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1ST SESSION

H. R. 5564

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2023

Mr. DOGGETT (for himself, Mr. BLUMENAUER, Ms. BONAMICI, Ms. CHU, Ms. CLARKE of New York, Mr. CLEAVER, Mr. COHEN, Mr. ESPAILLAT, Mr. GOMEZ, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Mr. KRISHNAMOORTHY, Mr. LARSON of Connecticut, Ms. LEE of California, Mr. LIEU, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Ms. PINGREE, Mr. QUIGLEY, Mr. RASKIN, Ms. SÁNCHEZ, Mr. SCHIFF, Mrs. WATSON COLEMAN, and Ms. WILSON of Florida) 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rewarding Efforts to
3 Decrease Unrecycled Contaminants in Ecosystems Act of
4 2023” or the “REDUCE Act of 2023”.

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

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

9 **“Subchapter E—Tax on Plastics**

“Sec. 4691. Imposition of tax.

“Sec. 4692. Definitions and special rules.

10 **“SEC. 4691. IMPOSITION OF TAX.**

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

12 “(1) a tax on—

13 “(A) the entry into the United States of
14 any taxable virgin plastic resin for consumption,
15 use, or warehousing, and

16 “(B) the sale of any taxable virgin plastic
17 resin sold by an applicable entity unless there
18 was a prior taxable entry of such resin under
19 subparagraph (A), and

20 “(2) a tax on the entry into the United States
21 of any imported covered item.

22 “(b) AMOUNT OF TAX.—

23 “(1) TAXABLE VIRGIN PLASTIC RESIN.—

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

“For any entry or sale during calendar year:	The tax is the following amount per pound of taxable virgin plastic resin:
2024	10 cents
2025	15 cents
2026	20 cents
2027 or thereafter	Adjusted amount.

4 “(B) ADJUSTED AMOUNT.—

5 “(i) IN GENERAL.—For purposes of
 6 subparagraph (A), the adjusted amount for
 7 any entry or sale during any calendar year
 8 beginning after December 31, 2026, shall
 9 be equal to the sum of—

10 “(I) 20 cents, plus

11 “(II) an amount equal to—

12 “(aa) 20 cents, multiplied by

13 “(bb) the cost-of-living ad-
 14 justment determined under sec-
 15 tion 1(f)(3) for the calendar year,
 16 determined by substituting ‘cal-
 17 endar year 2025’ for ‘calendar
 18 year 2016’ in subparagraph
 19 (A)(ii) thereof.

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

5 “(2) IMPORTED COVERED ITEMS.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the amount of the tax im-
8 posed under paragraph (2) of subsection (a) on
9 any imported covered item shall be an amount
10 equal the product of—

11 “(i) the weight of such covered item
12 (expressed in pounds), multiplied by

13 “(ii) 20 cents.

14 “(B) AUTHORITY TO PRESCRIBE ALTER-
15 NATE RATE.—With respect to any imported
16 covered item for which the importer dem-
17 onstrates to the satisfaction of the Secretary
18 that such item is not entirely comprised of tax-
19 able virgin plastic resin, the Secretary may pre-
20 scribe, in lieu of the rate of tax specified under
21 subparagraph (A), an alternative rate of tax
22 with respect to such item for purposes of sub-
23 section (a)(2).

24 “(c) APPLICABLE ENTITY.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘applicable entity’ means any manu-
3 facturer, producer, or importer of taxable virgin
4 plastic resin.

5 “(2) EXEMPTION.—

6 “(A) IN GENERAL.—The term ‘applicable
7 entity’ shall not include any manufacturer, pro-
8 ducer, or importer of taxable virgin plastic resin
9 which, with respect to any taxable year—

10 “(i)(I) in the case of a manufacturer
11 or producer, for the taxable year preceding
12 such taxable year, manufactured or pro-
13 duced not greater than 10 tons of taxable
14 virgin plastic resin, or

15 “(II) in the case of an importer, for
16 the taxable year preceding such taxable
17 year, imported not greater than 10 tons of
18 taxable virgin plastic resin, and

19 “(ii) meets the gross receipts test of
20 section 448(c) for such taxable year.

