

**The original documents are located in Box 65, folder “10/17/76 HR3605 Reduce Beer Tax for Small Brewers” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

APPROVED  
OCT 17 1976

8/10/17/76

THE WHITE HOUSE  
WASHINGTON  
October 16, 1976

ACTION

Last Day: October 18

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON *Jim Cannon*  
SUBJECT: H.R. 3605 - Reduce Beer Tax for Small Brewers

*Posted  
10/18/76*

*achis  
10/18/76*

Attached for your consideration is H.R. 3605, sponsored by Representative Pickle.

The enrolled bill reduces the Federal excise tax on beer produced by small brewers.

H.R. 3605 would reduce the excise tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels produced each year by small brewers. The clear intent of the bill is to subsidize small brewers who are thought to be at a competitive disadvantage to large national brewers.

The maximum annual benefit per brewer would be \$120,000. It is estimated that 39 brewers would receive annual benefits of about \$3.9 million.

A detailed discussion of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

Agency Recommendations

The Department of the Treasury recommends approval, arguing that "this tax reduction would be good for the brewing industry and the economy."

The Small Business Administration recommends approval, saying that it "believes the small brewers are in great need of assistance in their competitive struggle against the large brewers. This bill will assist the small brewers in maintaining their economic viability."

The Departments of Commerce and Justice defer to Treasury (although Justice indicates continued opposition to the legislation).



OMB recommends disapproval, arguing that the excise tax system should not be used to change competitive conditions within an industry and that this proposed use of the excise tax system would establish a bad precedent for control of competition in other areas. Furthermore, OMB contends "no persuasive case has been made that the public interest would be served by subsidizing all small brewers nor, if it is in the public interest to protect small breweries, that they all need a subsidy or that a subsidy through the excise tax system is an effective means of accomplishing such an objective. Moreover, because the \$2 per barrel subsidy would be embedded in the tax system, there would be no opportunity for annual review of the costs of the subsidy or its purported benefits."

### Staff Recommendations

|   |  |
|---|--|
| Max Friedersdorf                          | "Strongly recommend approval. Strong interest in Minnesota, Michigan and Wisconsin. Mary Louise Smith has called on behalf of Iowa. Supported by the Teamsters Union."   |
| Bill Seidman                              | Approval   |
| Counsel's Office<br>(Lazarus)             | Disapproval  |
| Council of Economic<br>Advisers (MacAvoy) | "I essentially concur with the objections to this legislation raised by OMB. While a healthy small business sector is an essential ingredient of the strength and vigor of the American economy, the degree of concentration in the brewing industry does not appear excessive and special assistance therefore does not seem warranted in this case. It is also not clear that the tax break would actually have the desired effect of improving competitive conditions in the brewing industry. Moreover, in general it is not desirable to provide special subsidies through the tax system. If a persuasive case could be made that it is in the public interest to support small breweries, the subsidy should appear as an explicit expenditure item subject to annual budget review." |

Robert Hartmann (Smith)            Approval

Recommendation

I recommend that you veto H.R. 3605 because this economically unjustified use of the tax system to subsidize some competitors in an industry would be a bad precedent.

Decision

Sign H.R. 3605 at Tab B.

Veto H.R. 3605 and sign Memorandum of Disapproval at Tab C which has been cleared by Doug Smith.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OCT 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 3605 - Reduce Beer Tax for  
Small Brewers  
Sponsor - Rep. Pickle (D) Texas

Last Day for Action

October 18, 1976 - Monday

Purpose

Reduces the Federal excise tax on beer for small brewers.

Agency Recommendations

|                                 |   |
|---------------------------------|---|
| Office of Management and Budget | Disapproval (Memorandum<br>of disapproval attached) |
| Department of Justice           | Defers to Treasury                                  |
| Department of Commerce          | Defers to Treasury                                  |
| Small Business Administration   | Approval  |
| Department of the Treasury      | Approval  |

Discussion

H.R. 3605 would reduce the excise tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a brewer who produces no more than 2,000,000 barrels per year. Related corporations would be treated as one for purposes of the tax reduction. The \$2 per barrel reduction would amount to a maximum revenue loss of \$120,000 per qualifying brewer. A recent count shows 39 brewers meeting the 2 million barrel test. The aggregate revenue loss would be about \$3.9 million.

