

CERTAIN TAX PROVISIONS RELATING TO DISTILLED SPIRITS

HEARING
BEFORE THE
SUBCOMMITTEE ON TAXATION AND
DEBT MANAGEMENT GENERALLY
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 1717

A BILL TO AMEND CERTAIN PROVISIONS OF THE INTERNAL
REVENUE CODE OF 1954 RELATING TO DISTILLED SPIRITS,
AND FOR OTHER PURPOSES

OCTOBER 14, 1977

Printed for the use of the Committee on Finance



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CONTENTS

PUBLIC WITNESSES

	Page
Malcolm E. Harris, president, Distilled Spirits Council of the United States, Inc., accompanied by John F. McCarren, general counsel, Distilled Spirits Council of the United States, Inc.....	8

ADDITIONAL INFORMATION

Committee press release announcing this hearing.....	1
Summary by the Joint Committee on Taxation describing the bill.....	2
Text of the bill, S. 1717.....	5
Statement of Senator Wendell H. Ford.....	8
Letter to Senator Long from Assistant Secretary Woodworth.....	13

CERTAIN TAX PROVISIONS RELATING TO DISTILLED SPIRITS

THURSDAY, OCTOBER 14, 1977

U.S. SENATE,
SUBCOMMITTEE ON TAXATION AND DEBT
MANAGEMENT GENERALLY OF THE
COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice at 2:25 p.m. in room 2221, Dirksen Senate Office Building, Hon. Harry F. Byrd, Jr. (chairman of the subcommittee) presiding.

Present: Senator Byrd, Jr., of Virginia.

Senator BYRD. The subcommittee will now hear witnesses testifying on S. 1717.

The chief sponsors of S. 1717 are Senators Walter Huddleston and Wendell H. Ford of Kentucky. The bill amends certain provisions of the Internal Revenue Code relating to distilled spirits.

I have here the committee press release, a summary by the Joint Committee on Taxation describing the bill and the text of the bill; S. 1717 which I would like to have included in the record.

[The material referred to follows:]

[Press Release, Oct. 7, 1977]

COMMITTEE ON FINANCE, U.S. SENATE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT TO HOLD HEARINGS ON S. 1717

The Subcommittee on Taxation and Debt Management of the Senate Finance Committee previously announced that it would hold hearings on S. 690 on Friday, October 14, 1977. Senator Harry F. Byrd, Jr., (I. Va.) today announced that this hearings will be broadened to include consideration of S. 1717.

The hearings on S. 1717 will begin at 3:00 P.M. in Room 2221 Dirksen Senate Office Building.

The chief sponsors of S. 1717 are Senators Walter Huddleston and Wendell H. Ford of Kentucky.

The bill amends certain provisions of the Internal Revenue Code of 1954 which relate to distilled spirits.

The bill proposes a series of technical and administrative changes. The proposed measure deals with the identification of the distiller upon gin and vodka bottles, the drawback of tax on exported spirits and wines previously imported, the return of tax-determined distilled spirits to bonded premises, the withdrawal of distilled spirits for transfer to customs bonded warehouses and for scientific purposes, the mingling and blending of distilled spirits, and the use of extracted oils in the making of gin.

The intended beneficiaries of this legislation are distilled spirits producers. The revenue loss from the bill is estimated to be a one-time revenue loss of \$3 million to \$5 million.

During the 94th Congress, a similar bill, H.R. 3055, was passed by the House of Representatives by voice vote and was reported by the Senate Finance Committee, but was not acted upon by the Senate before adjournment.

Witnesses who desire to testify at this hearing should submit a written request to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C., 20501 by no later than the close of business on October 12, 1977.

Treasury comments on the proposed legislation are requested.
P.R. No. 58

S. 1717—SENATOR HUDDLESTON (AND SENATOR FORD)

DISTILLED SPIRITS

The bill consists of a series of technical and administrative provisions relating to the tax treatment of distilled spirits. The following is a description of each of the sections of the bill.

(1) Identification of distiller—gin and vodka

Present law.—Under present law (sec. 5233(c) of the Code), no trademarks may be placed upon bottles of distilled spirits bottled in bond unless the name of the distiller or of the company in whose name and spirits are produced and warehoused also appears "conspicuously" on the bottle. This requirement extends to gin and vodka as well as to other forms of distilled spirits.

Issue.—Gin and vodka are produced from neutral spirits produced by grain processing plants. These neutral spirits are then purchased by the companies that process the gin and vodka itself. Since the ultimate manufacturers or processors of the gin or vodka are not the distillers or producers, they are foreclosed from placing their own trademarks on the bottles unless the names of the grain processing plants are also placed conspicuously on the bottles. Most gin and vodka bottled in bond is exported. The issue presented by the first section of the bill is whether it is so important that the foreign customer of the gin and vodka be shown, conspicuously, the name of the grain processing plant that produced the basic neutral spirits.

Explanation of the provision.—The bill would exclude gin and vodka bottled in bond for export from the requirement that, if the bottle is to carry a trademark, the name of the actual distiller or of the individual or company in whose name the spirits were produced and warehoused must also be on the bottle.

(2) Drawback of tax on exported spirits and wines previously imported

Present law.—Under present law, a drawback equal to the amount of the tax determined or paid on wines or distilled spirits that are exported is allowed if the wines or distilled spirits were manufactured or produced in the United States. (If the tax has been determined but not yet paid, the drawback takes the form of a book credit. If the tax determined has been paid, the drawback results in a repayment of the tax.)

If the operator of a customs manufacturing bonded warehouse reduces the proof of imported distilled spirits and bottles or packages them, he may then export those spirits and obtain a drawback on the U.S. tax (sec. 5523). However, if a domestic proprietor of a distilled spirits plant imports distilled spirits and conducts the same operations and then exports them, he is not entitled to a drawback of the U.S. tax.

Similar distinctions operate with respect to wines.

Issue.—Whether it is appropriate to permit drawbacks of tax for exported spirits which (1) were domestically produced or (2) were first imported and then processed in a customs warehouse (as at present) but not to permit such drawbacks of tax where the exported spirits were first imported and then processed in a domestic distilled spirits plant.

Explanation of the provision.—Section 2 of the bill would enable distilled spirits or wines "bottled, or packaged in casks or other bulk containers" in the United States (after their import) to be exported with the benefit of drawback of the tax determined or paid on those distilled spirits or wines. The same benefit would continue to be extended to distilled spirits or wines manufactured or produced in the United States and subsequently exported. The same technical requirements regarding claims of drawback, stamps, notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation would be applicable to distilled spirits and wines bottled or packaged in the United States as are applicable to goods manufactured or produced in the United States.

