

117TH CONGRESS  
1ST SESSION

# H. R. 5389

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

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## 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

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## 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

1 any sale during any calendar year begin-  
2 ning after December 31, 2024, shall be  
3 equal to the sum of—

4 “(I) 20 cents, plus

5 “(II) an amount equal to—

6 “(aa) 20 cents, multiplied by

7 “(bb) the cost-of-living ad-  
8 justment determined under sec-  
9 tion 1(f)(3) for the calendar year,  
10 determined by substituting ‘cal-  
11 endar year 2023’ for ‘calendar  
12 year 2016’ in subparagraph  
13 (A)(ii) thereof.

14 “(ii) ROUNDING.—If any amount de-  
15 termined under clause (i) is not a multiple  
16 of 1 cent, such amount shall be rounded to  
17 the nearest multiple of 1 cent.

18 “(2) IMPORTED COVERED ITEMS.—

19 “(A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the amount of the tax im-  
21 posed under paragraph (2) of subsection (a) on  
22 any imported covered item shall be the amount  
23 of tax which would have been imposed by para-  
24 graph (1) of such subsection with respect to the  
25 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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