21 “(B) AGGREGATION RULE.—For purposes
22 of this paragraph, all persons treated as a sin-
23 gle employer under subsection (a) or (b) of sec-
24 tion 52 or subsection (m) or (o) of section 414

1 shall be treated as a single manufacturer, pro-
2 ducer, or importer.

3 “(C) ADMINISTRATION.—The Secretary
4 shall prescribe such regulations or other guid-
5 ance as may be necessary to administer this
6 paragraph, and may require information report-
7 ing from any manufacturer, producer, or im-
8 porter seeking application of subparagraph (A).

9 “(d) EXPORTATION.—

10 “(1) IN GENERAL.—No tax shall be imposed
11 under this section upon the sale of any taxable vir-
12 gin plastic resin or imported covered item for export,
13 and in due course so exported.

14 “(2) CREDIT OR REFUND WHERE TAX PAID.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), if—

17 “(i) tax under subsection (a) was paid
18 with respect to any taxable virgin plastic
19 resin or any imported covered item, and

20 “(ii) such resin or item was exported
21 by any person,

22 credit or refund (without interest) of such tax
23 shall be allowed or made to the person who paid
24 such tax.

1 “(B) CONDITION TO ALLOWANCE.—No
2 credit or refund shall be allowed or made under
3 subparagraph (A) unless the person who paid
4 the tax establishes that such person—

5 “(i) has repaid or agreed to repay the
6 amount of the tax to the person who ex-
7 ported the taxable virgin plastic resin or
8 imported covered item, or

9 “(ii) has obtained the written consent
10 of such exporter to the allowance of the
11 credit or the making of the refund.

12 “(3) REFUNDS DIRECTLY TO EXPORTER.—The
13 Secretary shall provide, in regulations, the cir-
14 cumstances under which a credit or refund (without
15 interest) of the tax under subsection (a) shall be al-
16 lowed or made to the person who exported the tax-
17 able virgin plastic resin or imported covered item,
18 where—

19 “(A) the person who paid the tax waives
20 their claim to the amount of such credit or re-
21 fund, and

22 “(B) the person exporting the taxable vir-
23 gin plastic resin or imported covered item pro-
24 vides such information as the Secretary may re-
25 quire in such regulations.

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

2 “(a) DEFINITIONS.—For purposes of this sub-
3 chapter—

4 “(1) COVERED ITEM.—

5 “(A) IN GENERAL.—The term ‘covered
6 item’ means a single-use product which contains
7 taxable virgin plastic resin, including any pack-
8 aging, food service product, beverage container,
9 or bag.

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

12 “(i) a medical product which—

13 “(I) is regulated under—

14 “(aa) the Federal Food,
15 Drug, and Cosmetic Act, or

16 “(bb) the Public Health
17 Service Act, and

18 “(II) the Secretary of Health and
19 Human Services declares needs to be
20 made of virgin plastic for public
21 health or the health of the user,

22 “(ii) a container for—

23 “(I) a drug,

24 “(II) infant formula,

25 “(III) a meal replacement liquid,

26 “(IV) a biologic, or

- 1 “(V) a medical device,
- 2 “(iii) a personal or feminine hygiene
- 3 product that could be unsafe or unsanitary
- 4 to recycle,
- 5 “(iv) a sexual health product, or
- 6 “(v) packaging—
- 7 “(I) for a product described in
- 8 clauses (i) through (iv), or
- 9 “(II) used for the shipment of
- 10 hazardous materials that is prohibited
- 11 from being composed of used mate-
- 12 rials under section 178.509 or
- 13 178.522 of title 49, Code of Federal
- 14 Regulations (as in effect on the date
- 15 of enactment of this subchapter).
- 16 “(C) OTHER TERMS.—
- 17 “(i) BAG.—The term ‘bag’ means a
- 18 container which is—
- 19 “(I) a single-use product which
- 20 contains taxable virgin plastic resin,
- 21 and
- 22 “(II) made of flexible material
- 23 with an opening and used for carrying
- 24 items.