(9) Return of tax-determined distilled spirits to bonded premises

Present law.—Present law (sec. 5215) allows distilled spirits (other than products to which any alcoholic ingredients other than tax-determined distilled spirits have been added) withdrawn from bond on payment or determination of tax to be returned to bonded premises for destruction, denaturing, redistilling, or mingling. For these cases, present law (sec. 5008(d)) allows the abatement, remittance, credit, or refund of the tax that has been paid or determined. All provisions of law applicable to distilled spirits in bond are also applicable to these distilled spirits returned to bond.

However, no return to bonded premises, with abatement, remittance, credit, or refund of the tax, is allowed for the purpose of storage. In fact, present law (sec. 5612) specifically forbids spirits on which the tax has been paid or determined to be stored in bonded premises, except for certain designated purposes which do not include storage pending exportation.

In addition, present law (sec. 5178(a)(4)(A)(ii)) allows distilled spirits to be treated as "bottled in bond" although they are actually bottled on bottling premises located outside bonded premises. Tax liability on those spirits is incurred when they are withdrawn from bond for bottling on the bottling premises.

In the case of such spirits actually bottled outside of bonded premises and then returned to bonded premises for storage pending exportation, as well as in the instance of spirits withdrawn from bond for storage pending exportation, a drawback of the tax is allowed when the spirits are actually exported (sec. 5062(b)). In the meantime, however, the working capital of the distilled spirits exporter has been tied up in tax payments or liabilities for spirits in storage pending exportation.

Issue.—Whether tax-determined distilled spirits ought to be returnable to bonded premises (with benefit of a tax credit of refund) in the plant where they were bottled or packaged if the return is for exportation of other purposes listed in sections 5214(a) and 7510; and whether spirits that can be treated as bottled in bond although actually bottled outside of bond ought to be transferable (with tax credit of refund) to bonded premises for storage pending withdrawal for any purpose for which spirits actually bottled in bond may be stored.

Explanation of the provision.—Section 3 of the bill would permit tax-paid (or tax-determined) distilled spirits to be returned (with tax credit or refund) to an export storage facility in the bonded premises of the plant where they were bottled or packaged in the spirits are thus returned or transferred solely for storage pending withdrawal without payment of tax for the following purposes: exportation (under specified provisions of section 5214(a)(4)); as supplies for certain vessels or aircraft; for transfer to foreign-trade zones; for transfer (for storage pending exportation) to a customs bonded warehouse; or free of tax for use of the United States under section 7510 of the Code. In addition, the bill provides that spirits which may be treated as bottled in bond although actually bottled outside of bonded premises may be returned to the bonded premises of the same plant (with benefit of the tax credit or refund) for storage pending withdrawal for any purpose for which spirits that have in fact been bottled in bond be withdrawn.

(4) Withdrawal for transfer to customs bonded warehouse

Present law.—Under present law (sec. 5214(a)(4)), distilled spirits may be withdrawn without payment of tax from the bonded premises of distilled spirits plants for exportation, but there is no comparable provision allowing withdrawal without payment of tax for transfer to customs bonded warehouses for storage pending exportation.

Issue.—Whether distilled spirits should be allowed to be withdrawn, without payment of tax, from bonded premises for transfer to customs bonded warehouses for storage pending exportation.

Explanation of the provision.—Section 4 of the bill would permit distilled spirits bottled in bond (under sec. 5233) or spirits returned to an export storage facility on the bonded premises where they were bottled or packaged for storage pending exportation, etc., under the proposed new section 5215(b) (see the explanation of sec. 3 of the bill, *supra*) to be transferred without payment of tax to a customs bonded warehouse for storage pending exportation. The spirits so transferred would be entered, stored, and accounted for under such regulations and bonds, to protect the revenue, as the Treasury Department may prescribe.

(5) *Withdrawal for scientific purposes*

Present law.—Present law (sec. 5214(a)(9)) permits distilled spirits to be withdrawn from the bonded premises of a distilled spirits plant free of tax for use as samples making tests or laboratory analyses.

Issue.—Whether, and with what safeguards, distilled spirits should be able to be withdrawn from bonded premises for use in research, development, or testing (other than consumer testing) where tax had not been paid or determined.

Explanation of the provision.—Section 5 of the bill would permit distilled spirits to be withdrawn without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to distilled spirits or distillery operations.

The withdrawals would be subject to such limitations and conditions as to quantities, use, and accountability as the Treasury Department may by regulations require for the protection of the revenue.

Because of the change of the nature of withdrawals under the provision from withdrawals "free of tax" to withdrawals "without payment of tax," the tax may be reimposed in the case of abuses or certain losses prior to the permitted uses for which the spirits were withdrawn.

(6) *Mingling and blending*

Present law.—Under present law (sec. 5234(a)(2)), distilled spirits mingled on bonded premises must be returned to the same packages (barrels) from which removed, and the mingling must be for the purpose of further storage in bond.

Issue.—Whether the requirements relating to mingling and blending—that the mingled spirits be returned to the same barrels from which they were removed, and that the mingling be for the purpose of further storage in bond—should be eliminated as restrictions serving no significant tax or regulatory purpose and to permit greater flexibility in plant operations.

Explanation of the provision.—Section 6 of the bill would eliminate the clause in section 5234(a)(2) of the Code requiring that mingling on bonded premises be "for further storage in bond in as many as necessary of the same packages in which the spirits were stored before consolidation."

(7) *Use of extracted oils of juniper berries and other aromatics in making gin*

Present law.—Present law (sec. 5025(b)) allows an exemption from the rectification tax (in general, this is a tax on redistilling, purifying, or refining distilled spirits, or mixing to achieve a different product) for the production of gin by redistillation of a pure spirit over juniper berries and other natural aromatics. This exemption is, therefore, confined to gins produced by the use of juniper berries or other natural aromatics themselves, and does not extend to use of their natural oils.

Issue.—Whether extracted oils of juniper berries and of other natural aromatics may be used in redistillation of gin.

Explanation of the provision.—Section 7 of the bill would permit an exemption from the rectification tax in the instance of gin produced by the redistillation of a pure spirit over the extracted oil of juniper berries and other natural aromatics.

Effective date

The amendments made by the bill would take effect on the first day of the first calendar month which begins more than 90 days after the bill's enactment.

Revenue effect

It is estimated that sections 3 and 4 of the bill would result in a one-time revenue loss of \$3 to \$5 million because persons withdrawing distilled spirits from bonded premises for bottling or packaging and subsequent return to an export storage facility on the bonded premises, and persons withdrawing spirits from bonded premises for transfer to a customs bonded warehouse for storage pending exportation, would no longer have their payments of tax on the distilled spirits tied up until evidence of export is received and the drawback claim is allowed.

The remaining changes proposed by the bill would have little revenue effect.