The bill's rationale, as indicated in the House Ways and Means Committee's report, is to enable small regional brewers to "compete more effectively" with the large national brewers. Since 1933, the number of breweries operating in the United States has declined from more than 700 to about 100 at present. This has occurred despite the increase in U.S. annual production from 38 million barrels in 1934 to 158 million barrels in 1975. Of the 100 remaining breweries, almost 60 are multiple locations of large national brewing companies, the 10 largest of which supply over 80 percent of beer production in the United States.

The Ways and Means Committee report concluded that the continuing decline in small brewers unable to compete effectively with the large national brewing companies could be alleviated by a partial reduction of the manufacturers' excise tax for qualifying small producers.

There is no evidence to suggest that the welfare of consumers has been diminished by the long-term trend toward national competition among large national firms at the expense of smaller firms who may in the past have enjoyed less competition within limited geographic areas. As in the case of most other consumer goods, technical changes in production, packaging, and transportation have stimulated competition among brewers over a wider geographic area than was the case, say, 40 years ago.

In its December 1975 report, published by the Ways and Means Committee, Treasury opposed H.R. 3605 on the grounds that the excise tax system should not be used to change competitive conditions within an industry. The Department expressed concern that if the approach in the bill were adopted, it would establish a precedent to control competition in other areas; this could represent a significant source of interference in the flexibility needed to achieve an efficient reallocation of resources as technology changes. In addition, Treasury stated that it doubted that the tax savings (a maximum of \$120,000 per year per brewer) would be large enough to have any real impact on the viability of small brewers.

We concur in the position that Treasury took at that time and fail to perceive, as Treasury now asserts, that "this tax reduction would be good for the brewing industry and the economy." No persuasive case has been made that the public

interest would be served by subsidizing all small brewers nor, if it is in the public interest to protect small breweries, that they all need a subsidy or that a subsidy through the excise tax system is an effective means of accomplishing such an objective. Moreover, because the \$2 per barrel subsidy would be embedded in the tax system, there would be no opportunity for annual review of the costs of the subsidy or its purported benefits.

Further, the recently enacted Tax Reform Act of 1976 provided important tax relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

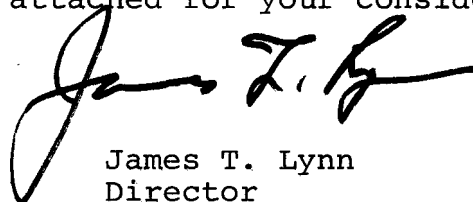
The bill would discourage a small brewer from ever producing more than 2 million barrels per year. Moreover, some of the tax savings provided by the bill could go to already large and profitable corporations. Although the bill would prevent large breweries from obtaining the tax reduction by the use of subsidiary corporations, it does not prevent companies in other industries from receiving the subsidy by owning a small brewery.

H.R. 3605 might permit a few small inefficient brewers to remain in business longer than would otherwise be the case but there is no clear reason why that should be an objective of public policy. Enforcement of the antitrust laws should be relied upon to maintain desirable forms of competition in the beer industry. In this connection, the Federal Trade Commission has been conducting an antitrust investigation of the four largest brewers for the past several years. However,



no complaints have been issued and no further actions are anticipated.

A memorandum of disapproval is attached for your consideration.

A handwritten signature in black ink, appearing to read "James T. Lynn". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

James T. Lynn  
Director

Enclosures

*B*

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: ~~October 12~~

Time: 830pm

FOR ACTION: Paul Leach *veto*  
 Max Friedersdorf *sign ec* (for information):  
 Bobbie Kilberg *veto*  
 Alan Greenspan *veto*  
 Bill Seidman *Hartmann*

Jack Marsh  
 Ed Schmults  
 Steve McConahey  
 Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: ~~October 12~~

Time: 500pm

SUBJECT:

H. R. 3605-Reduce Beer Tax for Small Brewers

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

\_\_\_\_\_  
K. R. COLE, JR.  
For the President



## MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 3605, which would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a small brewer who annually produces no more than 2,000,000 barrels of beer.

The legislation would set the undesirable precedent of using the excise tax system to try to change competitive conditions in an industry by aiding certain companies. Providing a tax differential for the purpose of altering the competitive conditions in the brewing industry, as would be done by H.R. 3605, is not consistent with the traditional reason for the tax on beer, which since 1866 has been imposed merely for the purpose of providing revenue. Excise taxes should be applied on a uniform and consistent basis and should not be used for other than revenue purposes.

