

117TH CONGRESS
1ST SESSION

H. R. 5389

To amend the Internal Revenue Code of 1986 to establish an excise tax
on plastics.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2021

Mr. SUOZZI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Natural Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to establish
an excise tax on plastics.

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 “Rewarding Efforts to
5 Decrease Unrecycled Contaminants in Ecosystems Act of
6 2021” or the “REDUCE Act of 2021”.

1 **SEC. 2. EXCISE TAX ON PLASTICS.**

2 (a) IN GENERAL.—Chapter 38 of the Internal Rev-
 3 enue Code of 1986 is amended by adding at the end there-
 4 of the following new subchapter:

5 **“Subchapter E—Tax on Plastics**

“Sec. 4691. Imposition of tax.

“Sec. 4692. Definitions and special rules.

6 **“SEC. 4691. IMPOSITION OF TAX.**

7 “(a) GENERAL RULE.—There is hereby imposed—

8 “(1) a tax on any taxable virgin plastic resin
 9 sold by an applicable entity, and

10 “(2) a tax on any imported covered item sold
 11 or used by the importer thereof.

12 “(b) AMOUNT OF TAX.—

13 “(1) TAXABLE VIRGIN PLASTIC RESIN.—

14 “(A) IN GENERAL.—The amount of the
 15 tax imposed under subsection (a)(1) shall be de-
 16 termined in accordance with the following table:

“For any sale during calendar year:	The tax is the following amount per pound of taxable virgin plastic resin:
2022	10 cents
2023	15 cents
2024	20 cents
2025 or thereafter	Adjusted amount.

17 “(B) ADJUSTED AMOUNT.—

18 “(i) IN GENERAL.—For purposes of
 19 subparagraph (A), the adjusted amount for

any sale during any calendar year beginning after December 31, 2024, shall be equal to the sum of—

“(I) 20 cents, plus

“(II) an amount equal to—

“(aa) 20 cents, multiplied by

“(bb) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2023’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(ii) ROUNDING.—If any amount determined under clause (i) is not a multiple of 1 cent, such amount shall be rounded to the nearest multiple of 1 cent.

“(2) IMPORTED COVERED ITEMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of the tax imposed under paragraph (2) of subsection (a) on any imported covered item shall be the amount of tax which would have been imposed by paragraph (1) of such subsection with respect to the amount of any taxable virgin plastic resin con-

1 tained in such item if such resin had been sold
2 in the United States by an applicable entity on
3 the date of the sale of such item.

4 “(B) RATE WHERE IMPORTER DOES NOT
5 FURNISH INFORMATION TO SECRETARY.—If the
6 importer does not furnish to the Secretary (at
7 such time and in such manner as the Secretary
8 shall prescribe) sufficient information to deter-
9 mine under subparagraph (A) the amount of
10 the tax imposed by subsection (a)(2) on any im-
11 ported covered item, the amount of the tax im-
12 posed on such item shall be 10 percent of the
13 appraised value of such item as of the time
14 such item was entered into the United States
15 for consumption, use, or warehousing.

16 “(C) AUTHORITY TO PRESCRIBE ALTER-
17 NATE RATE.—The Secretary may prescribe for
18 each imported covered item a tax which, if pre-
19 scribed, shall apply in lieu of the tax specified
20 in subparagraph (B) with respect to such item.
21 The tax prescribed by the Secretary shall be
22 equal to the amount of tax which would be im-
23 posed by subsection (a) with respect to the im-
24 ported covered item if such item were produced

1 using the predominant method of production of
2 such item.

3 “(c) APPLICABLE ENTITY.—

4 “(1) IN GENERAL.—For purposes of this sec-
5 tion, the term ‘applicable entity’ means any manu-
6 facturer, producer, or importer of taxable virgin
7 plastic resin which, during the calendar year in
8 which the sale of such resin occurs, manufactures,
9 produces, or imports more than 10 tons of taxable
10 virgin plastic resin.

