

# Like Alcohol But Not Taxes? The Craft Beverage Modernization and Tax Reform Act Could Help

There is a federal bill that will significantly reduce the federal taxes on your local craft brewery, winery and distillery and ease their regulatory burden as well.

I would love to have the full Wisconsin Congressional delegation become co-sponsors of the bill. ***Consider contacting your representative in support of this legislation. Details on how to do that are below.***

But first, what is the bill?

## Craft Beverage Modernization and Tax Reform Act

The Craft Beverage Modernization and Tax Reform Act (the "CBMTRA") was first introduced by Senator Ron Wyden (D-OR) in 2015. It aimed to reduce the federal excise tax on breweries, wineries and distilleries and streamline certain regulations. Industry groups coalesced around it—big beer and big liquor supported it, as did craft groups like the Brewers Association and the American Craft Spirits Association. Despite support from a majority of Congress,<sup>[1]</sup> both bills died in committee.

On January 30, 2017, the CBMTRA was reintroduced in the 115th Congress—[Senate Bill 236](#) by Senator Wyden and [H.R. 747](#) by Representatives Erik Paulson (R-MN-3) and Wisconsin's own Ron Kind (D-WI-3). The 2017 Senate and House bills are identical, and they largely track the 2015 bills.<sup>[2]</sup>

Here are some of the tax reductions set forth in the 2017 CBMTRA.<sup>[3]</sup>

- **Cutting in half the federal excise tax for all but the largest of Wisconsin craft brewers.** The 2017 CBMTRA would reduce the federal excise tax from \$7.00 per barrel to \$3.50 per barrel on the first 60,000 barrels made by domestic brewers that produce fewer than 2 million barrels per year. The federal excise tax on barrels 60,001 to 2 million for these brewers would be reduced from \$18 per barrel to \$16 per barrel. The only Wisconsin craft brewers that exceed 60,000 barrels per year are Minhas Craft Brewery, New Glarus Brewing and Stevens Point Brewery, none of which come close to 2 million barrels. So all the others—from Lakefront Brewery down to your local nanobrewery—would have their entire federal excise tax burden slashed by

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50%.

- **Expanding the excise tax credit for wineries.** Currently, the federal excise tax for wine is between \$1.07 and \$3.40 per wine gallon (based on alcohol content and carbonation level). Domestic wineries producing 250,000 wine gallons or less are eligible for a tax credit of 90 cents per wine gallon on the first 100,000 gallons produced; the tax credit phases out between 150,000 gallons and 250,000 gallons. The 2017 CBMTRA would eliminate this phase out and implement a new tiered system of higher tax credits: \$1.00 for the first 30,000 wine gallons, \$0.90 for the next 100,000 wine gallons, and \$0.535 for the next 620,000 wine gallons. Excise tax credits for hard cider would be similarly increased.
- **Reducing by 80% the federal excise tax for craft distilleries.** The 2017 CBMTRA would reduce the federal excise tax from \$13.50 per proof gallon to \$2.70 per proof gallon on the first 100,000 proof gallons produced. The federal excise tax on production above 100,000 proof gallons (up to 22,130,000 proof gallons) a year would be reduced by about 1% to \$13.34 per proof gallon. No distillery in Wisconsin produces above 100,000 proof gallons a year.

As stated, [Senate Bill 236](#) was introduced by Senator Wyden. There are 26 co-sponsors. Senator Baldwin (D-WI) is an original co-sponsor and Senator Johnson became a co-sponsor one day later. Wisconsin is one of six states from which both Senators have signed onto the bill.

Also as stated, [H.R. 747](#) was introduced by Representatives Erik Paulson (R-MN-3) and Ron Kind (D-WI-3). There are 102 co-sponsors. The newly elected Mike Gallagher (R-WI-8) co-sponsored on March 8.

***Let's take this as a challenge: Can we persuade the five remaining Wisconsin members of the House to become sponsors?*** If so, Wisconsin would be the first state to have its entire Congressional delegation sponsor the bill. Wisconsinites like our beer, our wine and our spirits: We should be able to get this done. Let's get #WI4CBMTRA trending.

Sit down with a Wisconsin-made beverage of your choice and spend three minutes online to contact your Representative.

## Who Can You Contact?

Craft brewery owners, employees and suppliers may contact their Representative through the [Brewers Association website](#).<sup>[4]</sup>

Consumers may contact their Representative here:

- Paul Ryan, 1st District
- [Gwen Moore](#), 4th District
- James Sensenbrenner, 5th District
- [Glenn Grothman](#), 6th District
- Sean Duffy, 7th District

A sample letter (which can be copied and pasted when filling out the forms on the above links) can be found on Exhibit A at the end of this article.

## Small Brewers Caucuses

Both the House and the Senate have Small Brewers caucuses so that their members can learn about small breweries, how they operate and the regulatory and other issues they face. The 187 member House Small Brewers Caucus formed in 2007. The 35 member Senate Bipartisan Small Brewers Caucus formed in 2011.

Senator Tammy Baldwin (D WI) is a member of the Senate caucus. Senator Ron Johnson (R WI) is not.

Representatives Mark Pocan (D WI 2), Ron Kind (D WI 3), Gwen Moore (D WI 4), Glenn Grothman (R WI 6) and Sean Duffy (R WI 7) are members of the House caucus. Representatives Paul Ryan (R WI 1), James Sensenbrenner (R WI 5) and Mike Gallagher (R WI 8) are not.