It is also doubtful that the bill would accomplish its intended purpose of assisting small brewers to compete more effectively. Since the repeal of Prohibition, there has been a considerable decline in the number of brewers (and breweries): Twenty-five years ago there were over 600 breweries in operation, while today there are about 100. This concentration has occurred because of technical changes in production, packaging, and transportation which allow beer to be shipped longer distances than when it was distributed in kegs. As these economic changes have come about, national and regional advertising has helped a few brands capture a large part of the beer market. In this respect, the trend in the beer industry is no different than that for most other consumer goods. Even though brewers qualifying for the tax break under this bill could receive a maximum tax reduction of \$120,000 a year, there can be no assurance that this reduction

would enable small breweries to build the modern plants and make the technical changes needed to compete with the large producers.

Further, the recently enacted Tax Reform Act of 1976 provided important relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

Finally, the bill could discourage a small brewer from ever producing more than 2 million barrels per year and thus it could discourage small brewers from becoming more productive and profitable. Most significantly, some of the tax savings provided by the bill could go to already large and profitable corporations. Although the bill would prevent large breweries from obtaining the tax reduction, it does not prevent large diversified companies from receiving the subsidy by owning a small brewery.

For the above reasons, I am withholding my approval from this bill.

THE WHITE HOUSE,

GMB

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 3605, which would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a brewer who produces no more than 2,000,000 barrels per year.

The purpose of the bill is to aid small brewers who have been unable to compete effectively with the large national brewing companies. The legislation would set the undesirable precedent of using the excise tax system to try to change competitive conditions in an industry. Providing for a tax differential for the purpose of affecting certain competitive conditions existing in the brewing industry, as would be done by H.R. 3605, is not consistent with the traditional policy of the tax on beer, which since 1866 has been imposed merely for the purpose of providing revenue.

If there were an extensive departure from a policy of taxation for revenue only, the law could become extremely complex. It would inevitably contain many features which would be considered unfair by others. Tax differentials designed to foster certain parts of an industry or certain industries tend to distort normal economic forces and the natural competitive positions of taxpayers. This interferes with the efficient distribution of resources and the development of new techniques or systems.

Once incorporated into law, such differentials are likely to remain in existence for considerable periods of time because those favored by the differential would be harmed by a return to a uniform and more neutral form of taxation. Because excise taxes so directly affect the competitive position of industries subject to the tax, these

taxes should be applied on a uniform and consistent basis; they should not be used for other than revenue purposes.

It is doubtful that the bill would accomplish its intended purpose of assisting small brewers to compete effectively. Since the repeal of Prohibition, there has been a considerable decline in the number of brewers (and breweries). Twenty-five years ago there were over 600 breweries in operation; today there are about 100. This concentration has been the result of technical changes in production, packaging, and transportation which allow beer to be shipped longer distances than when it was distributed in kegs. When these economic changes came about, national and regional advertising helped a few brands to capture a large part of the market. In this respect, the trend in the beer industry is no different than that of most other consumer goods. Even though each qualifying brewer could receive a maximum tax reduction of \$120,000 a year, it is doubtful that this reduction would enable small breweries to build the modern plants and make the technical changes needed to compete with the large producers.

Further, the recently enacted Tax Reform Act of 1976 provided important relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since



they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

The bill would discourage a small brewer from ever producing more than 2 million barrels per year. Moreover, some of the tax savings provided by the bill could go to already large and profitable corporations. Although the bill would prevent large breweries from obtaining the tax reduction by the use of subsidiary corporations, it does not prevent companies in other industries from receiving the subsidy by owning a small brewery.

For the above reasons, I am withholding my approval from this bill.

THE WHITE HOUSE

October , 1976

**Department of Justice**  
**Washington, D. C. 20530**

October 7, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 3605) "To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer)."

The bill would amend the Internal Revenue Code to provide that a lower tax would be assessed against brewers with fewer than two million barrels of annual production on the first 60,000 barrels produced. After 60,000 barrels, the rate of tax would be assessed at the current rate for all brewers, regardless of size. The legislation would generate \$120,000 in pre-tax profits for qualifying brewers, although the actual reduction in tax would be less.

In a letter to you of May 26, 1976, we expressed the opposition of the Department of Justice to this legislation. Our views remain the same. However, the matter is not of such direct and significant concern to the Department as to recommend disapproval by the President.