1 “(ii) BEVERAGE CONTAINER.—The
2 term ‘beverage container’ means a vessel
3 for beverages—

4 “(I) which is a single-use product
5 which contains taxable virgin plastic
6 resin, and

7 “(II) the volume of which is not
8 greater than 3 liters.

9 “(iii) FOOD SERVICE PRODUCT.—The
10 term ‘food service product’ means an
11 item—

12 “(I) which is a single-use product
13 which contains taxable virgin plastic
14 resin, and

15 “(II) designed to deliver a food
16 product, including a utensil, straw,
17 drink cup, drink lid, food package,
18 food container, plate, bowl, meat tray,
19 or food wrap.

20 “(iv) PACKAGING.—

21 “(I) IN GENERAL.—The term
22 ‘packaging’ means a package, con-
23 tainer, packing materials, or other
24 material—

1 “(aa) which is a single-use
2 product which contains taxable
3 virgin plastic resin, and

4 “(bb) used for the contain-
5 ment, protection, handling, deliv-
6 ery, or presentation of goods.

7 “(II) PRODUCTS INCLUDED AS
8 PACKAGING.—The term ‘packaging’
9 shall include any item described in
10 subclause (I) which is—

11 “(aa) intended for the con-
12 sumer market,

13 “(bb) service packaging de-
14 signed and intended to be used
15 or filled at the point of sale, such
16 as carry-out bags, bulk good
17 bags, take-out bags, and home
18 delivery food service packaging,

19 “(cc) secondary packaging
20 used to group products for multi-
21 unit sale,

22 “(dd) tertiary packaging
23 used for transportation or dis-
24 tribution directly to a consumer,
25 or

1 “(ee) an ancillary element
2 hung or attached to a product
3 and performing a packaging
4 function.

5 “(v) SINGLE-USE PRODUCT.—The
6 term ‘single-use product’ means a product
7 which is—

8 “(I) routinely disposed of after a
9 single use or after its contents have
10 been used or unpackaged, and typi-
11 cally not refilled, and

12 “(II) not durable, washable, or
13 routinely used for one of the purposes
14 for which it was designed multiple
15 times before disposal.

16 “(2) IMPORTED COVERED ITEM.—The term
17 ‘imported covered item’ means any covered item—

18 “(A) entered into the United States for
19 consumption, use, or warehousing, and

20 “(B) which is—

21 “(i) intended for subsequent sale or
22 use, and

23 “(ii) at the time such item is entered
24 into the United States, not used as a con-

1 tainer or packaging for a different product
2 which is not itself a covered item.

3 “(3) TAXABLE VIRGIN PLASTIC RESIN.—

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

6 “(i) which is derived from petroleum
7 or gas (including ethylene, propylene, poly-
8 ethylene, polypropylene, polystyrene, and
9 polyvinyl chloride), and

10 “(ii) which is manufactured or pro-
11 duced in the United States or entered into
12 the United States for consumption, use, or
13 warehousing.

14 “(B) EXCLUSION OF POST-CONSUMER RE-
15 CYCLED RESIN.—The term ‘taxable virgin plas-
16 tic resin’ shall not include any resin which is es-
17 tablished to the satisfaction of the Secretary to
18 be reprocessed from recovered material so that
19 it can be used in place of resin described in
20 clause (i) of subparagraph (A).

21 “(4) UNITED STATES.—The term ‘United
22 States’ has the meaning given such term by section
23 4612(a)(4).

24 “(5) IMPORTER.—The term ‘importer’ means
25 the person entering the taxable virgin plastic resin

1 or covered item into the United States for consump-
2 tion, use, or warehousing.