Prior Congressional action

In the 94th Congress the committee reported a similar bill (H.R. 3055), with amendments (S. Rept. 94-1347) on September 29, 1976, but that bill was not acted upon by the Senate because of lack of time before adjournment.

A BILL To amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5233(c) of the Internal Revenue Code of 1954 is amended by striking out "No trademarks" and inserting in lieu thereof "Except in the case of gin and vodka for export, no trademarks".

SEC. 2. Section 5062(b) of the Internal Revenue Code of 1954 is amended to read as follows:

"(b) DRAWBACK.—On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary."

SEC. 3. (a) Section 5215 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

"(a) GENERAL.—On such application and under such regulations as the Secretary may prescribe, distilled spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such distilled spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Such returned distilled spirits shall be destroyed, denatured, or redistilled, or shall be mingled as authorized in section 5234(a)(1) (other than subparagraph (C) thereof).

"(b) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—On such application and under such conditions as the Secretary may by regulations prescribe, distilled spirits which would be eligible for allowance of drawback under section 5062(b) on exportation may be returned by the bottler or packer of such distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged solely for the purpose of storage pending withdrawal without payment of tax under section 5214(a) (4), (7), (8), or (9) or free of tax under section 7510.

"(c) DISTILLED SPIRITS STAMPED AND LABELED AS BOTTLED IN BOND.—On such application and under such regulations as the Secretary may prescribe, a proprietor of bonded premises who has bottled distilled spirits under section 5178(a)(4)(A)(ii), which are stamped and labeled as bottled in bond for domestic consumption, may return cases of such bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled for storage pending withdrawal for any purpose for which distilled spirits bottled under section 5178(a)(4)(A)(i) may be withdrawn from bonded premises.

"(d) APPLICABILITY OF CHAPTER TO DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—Except as otherwise provided in this section, all provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

"(e) CROSS REFERENCES.—

"(1) For provisions relating to the remission, abatement, credit, or refund of tax on distilled spirits returned to bonded premises under this section, see section 5068(d).

"(2) For provisions relating to the establishment of an export storage facility on the bonded premises of a distilled spirits plant, see section 5178(a)(3)(D)."

(b) Section 5178(a)(3) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) A proprietor who has established facilities for the storage on bonded premises of distilled spirits under subparagraph (C) may establish a portion of such premises as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b)."

(c) Section 5205(c)(2) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall also apply to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b)."

(d) The heading and the first sentence of paragraph (1) of section 5066(a) of such Code are amended to read as follows:

"(1) BOTTLED DISTILLED SPIRITS WITHDRAWN FROM BONDED PREMISES.—

Under such regulations as the Secretary may prescribe, distilled spirits bottled in bond for export under the provisions of section 5233, or bottle distilled spirits returned to bonded premises under section 5215(b), may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customers bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b)."

(e) Section 5207(a) of such Code is amended—

(1) by striking out "and" at the end of paragraph (9),

(2) by redesignating present paragraph (10) as (11), and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) the kind and quantity of distilled spirits returned to bonded premises, and".

(f) Section 5008(d) of such Code is amended to read as follows:

"(d) DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—

"(1) GENERAL.—Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate, remit, or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

"(2) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—Whenever any distilled spirits are returned under section 5215(b) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the internal revenue tax found to have been paid or determined with respect to such distilled spirits. Such amount of tax shall be the same amount which would be allowed as a drawback under section 5062(b) on the exportation of such distilled spirits.

"(3) DISTILLED SPIRITS STAMPED AND LABELED AS BOTTLED IN BOND.—Whenever any distilled spirits are returned under section 5215(c) to the bonded premises of a distilled spirits plant, the Secretary shall (without interest) credit or refund the tax imposed under section 5001(a)(1) on the spirits so returned.

"(4) LIMITATIONS.—No allowance under paragraph (1), (2), or (3) shall be made unless a claim is filed under such regulations as the Secretary may prescribe, by the proprietor of the distilled spirits plant to which the distilled spirits are returned within 6 months of the date of return."

Sec. 4. (a) Section 521(a)(9) of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) without payment of tax, in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b), for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary may prescribe; or".

(b) Section 5175(a) of such Code is amended to read as follows:

"(a) REQUIREMENTS.—No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse for storage therein pending exportation, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe."

(c) Section 5003 of such Code is amended by striking out "manufacturing" in paragraph (9) and inserting before the period at the end of paragraph (9) "and section 5214(a)(9)".

(d) Section 5214(b) of such Code is amended by adding at the end thereof the following new paragraph:

"(7) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066."

SEC. 5. (a) Section 5214(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(10) without payment of tax by a proprietor of bonded premises for use in research, development or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue."

(b) Section 5005(e)(2) of such Code is amended to read as follows:

"(2) RELIEF FROM LIABILITY.—All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law."

(c)(1) Section 5004(a)(2)(B) of such Code is amended by striking out "(9), or" and inserting "or" after "(2)".

(2) Section 504(a)(2)(C) of such Code is amended to read as follows:

"(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development or testing, as provided by law."

(d)(1) Section 5005(d) of such Code is amended by striking out "(3), or (9)" and inserting "or (3)" after "(2)".

(2) Section 5005(e)(1) of such Code is amended by striking out "section 5214(a) (4), (5), (6), (7), or (8)," and inserting "section 5214(a) (4), (5), (6), (7), (8), (9), or (10)".

(e)(1) Section 5008(f)(3) of such Code is amended by striking "and" at the end thereof.

(2) Section 5008(f)(4) of such Code is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(3) Section 5008(f) of such Code is amended by adding at the end thereof the following:

"(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law."

(f) Paragraph (14) of section 5003 of such Code is amended to read as follows:

"(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)."

SEC. 6. (a)(1) Section 5234(a)(2) of such Code is amended by striking from the heading "FOR FURTHER STORAGE IN BOND."

(2) So much of the first sentence of section 5234(a)(2) of such Code as follows subparagraph (C) thereof is amended to read as follows:

"(D) which have been stored in internal revenue bond in the same kind of cooperation for not less than 4 years (or 2 years in the case of rum or brandy),

may, within 20 years of the date of original entry for deposit of the spirits, be mingled on bonded premises."

(b) Section 5025(e)(7) of such Code is amended by striking out "for further storage in bond."

SEC. 7. Section 5025(b) of the Internal Revenue Code of 1954 is amended by inserting "or the extracted oils of such," after "other natural aromatics".

SEC. 8. The amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

[The prepared statement of Senator Ford follows:]

STATEMENT BY SENATOR WENDELL H. FORD

Mr. Chairman, I appreciate the opportunity to appear before this committee in support of S. 1717, which I have co-sponsored along with my distinguished, colleague, Senator Huddleston. This measure is highly technical in its provisions but simple and uncomplicated in its purposes. It aims at reducing certain obstacles to the exportation of distilled spirits from the United States and certain obstacles to techniques that maintain the high quality of the distilled spirits produced in the United States.