The Department of Justice defers to the Department of the Treasury as to whether this bill should receive Executive approval.

Sincerely,



Michael M. Uhlmann  
Assistant Attorney General



**GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

OCT 6 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H. R. 3605, an enrolled enactment

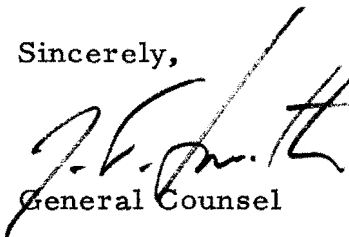
"To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer)."

This bill would amend the Internal Revenue Code to provide that the tax on beer (currently \$9 a barrel) would be reduced to \$7 per barrel on the first 60,000 barrels of beer removed for consumption or sale in the case of a brewer or controlled group of brewers who produce a total of not more than 2,000,000 barrels of beer during the calendar year. The bill would be effective for calendar year 1977 and thereafter.

The Department of Commerce would defer to the views of the Department of the Treasury as to the advisability of approval of this legislation by the President.

Enactment of H. R. 3605 would have no budgetary impact on this Department.

Sincerely,



General Counsel





U.S. GOVERNMENT  
SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

OCT 7 1976

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your request for the views of the Small Business Administration regarding H. R. 3605, an Enrolled Bill "To amend section 5051 of the Internal Revenue Code of 1954 relating to the Federal excise tax on beer."

Section 5051 of the Internal Revenue Code imposes an excise tax of \$9 per barrel on the production of beer. H. R. 3605 would amend this general provision by reducing the tax to \$7 per barrel on the first 60,000 barrels of beer produced by small brewers (those producing no more than 2,000,000 barrels a year).

Figures cited by proponents of this legislation indicate that of the approximately 100 breweries still in operation, almost 60 comprise multiple locations operated predominantly by the large national brewing companies, with the remaining breweries being operated predominantly by small regional brewers. In 1974, the 10 largest domestic brewers supplied over 80 percent of the U. S. beer production.

It has been indicated that the continuing decline in small brewers is caused by their inability to compete effectively with the large national brewing companies. As an aid to the small brewers and to enable them to compete more effectively, Congress decided to reduce the manufacturers excise tax to a limited extent for qualifying small brewers. Although the tax reduction applies only to domestically

produced beer, for purposes of determining whether a brewer is a small brewer entitled to this reduced tax rate, all of that brewer's production is to be taken into account, including its foreign production.

SBA believes the small brewers are in great need of assistance in their competitive struggle against the large brewers. This bill will assist the small brewers in maintaining their economic viability. SBA supports H. R. 3605 in fulfilling its mandate to be small business' advocate within the public sector.

Thank you for the opportunity to comment on this legislation.

Sincerely,

A handwritten signature in black ink, reading "Mitchell P. Kobelinski". The signature is written in a cursive style with a prominent initial "M".

Mitchell P. Kobelinski  
Administrator



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 8 1976

Director, Office of Management and Budget  
Executive Office of the President  
Washington, D. C. 20503

Attention: Assistant Director for Legislative  
Reference

Sir:

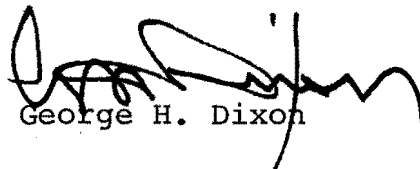
This report responds to your request for the views of this Department on the enrolled enactment of H.R. 3605, "To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer)."

The enrolled enactment would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a brewer who produces no more than 2,000,000 barrels per year.

The Department opposed H.R. 3605 and similar bills in reports to Ways and Means. However, we have reconsidered the effect that the reduction of taxes would have on small breweries and believe that this tax reduction would be good for the brewing industry and the economy.

Therefore, the Department recommends that the enrolled enactment be approved by the President.

Sincerely yours,



George H. Dixon

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Alan Greenspan Robert Hartmann  
Bill Seidman

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

H.R.3605-Reduce Beer Tax for Small Brewers

## ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

## REMARKS:

please return to judy johnston, ground floor west wing

*APPROVAL  
KWS*PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Alan Greenspan Robert Hartmann  
Bill Seidman

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

H.R.3605-Reduce Beer Tax for Small Brewers

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

Recommend disapproval but suggest that the draft memorandum of disapproval is overdrawn and should be toned down.

