Liquor Taxes Could Go Up 400%, Thanks to Congressional Dysfunction

A temporary cut in federal taxes on alcohol fueled the growth of American distilleries, but its expiration threatens their demise.

Source: https://www.nytimes.com/
By Clay Risen
Dec. 16, 2019

The last two years have been good ones for Lyon Distilling. At the small rum producer in St. Michaels, Md., a town on the Eastern Shore of Chesapeake Bay, production has jumped from 4,000 bottles a year to 40,000. Four employees have become 15.

Explosive consumer demand explains some of that growth, said Jaime Windon, the company's chief executive and co-founder. But she attributes most of it to a steep cut in federal excise taxes on alcoholic beverages, which Congress passed at the end of 2017 as part of the Tax Cuts and Jobs Act.

"We used to be tiny," she said. "Now we're running like a machine."

Thousands of small distilleries, breweries and wineries have similar stories. But their fortune may end soon, thanks to congressional paralysis: The tax cut, known as the Craft Beverage Modernization and Tax Reform Act, is set to expire on Dec. 31, and legislators have until Friday to extend it.

If they don't, distilleries like Lyon will face a 400-percent tax increase, with the first payment for many due on Jan. 15. That has craft-beverage producers scrambling.

"The anxiety level with these small distilleries is high," said Chris Swonger, the chief executive of the Distilled Spirits Council of the United States. Industry representatives expect that many small companies will have to lay off employees or close entirely, a turn that could undermine the country's boom in craft brewing and distilling.

Particularly frustrating for these companies is the fact that the tax cut enjoys overwhelming bipartisan support - a House bill to make it permanent, introduced earlier this year, has 324 co-sponsors, while an identical Senate version has 73.

Such legislation would normally sail through Congress, most likely as part of a so-called extender package of similar targeted cuts. Instead, observers say, it has become a casualty of congressional dysfunction and partisan fighting over taxes and spending.

The tax cut, originally introduced in 2015, was supposed to be permanent, but was trimmed to two years as a compromise to get it into the 2017 tax bill. Industry lobbyists assumed that making it permanent would not be a problem - this summer, the House Ways and Means Committee passed legislation to do so, and a Senate task force endorsed the idea.

But those proposals soon got caught up in larger debates about tax reform, and Congress let the issue sit idle. In recent days, Congressional offices have told lobbyists they are rushing to reach a deal on tax reform, which they hope to attach to the year-end spending bill. But they can't promise that an extension to the tax cut will be part of it.

"We're all a little dizzy," said Margie Lehrman, the chief executive of the American Craft Spirits Association, which lobbies on behalf of small distillers. "The congressional leadership seems stuck because of issues much larger than us."

Industry lobbyists and legislators who support the bill say that at this point the most they can realistically expect is a one-year extension. But such short-term relief would make it hard for distillers to make long-term investments, like hiring staff, increasing production or buying new equipment.

"The hard part for us is the lack of certainty," said Robert P. Koch, the president of the Wine Institute, which represents the wine industry in Washington. "To have it extended just one year makes it tough to plan."

The 2017 legislation cut the amount that all distilleries had to pay on the first 100,000 proof gallons from $13.50 to $2.70 (a proof gallon is a gallon of spirit at 50 percent alcohol). Breweries and wineries received similar reductions, though in their cases the cuts were largely reserved for small producers. Such excise taxes are paid on top of normal corporate taxes.

Trade associations representing all three industries said the vast majority of their members used the tax savings to invest in new equipment and jobs. Bob Pease, the president of the Brewers Association, which represents small breweries, said that craft breweries added 15,000 jobs in 2018, the latest year on record, after an average of just 5,000 for the previous three years.

"I've got 7,500 main-street members using that money to reinvest in their companies and their communities," he said.

The sharp reduction in taxes also encouraged hundreds of new businesses to open, including about 2,000 breweries and 400 distilleries in the last two years. Those companies are especially unprepared for a sudden increase in their excise taxes, which, for most distillers, must be paid every other week.

"There are distillers now who do not know what it's like not to pay more than $2.70," said Ms. Windon. "I don't know how their business plans will accommodate that."

Extending popular, but temporary, tax cuts has long been an end-of-the-year ritual on Capitol Hill. But many of the temporary cuts have since been made permanent, leaving a dwindling number of affected groups to scramble for support every few years. A number of provisions being considered alongside the alcoholic beverage excise tax have already lapsed, including a biodiesel tax credit, despite strong support from Iowa Republican Charles E. Grassley, the head of the Senate Finance Committee.

Despite its strong bipartisan support, the Craft Act has its critics, many of whom say it gives away too much to big producers. All distillers, no matter the size, get a break on their first 100,000 proof gallons. While most craft distillers make only a small fraction of that - Lyon Distilling produces about 5,000 proof gallons a year - many large distillers make 100,000 gallons or more a week.

Large brewing companies also benefit. AB InBev, which owns Budweiser, Corona and many other brands, now receives about $12 million in tax savings. But bringing big producers on board was a political necessity, said Mr. Pease. "From our perspective, if that's what it takes, we're fine with that," he said.

Still, even skeptics are shocked at how a bill with such broad support - and a track record of boosting investment and job growth - could be scuttled because of political logjams.