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

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

12 “(d) EXCEPTION FOR CERTAIN USES.—

13 “(1) IN GENERAL.—Under regulations pre-
14 scribed by the Secretary, in the case of any taxable
15 virgin plastic resin for which the manufacturer, pro-
16 ducer, or importer of such resin—

17 “(A) certifies that such resin will only be
18 used in the manufacture or production within
19 the United States of any product which is not
20 a covered item, and

21 “(B) satisfies the registration requirements
22 under paragraph (2),
23 no tax shall be imposed under section 4691(a)(1).

24 “(2) REGISTRATION.—

1 “(A) IN GENERAL.—With respect to any
2 taxable year, the Secretary shall require any
3 person seeking an exemption under paragraph
4 (1) to register with the Secretary at such time,
5 in such form and manner, and subject to such
6 terms and conditions, as the Secretary may by
7 regulations prescribe. A registration under this
8 paragraph may be used only in accordance with
9 regulations prescribed under this paragraph.

10 “(B) REGISTRATION IN EVENT OF CHANGE
11 IN OWNERSHIP.—Under regulations prescribed
12 by the Secretary, a person (other than a cor-
13 poration the stock of which is regularly traded
14 on an established securities market) shall be re-
15 quired to re-register under this paragraph if
16 after a transaction (or series of related trans-
17 actions) more than 50 percent of ownership in-
18 terests in, or assets of, such person are held by
19 persons other than persons (or persons related
20 thereto) who held more than 50 percent of such
21 interests or assets before the transaction (or se-
22 ries of related transactions).

23 “(C) DENIAL, REVOCATION, OR SUSPEN-
24 SION OF REGISTRATION.—Rules similar to the

1 rules of section 4222(c) shall apply to registra-
2 tion under this paragraph.

3 “(D) INFORMATION REPORTING.—The
4 Secretary may require—

5 “(i) information reporting by any per-
6 son registered under this paragraph, and

7 “(ii) information reporting by such
8 other persons as the Secretary deems nec-
9 essary to carry out this paragraph.

10 “(3) SALES TO CERTAIN SMALL BUYERS.—

11 “(A) IN GENERAL.—Under regulations
12 prescribed by the Secretary, in the case of any
13 taxable virgin plastic resin which is sold by the
14 manufacturer, producer, or importer of such
15 resin to a person who—

16 “(i) meets the gross receipts test of
17 section 448(c) for the taxable year in
18 which such resin is sold, and

19 “(ii) provides such manufacturer, pro-
20 ducer, or importer with a certificate which
21 includes—

22 “(I) the name and address of
23 such person,

1 “(II) the applicable period (not
2 to exceed 4 calendar quarters) for
3 which the certificate applies, and

4 “(III) a statement that—

5 “(aa) such person satisfies
6 the requirement under clause (i),
7 and

8 “(bb) such resin will only be
9 used in the manufacture or pro-
10 duction within the United States
11 of any product which is not a
12 covered item,

13 no tax shall be imposed under section
14 4691(a)(1).

15 “(4) TAXATION OF NONQUALIFIED USE.—For
16 purposes of section 4691(a)(1), if no tax was im-
17 posed by such section on the sale of any taxable vir-
18 gin plastic resin by reason of paragraph (1) or para-
19 graph (3), the first person who uses such resin in
20 a manner other than a use described in such para-
21 graph shall be treated as the manufacturer of such
22 resin.

23 “(e) REFUND OR CREDIT FOR CERTAIN USES.—

24 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 “(f) 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 “(g) IMPOSITION OF FLOOR STOCKS TAXES.—

15 “(1) IN GENERAL.—

16 “(A) IN GENERAL.—If, on any tax-increase
17 date, any taxable virgin plastic resin or im-
18 ported covered item is held by any person
19 (other than the manufacturer, producer, or im-
20 porter thereof) for sale or for use in further
21 manufacture, there is hereby imposed a floor
22 stocks tax.