K. Lazarus 10/13

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President



Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
 Max Friedersdorf  
 Bobbie Kilberg  
 Alan Greenspan Robert Hartmann  
 Bill Seidman

cc (for information): Jack Marsh  
 Ed Schmults  
 Steve McConahey  
 Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

H.R.3605-Reduce Beer Tax for Small Brewers

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

*Strongly recommend approval. Strong interest in Minnesota, Michigan, & vic. Mary Louise Smith has called on behalf of Iowa. Supported by Teamsters Union.*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
 For the President

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Alan Greenspan  
Bill Seidman

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

H.R. 3605-Reduce Beer Tax for Small Brewers

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*I concur with the OMB  
veto recommendation and the  
arguments for it. This is a  
very bad precedent!*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

*PCZ  
10/13/76*

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON, D.C. 20506

October 14, 1976

MEMORANDUM FOR JAMES M. CANNON

FROM: PAUL W. MACAVOY, Acting Chairman *pm*

This is in response to your request for the views of the Council of Economic Advisers on Enrolled Bill H. R. 3605, "To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer)".

This bill would reduce the Federal excise tax on beer from \$9 to \$7 a barrel on the first 60,000 barrels produced per year by brewers whose annual production is 2 million barrels or less. The object of the bill is to improve the financial and competitive situation of small regional brewers in order to arrest the trend toward greater concentration in the brewing industry. There are now about 100 brewing companies in the United States, compared with some 700 in 1933.

I essentially concur with the objections raised to this legislation by the Office of Management and Budget. While a healthy small business sector is an essential ingredient of the strength and vigor of the American economy, the degree of concentration in the brewing industry does not appear excessive and special assistance therefore does not seem warranted in this case. It is also not clear that the tax break would actually have the desired effect of improving competitive conditions in the brewing industry. Moreover, in general it is not desirable to provide special subsidies through the tax system. If a persuasive case could be made that it is in the public interest to support small breweries, the subsidy should appear as an explicit expenditure item subject to annual budget review.



The Council of Economic Advisers recommends that the President veto H. R. 3605. I concur with the language in the draft memorandum of disapproval from the Office of Management and Budget.

12  
10/13/76 - 8:50 am  
m-

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Alan Greenspan  
Bill Seidman

cc (for information): Jack Marsh  
Ed Schmults  
Robert Hartmann  
Steve McConahey  
Mike Duval

FROM THE STAFF SECRETARY

DUE: Date: October 14

Time: 500pm

SUBJECT:

H.R.3605-Reduce Beer Tax for Small Brewers

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

10/13 - copy sent for researching. mm  
10/14 - Researched copy returned. mm

*Recommended approval  
also may be edited, but I want say  
that its logic is weak and its  
not supported by Treasury,  
on whose behalf it  
purports to argue.*

**PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

12  
10/13/76-8:50 am

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach  
Max Friedersdorf  
Bobbie Kilberg  
Alan Greenspan  
Bill Seidman

cc (for information): Jack Marsh  
Ed Schmults  
Steve McConahey  
Mike Duval

*JML*

FROM THE STAFF SECRETARY

*To Res. 10/12 11:07*

DUE: Date: October 14

Time: 500pm

*to DJS  
10/14 11:38  
G Am*

SUBJECT:

H.R.3605-Reduce Beer Tax for Small Brewers

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
For the President

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 3605, which would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a brewer who produces no more than 2,000,000 barrels per year.

The purpose of the bill is to aid small brewers who have been unable to compete effectively with the large national brewing companies. The legislation would set the undesirable precedent of using the excise tax system to try to change competitive conditions in an industry. Providing for a tax differential for the purpose of affecting certain competitive conditions existing in the brewing industry, as would be done by H.R. 3605, is not consistent with the traditional policy of the tax on beer, which since 1866 has been imposed merely for the purpose of providing revenue.

If there were an extensive departure from a policy of taxation for revenue only, the law could become extremely complex. It would inevitably contain many features which would be considered unfair by others. Tax differentials designed to foster certain parts of an industry or certain industries tend to distort normal economic forces and the natural competitive positions of taxpayers. This interferes with the efficient distribution of resources and the development of new techniques or systems.