"Who doesn't like the idea of a craft brewer getting a break?" said Adam Looney, a tax expert at the Brookings Institution who has criticized some elements of the tax cut. "It's an indictment of Congress's ability to do the basic elements of its job."

Latest Tariff Threat Could Double Prices of European Wines and Whiskies (Additional Coverage)

Source: https://www.barrons.com/

By Abby Schultz

Dec. 16, 2019

The latest salvo in the trade battle between the U.S. and the European Union over EU aircraft subsidies to the Netherlands-based Airbus could spike tariffs on a wide range of European wine, whiskies, and cheeses to 100%, a potentially crippling blow.

"100% tariffs would be devastating, absolutely devastating," says Robert Tobiassen, president of the National Association of Beverage Importers. "This is a civil aeronautics dispute. We encourage the [Office of the U.S. Trade Representative] to revisit the 10% tariff on aircraft that went into effect. We believe the more appropriate resolution is an increase of those tariffs."

On Oct. 18, the U.S. imposed tariffs of 10% on large aircraft exports and levies of 25% on US$7.5 billion of products chiefly from France, Germany, Spain, and the U.K., the countries chiefly responsible for the subsidies, according to the USTR. The tariffs were a response to an Oct. 2 ruling by the WTO in favor of the U.S.

The products covered by the October levies included still wines from France and Spain, single-malt Scotch and Irish whiskey from Northern Ireland, and cheeses from France and Italy, but they spared a number of products that had appeared on preliminary lists, including sparkling wine, brandies, and non-alcoholic beer. Italian wine was also added to the newest list.

But now the USTR is considering boosting the 25% tariff to 100% and broadening the products covered by tariffs to include wine produced in any EU country, wines with an alcoholic content above 14%, and sparkling wines produced throughout Europe-all of which was not subjected to the earlier levies. Non-alcoholic beer, brandies, and whiskies produced in any EU country are now swept into the mix, too.

This latest tariff threat comes on the heels of a Dec. 2 decision by a World Trade Organization panel rejecting an EU appeal claiming it had addressed the WTO concerns.

"The EU's frivolous case proves that strong action is needed to convince the EU that its interests lie in eliminating these market-distorting subsidies now and in the future, so that our industries can compete on a level playing field," U.S. Trade Representative Robert Lighthizer said in a Dec. 2 statement.

Comments on the proposed tariff increases, and the list of products to be affected, can be filed with the USTR until Jan. 13.

The 25% tariffs that went into effect on Oct. 18 are just starting to be felt in the marketplace, although many small importers are already feeling the hit, with some laying off employees as a result.

"It's a lot of small importers who don't have a wide inventory who are being hurt. Large and medium-size importers are also facing challenges to manage the additional tariffs and still keep prices at a level where their products in the marketplace can maintain their market share at the retail level," Tobiassen says. "Jobs are being lost as we speak."

To get a sense of the dent tariffs can make, Chris Swonger, president and CEO of the Distilled Spirits Council of the United States (DISCUS), points out that EU tariffs of 25% imposed in June 2018 on whiskey imported from the U.S has already led to a 28% drop in U.S. exports.

"We've been in high-anxiety mode since the spring of 2018, when these [Airbus-related] tariffs were even being considered," Swonger says. "The news of last week just makes us even that much more anxious."

The distilled spirits business on both sides of the Atlantic has grown at least 400% in a zero-tariff environment since 1997. Currently, trade groups in the U.S. and Europe are working together to encourage both the U.S. and the EU to negotiate to stem any further decline.

"The U.S. and the EU distillers are in lock-step," Swonger says. "We want toasts not tariffs."

Representatives from DISCUS are planning to go to Brussels at the end of January to meet with the new EU leadership, and Swonger is encouraged by recent trade agreements with China as well as Mexico and Canada. The likelihood of a bilateral agreement between the U.S. and U.K. also could create opportunities, he says.

Concerning fine wine, the U.S. depends on imports from Italy and France. Imports of sparkling wine from France alone-which also faces a separate, potential 100% tariff in response to a digital-services tax imposed in Europe-accounted for 12.14% of total wine imports in 2018, and 2.76% of the entire wine market in the U.S., according to Michael Bilello, a spokesman for the Wine & Spirits Wholesalers of America.

Given that 100% tariffs will essentially double the cost of French sparkling wine for consumers, "demand will begin to drop," Bilello says.

Rocco Lombardo, president of Wilson Daniels, a California importer of fine European wines, put it bluntly: "If 100% tariffs went into place, it would be catastrophic for the wine industry in America."

As a major importer, Wilson Daniels has been able to soften the blow so far from the 25% tariffs imposed in October with agreements from its winery partners. Also, "the dollar has been fairly strong against the Euro, [so] we made a decision to go ahead and mitigate the remainder of the tariff with compressed margins," Lombardo says. "It's certainly not ideal. But it is a way that we can maintain price stability in the marketplace."

The firm is also investing in inventory to hedge the possibility of further tariffs.

"We're looking at investing up to 12 months of floor stock inventory just so that we can hopefully see this to an end where both both sides find an amicable resolution, where tariffs are not a part of doing business," Lombardo says.