

(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to provide for the taxation of marijuana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BLUMENAUER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for the taxation of marijuana, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Marijuana Tax ~~Equity~~ ^{Revenue}
5 Act of 2015".

6 **SEC. 2. TAXATION RELATING TO MARIJUANA.**

7 (a) IN GENERAL.—Subtitle E of title I of the Inter-
8 nal Revenue Code of 1986 is amended by adding at the
9 end the following new chapter:

1

“CHAPTER 56—MARIJUANA

“SUBCHAPTER A. PRODUCER TAX.

“SUBCHAPTER B. SPECIAL PROVISIONS RELATING TO MARIJUANA ENTERPRISES.

“SUBCHAPTER C. PENALTIES.

2

“Subchapter A—Producer Tax

- “Sec. 5901. Imposition of tax.
- “Sec. 5902. Exemption from tax.
- “Sec. 5903. Special rules.
- “Sec. 5904. Definitions.

3

“SEC. 5901. IMPOSITION OF TAX.

4

“(a) IMPOSITION OF TAX.—There is hereby imposed

5

a tax on the sale of marijuana by the producer or importer

6

thereof.

7

“(b) AMOUNT OF TAX.—

8

“(1) IN GENERAL.—The amount of the tax im-

9

posed by subsection (a) shall be the applicable per-

10

centage of the price for which so sold.

11

“(2) APPLICABLE PERCENTAGE.—For purposes

12

of paragraph (1), the applicable percentage is—

13

“(A) for the ^{first two} calendar year^s in which this

14

chapter becomes effective, 10 percent,

15

“(B) for the calendar year following the

16

calendar year^s described in subparagraph (A),

17

15 percent,

18

“(C) for the calendar year following the

19

calendar year described in subparagraph (B),

20

20 percent, and

EB

EB

1 “(D) for any calendar year following the
2 calendar year described in subparagraph (C),
3 25 percent.

4 **“SEC. 5902. EXEMPTION FROM TAX.**

5 “(a) GENERAL RULE.—No tax shall be imposed
6 under this subchapter—

7 “(1) on the distribution or sale of marijuana for
8 medical use in accordance with State law, or

9 “(2) under regulations prescribed by the Sec-
10 retary, on the sale by the producer or importer of
11 an article—

12 “(A) for use by the purchaser for further
13 production, or for resale by the purchaser to a
14 second purchaser for use by such second pur-
15 chaser in further production, or

16 “(B) for export, or for resale by the pur-
17 chaser to a second purchaser for export.

18 “(b) PROOF OF RESALE FOR FURTHER PRODUC-
19 TION; PROOF OF EXPORT.—Where an article has been
20 sold free of tax under subsection (a)—

21 “(1) for resale by the purchaser to a second
22 purchaser for use by such second purchaser in fur-
23 ther production, or

24 “(2) for export, or for resale by the purchaser
25 to a second purchaser for export,

1 subsection (a) shall cease to apply in respect of such sale
2 of such article unless, within the 6-month period which
3 begins on the date of the sale by the producer or importer
4 (or, if earlier, on the date of shipment by the producer
5 or importer), the producer or importer receives proof that
6 the article has been exported or resold for use in further
7 production.

8 “(c) PRODUCER OR IMPORTER RELIEVED FROM LI-
9 ABILITY IN CERTAIN CASES.—In the case of any article
10 sold free of tax under this section (other than a sale to
11 which subsection (b) applies), if the producer or importer
12 in good faith accepts a certification by the purchaser that
13 the article will be used in accordance with the applicable
14 provisions of law, no tax shall thereafter be imposed under
15 this chapter in respect of such sale by such producer or
16 importer.

17 “(d) EXPORT.—For purposes of this section, the
18 term ‘export’ includes shipment to a possession of the
19 United States; and the term ‘exported’ includes shipped
20 to a possession of the United States.