Once incorporated into law, such differentials are likely to remain in existence for considerable periods of time because those favored by the differential would be harmed by a return to a uniform and more neutral form of taxation. Because excise taxes so directly affect the competitive position of industries subject to the tax, these

*attached  
J. Ryan  
back-up*

*Internal  
Revenue  
Library  
(964-6345)  
Mr. Buring  
1862  
will case  
back*

*OK*

*OK OK*

*OK*

*OK*

*OK*



taxes should be applied on a uniform and consistent basis; they should not be used for other than revenue purposes.

It is doubtful that the bill would accomplish its intended purpose of assisting small brewers to compete effectively. Since the repeal of Prohibition, there has been a considerable decline in the number of brewers (and breweries). Twenty-five years ago there were over 600 breweries in operation; today there are about 100. This concentration has been the result of technical changes in production, packaging, and transportation which allow beer to be shipped longer distances than when it was distributed in kegs. When these economic changes came about, national and regional advertising helped a few brands to capture a large part of the market. In this respect, the trend in the beer industry is no different than that of most other consumer goods. Even though each qualifying brewer could receive a maximum tax reduction of \$120,000 a year, it is doubtful that this reduction would enable small breweries to build the modern plants and make the technical changes needed to compete with the large producers.

Further, the recently enacted Tax Reform Act of 1976 provided important relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since

Attached backup 1933

Attached backup Jim McKee 4874

Attached backup

IBED

ok ok ok ok ok

ok

ok ok

ok

ok

ok

ok

ok

ok



they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

The bill would discourage a small brewer from ever producing more than 2 <sup>oh</sup> million barrels per year. Moreover, some of the tax savings provided by the bill could go to already large and profitable corporations. <sup>oh</sup> Although the bill would prevent large breweries from obtaining the tax reduction by the use of subsidiary corporations, it does not prevent companies in other industries from receiving the subsidy by owning a small brewery.

For the above reasons, I am withholding my approval from this bill.

THE WHITE HOUSE

October , 1976

## MEMORANDUM OF DISAPPROVAL

LEACH

I am withholding my approval from H.R. 3605, which would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a small brewer who annually produces no more than 2,000,000 barrels of beer.

The legislation would set the undesirable precedent of using the excise tax system to try to change competitive conditions in an industry by aiding certain companies. Providing a tax differential for the purpose of altering the competitive conditions in the brewing industry, as would be done by H.R. 3605, is not consistent with the traditional reason for the tax on beer, which since 1866 has been imposed <sup>merely</sup> for the ~~sole~~ purpose of providing revenue.

Excise taxes should be applied on a uniform and consistent basis and should not be used for other than revenue purposes.

It is <sup>also</sup> doubtful that the bill would accomplish its intended purpose of assisting small brewers to compete more effectively. Since the repeal of Prohibition, there has been a considerable decline in the number of brewers (and breweries): Twenty-five years ago there were over 600 breweries in operation, while today there are about 100. This concentration has occurred because of technical changes in production, packaging, and transportation which allow beer to be shipped longer distances than when it was distributed in kegs. As these economic changes have come about, national and regional advertising has helped a few brands capture a large part of the beer market. In this respect, the trend in the beer

industry is no different than that for most other consumer goods. Even though ~~each~~ brewer<sup>s</sup> qualifying for the tax break under this Bill could receive a maximum tax reduction of \$120,000 a year, ~~it is not certain~~ <sup>there can be no assurance</sup> that this reduction would enable small breweries to build the modern plants and make the technical changes needed to compete with the large producers.

Further, the recently enacted Tax Reform Act of 1976 provided important relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

Finally, the bill could discourage a small brewer from ever producing more than 2 million barrels per year and thus it could discourage small brewers from becoming more productive and profitable. Most significantly, some of the tax savings provided by the bill could go to already large and profitable corporations. Although the bill would prevent large breweries from obtaining the tax reduction, it does not prevent large

diversified companies from receiving the subsidy by owning a small brewery.

For the above reasons, I am withholding my approval from this bill.

## MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 3605, which would reduce the tax on beer from \$9 to \$7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale by a small brewer who annually produces no more than 2,000,000 barrels of beer.

The legislation would set the undesirable precedent of using the excise tax system to try to change competitive conditions in an industry by aiding certain companies. Providing a tax differential for the purpose of altering the competitive conditions in the brewing industry, as would be done by H.R. 3605, is not consistent with the traditional reason for the tax on beer, which since 1866 has been imposed merely for the purpose of providing revenue. Excise taxes should be applied on a uniform and consistent basis and should not be used for other than revenue purposes.