The changes in the tax code incorporated in S. 1717 would mean little, if any, reduction in the net revenue which the Treasury presently derives from taxes on alcoholic beverages. The companion bill to S. 1717 in the other body, which incidentally, was reported out favorably yesterday by the Ways and Means Committee, was endorsed by the Treasury Department by a letter dated July 25, 1977.

In effect, the present system imposes an excise tax on alcoholic beverages destined for export which is later refunded when the product is actually exported. S. 1717 would make it possible to avoid this shipment of tax money through a revolving door that takes it from the distiller to the Treasury and then back to the distiller. The present system serves no useful purpose. On the one hand, it imposes a paperwork burden on business and government, while at the same time it ties up in the Treasury capital which the distiller could use for providing jobs and other purposes that would benefit the nation's economy.

Let me remind you that the distilled spirits industry makes an important contribution to the economic health of the nation. It has been estimated that 1.8 million jobs in this country are created in the process of producing, distributing, serving, transporting, advertising, and selling alcoholic beverages of all kinds. These activities account for approximately \$34 billion of our Gross National Product. Government at all levels derives approximately \$13 billion of revenue annually from the taxes imposed on alcoholic beverages.

S. 1717 is a bill of importance to an important industry. It would provide economic benefits to a wide range of industries through facilitating the exportation of the distilled spirits produced in Kentucky—and Virginia—and other parts of our country. And, it would do this at no cost to the nation's taxpayers.

I urge your Subcommittee, Mr. Chairman, to act favorably and speedily on this bill.

* Statistics include all alcoholic beverages.

Senator BYRN. If the witnesses would take their place at the witness table: Mr. Malcolm E. Harris, president, Distilled Spirits Council of the United States, Inc.; and John F. McCarren, general counsel, Distilled Spirits Council of the United States, Inc.

STATEMENT OF MALCOLM E. HARRIS, PRESIDENT, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC., ACCOMPANIED BY JOHN F. MCCARREN, GENERAL COUNSEL, DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

Mr. HARRIS. Thank you, Mr. Chairman. Thank you for the opportunity to explain this, which we will do as briefly as possible, since we have submitted a written statement for the record.

This is a bill that has no opponents. It has been reported by the Treasury Department without objection. Last year, it passed the House of Representatives and it was reported favorably by the Senate Finance Committee. Its enactment into law was not accomplished last year because time ran out before action on the Senate floor was possible.

The principal purpose of the bill is to simplify export procedures so that domestic distillers can compete more effectively in foreign

markets. Exports of American distilled spirits have never fared well overseas. This is due to several factors.

First of all, there is a lack of acceptance for our products overseas. We were a little late getting into the market because of prohibition.

Second, there are some trade barriers that give us problems over there; and finally, there are some procedural difficulties in our own law that make it very cumbersome for us to export from this country.

This bill will not remove the barriers or the lack of acceptance in those countries, but will eliminate some of these cumbersome procedural requirements that we have, with no appreciable loss in revenue.

Senator BYRD. Let me ask you at this point, when you enumerated the reasons for not being able to export more, I am correct that Europeans generally speaking, do not go to hard liquor as much as they do to lighter beverages?

Mr. HARRIS. When you go to Europe, "whisky" means scotch. When you talk about bourbon, it is hard to convince them that it is also whisky. Virginia whisky or Kentucky bourbon is not recognized as whisky over there, you are right. In France and Italy, of course, it is wine, and in Germany it is beer. But we have been able to sell some of our good Virginia product from Smith Bowman's facility and some of our Kentucky bourbons over there.

It is very difficult, though, to sell under this present procedure.

Yesterday, as you probably know, the Ways and Means Committee reported out the companion to this bill after deleting section 1. We have no objection to section 1 being deleted, and we believe that that makes the bill completely noncontroversial.

Treasury had made some statement about section 1, but since that is not in there any longer, then Treasury, I presume, approves this without objection.

Senator BYRD. What is section 1?

Mr. HARRIS. That would merely have removed the requirement that the name of the manufacturer be placed on exported gin and vodka. We had recommended elimination of that requirement because it is meaningless.

Gin and vodka are made from spirits that are produced in Kansas or Iowa or elsewhere. Then the spirits go to the manufacturer of the gin and vodka and his name goes on the bottle. Consequently it is a little misleading to indicate that the spirits were manufactured by someone other than the manufacturer.

However, it is not a serious problem. We would not object to eliminating section 1.

Senator BYRD. If the committee is going to move favorably on this bill, it should remove section 1?

Mr. HARRIS. Remove section 1, as the House Ways and Means Committee did.

Senator BYRD. Without objection, section 1 will be removed at this point.

Mr. HARRIS. If you have any questions, either Mr. McCarren or I would be happy to answer them. Other than that—

Senator BYRD. Yes; I would like to ask—I understand that the major thrust of the bill is to simplify the procedure for payment and refund of excise taxes when spirits are exported. Would this tax be eliminated entirely for exports?

Mr. HARRIS. The way the procedure works now, we pay the tax. Then, when the goods are exported, we receive the refund, or draw-back. Under the proposed procedure, the tax would not be paid at all, but there is no loss of revenue. It merely means there is no draw-back to the revenue.

Do I make myself clear?

Senator BYRD. The tax would be eliminated, would it not?

Mr. HARRIS. Yes, sir, at present we pay the tax and then we receive a refund after the goods are exported. Instead of going through the cumbersome procedures of having to explain how it is exported and then applying for a refund of the tax, the tax would not be paid, but there is no loss of revenue resulting.

Senator BYRD. Could you explain the procedure for payment of taxes for storage pending exportation?

Mr. HARRIS. I would like to ask Mr. McCarren to respond to that.

Mr. McCARREN. At the present time, as Mr. Harris explained, the tax is paid and then refunded. Under section 3 of this bill, the goods would be put into storage and earmarked, "set aside for exportation." The tax would have been determined on those goods, but when the goods are put into this new storage facility, then the tax would be credited back to the bottler.

In effect, there would be no money that would change hands.

Senator BYRD. It would be a washout?

Mr. McCARREN. A washout, that is correct, sir.

This, by the way, would be under Government supervision at all times.

Senator BYRD. You say there is no revenue loss?

Mr. HARRIS. No significant loss, or no loss at all.

Senator BYRD. In the export procedure area, how would you protect against potential tax evasion?