21 “(e) USE IN FURTHER PRODUCTION.—An article
22 shall be treated as sold for use in further production if
23 such article is sold for use by the purchaser for further
24 planting, cultivating, or harvesting.

1 “(f) FURTHER PRODUCER LIABLE FOR TAX.—For
2 purposes of this chapter, a producer to whom an article
3 is sold or resold free of tax under subsection (a)(1) for
4 use by him in further production shall be treated as the
5 producer of such article.

6 **“SEC. 5903. SPECIAL RULES.**

7 “(a) DEFINITION OF PRICE.—For purposes of this
8 chapter—

9 “(1) CONTAINERS, PACKING AND TRANSPOR-
10 TATION CHARGES.—In determining, for the purposes
11 of this chapter, the price for which an article is sold,
12 there shall be included any charge for coverings and
13 containers of whatever nature, and any charge inci-
14 dent to placing the article in condition packed ready
15 for shipment, but there shall be excluded the amount
16 of tax imposed by this chapter, whether or not stat-
17 ed as a separate charge. A transportation, delivery,
18 insurance, installation, or other charge (not required
19 by the foregoing sentence to be included) shall be ex-
20 cluded from the price only if the amount thereof is
21 established to the satisfaction of the Secretary in ac-
22 cordance with regulations.

23 “(2) CONSTRUCTIVE SALE PRICE.—

24 “(A) IN GENERAL.—If an article is sold at
25 retail, sold on consignment, or sold (otherwise

1 than through an arm's length transaction) at
2 less than the fair market price, the tax under
3 section 5901 shall be computed on the price for
4 which such articles are sold, in the ordinary
5 course of trade, by producers thereof, as deter-
6 mined by the Secretary. In the case of an arti-
7 cle sold at retail, the computation under the
8 preceding sentence shall be on whichever of the
9 following prices is the lower:

10 “(i) the price for which such article is
11 sold, or

12 “(ii) the highest price for which such
13 articles are sold to manufacturers, in the
14 ordinary course of trade, by producers
15 thereof, as determined by the Secretary.
16 This paragraph shall not apply if subpara-
17 graph (B) applies.

18 “(B) SPECIAL RULE.—If an article is sold
19 at retail or to a retailer, and if—

20 “(i) the producer or importer of such
21 article regularly sells such articles at retail
22 or to retailers, as the case may be,

23 “(ii) the producer or importer of such
24 article regularly sells such articles to one
25 or more manufacturers in arm's length

1 transactions and he establishes that his
2 prices in such cases are determined with-
3 out regard to any tax benefit under this
4 paragraph, and

5 “(iii) the transaction is an arm’s
6 length transaction,

7 the tax under this chapter shall (if based on the
8 price for which the article is sold) be computed
9 under subparagraph (C).

10 “(C) PRICE FOR PURPOSES OF SPECIAL
11 RULE.—The price computed under this sub-
12 paragraph is whichever of the following prices is
13 the lower:

14 “(i) the price for which such article is
15 sold, or

16 “(ii) the highest price for which such
17 articles are sold by such producer, or im-
18 porter to manufacturers.

19 “(D) DEFINITION OF LOWEST PRICE.—
20 For purposes of subparagraphs (A) and (C),
21 the lowest price shall be determined—

22 “(i) without requiring that any given
23 percentage of sales be made at that price,
24 and

1 “(ii) without including any fixed
2 amount to which the purchaser has a right
3 as a result of contractual arrangements ex-
4 isting at the time of the sale.

5 “(E) ARM’S LENGTH.—

6 “(i) IN GENERAL.—For purposes of
7 this section, a sale is considered to be
8 made under circumstances otherwise than
9 at arm’s length if—

10 “(I) the parties are members of
11 the same controlled group, whether or
12 not such control is actually exercised
13 to influence the sale price, or

14 “(II) the sale is made pursuant
15 to special arrangements between a
16 manufacturer and a purchaser.