It is also doubtful that the bill would accomplish its intended purpose of assisting small brewers to compete more effectively. Since the repeal of Prohibition, there has been a considerable decline in the number of brewers (and breweries): Twenty-five years ago there were over 600 breweries in operation, while today there are about 100. This concentration has occurred because of technical changes in production, packaging, and transportation which allow beer to be shipped longer distances than when it was distributed in kegs. As these economic changes have come about, national and regional advertising has helped a few brands capture a large part of the beer market. In this respect, the trend in the beer industry is no different than that for most other consumer goods. Even though brewers qualifying for the tax break under this bill could receive a maximum tax reduction of \$120,000 a year, there can be no assurance that this reduction



would enable small breweries to build the modern plants and make the technical changes needed to compete with the large producers.

Further, the recently enacted Tax Reform Act of 1976 provided important relief for businesses generally and small businesses in particular. For all businesses the investment tax credit was increased from 7 to 10 percent for the period 1977-1980. The reduction in the corporate tax rate on the first \$25,000 of corporate profits from 22 to 20 percent and on the second \$25,000 of corporate profits from 48 to 22 percent was extended through 1977. These tax reductions, since they do not play favorites with particular industries, are consistent with sound tax policy and, together with several other provisions of the Internal Revenue Code, represent an appropriate way for the tax system to aid small businesses.

Finally, the bill could discourage a small brewer from ever producing more than 2 million barrels per year and thus it could discourage small brewers from becoming more productive and profitable. Most significantly, some of the tax savings provided by the bill could go to already large and profitable corporations. Although the bill would prevent large breweries from obtaining the tax reduction, it does not prevent large diversified companies from receiving the subsidy by owning a small brewery.

For the above reasons, I am withholding my approval from this bill.

THE WHITE HOUSE,

## REDUCTION IN BEER TAX FOR SMALL BREWERS

JULY 19, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,  
submitted the following

### REPORT

[To accompany H.R. 3605]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3605) to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer), having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Page 2, strike out line 4 and all that follows down through line 17 and insert:

(2) **REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.**—

(A) **\$7 A BARREL RATE.**—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) **CONTROLLED GROUPS.**—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term “controlled group” has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the

preceding 2 sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

### I. SUMMARY

Present law imposes an excise tax of \$9 per barrel on beer and other fermented beverages produced or imported in the United States. The bill decreases this tax by \$2 per barrel on the first 60,000 barrels per year for qualifying small brewers.

### II. GENERAL STATEMENT

#### *Present law*

An excise tax at a rate of \$9 per 31-gallon barrel is imposed under present law (sec. 5051) on beer produced in the United States and removed for consumption or sale, or imported into the United States. The tax is imposed upon the brewer or importer (sec. 5054(a)). Beer is, in general, defined for these purposes to include ale, sake, and other similar fermented beverages which are produced from malt and contain one-half percent or more of alcohol by volume (sec. 5052(a)). A brewer is defined as any person who produces beer for sale (sec. 5092).

#### *Reasons for change*

Shortly after the ratification of the Twenty-First Amendment to the Constitution (the anti-prohibition amendment) in 1933, there were more than 700 breweries operating in the United States. Since that time the number has declined until there are at present about 100 breweries in operation; this is despite the fact that U.S. annual beer production has increased from 38 million barrels in 1934 to 158 million barrels in 1975. Of the approximately 100 breweries still in operation, almost 60 comprise multiple locations operated predominantly by the large national brewing companies, with the remaining breweries being operated predominantly by small regional brewers. In 1974, the 10 largest domestic brewers supplied over 80 percent of U.S. beer production.

It has been indicated that the continuing decline in small brewers is caused by their inability to compete effectively with the large national brewing companies. Your committee, as an aid to the small brewers and to enable them to compete more effectively, has decided to reduce the manufacturers excise tax to a limited extent for qualifying small brewers.

#### *Explanation of provision*

Under the bill, the excise tax on beer is to be reduced for small brewers to \$7 per barrel (from \$9 per barrel) on the first 60,000 barrels produced in the United States and removed for consumption or sale during the calendar year. This reduced rate is to apply for a calendar year only to a brewer that produces no more than 2 million barrels of beer for that calendar year. This status is to be determined on a year-by-year basis.