23 “(B) AMOUNT OF TAX.—The amount of
24 the tax imposed by subparagraph (A) shall be
25 the excess (if any) of—

1 “(i) the tax which would be imposed
2 under section 4691—

3 “(I) in the case of any taxable
4 virgin plastic resin, on such resin if
5 the sale of such resin by the applica-
6 ble entity had occurred on the tax-in-
7 crease date, or

8 “(II) in the case of any imported
9 covered item, on such item if the
10 entry or withdrawal of such item by
11 the importer thereof had occurred on
12 the tax-increase date, over

13 “(ii) the prior tax (if any) imposed by
14 this subchapter on such resin or item.

15 “(C) TAX-INCREASE DATE.—For purposes
16 of this paragraph, the term ‘tax-increase date’
17 means January 1 of any calendar year.

18 “(2) DUE DATE.—The taxes imposed by this
19 subsection on January 1 of any calendar year shall
20 be paid on or before June 30 of such year.

21 “(3) APPLICATION OF OTHER LAWS.—All other
22 provisions of law, including penalties, applicable with
23 respect to the taxes imposed by section 4691 shall
24 apply to the floor stocks taxes imposed by this sub-
25 section.

1 “(h) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out the pro-
3 visions of this subchapter.”.

4 (b) PLASTIC WASTE REDUCTION FUND.—Sub-
5 chapter A of chapter 98 of the Internal Revenue Code of
6 1986 is amended by adding at the end the following new
7 section:

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

9 “(a) ESTABLISHMENT AND FUNDING.—There is
10 hereby established in the Treasury of the United States
11 a trust fund to be referred to as the ‘Plastic Waste Reduc-
12 tion Fund’, consisting of such amounts as may be appro-
13 priated or credited to such trust fund as provided for in
14 this section and section 9602(b).

15 “(b) TRANSFERS TO THE PLASTIC WASTE REDUC-
16 TION FUND.—There are hereby appropriated to the Plas-
17 tic Waste Reduction Fund amounts equivalent to the taxes
18 received in the Treasury under section 4691.

19 “(c) EXPENDITURES FROM THE PLASTIC WASTE
20 REDUCTION FUND.—Subject to subsection (d), amounts
21 in the Plastic Waste Reduction Fund shall be available,
22 as provided by appropriation Acts, for making expendi-
23 tures—

24 “(1) to carry out reduction, recycling, and reuse
25 activities, including—

1 “(A) making improvements to recycling in-
2 frastructure, or

3 “(B) establishing or improving infrastruc-
4 ture for reuse and refill systems,

5 “(2) to carry out plastic waste and marine de-
6 bris reduction, detection, monitoring, and cleanup
7 activities of—

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

11 “(B) the Marine Debris Program estab-
12 lished by section 3 of the Marine Debris Act
13 (33 U.S.C. 1952),

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

17 “(D) other Federal programs carrying out
18 such activities, and

19 “(3) to address environmental justice and pollu-
20 tion impacts from plastic production.

21 “(d) PROHIBITION ON CERTAIN EXPENDITURES.—
22 No amount in the Plastic Waste Reduction Fund shall be
23 available for making any expenditure relating to—

24 “(1) the use of waste—

25 “(A) as a fuel or fuel substitute,

1 “(B) for energy production,
 2 “(C) for alternative daily cover, or
 3 “(D) within the footprint of a landfill, or
 4 “(2) the conversion of waste into alternative
 5 products (such as chemicals, feedstocks, fuels, or en-
 6 ergy) through—
 7 “(A) incineration,
 8 “(B) pyrolysis,
 9 “(C) hydrolysis,
 10 “(D) methanolysis,
 11 “(E) gasification, or
 12 “(F) any method similar to the methods
 13 described in subparagraphs (A) through (E), as
 14 identified by the Secretary.”.

15 (c) CLERICAL AMENDMENTS.—

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

“SUBCHAPTER E—TAX ON PLASTICS”.

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

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

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on January 1, 2024.