17 “(ii) CONTROLLED GROUPS.—

18 “(I) IN GENERAL.—The term
19 ‘controlled group’ has the meaning
20 given to such term by subsection (a)
21 of section 1563, except that ‘more
22 than 50 percent’ shall be substituted
23 for ‘at least 80 percent’ each place it
24 appears in such subsection.

1 “(II) CONTROLLED GROUPS
2 WHICH INCLUDE NONINCORPORATED
3 PERSONS.—Under regulations pre-
4 scribed by the Secretary, principles
5 similar to the principles of subclause
6 (I) shall apply to a group of persons
7 under common control where 1 or
8 more of such persons is not a corpora-
9 tion.

10 “(3) PARTIAL PAYMENTS.—In the case of—

11 “(A) a contract for the sale of an article
12 wherein it is provided that the price shall be
13 paid by installments and title to the article sold
14 does not pass until a future date notwith-
15 standing partial payment by installments,

16 “(B) a conditional sale, or

17 “(C) a chattel mortgage arrangement
18 wherein it is provided that the sales price shall
19 be paid in installments,

20 there shall be paid upon each payment with respect
21 to the article a percentage of such payment equal to
22 the rate of tax in effect on the date such payment
23 is due.

24 “(4) SALES OF INSTALLMENT ACCOUNTS.—If
25 installment accounts, with respect to payments on

1 which tax is being computed as provided in para-
2 graph (3), are sold or otherwise disposed of, then
3 paragraph (3) shall not apply with respect to any
4 subsequent payments on such accounts (other than
5 subsequent payments on returned accounts with re-
6 spect to which credit or refund is allowable by rea-
7 son of section 6416(b)(5)), but instead—

8 “(A) there shall be paid an amount equal
9 to the difference between—

10 “(i) the tax previously paid on the
11 payments on such installment accounts,
12 and

13 “(ii) the total tax which would be pay-
14 able if such installment accounts had not
15 been sold or otherwise disposed of (com-
16 puted as provided in paragraph (3)); ex-
17 cept that

18 “(B) if any such sale is pursuant to the
19 order of, or subject to the approval of, a court
20 of competent jurisdiction in a bankruptcy or in-
21 solvency proceeding, the amount computed
22 under subparagraph (A) shall not exceed the
23 sum of the amounts computed by multiplying—

24 “(i) the proportionate share of the
25 amount for which such accounts are sold

1 which is allocable to each unpaid install-
2 ment payment by

3 “(ii) the rate of tax under this chap-
4 ter in effect on the date such unpaid in-
5 stallment payment is or was due.

6 The sum of the amounts payable under this
7 subsection and subsection (c) in respect of the
8 sale of any article shall not exceed the total tax.

9 “(b) CERTAIN USES TREATED AS SALES.—Any pro-
10 ducer of marijuana which uses such marijuana before it
11 is sold shall be liable for the tax imposed by section 5901
12 in the same manner as if such marijuana were sold by
13 such producer.

14 “(c) APPLICATION OF TAX IN CASE OF SALES BY
15 OTHER THAN PRODUCER.—In case any person acquires
16 from the producer of marijuana, by operation of law or
17 as a result of any transaction not taxable under section
18 5901, the right to sell such marijuana, the sale of such
19 marijuana by such person shall be taxable under this
20 chapter as if made by the producer, and such person shall
21 be liable for the tax.

22 **“SEC. 5904. DEFINITIONS.**

23 “For purposes of this chapter—

1 “(1) MARIJUANA.—The term ‘marijuana’ has
2 the meaning given such term by section 102(16) of
3 the Controlled Substances Act (21 U.S.C. 802).

4 “(2) MARIJUANA PRODUCT.—The term ‘mari-
5 juana product’ means any article which contains
6 marijuana, including an article which is a con-
7 centrate, an edible, a tincture, a marijuana-infused
8 product, or a topical.

9 “(3) PRODUCER.—The term ‘producer’ means
10 any person who plants, cultivates, harvests, or in
11 any way facilitates the natural growth of, marijuana.

