also of note, under prior law, sparkling wine was taxed at a higher \$3.40 per gallon rate and was not eligible for tax credits.<sup>14</sup> The new law no longer prohibits tax credits from applying to sparkling wine.<sup>15</sup>

## HARD CIDER

Federal law has historically treated cideries as wineries (as well as considering cider a type of wine), and thus the new law also expands tax credits for cider:

Prior Taxes	New Taxes
\$.226 per gallon	\$.226 per gallon
Tax credit of \$.056 on first 100,000 gallons for cideries that produce less than 150,000 gallons of cider annually (decreasing credits can apply to cideries that produce up to 250,000 gallons annually)	Tax credit of \$.062 on first 30,000 gallons produced for all size cideries  Tax credit of \$.056 on 30,000 to 130,000 gallons produced for all size cideries  Tax credit of \$.033 on 130,000 to 750,000 gallons produced for all size cideries; tax credit phases out at 750,000 gallons <sup>16</sup>

These credits apply to “Hard Cider,” which is defined under federal law as wine “derived primarily from apples or pears” and that contains less than 8.5% ABV and no more than .64 grams of carbon dioxide per 100 milliliters.<sup>17</sup> All ciders that do not meet these criteria are taxed at the level of sparkling wine.

## DISTILLED SPIRITS

Previously, the excise tax for distilled spirits sat at \$13.50 per proof gallon.<sup>18</sup> The new law reduces this rate substantially for the first 100,000 proof gallons produced, along with a more modest reduction up to 22 million gallons:

Prior Taxes	New Taxes
\$13.50 per proof gallon <sup>19</sup>	\$2.50 per proof gallon for first 100,000 barrels produced
	\$13.34 per proof gallon for between 100,000 and 22,230,000 barrels produced
	\$13.50 per proof gallon for any barrels produced over 22,230,000 <sup>20</sup>

## MEAD

For the first time, the new law also provides a federal definition for what constitutes “mead,” defining it as a wine derived solely from honey and water that contains less than 8.5% ABV and no more than .64 grams of carbon dioxide per 100 milliliters.

For purposes of taxation, mead will be taxed as though it is a wine of less than 16% ABV (i.e., with an excise tax of \$1.07 per gallon minus applicable tax credits, as laid out in the “Wine” section above).<sup>21</sup>

## CONTACT US

For more information on this subject, contact the R Street Institute, 1212 New York Ave. NW, Suite 900, Washington, DC 20005, [feedback@rstreet.org](mailto:feedback@rstreet.org).

## ENDNOTES

1. Tax Cuts and Jobs Act, H.R. 1. <https://www.congress.gov/bill/115th-congress/house-bill/1>.
2. Craft Beverage Modernization and Tax Reform Act of 2017, S.236. <https://www.congress.gov/bill/115th-congress/senate-bill/236>.
3. Thomas Pellechia, “The Tax Cut And Jobs Act Benefits Alcohol Producers Big Time,” *Forbes*, Dec. 20, 2017. <https://www.forbes.com/sites/thomaspellechia/2017/12/20/the-tax-cut-and-jobs-act-benefits-beverage-alcohol-producers-big-time/#6b5bace5f22e>.
4. Leslie Gevartz, “Congress Cuts Federal Excise Tax on Wine, Beer and Spirits,” *Wine Enthusiast*, Dec. 20, 2017. <http://www.winemag.com/2017/12/20/break-good-stuff-congress-passes-federal-excise-tax-wine-beer-spirits>.
5. Lydia DePillis, “Tax bill does the booze industry a solid,” *CNN Money*, Dec. 22, 2017. <http://money.cnn.com/2017/12/21/news/economy/booze-taxes/index.html>.

6. Sophia Moss, “Tax Cuts for Alcohol Producers and Importers Included in Republican Tax Plan,” *The Drinks Business*, Dec. 19, 2017. <https://www.thedrinksbusiness.com/2017/12/tax-cuts-for-alcohol-producers-and-importers-included-in-republican-tax-plan>.

7. Megan Scarboro, “How High Are Spirits Taxes in Your State?,” Tax Foundation, June 22, 2017. <https://taxfoundation.org/states-spirits-taxes-2017>; Jose Trejos, “How High Are Wine Taxes In Your State?,” Tax Foundation, June 15, 2017. <https://taxfoundation.org/high-wine-taxes-state>; Jared Walczak, “How High Are Beer Taxes in Your State?,” Tax Foundation, June 7, 2017. <https://taxfoundation.org/beer-taxes-state>.

8. C. Jarrett Dieterle, “How states use liquor markups to hide the bill from taxpayers,” *R Street Shorts* No. 48, October 2017. <http://www.rstreet.org/policy-study/how-states-use-liquor-markups-to-hide-the-bill-from-taxpayers>.

9. A barrel is 31 gallons. See Alcohol and Tobacco Tax and Trade Bureau, “Tax and Fee Rates: Applies to Calendar Years 2017-earlier,” U.S. Dept. of the Treasury, Updated: Jan. 17, 2018. [https://www.ttb.gov/tax\\_audit/atftaxes.shtml](https://www.ttb.gov/tax_audit/atftaxes.shtml).

10. Ibid.

11. Tax Cuts and Jobs Act, Title I, Part IX, Subpart A, Sec. 13802.

12. Emma Balter, “As U.S. Senate Considers Tax Bill, Wineries Seek a Break,” *Wine Spectator*, Nov. 30, 2017. <http://www.winespectator.com/webfeature/show/id/As-Senate-Considers-Tax-Bill-Wineries-Seek-a-Break>.

13. Tax Cuts and Jobs Act, Title I, Part IX, Subpart A, Sec. 13804.

14. Alcohol and Tobacco Tax and Trade Bureau, “Tax and Fee Rates: Applies to Calendar Years 2017-earlier,” U.S. Dept. of the Treasury, Updated: Jan. 17, 2018. [https://www.ttb.gov/tax\\_audit/atftaxes.shtml](https://www.ttb.gov/tax_audit/atftaxes.shtml).

15. Balter. <http://www.winespectator.com/webfeature/show/id/As-Senate-Considers-Tax-Bill-Wineries-Seek-a-Break>.

16. Tax Cuts and Jobs Act, Title I, Part IX, Subpart A, Sec. 13804.

17. Alcohol and Tobacco Tax and Trade Bureau, “Amendments to the Criteria for the Hard Cider Tax Rate and Information on Other Requirements that Apply to Wine that is Eligible for the Hard Cider Tax Rate,” *TTB Industry Circular* No. 2017-2, May 16, 2017. [https://www.ttb.gov/industry\\_circulars/archives/17-2.shtml](https://www.ttb.gov/industry_circulars/archives/17-2.shtml).

18. A “proof gallon” is a gallon of 100 proof (or 50% ABV) liquid. See Alcohol and Tobacco Tax and Trade Bureau, “Tax and Fee Rates: Applies to Calendar Years 2017-earlier,” U.S. Dept. of the Treasury, Updated: Jan. 17, 2018. [https://www.ttb.gov/tax\\_audit/atftaxes.shtml](https://www.ttb.gov/tax_audit/atftaxes.shtml).

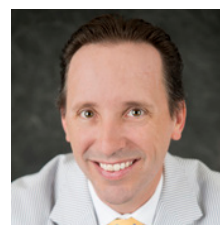
19. Ibid.

20. Tax Cuts and Jobs Act, Title I, Part IX, Subpart A, Sec. 13807.

21. Tax Cuts and Jobs Act, Title I, Part IX, Subpart A, Sec. 13806.



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