If your Congressional representative is not a member of either caucus, encourage them to join—do it via the above links.<sup>[5]</sup> After all, the more they learn about craft breweries' positive impact on local economies—and the regulatory and other impediments encountered by craft brewers—the better.

## The PATH Act: Annual Tax Filings and Bond Exemptions

In January 2017, the TTB issued a temporary rule ([I.D. TTB 146](#), explained in [Industry Circular 2016 2](#)), which makes changes to tax return filing periods and certain bond requirements for small breweries, wineries and distilleries. This rule, which is effective January 1, 2017, implements changes to the Internal Revenue Code made by the Protecting Americans from Tax Hikes Act of 2015 (the

"PATH Act").

**Annual Tax Filings.** Certain breweries, wineries and distilleries are now able to pay their federal taxes annually (rather than semiannually or quarterly). Specifically, this affects alcohol excise taxpayers that (1) reasonably expect to be liable for not more than \$1,000 in excise taxes imposed on beer, wine and distilled spirits for the present calendar year, and (2) were liable for not more than \$1,000 in excise taxes in the prior calendar year. This only impacts very small operations: For example, under the current federal excise tax rate of \$7.00 per barrel, brewers producing fewer than 143 barrels per year can now pay their taxes on an annual basis.

**Bond Exemptions.** Bond requirements are removed for certain small breweries, wineries and distilleries. Specifically, this affects alcohol excise taxpayers that (1) reasonably expect to be liable for not more than \$50,000 in excise taxes imposed on beer, wine and distilled spirits for the present calendar year, (2) were liable for not more than \$50,000 in excise taxes in the prior calendar year, and (3) pay taxes on a semimonthly, quarterly or annual basis. One practical impact of this change is that, under the current federal excise tax rate of \$7.00 per barrel, brewers producing no more than 7,142 barrels per year are now exempt from the TTB's bond requirements.<sup>[6]</sup> Note, however, that any existing bond should not be terminated until the TTB approves an amended permit or an amended brewers' notice.

If you have questions about the CBMTRA or any other regulations that impact the brewery, winery or distillery communities, please feel free to contact [Robert Heinrich](#).

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## EXHIBIT A

### SAMPLE LETTER FOR U.S. HOUSE REPRESENTATIVES REGARDING THE CRAFT BEVERAGE MODERNIZATION AND TAX REFORM ACT

Dear Representative,

I am writing in support of H.R. 747, the Craft Beverage Modernization and Tax Reform Act ("CBMTRA") of 2017. The 2015 version of the CBMTRA was co-sponsored by more than half of Congress.

I support this bipartisan legislation because it will help small breweries, wineries

and distilleries in our District. I enjoy their products and I appreciate the value they bring to our community.

The CBMTRA would reduce the federal excise tax for most craft breweries in Wisconsin by 50%. For craft distilleries, the reduction would be 80%. Finally, craft wineries would see their tax credits increased.

The CBMTRA will be a catalyst for economic growth in Wisconsin and the country, allowing craft breweries, wineries and distilleries to invest more in their businesses and create jobs. For example, economists forecast that the CBMTRA will create 9,000 new jobs nationwide—in just the beer industry—within 12 to 18 months.

Thank you for your support of American craft breweries, wineries and distilleries.

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[1] Senator Tammy Baldwin (D-WI) was an original co-sponsor of the 2015 CBMTRA Senate bill. Senator Ron Johnson (R-WI) later became a co-sponsor. Representative Ron Kind (D-WI-3) was an original co-sponsor of the 2015 CBMTRA House bill. In chronological order of their co-sponsorship, here are the other Representatives from Wisconsin who co-sponsored the 2015 CBMTRA House bill: Glenn Grothman (R-WI-6), Sean Duffy (R-WI-7), Gwen Moore (D-WI-4), Mark Pocan (D-WI-2), Reid Ribble (R-WI-8) and James Sensenbrenner (R-WI-5).

[2] One key difference between the 2015 and 2017 bills is that the 2015 version would have legalized home distillation. The 2017 version does not have such language.

[3] Other highlights include:

- *Simplifying beer formulation approvals.* The 2017 CBMTRA expands the list of ingredients that do not require formula approval by the Alcohol and Tobacco Tax and Trade Bureau (the "TTB"). Specifically, "wholesome fruits, vegetables, and spices suitable for human food consumption that are generally recognized as safe for use in an alcoholic beverage and that do not contain alcohol" are now exempted.
- *Allowing the transfer of beer in bond between breweries.* Currently, beer may only be transferred in bond (that is, without the payment of tax) between two breweries that have common ownership. Under the 2017 CBMTRA, two breweries—regardless of ownership—could transfer beer in bond. This is

intended to foster collaboration between breweries and enable breweries to share bottling and storage locations.

- *Increasing funding for the TTB.* The 2017 CBMTRA provides, for each of fiscal years 2017 and 2018, (i) \$5 million in additional funding to accelerate the processing of label and formula applications for beer, wine and distilled spirits, (ii) \$5 million in additional funding for the enforcement of fair trade practices violations, and (iii) \$5 million in additional funding for the costs of the 2017 CBMTRA's implementation.

[4] I am not aware of a link similar to this for wineries or distilleries, but the Hobby Distillers Association does provide some sample letters.

[5] Or [here](#) for Senator Johnson or [here](#) for Representative Gallagher.

[6] Using 2015 production numbers, the largest Wisconsin breweries that might be able to take advantage of this rule are Karben4 Brewing, Lake Louie Brewing and O'So Brewing. That said, I read a report that Karben4's 2016 production grew to 9,600 barrels.

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