12 “(4) MANUFACTURER.—The term ‘manufac-
13 turer’ means a person who manufactures, com-
14 pounds, converts, processes, prepares, or packages
15 marijuana or marijuana products.

16 “(5) IMPORTER.—The term ‘importer’ means—

17 “(A) any person in the United States to
18 whom nontaxpaid marijuana products, or any
19 processed marijuana, manufactured in a foreign
20 country, Puerto Rico, the Virgin Islands, or a
21 possession of the United States are shipped or
22 consigned; and

23 “(B) any person who smuggles or other-
24 wise unlawfully brings marijuana or marijuana
25 products into the United States.

1 “(2) \$500 per year in the case of any person
2 engaged in a marijuana enterprise who is not de-
3 scribed in paragraph (1).

4 **“SEC. 5912. APPLICATION FOR PERMIT.**

5 “Every person, before commencing business as a
6 marijuana enterprise, and at such other time as the Sec-
7 retary shall by regulation prescribe, shall make application
8 for the permit provided for in section 5913. The applica-
9 tion shall be in such form as the Secretary shall prescribe
10 and shall set forth, truthfully and accurately, the informa-
11 tion called for on the form. Such application may be re-
12 jected and the permit denied if the Secretary, after notice
13 and opportunity for hearing, finds that—

14 “(1) the premises on which it is proposed to
15 conduct the business are not adequate to protect the
16 revenue,

17 “(2) the activity proposed to be carried out at
18 such premises does not meet such minimum capacity
19 or activity requirements as the Secretary may pre-
20 scribe, or

21 “(3) such person (including, in the case of a
22 corporation, any officer, director, or principal stock-
23 holder and, in the case of a partnership, a part-
24 ner)—

1 “(A) is, by reason of his business experi-
2 ence, financial standing, or trade connections or
3 by reason of previous or current legal pro-
4 ceedings involving a felony violation of any
5 other provision of Federal criminal law relating
6 to marijuana or marijuana products, not likely
7 to maintain operations in compliance with this
8 chapter,

9 “(B) has been convicted of a felony viola-
10 tion of any provision of Federal or State crimi-
11 nal law relating to marijuana or marijuana
12 products, or

13 “(C) has failed to disclose any material in-
14 formation required or made any material false
15 statement in the application therefor.

16 **“SEC. 5913. PERMIT.**

17 “(a) **ISSUANCE.**—A person shall not engage in busi-
18 ness as a marijuana enterprise without a permit to engage
19 in such business. Such permit, conditioned upon compli-
20 ance with this chapter and regulations issued thereunder,
21 shall be issued in such form and in such manner as the
22 Secretary shall by regulation prescribe. A new permit may
23 be required at such other time as the Secretary shall by
24 regulation prescribe.

25 “(b) **SUSPENSION OR REVOCATION.**—

1 “(1) SHOW CAUSE HEARING.—If the Secretary
2 has reason to believe that any person holding a per-
3 mit—

4 “(A) has not in good faith complied with
5 this chapter, or with any other provision of this
6 title involving intent to defraud,

7 “(B) has violated the conditions of such
8 permit,

9 “(C) has failed to disclose any material in-
10 formation required or made any material false
11 statement in the application for such permit,

12 “(D) has failed to maintain his premises in
13 such manner as to protect the revenue,

14 “(E) is, by reason of previous or current
15 legal proceedings involving a felony violation of
16 any other provision of Federal criminal law re-
17 lating to marijuana, not likely to maintain oper-
18 ations in compliance with this chapter, or

19 “(F) has been convicted of a felony viola-
20 tion of any provision of Federal or State crimi-
21 nal law relating to marijuana or marijuana
22 products,

23 the Secretary shall issue an order, stating the facts
24 charged, citing such person to show cause why his
25 permit should not be suspended or revoked.