Mr. McCARREN. The export storage facilities to which the spirits would be sent would be under Government supervision. The spirits would be earmarked for export, and then when they would be withdrawn for export, the exporter would have to establish to the satisfaction of the Government that the goods, in fact, had been exported. Otherwise, he would become liable not only for taxes, but for criminal penalties if he were to attempt to divert the spirits to other use.

Senator BYRD. In that connection, what is the Treasury's position on this proposal?

Mr. McCARREN. The Treasury Department does not oppose it. As a matter of fact, I think they favor it, because it would eliminate administrative workload for the Government as well as for the distiller. As it is now, the Government must go through the same procedure of receiving the money and then, a month or 2 months or 3 months later, returning it to the exporter.

Senator BYRD. It would eliminate some paperwork for the Government?

Mr. McCARREN. For both parties.

Senator BYRD. Under what circumstances do you seek to have distilled spirits withdrawn from the premises without payment of taxes?

Mr. McCARREN. All sorts are now exported without payment of tax. Spirits can be withdrawn from bond for use on vessels and aircraft, for example, as supplies—vessels and aircraft that are leaving the country as supplies—without payment of tax.

They can be withdrawn for the use of the United States without payment of tax, and spirits can be withdrawn for certain tax-free uses such as hospital use, all without payment of tax.

In effect, the law provides in a negative sort of way for withdrawal without payment of tax for all nonbeverage use. The law attempts to tax only those spirits which, in fact, are sold and used for beverage purposes.

Senator BYRD. I assume that since the Treasury does not oppose this measure, it has no problem with possible abuses in the withdrawing of bonded spirits from premises without paying taxes?

Mr. McCARREN. The Treasury would issue regulations which would certainly safeguard the revenue, which they always have.

Senator BYRD. You may have touched on this in your earlier statement, but I will bring it out again. How important is the foreign market for the U.S. distilled spirits, and to what extent would this measure aid domestic producers?

Mr. HARRIS. We believe we have a great potential market over there, Senator. Right now, we are not shipping very much. We are importing large quantities of their product, Canadian from Canada and scotch from the United Kingdom. We believe that with these simplified procedures many more American distillers will get into the export market and gradually increase our acceptability over there.

We believe it is very important to us to try to gain this foothold in the export market.

Senator BYRD. Which foreign countries do you feel the American bourbon has a greater opportunity?

Mr. HARRIS. West Germany is our best potential right now. We ship the largest amount of our exports right there. We think there is some potential in France and Italy, although they are primarily wine drinking countries.

John, are there some other countries?

Mr. McCARREN. The market is gradually opening in Japan and, to some extent, in Australia. There always has been some market in Mexico; I suspect it is largely for Americans who are traveling in Mexico and who buy bourbon.

Now, Mexico, for example, imposes quotas on U.S. bourbon. There is a limit to the quantity that we can export to Mexico. That is a barrier.

This bill would in no way correct, or could correct, that, but that exists.

Senator BYRD. How about Canada as a market?

Mr. McCARREN. We export some bourbon to Canada, but I think it would be overly optimistic to think that we are going to make any great inroads into the Canadian whisky market in Canada. There might be some potential, but I think at our most optimistic, we could not expect to do much there except perhaps again for American citizens who are traveling in Canada. They might want to be able to buy bourbon there.

But for the Canadian citizens, I suspect they like their own Canadian whisky and we would have trouble changing their habits.

Senator BYRD. You do not have much of a market, I assume, in Spain or Turkey or Greece?

Mr. HARRIS. At the present time.

Mr. McCARREN. It is very limited.

In fact, as we have said in our statement, the whole export market for American distilled spirits is very limited compared to the market here for imported Scotch and Canadian.

Senator BYRD. The committee has a letter from the Treasury Department in regard to S. 1717, which I will insert into the record at this point.

[The material referred to follows:]

DEPARTMENT OF THE TREASURY,
Washington, D.C., October 13, 1977.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of this Department on S. 1717 introduced by Senator Huddleston. S. 1717 is substantially similar to H.R. 3055, 94th Congress, as passed by the House of Representatives, but the current bill has been revised to reflect the fact that two of the provisions of H.R. 3055 were included in the Tax Reform Act of 1976. H.R. 3055 was reported out by your committee on September 29, 1976, with amendments to section 1 and the effective date provision. These amendments are not reflected in S. 1717.

S. 1717 proposes seven revisions in the law relating to the tax on distilled spirits (Chapter 51 of the Internal Revenue Code). These changes involve: (1) trademarks on distilled spirits bottled-in-bond for export; (2) allowance of drawback of excise tax on the exportation of distilled spirits and wines which originally were imported; (3) creation of an export storage facility on the bonded premises of a distilled spirits plant with refund or credit of excise tax on tax determined spirits returned to the export storage facility pending exportation; (4) refund or credit of tax on tax determined spirits bottled-in-bond and returned to bonded premises pending further withdrawal; (5) withdrawal of distilled spirits without payment of tax for use in research and development of processes, materials, or equipment of distilled spirits plants; (6) restrictions relating to the mingling of distilled spirits in bond; and (7) requirements for exemption of gin from rectification tax.

The changes proposed by the bill generally would have little revenue effect. Some merely permit tax exemption or refunds to be obtained in a more efficient manner than is now possible. However, there would be a one-time revenue loss of \$3-\$5 million in the case of distilled spirits now exported with benefit of drawback of tax. If such spirits are destined for export (principally rectified products because they cannot be bottled-in-bond for export), the proprietor now has the Federal tax investment in the products tied up until evidence of export is received and the drawback claim allowed. The bill would reduce the capital investment involved with the consequent one-time loss of revenue, since tax determined products could be returned (transferred) to an export storage facility on bonded premises with benefit of refund or credit of excise tax and then be exported without payment of tax.

It is not anticipated that the enactment of the bill would have any significant effect on administrative costs.

The Treasury Department suggests that some change be made in section 1 of the bill. While we believe that the amendment made to this section by your committee last year is an improvement over the bill as now drafted, we recommend going further and eliminating section 5233(c) of the Code. Our reasons therefor are set forth in the enclosed memorandum which gives a detailed explanation of the bill along with our comments on individual sections.

Your committee last year also amended the effective date section of H.R. 3055 to make sections 3 and 4 effective within 2 days after the bill was reported out by your committee. Sections 3 and 4 provide for relief from excise tax for distilled spirits placed in storage pending exportation. The other sections of the bill would have been effective approximately 90 days after enactment. The effective date in S. 1717 applicable to all sections is the 90 day provision that was in H.R. 3055 as passed by the House of Representatives. We strongly recommend retention of the effective date provision now included in S. 1717, so that appropriate regulations can be issued before the effective date.

Subject to the suggested amendment of section 1 of the bill, the Treasury Department has no objection to the enactment of S. 1717.