11 “(2) AGGREGATION RULE.—For purposes of
12 this subsection, all persons treated as a single em-
13 ployer under subsection (a) or (b) of section 52, or
14 subsections (m) or (o) of section 414, shall be treat-
15 ed as a single manufacturer, producer, or importer.

16 “(d) EXPORTATION.—Pursuant to regulations pre-
17 scribed by the Secretary, no tax shall be imposed under
18 this section upon the sale of any taxable virgin plastic
19 resin for export, and in due course so exported.

20 **“SEC. 4692. DEFINITIONS AND SPECIAL RULES.**

21 “(a) DEFINITIONS.—For purposes of this sub-
22 chapter—

23 “(1) COVERED ITEM.—

24 “(A) IN GENERAL.—The term ‘covered
25 item’ means a single-use product which contains

1 taxable virgin plastic resin, including packaging,
2 food service products, beverage containers, and
3 bags.

4 “(B) EXCLUSION.—The term ‘covered
5 item’ shall not include—

6 “(i) a medical product that the Sec-
7 retary of Health and Human Services de-
8 termines needs to be made of virgin plastic
9 for public health or the health of the user,

10 “(ii) a container for—

11 “(I) a drug regulated under the
12 Federal Food, Drug, and Cosmetic
13 Act,

14 “(II) infant formula, or

15 “(III) a meal replacement liquid,

16 “(iii) a personal or feminine hygiene
17 product that could be unsafe or unsanitary
18 to recycle,

19 “(iv) a sexual health product, or

20 “(v) packaging—

21 “(I) for a product described in
22 clauses (i) through (iv), or

23 “(II) used for the shipment of
24 hazardous materials that is prohibited
25 from being composed of used mate-

1 rials under section 178.509 or
2 178.522 of title 49, Code of Federal
3 Regulations (as in effect on the date
4 of enactment of this subchapter).

5 “(C) OTHER TERMS.—

6 “(i) BAG.—The term ‘bag’ means a
7 container made of flexible material with an
8 opening at the top, used for carrying
9 items.

10 “(ii) BEVERAGE CONTAINER.—The
11 term ‘beverage container’ means a pre-
12 packaged beverage container the volume of
13 which is not greater than 3 liters.

14 “(iii) FOOD SERVICE PRODUCT.—The
15 term ‘food service product’ means an item
16 intended to deliver a food product, includ-
17 ing a utensil, straw, drink cup, drink lid,
18 food package, food container, plate, bowl,
19 meat tray, or food wrap.

20 “(iv) PACKAGING.—The term ‘pack-
21 aging’ means a package, container, pack-
22 ing materials, or other material used for
23 the containment, protection, handling, de-
24 livery, and presentation of goods.

1 “(v) SINGLE-USE PRODUCT.—The
2 term ‘single-use product’ means a product
3 which is—

4 “(I) routinely disposed of after a
5 single use or after its contents have
6 been used or unpackaged, and typi-
7 cally not refilled, and

8 “(II) not durable, washable, or
9 routinely used for its original purpose
10 multiple times before disposal.

11 “(2) IMPORTED COVERED ITEM.—The term
12 ‘imported covered item’ means any covered item en-
13 tered into the United States for consumption, use,
14 or warehousing.

15 “(3) TAXABLE VIRGIN PLASTIC RESIN.—

16 “(A) IN GENERAL.—The term ‘taxable vir-
17 gin plastic resin’ means any resin—

18 “(i) which is derived from petroleum
19 or gas (including ethylene, propylene, poly-
20 ethylene, polypropylene, polystyrene, and
21 polyvinyl chloride), and

22 “(ii) which is manufactured or pro-
23 duced in the United States or entered into
24 the United States for consumption, use, or
25 warehousing.

1 “(B) EXCLUSION OF POST-CONSUMER RE-
2 CYCLED RESIN.—The term ‘taxable virgin plas-
3 tic resin’ shall not include any resin which has
4 been reprocessed from recovered material so it
5 can be used for its original purpose or for other
6 purposes in place of resin described in clause (i)
7 of subparagraph (A).

8 “(4) UNITED STATES.—The term ‘United
9 States’ has the meaning given such term by section
10 4612(a)(4).