1 “(2) ACTION FOLLOWING HEARING.—If, after
2 hearing, the Secretary finds that such person has
3 not shown cause why his permit should not be sus-
4 pended or revoked, such permit shall be suspended
5 for such period as the Secretary deems proper or
6 shall be revoked.

7 “(c) INFORMATION REPORTING.—The Secretary may
8 require—

9 “(1) information reporting by any person issued
10 a permit under this section, and

11 “(2) information reporting by such other per-
12 sons as the Secretary deems necessary to carry out
13 this chapter.

14 “(d) INSPECTION OR DISCLOSURE OF INFORMA-
15 TION.—For rules relating to inspection and disclosure of
16 returns and return information, see section 6103(o).

17 **“SEC. 5914. REGULATIONS.**

18 “The Secretary may issue such regulations or other
19 guidance as the Secretary determines necessary or appro-
20 priate to carry out this chapter, including the filing of re-
21 turns under this chapter in electronic format.

22 **“Subchapter C—Penalties**

“Sec. 5921. Civil penalties.

“Sec. 5922. Criminal penalties.

1 **“SEC. 5921. CIVIL PENALTIES.**

2 “(a) OMITTING THINGS REQUIRED OR DOING
3 THINGS FORBIDDEN.—Whoever omits, neglects, or re-
4 fuses to comply with any duty imposed upon him by this
5 chapter, or to do, or cause to be done, any of the things
6 required by this chapter, or does anything prohibited by
7 this chapter, shall in addition to any other penalty pro-
8 vided in this title, be liable to a penalty of the greater
9 of—

10 “(1) \$1,000, or

11 “(2) in the case of an omission, neglect, or re-
12 fusal with respect to a sale, \$100 per ounce of mari-
13 juana sold,

14 to be recovered, with costs of suit, in a civil action, except
15 where a penalty under subsection (b) or (c) or under sec-
16 tion 6651 or 6653 or part II of subchapter A of chapter
17 68 may be collected from such person by assessment.

18 “(b) EXCEPTION.—No penalty shall be imposed
19 under subsection (a) if it is shown that there was a reason-
20 able cause and that the taxpayer acted in good faith.

21 “(c) FAILURE TO PAY TAX.—Whoever fails to pay
22 any tax imposed by this chapter at the time prescribed
23 by law or regulations, shall, in addition to any other pen-
24 alty provided in this title, be liable to a penalty of 5 per-
25 cent of the tax due but unpaid.

1 “(d) SALE OF MARIJUANA OR MARIJUANA PROD-
2 UCTS FOR EXPORT.—

3 “(1) Every person who sells, relands, or receives
4 within the jurisdiction of the United States any
5 marijuana or marijuana products which have been
6 labeled or shipped for exportation under this chap-
7 ter,

8 “(2) every person who sells or receives such re-
9 landed marijuana or marijuana products, and

10 “(3) every person who aids or abets in such
11 selling, relanding, or receiving,

12 shall, in addition to the tax and any other penalty provided
13 in this title, be liable for a penalty equal to the greater
14 of \$1,000 or 5 times the amount of the tax imposed by
15 this chapter. All marijuana and marijuana products re-
16 landed within the jurisdiction of the United States shall
17 be forfeited to the United States and destroyed. All ves-
18 sels, vehicles, and aircraft used in such relanding or in
19 removing such marijuana or marijuana products from the
20 place where relanded, shall be forfeited to the United
21 States.

22 “(e) APPLICABILITY OF SECTION 6665.—The pen-
23 alties imposed by subsections (b) and (c) shall be assessed,
24 collected, and paid in the same manner as taxes, as pro-
25 vided in section 6665(a).

1 “(f) CROSS REFERENCES.—For penalty for failure to
2 make deposits or for overstatement of deposits, see section
3 6656.