The Office of Management and Budget has advised the Treasury that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

(Signed) LAURENCE N. WOODWORTH,
Assistant Secretary.

Enclosure.

EXPLANATION OF THE PROVISIONS OF S. 1717 AND TREASURY POSITION THEREON

SECTION 1

1. *Explanation*

Section 1 of the bill would amend section 5233(c) of the Code to eliminate, in the case of gin and vodka for export, the requirement that the label show the real name of the distiller in whose name the spirits were produced if the label contains a trademark. This label requirement now is applicable to all spirits bottled in bond.

The bottling in bond of gin and vodka is principally for export purposes. Both gin and vodka are made from neutral spirits, and several of the principal brands of gin and vodka are distilled by firms which purchase the neutral spirits from grain processing plants. These distillers do not desire the name of the grain processing plants. These distillers do not desire the name of the grain processing plant to appear on their brand labels.

2. *Treasury position*

While the Treasury has no objection to deletion of the requirement as to identification of the distiller of the neutral spirits on the label of gin and vodka bottled in bond for export, we feel that comparable treatment might well be accorded all such spirits exported, not just gin and vodka. Furthermore, in view of the fact that under present law the name of the actual distiller is not required to be shown on the label of distilled spirits not bottled in bond, we believe such requirement for spirits bottled in bond and withdrawn for domestic use serves no purpose other than to provide a marketing advantage to those bottlers of bottled in bond products who do their own distilling. We do not believe that the law should cause this result and, therefore, recommend repeal of section 5233(c) of the Code in lieu of the amendment proposed by section 1 of the bill.

SECTION 2

1. *Explanation*

Section 2 of the bill would amend section 5062(b) of the Code which provides for allowance of drawback equal to the internal revenue tax paid or determined on the exportation of distilled spirits or wines manufactured or produced in the United States. The bill would extend the drawback privilege to include imported goods which are bottled, or packaged in casks or other bulk containers, in the United States.

Under the provisions of section 5232 of the Code, distilled spirits imported or brought into the United States in bulk containers may be withdrawn from customs custody without payment of internal revenue tax, and transferred to the bonded premises of a distilled spirits plant.

In such cases, the proprietor of the receiving bonded premises assumes liability for the tax. If the domestic proprietor reduces the distilled spirits in proof and bottles or packages such spirits, he cannot obtain the benefit of drawback under section 5062(b) of the Code on the exportation of such spirits. However, by virtue of section 5523 of the Code, imported distilled spirits reduced in proof and bottled or packaged in a customs manufacturing bonded warehouse are eligible for drawback under section 311 of the Tariff Act of 1930 (19 U.S.C. 1311).

2. *Treasury position*

No objection.

The present law is inconsistent in its tax treatment of imported spirits bottled or packaged in the United States and then exported because drawback of tax depends on the type of facility used for processing. To enable domestic firms to develop in the most efficient manner an export market for imported distilled spirits which they bottle and package, the rule with respect to customs manufacturing warehouses should be made applicable to exports from a distilled spirits plant.

SECTION 3

1. Explanation of section 3(a)

Section 3(a) of the bill would amend section 5215 of the Code with permits distilled spirits (other than those to which has been added any alcoholic ingredients other than such distilled spirits) withdrawn on payment or determination of tax to be returned to the bonded premises of any distilled spirits plant with benefit of abatement, refund or credit of tax. Under present law such returned spirits must be destroyed, denatured, redistilled, or mingled (as prescribed) with other spirits. This provision of present law would be retained as subsection 5215(a) of the Code.

Section 3(a) of the bill then would add three new subsections to section 5215. Proposed subsection (b) would permit bottlers or packagers of distilled spirits, under such conditions as the Secretary may by regulations prescribe, to return (transfer) to an export storage facility on the bonded premises of the distilled spirits plant where the spirits were bottled or packaged, distilled spirits which would be eligible for allowance of drawback under section 5062(b) of the Code on exportation. The return of the spirits must be solely for the purpose of storage pending: (1) withdrawal without payment of tax (under specified provisions of section 5214(a) of the Code)—for exportation, for supplies for certain vessels or aircraft, for transfer to foreign-trade zones, or for transfer (for storage pending exportation) to a customs bonded warehouse from which distilled spirits may be exported; or (2) withdrawal free of tax for use of the United States under section 7510 of the Code.

New subsection (c) would permit the proprietor of bonded premises who has bottled distilled spirits in accordance with the requirements for "bottled in bond" but after determination of tax (section 5178(a)(4)(A)(ii) of the Code), which are stamped and labeled as bottled in bond for domestic consumption, to return (transfer) cases of such bottled distilled spirits to appropriate storage facilities on the bonded premises where bottled. Such returned distilled spirits then could be withdrawn for any purpose for which distilled spirits bottled in bond prior to payment or determination of tax (under section 5178(a)(4)(A)(i) of the Code) may be withdrawn from bonded premises.

New subsection (d) is basically existing law derived from the last sentence of section 5215(a) of the Code. This sentence makes all provisions of existing law relating to distilled spirits in bond applicable to spirits returned to bond as provided by this section of the law. However, the words "except as otherwise expressly provided in this section," have been added to make it completely clear that this subsection is not intended to obviate the applicability of any of the conditions and restrictions contained in subsections (a), (b) or (c).

2. Explanation of section 3 (b), (c), (d), (e), and (f)

These subsections are essentially technical amendments made necessary by the proposed amendments to section 5215 of the Code.

Section 3(b) of the bill would amend section 5178(a)(3) of the Code (which provides for the establishment of bonded warehouses for distilled spirits) by adding thereto a new subparagraph (D) to provide for the establishment of a portion of the bonded storage facilities as an export storage facility for the storage of distilled spirits returned to bonded premises under new subsection (b) of section 5215.

Section 3(c) of the bill would amend section 5205(s)(2) of the Code (relating to stamps on containers of distilled spirits withdrawn for exportation with benefit of drawback) to make it clear that the provisions of the paragraph apply to every container of distilled spirits which have been first returned to bonded premises under section 5215(b) of the Code, as contained in the bill. The stamps and marks could distinguish the containers so returned, if deemed necessary.

Section 3(d) of the bill would amend section 5066(a)(1) of the Code, which provides a procedure for withdrawal of distilled spirits free of tax for use of foreign embassies, legations, etc., to extend this privilege to bottled distilled spirits returned to bonded premises under the new provisions of section 5215(b), as contained in the bill.

Section 3(e) of the bill would amend section 5207(a) of the Code (relating to records of distillers and bonded warehousemen) to provide a new paragraph specifically requiring records of the kind and quantity of distilled spirits returned to bonded premises. Additional record keeping with regard to such returned spirits could be required under the provisions of existing law as deemed necessary.

