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TaxNewsFlash

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TTB release: Craft beverage measures effective January 2021

The U.S. Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) today issued a release about the temporary reduced tax rates and tax credits originally made available by the Craft Beverage Modernization Act (CBMA) provisions of the 2017 tax law (Pub. L. No. 115-97), the law that is commonly referred to as the "Tax Cuts and Jobs Act" (TCJA), that are now permanent.

The Consolidated Appropriations Act, 2021 (enacted December 27, 2020) made permanent most CBMA provisions of the TCJA. Read ***TaxNewsFlash***

As noted in today's **TTB release**, in addition to making permanent the CBMA provisions of the TCJA, recent amendments to the Internal Revenue Code included several changes to those provisions—some have an effective date of January 1, 2021, and others are effective in 2022 or 2023.

The temporary CBMA provisions that are now permanent include:

- Reduced tax rates on beer and distilled spirits, and certain tax credits for wine
- Adjusted alcohol content for certain still wine tax classes from 14% to 16% alcohol by volume
- Lower tax rates for certain meads and low alcohol wines
- Transfers of beer in bond between brewers who are not of the same ownership

Key changes made to earlier CBMA provisions include:

- **Transfer in bond of non-bulk distilled spirits**—Beginning January 1, 2021, the law prohibits the transfer of bottled spirits in bond except:
    - Between bonded premises belonging to the same person or members of the same controlled group
    - If the distilled spirits are transferred in bond from the distilled spirits producers (DSP) that distilled or processed the spirits to another DSP for bottling or storage and returned to the transferor for removal, but only if the transferor retained title during the entire period between such distillation, or processing, and removal
    - For transfers of spirits for industrial purposes.

- **Single taxpayer incorporation of spirits processing:** Beginning January 1, 2021, entities that process distilled spirits are included in the "single taxpayer" distilled spirits provision. Under that provision, pursuant to rules issued by the Treasury Secretary, two or more entities (whether or not under common control) that produce beer, wine or distilled spirits or that process distilled spirits under a license, franchise, or other arrangement are to be treated as a single taxpayer.
- **Exclusion of bottling from processing for reduced rate purposes:** Effective January 1, 2022, only DSPs that perform a processing activity other than bottling are entitled to take a CBMA reduced rate on distilled spirits that they process and remove. Entities that only bottle beverage distilled spirits will not be eligible for a reduced tax rate under CBMA on such spirits removed.
- **Imports and foreign producer election.**
    - **Import administration**: Beginning in 2023, the reduced tax rates and tax credits on beer, wine, and distilled spirits produced outside the United States and imported will be administered by the Treasury Department under a refund system of providing the benefit of assigned reduced rates to importers. Since the CBMA was enacted in 2017, U.S. Customs and Border Protection (CBP) has administered the reduced rates and credits on imports including the foreign producers' assignment of reduced rates and credits to electing importers, and CBP maintains administration over imports subject to CBMA for 2021-2022.
    - **Information requirements for foreign producers**: A new provision (Code section 6038E) requires a foreign producer that elects to make a reduced rate or credit assignment to provide information about its structure (including controlled group information) in accordance with requirements prescribed by the Secretary.

For more information, contact a tax professional with KPMG's Excise Tax Practice group:

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