4 **“SEC. 5922. CRIMINAL PENALTIES.**

5 “(a) FRAUDULENT OFFENSES.—Whoever, with in-
6 tent to defraud the United States—

7 “(1) ENGAGING IN BUSINESS UNLAWFULLY.—
8 Engages in business as a marijuana enterprise with-
9 out filing the application and obtaining the permit
10 where required by this chapter or regulations there-
11 under,

12 “(2) FAILING TO FURNISH INFORMATION OR
13 FURNISHING FALSE INFORMATION.—Fails to keep or
14 make any record, return, report, or inventory, or
15 keeps or makes any false or fraudulent record, re-
16 turn, report, or inventory, required by this chapter
17 or regulations thereunder,

18 “(3) REFUSING TO PAY OR EVADING TAX.—Re-
19 fuses to pay any tax imposed by this chapter, or at-
20 tempts in any manner to evade or defeat the tax or
21 the payment thereof,

22 “(4) SALES AND TRANSFERS OF MARIJUANA OR
23 MARIJUANA PRODUCTS UNLAWFULLY.—Sells or oth-
24 erwise transfers, contrary to this chapter or regula-

1 tions thereunder, any marijuana or marijuana prod-
2 ucts subject to tax under this chapter, or

3 “(5) TAXABLE EVENT AFTER TAX EXEMP-
4 TION.—With intent to defraud the United States,
5 purchases, receives, possesses, offers for sale, or sells
6 or otherwise disposes of, any marijuana or mari-
7 juana product—

8 “(A) upon which the tax has not been paid
9 or determined in the manner and at the time
10 prescribed by this chapter or regulations there-
11 under, or

12 “(B) which, without payment of tax pursu-
13 ant to section 5902, have been diverted from
14 the applicable purpose or use specified in that
15 section,

16 shall, for each such offense, be fined not more than
17 \$10,000, or imprisoned not more than 5 years, or both.

18 “(b) OTHER OFFENSES.—Whoever, otherwise than
19 as provided in subsection (a), violates any provision of this
20 chapter, or of regulations prescribed thereunder, shall, for
21 each such offense, be fined not more than \$1,000, or im-
22 prisoned not more than 1 year, or both.

23 “(c) LIABILITY TO TAX.—Any person who possesses
24 marijuana or marijuana products in violation of subsection

1 (a) shall be liable for a tax equal to the tax on such arti-
2 cles.”.

3 (b) STUDY.—Not later than two years after the date
4 of the enactment of this Act, and every five years there-
5 after, the Secretary of the Treasury shall—

6 (1) conduct a study concerning the characteris-
7 ties of the marijuana industry, including the number
8 of persons operating marijuana enterprises at each
9 level (e.g., producers, distributors, manufacturers),
10 the volume of sales, the amount of tax collected each
11 year, the areas of evasion, and

12 (2) submit to Congress recommendations to im-
13 prove the regulation of the industry and the admin-
14 istration of the related tax.

15 (c) CONFORMING AMENDMENT.—Section
16 6103(o)(1)(A) of such Code is amended by striking “and
17 firearms” and inserting “firearms, and marijuana”.

18 (d) CLERICAL AMENDMENT.—The table of chapters
19 for subtitle E of title I of such Code is amended by adding
20 at the end the following new chapter:

“CHAPTER 56. MARIJUANA.”.

21 (e) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to sales, and applications for
24 permits under section 5912 of the Internal Revenue
25 Code of 1986 (as added by subsection (a)), after

1 180 days after the date on which marijuana (as de-
2 fined in section 5904 of such Code (as so added))
3 ^{in any form} is removed ~~in any form~~ from all schedules under the
4 Controlled Substances Act (21 U.S.C 812(c)).

5 (2) SPECIAL RULES FOR EXISTING BUSI-
6 NESSES.—In the case of any producer operating
7 under a permit issued on or before the date of the
8 enactment of this Act under State law, the require-
9 ments under section 5912 of such Code (as so
10 added) shall apply beginning on the date that is 6
11 months after the date of the enactment of this Act.

EB