Section 3(f) of the bill would amend section 5008(d) of the Code which provides for refund or credit of tax in the case of distilled spirits returned to bonded premises.

Proposed paragraph (1) of section 5008(d) relates to distilled spirits returned to bond under the terms of section 5215(a). It is substantially existing law.

Proposed paragraph (2) is new and would provide for refund or credit of internal revenue tax in the case of distilled spirits returned to bonded premises for storage pending exportation as provided in the proposed new section 5215(b) of the Code. The amount of tax which would be allowed in such cases would be in the same amount which would be allowed as drawback under section 5062(b) of the Code on the exportation of such spirits.

Proposed paragraph (3) is new and would provide for refund or credit of tax with respect to tax determined distilled spirits stamped and labeled as bottled in bond, which are returned to bonded premises under the new provisions of Code section 5215(c).

Proposed paragraph (4) is existing law relating to the time for filing claims, extended to cover the new provisions of section 5215 of the Code.

3. Treasury position

No objection.

Proposed paragraph (2) of section 5008(d), together with the related provisions of the proposed section 5215(b) of the Code, would allow the bottling plant proprietor to use his distilled spirits plant facilities to warehouse bottled products to be exported without having the tax included in their cost while being warehoused. This would be particularly important with respect to rectified products. Under existing law, such advantage could not be obtained unless the proprietor utilized separate customs manufacturing bonded warehouse facilities. Proposed new paragraph (3) of section 5008(d), together with the proposed new section 5215(c), also would reduce working capital requirements of distilled spirits plant proprietors.

SECTION 4

1. Explanation

Section 4(a) of the bill would amend section 5214(a) of the Code (which lists the purposes for which distilled spirits may be withdrawn free of tax or without payment of tax) to substitute a new paragraph (9) for the existing paragraph (9) (relating to samples). Existing paragraph 9 would be revised as paragraph (10) as set forth in section 5 of the bill.

The new paragraph (9) would authorize distilled spirits bottled in bond for export under section 5233 of the Code, or distilled spirits returned to bonded premises under section 5215(b) of the Code (as contained in the bill), to be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported. The spirits so transferred would be entered, stored, and accounted for under such regulations and bonds to protect the revenue, as the Secretary may prescribe.

Section 4(b) of the bill would amend section 5175(a) of the Code (relating to bonds required for withdrawal for export without payment to tax) to include distilled spirits withdrawn from bonded premises for transfer to a customs bonded warehouse for storage therein pending exportation.

Section 4(c) of the bill would amend section 5003 of the Code (relating to cross-references to exemptions, etc.) to make technical conforming changes.

Section 4(d) of the bill would make conforming technical changes in the cross-references in section 5214 of the Code.

1. Treasury position

No objection.

SECTION 5

1. Explanation

Under existing law (section 5214(a)(9) of the Code) distilled spirits may be withdrawn free of tax for use as samples in making tests or laboratory analyses. Section 5(a) of the bill would add a new paragraph (10), to replace the existing paragraph (9). The new paragraph (10) would provide that distilled spirits could be withdrawn without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled or distillery operations. The withdrawals would be subject to such limitation and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue.

In view of the fact that the Federal tax on distilled spirits is several times the value of the commodity, it is essential that the Secretary have clear authority to

impose such limitations and conditions. One method of accounting for residual quantities of spirits withdrawn under this paragraph would be return to bonded premises. Another method of accounting for such spirits could be destruction under supervision as the Secretary may require.

Section 5(b) of the bill would amend section 5005(d)(2) of the Code (relating to relief from liability for tax on distilled spirits when the spirits have been exported, deposited in a foreign trade zone, used in the production of wine, etc.). This is a technical conforming change related to the revised provisions of section 5214(a)(9) and (10) of the Code, as contained in the bill.

Section 5(c)(1) of the bill would amend section 5004(a)(2)(B) of the Code (relating to the extinguishment of lien on distilled spirits when withdrawn "free of tax" for certain purposes). This is a technical conforming amendment deleting the reference to section 5214(a)(9) of the Code, since the new paragraph (9), as contained in the bill, does not relate to distilled spirits withdrawn "free of tax."

Section 5(c)(2) of the bill would amend section 5004(a)(2)(C) of the Code (also relating to the extinguishment of lien on distilled spirits). This is also a technical conforming amendment reflecting the provisions of Section 5412(a)(9) and (10) of the Code as contained in the bill.

Section 5(d)(1) of the bill would amend section 5005(d) of the Code (relating to withdrawals free of tax). This also is a technical conforming change reflecting the fact that section 5214(a)(9) of the Code, as contained in the bill, does not relate to a withdrawal "free of tax."

Section 5(d)(2) of the bill would amend section 5005(e)(1) of the Code (relating to withdrawals without payment of tax). This also is a technical conforming change adding references to section 5124(a)(9) and (10) of the Code. This change reflects the fact that paragraphs (9) and (10) of section 5214 of the Code, as contained in the bill, relate to "withdrawal without payment of tax."

Section 5(e) of the bill would amend section 5008(f) of the Code (which provides for abatement of tax on spirits lost during transportation from bonded premises of distilled spirits plants to the port of export, a customs bonded manufacturing warehouse, a foreign trade zone, or to a vessel or aircraft when withdrawn without payment of tax for exportation, etc.) to include losses in the case of withdrawals specified in the new paragraphs (9) and (10) of section 5214 of the Code. In the case of withdrawals for research, etc., under the new section 5214(a)(10) of the Code, the relief from tax for losses would extend until such time as the spirits are used for research, etc. These are technical changes reflecting the fact that paragraphs (9) and (10) of section 5214, as contained in the bill, pertain to distilled spirits "withdrawn without payment of tax." A reference to section 5066 of the Code (relating to withdrawals to customs bonded warehouses for subsequent withdrawal for use by foreign diplomats) has been added, since a reference to this section was inadvertently omitted when the foreign diplomat provision was enacted by Public Law 91-659.

Section 5(f) of the bill would amend section 5003 of the Code (a cross-reference section). This is a technical conforming amendment.

2. Treasury position

No objection.

1. Explanation

Section 6(a)(1) of the bill would amend section 5234(a)(2) of the Code (relating to the mingling of distilled spirits on bonded premises) by striking from the title of the paragraph the words "for Further Storage in Bond." This is a conforming change relating to the change made by section 6(a)(2) of the bill.

Section 6(a)(2) of the bill would amend section 5234(a)(2)(D) of the Code which permits the mingling of distilled spirits in bond. Subparagraph (D) as contained in the bill would revise the provision permitting the mingling of the same kind of distilled spirits while in storage within 20 years of the date of original entry for deposit of the spirits if mingled "for further storage in bond in as many as necessary of the same packages in which the spirits were stored before consolidation" by deleting the requirement that the mingled spirits be returned to the same barrels from which removed and that the mingling be for the purpose of further storage in bond.