11 “(5) IMPORTER.—The term ‘importer’ means
12 the person entering the taxable virgin plastic resin
13 or covered item for consumption, use, or ware-
14 housing.

15 “(b) FRACTION OF A POUND.—In the case of a frac-
16 tion of a pound, the tax imposed by section 4691 shall
17 be the same fraction of the amount of such tax imposed
18 on a whole pound.

19 “(c) USE TREATED AS SALE.—If any applicable enti-
20 ty manufactures, produces, or imports any taxable virgin
21 plastic resin and uses such resin, then such person shall
22 be liable for tax under section 4691 in the same manner
23 as if such resin were sold by such entity.

24 “(d) REFUND OR CREDIT FOR CERTAIN USES.—
25 Under regulations prescribed by the Secretary, if—

1 “(1) a tax under section 4691(a)(1) was paid
2 with respect to any taxable virgin plastic resin, and
3 “(2) such resin was used by any person in the
4 manufacture or production within the United States
5 of any product which is not a covered item,
6 then an amount equal to the tax so paid shall be allowed
7 as a credit or refund (without interest) to such person in
8 the same manner as if it were an overpayment of tax im-
9 posed by such section.

10 “(e) DISPOSITION OF REVENUES FROM PUERTO
11 RICO AND THE VIRGIN ISLANDS.—The provisions of sub-
12 sections (a)(3) and (b)(3) of section 7652 shall not apply
13 to any tax imposed by section 4691.

14 “(f) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be necessary to carry out the pro-
16 visions of this subchapter.”.

17 (b) PLASTIC WASTE REDUCTION FUND.—Sub-
18 chapter A of chapter 98 of the Internal Revenue Code of
19 1986 is amended by adding at the end the following new
20 section:

21 **“SEC. 9512. PLASTIC WASTE REDUCTION FUND.**

22 “(a) ESTABLISHMENT AND FUNDING.—There is
23 hereby established in the Treasury of the United States
24 a trust fund to be referred to as the ‘Plastic Waste Reduc-
25 tion Fund’, consisting of such amounts as may be appro-

1 priated or credited to such trust fund as provided for in
2 this section and section 9602(b).

3 “(b) TRANSFERS TO THE PLASTIC WASTE REDUC-
4 TION FUND.—There are hereby appropriated to the Plas-
5 tic Waste Reduction Fund amounts equivalent to the taxes
6 received in the Treasury under section 4691 (minus any
7 refunds or credits pursuant to section 4692(d)).

8 “(c) EXPENDITURES FROM THE PLASTIC WASTE
9 REDUCTION FUND.—Amounts in the Plastic Waste Re-
10 duction Fund shall be available, as provided by appropria-
11 tion Acts, for making expenditures—

12 “(1) to carry out reduction and recycling activi-
13 ties, including making improvements to recycling in-
14 frastructure,

15 “(2) to carry out plastic waste and marine de-
16bris reduction, detection, monitoring, and cleanup
17 activities of—

18 “(A) the grant programs established under
19 section 302 of the Save Our Seas 2.0 Act (33
20 U.S.C. 4282),

21 “(B) the Marine Debris Program estab-
22 lished by section 3 of the Marine Debris Act
23 (33 U.S.C. 1952),

1 “(C) the Marine Debris Foundation estab-
2 lished by section 111 of the Save Our Seas 2.0
3 Act (33 U.S.C. 4211), and

4 “(D) other Federal programs carrying out
5 such activities, and

6 “(3) to address environmental justice and pollu-
7 tion impacts from plastic production.”.

8 (c) CLERICAL AMENDMENTS.—

9 (1) The table of subchapters for chapter 38 of
10 the Internal Revenue Code of 1986 is amended by
11 adding at the end the following new item:

 “SUBCHAPTER E—TAX ON PLASTICS”.

12 (2) The table of sections for subchapter A of
13 chapter 98 of such Code is amended by adding at
14 the end the following new item:

 “Sec. 9512. Plastic Waste Reduction Fund.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on January 1, 2022.

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