Although the tax reduction applies only to domestically produced beer, for purposes of determining whether a brewer is a small brewer entitled to this reduced tax rate, all of that brewer's production is to be taken into account, including its foreign production.

In addition, if several brewers are members of a controlled group, the 2-million-barrel limit is to be applied to the controlled group and the 60,000-barrel limit is to be apportioned among the members of the controlled group in accordance with Treasury Department regulations. For purposes of determining whether two or more corporations are members of a controlled group, the test section 1563(a) (relating to consolidated returns) is to be applied, except that the 80-percent requirement of that provision is replaced by a more-than-50-percent requirement. In other words, if there is more than 50 percent common stock ownership, then the organizations are to be treated as part of the same controlled group. The bill requires that an approach similar to the modified section 1563 rules is to be applied where any of the brewers is operating in a partnership, proprietorship, or other noncorporate form.

Under present law (sec. 5555) the Treasury Department already has the authority to require brewers to furnish the information necessary to permit the Bureau of Alcohol, Tobacco, and Firearms to determine whether a brewer claiming the benefits of the reduced rate under this bill is entitled to that rate, whether that brewer is a member of a controlled group, and (if so) whether the 2-million-barrel amount is exceeded by the group and, if it is not, how the 60,000-barrel amount is to be allocated among the brewers in that controlled group.

The tax saving under this amendment would be limited to no more than \$120,000 for each qualified brewery or qualified group of related breweries.

The Secretary is authorized to draft regulations interpreting and applying the rules of this provision.

#### *Effective date*

This bill is to apply to all calendar years which begin after the bill's enactment.

### III. EFFECT OF THE BILL ON THE REVENUES AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect of this bill on the revenues. Your committee estimates that the bill will decrease excise tax revenues by less than \$5 million per year.

In compliance with clause 2(1)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by the committee on the motion to report this bill. The bill, as amended, was ordered reported by a show-of-hands vote, 16 to 5.

### IV. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(3) of Rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A), relating to oversight findings, it was as a result of your committee's oversight activity concerning the excise tax treatment of brewers that it concluded that the provisions of this bill are appropriate to decrease the excise tax on qualified small brewers.



With respect to subdivision (B), after consultation with the Director of the Congressional Budget Office, your committee states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

With respect to subdivision (C), the Director of the Congressional Budget Office has not made an estimate or comparison of the estimates of the cost of H.R. 3605, but has examined the committee's estimates and agrees with the methods and the dollar estimates resulting therefrom.

With respect to subdivision (D), your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter of H.R. 3605.

In compliance with clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, your committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

#### V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman) :

#### INTERNAL REVENUE CODE OF 1954

\* \* \* \* \*

#### Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

\* \* \* \* \*

#### CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

\* \* \* \* \*

#### SUBPART D—BEER

\* \* \* \* \*

#### SEC. 5051. IMPOSITION AND RATE OF TAX.

[(a) **RATE OF TAX.**—There is hereby imposed on all beer, brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States, a tax of \$9 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel. Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where

the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.]

#### (a) **RATE OF TAX.**—

(1) **IN GENERAL.**—A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be \$9 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

#### (2) **REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.**—

(A) **\$7 A BARREL RATE.**—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) **CONTROLLED GROUPS.**—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding 2 sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

(3) **TOLERANCES.**—Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerance are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

(b) **ASSESSMENT ON MATERIALS USED IN PRODUCTION IN CASE OF FRAUD.**—Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

\* \* \* \* \*

○

PROVIDING FOR THE CONSIDERATION OF H.R. 3605

---

AUGUST 31, 1976.—Referred to the House Calendar and ordered to be printed

---

Mr. PEPPER, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 1510]

The Committee on Rules, having had under consideration House Resolution 1510, by a nonrecord vote report the same to the House with the recommendation that the resolution do pass.



# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (a) of section 5051 of the Internal Revenue Code of 1954 (imposing a tax of \$9 a barrel on beer produced or imported into the United States) is amended to read as follows:

“(a) RATE OF TAX.—

“(1) IN GENERAL.—A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be \$9 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

“(2) REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.—

“(A) \$7 A BARREL RATE.—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

“(B) CONTROLLED GROUPS.—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribed. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

H. R. 3605—2

“(3) TOLERANCES.—Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.”

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first calendar year which begins after the date of the enactment of this Act.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*