

Alcoholic Beverage Excise Tax Credits Extended Through 2020

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In late December 2019, President Trump signed into law a wide-ranging appropriations bill which extended several temporary excise tax credits created by the 2017 Tax Cuts and Jobs Act ("Jobs Act") that were due to expire at the end of 2019. The tax credits, which correspond to an excise tax increase passed in 1990, have generally been received by the alcoholic beverage industry as a welcome boost. While efforts fell short in 2019 to make the temporary version of the credits permanent, the law now extends favorable excise tax treatment for wineries, breweries, and distilleries through the end of 2020.

This legal alert focuses on the excise tax credit provisions affecting wine. The credit as extended through 2020 has no limitation on production and is thus available for all wine producers and importers. The credit on wine produced in, or imported into, the United States is one dollar per wine gallon on the first 30,000 wine gallons, 90 cents per wine gallon on the next 100,000 wine gallons, and 53.5 cents per wine gallon on the next 620,000 wine gallons. The credit may also be applied to sparkling wines. The U.S. Alcohol and Tobacco Tax and Trade Bureau ("TTB") has published industry circulars, procedure documents, and voluminous informal guidance addressing day-to-day questions arising in industry practice as relates to the temporary excise credit rules, including reporting on TTB Form 1513-0053, Report of Wine Premises Operation.

Wine importers may also take advantage of the temporary tax credit rules by claiming assigned to them by a foreign producer of the wine subject to IRS and U.S. Treasury rules. Any importer making an election to use tax credits attributable to wine originating from a foreign producer is treated as a member of a controlled group with the foreign producer.

In summary, while the industry has enjoyed favorable excise tax treatment stemming from the Jobs Act, it is yet to be seen whether efforts begun in 2019 to make the temporary rules permanent will succeed in being passed by Congress and voted into law by the president. At least for 2020, wineries and other alcoholic beverage producers can rely on the temporary extension of the various excise tax credits for wine, beer, and distilled spirits produced and removed during the calendar year.

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If we can provide you with additional insight and information regarding excise tax credit provisions and how they may impact your business, please contact:



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