Section 6(b) of the bill would amend section 5025(e)(7) of the Code (relating to exemption from the rectification tax in the case of distilled spirits mingled in bond) to delete the words "for further storage in bond." This is a technical conforming change related to the principal amendment contained in this section of the bill.

2. Treasury position

No objection.

The proposed changes would permit greater efficiency in plant operations. No jeopardy to the revenue would be involved because section 5006(a)(2)(C) requires tax to be determined on any portion of spirits so mingled whenever they reach the 20-year period after which spirits may not be kept in bond without determination of tax.

SECTION 7

1. Explanation

Section 7 of the bill would amend section 5025(b) of the Code to exempt from rectification tax the use of extracted oils of juniper berries and other natural aromatics in the production of gin. Currently, exemption from such tax in the case of gin is limited to cases where the gin is produced by the redistillation of pure spirits over juniper berries or other natural aromatics.

2. Treasury position

No objection.

The change would permit the production of gin with greater uniformity of product and without loss of quality. Existing law unnecessarily restricts efficiency of operation under modern technological conditions.

SECTION 8

1. Explanation

Section 8 of the bill contains the effective date provisions. The Act would take effect on the first day of the first calendar month which begins more than ninety days after the date of enactment. This is intended to provide time for issuance of appropriate regulations and procedures. However, as to changes which are dependent upon the issuance of regulations setting conditions and limitations, the issuance of the appropriate regulations would be necessary to effectuate the statutory provisions.

2. Treasury position

No objection.

Senator BYRD. Thank you, gentlemen. The committee will take this under advisement.

Mr. HARRIS. Thank you very much.

[The prepared statement of Mr. Harris follows:]

STATEMENT OF THE DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.

The principal purpose of S. 1717 is to simplify export procedures in this country so that domestic distillers can compete more effectively in foreign markets than they can under existing law. The bill would make other changes in law to permit operations with greater flexibility and efficiency. There would be no substantial adverse revenue effect resulting from the bill.

Exports of American distilled spirits products have never fared well in foreign markets. This is due to several factors: late entry into the market, particularly due to the era of Prohibition; lack of knowledge and acceptance of American products by other countries; tariff and non-tariff barriers, such as quotas imposed by other countries and finally rigid and cumbersome requirements on exportation imposed by law on domestic distillers.

S. 1717 would not affect acceptability in foreign markets or reduce or eliminate barriers imposed by foreign law. It would, however, eliminate to a large degree and without appreciable loss of revenue, the present rigid and cumbersome procedural requirements under domestic law.

Prior to the end of World War II, the export market was of little interest to American producers. However, since that time, exports have become increasingly important due to many factors such as: the large number of American military personnel stationed overseas, increased foreign travel by Americans and the dramatic shrinkage in the world due to improved transportation facilities. Accordingly, it is time to re-evaluate and improve the position of American exporters and to permit them to compete on equal terms with their competitors for this market. Sections 2, 3, and 4 of S. 1717 would be a great step in this direction.

Under existing law the heavy excise tax imposed on distilled spirits is refunded when such spirits are exported. Distillers who export, however, must go through

the process of tax determination and payment and later, at the time of exportation, go through a reverse process to effect refund of the tax. Needless to say, this procedure is costly and time-consuming not only for the distiller but for Government as well. It also means that a substantial amount of a distiller's capital is held by the United States Treasury at all times in the form of tax payments which are due to be refunded at the time of exportation.

Sections 3 and 4 of S. 1717 modify existing procedure which requires payment of an excise tax, that is later to be refunded, on distilled spirits produced in the United States for export. Section 4 allows the withdrawal of distilled spirits from the bonded premises of a distilled spirits plant without payment of tax when the spirits are to be transferred to a customs bonded warehouse for export. Section 3 permits the establishment of an export storage facility on the premises of a distilled spirits plant in which distilled spirits destined for export can be warehoused without incurring liability for the tax. Section 2 would permit the exportation, with benefit of refund of tax, of spirits imported in bulk and bottled in the United States.

The last three sections of the bill do not specifically relate to problems encountered in exporting distilled spirits. Rather, they deal with certain needless and inconsistent tax requirements that are obstacles to efficient production of beverages of high quality.

Section 5 of the bill recognizes advances in technology with respect to the production, storage, and bottling of distilled spirits products. Extensive testing is often required. For some small distillers it is not economically feasible to establish the required testing facilities; those distillers who can maintain such facilities do not always have them on the distilling premises. This section would permit, under regulations which would adequately protect the revenue, removal of samples for testing and analysis without payment of tax. Such samples could not be sold or entered into commerce and could not be used for consumer testing or market analysis. Thus, all distillers could develop products with adequate testing and analysis. This section merely enlarges an existing tax exemption limited to tests and analyses for certain limited purposes.

Section 6 of the bill relates to consolidation of distilled spirits in storage under internal revenue bond. It would eliminate restrictions on consolidation which under today's conditions are essentially meaningless. It would provide greater flexibility to the producers without in any way affecting the identification of the product and without any effect on the revenue.

Section 7 of the bill would authorize the use of extracted oils of juniper berries and other aromatics in the production of gin without incurring the rectification tax. Under existing law, producers of gin in the United States must, in order to make their product without incurring rectification tax, use raw juniper berries. It has become increasingly difficult to obtain these flavoring components in their raw state. However, if distillers are permitted to use the extracted oils they can obtain the same natural flavors in extract form and produce gin of equal or better quality than is now possible. We understand that foreign producers of gin can and do use extracted oils. Enactment of this section would recognize the present state of availability of components without any adverse effect on either the products or on the revenue.

I offer no comment on Section 1 of S. 1717. This Section is of minor importance. In its mark-up of a companion bill to S. 1717, the appropriate subcommittee of the House Ways and Means Committee deleted this provision. In order to facilitate action on the bill, your Subcommittee, Mr. Chairman, may wish to follow the same course, and we would have no objection to the deletion of Section 1.

S. 1717 is a bill which has no opponents. It has been endorsed by the Treasury Department. Last year it passed the House of Representatives on the consent calendar. Hearings were held before the Finance Committee of the Senate, and the bill was reported out favorably. I think it is fair to say that its enactment into law was not accomplished only because time ran out before floor action in the Senate was possible.

In summary, enactment of S. 1717 would result in improvement of the export capability of American companies and in greater flexibility in their operations with no administrative or financial burdens on the government but with substantial benefits to the consumer and to American labor and industry.

Senator BYRD. The committee will stand in recess.

[Thereupon, at 2:35 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]