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(Original Signature of Member)

113TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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

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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  
5 Act of 2013”.

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.—The amount of the tax im-  
8 posed by subsection (a) shall be 50 percent of the price  
9 for which so sold.

10                  **“SEC. 5902. EXEMPTION FROM TAX.**

11                  “(a) GENERAL RULE.—Under regulations prescribed  
12 by the Secretary, no tax shall be imposed under this sub-  
13 chapter on the sale by the producer or importer of an arti-  
14 cle—

15                         “(1) for use by the purchaser for further pro-  
16 duction, or for resale by the purchaser to a second  
17 purchaser for use by such second purchaser in fur-  
18 ther production, or

19                         “(2) for export, or for resale by the purchaser  
20 to a second purchaser for export.

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

4           “(1) for resale by the purchaser to a second  
5 purchaser for use by such second purchaser in fur-  
6 ther production, or

7           “(2) for export, or for resale by the purchaser  
8 to a second purchaser for export,  
9 subsection (a) shall cease to apply in respect of such sale  
10 of such article unless, within the 6-month period which  
11 begins on the date of the sale by the producer or importer  
12 (or, if earlier, on the date of shipment by the producer  
13 or importer), the producer or importer receives proof that  
14 the article has been exported or resold for use in further  
15 production.

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

1       “(d) EXPORT.—For purposes of this section, the  
2 term ‘export’ includes shipment to a possession of the  
3 United States; and the term ‘exported’ includes shipped  
4 to a possession of the United States.

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

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

14 **“SEC. 5903. SPECIAL RULES.**

15       “(a) DEFINITION OF PRICE.—For purposes of this  
16 chapter—

17               “(1) CONTAINERS, PACKING AND TRANSPOR-  
18 TATION CHARGES.—In determining, for the purposes  
19 of this chapter, the price for which an article is sold,  
20 there shall be included any charge for coverings and  
21 containers of whatever nature, and any charge inci-  
22 dent to placing the article in condition packed ready  
23 for shipment, but there shall be excluded the amount  
24 of tax imposed by this chapter, whether or not stat-  
25 ed as a separate charge. A transportation, delivery,

1 insurance, installation, or other charge (not required  
2 by the foregoing sentence to be included) shall be ex-  
3 cluded from the price only if the amount thereof is  
4 established to the satisfaction of the Secretary in ac-  
5 cordance with regulations.

6 “(2) CONSTRUCTIVE SALE PRICE.—

7 “(A) IN GENERAL.—If an article is sold at  
8 retail, sold on consignment, or sold (otherwise  
9 than through an arm’s length transaction) at  
10 less than the fair market price, the tax under  
11 section 5901 shall be computed on the price for  
12 which such articles are sold, in the ordinary  
13 course of trade, by producers thereof, as deter-  
14 mined by the Secretary. In the case of an arti-  
15 cle sold at retail, the computation under the  
16 preceding sentence shall be on whichever of the  
17 following prices is the lower:

18 “(i) the price for which such article is  
19 sold, or

20 “(ii) the highest price for which such  
21 articles are sold to manufacturers, in the  
22 ordinary course of trade, by producers  
23 thereof, as determined by the Secretary.

24 This paragraph shall not apply if subpara-  
25 graph (B) applies.

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

3                   “(i) the producer or importer of such  
4                   article regularly sells such articles at retail  
5                   or to retailers, as the case may be,

6                   “(ii) the producer or importer of such  
7                   article regularly sells such articles to one  
8                   or more manufacturers in arm’s length  
9                   transactions and he establishes that his  
10                  prices in such cases are determined with-  
11                  out regard to any tax benefit under this  
12                  paragraph, and

13                  “(iii) the transaction is an arm’s  
14                  length transaction,

15           the tax under this chapter shall (if based on the  
16           price for which the article is sold) be computed  
17           under subparagraph (C)

18           “(C) PRICE FOR PURPOSES OF SPECIAL  
19           RULE.—The price computed under this sub-  
20           paragraph is whichever of the following prices is  
21           the lower:

22                   “(i) the price for which such article is  
23                   sold, or

1           “(ii) the highest price for which such  
2           articles are sold by such producer, or im-  
3           porter to manufacturers.

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

7           “(i) without requiring that any given  
8           percentage of sales be made at that price,  
9           and

10           “(ii) without including any fixed  
11           amount to which the purchaser has a right  
12           as a result of contractual arrangements ex-  
13           isting at the time of the sale.

14           “(E) ARM’S LENGTH.—

15           “(i) IN GENERAL.—For purposes of  
16           this section, a sale is considered to be  
17           made under circumstances otherwise than  
18           at arm’s length if—

19           “(I) the parties are members of  
20           the same controlled group, whether or  
21           not such control is actually exercised  
22           to influence the sale price, or

23           “(II) the sale is made pursuant  
24           to special arrangements between a  
25           manufacturer and a purchaser.

1 “(ii) CONTROLLED GROUPS.—

2 “(I) IN GENERAL.—The term  
3 ‘controlled group’ has the meaning  
4 given to such term by subsection (a)  
5 of section 1563, except that ‘more  
6 than 50 percent’ shall be substituted  
7 for ‘at least 80 percent’ each place it  
8 appears in such subsection.

9 “(II) CONTROLLED GROUPS  
10 WHICH INCLUDE NONINCORPORATED  
11 PERSONS.—Under regulations pre-  
12 scribed by the Secretary, principles  
13 similar to the principles of subclause  
14 (I) shall apply to a group of persons  
15 under common control where 1 or  
16 more of such persons is not a corpora-  
17 tion.

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

19 “(A) a contract for the sale of an article  
20 wherein it is provided that the price shall be  
21 paid by installments and title to the article sold  
22 does not pass until a future date notwith-  
23 standing partial payment by installments,

24 “(B) a conditional sale, or



1           “(C) a chattel mortgage arrangement  
2           wherein it is provided that the sales price shall  
3           be paid in installments,  
4           there shall be paid upon each payment with respect  
5           to the article a percentage of such payment equal to  
6           the rate of tax in effect on the date such payment  
7           is due.

8           “(4) SALES OF INSTALLMENT ACCOUNTS.—If  
9           installment accounts, with respect to payments on  
10          which tax is being computed as provided in para-  
11          graph (3), are sold or otherwise disposed of, then  
12          paragraph (3) shall not apply with respect to any  
13          subsequent payments on such accounts (other than  
14          subsequent payments on returned accounts with re-  
15          spect to which credit or refund is allowable by rea-  
16          son of section 6416(b)(5)), but instead—

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

19                         “(i) the tax previously paid on the  
20                         payments on such installment accounts,  
21                         and

22                         “(ii) the total tax which would be pay-  
23                         able if such installment accounts had not  
24                         been sold or otherwise disposed of (com-

1           puted as provided in paragraph (3)); ex-  
2           cept that

3           “(B) if any such sale is pursuant to the  
4           order of, or subject to the approval of, a court  
5           of competent jurisdiction in a bankruptcy or in-  
6           solveny proceeding, the amount computed  
7           under subparagraph (A) shall not exceed the  
8           sum of the amounts computed by multiplying—

9                   “(i) the proportionate share of the  
10                  amount for which such accounts are sold  
11                  which is allocable to each unpaid install-  
12                  ment payment by

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

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

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

24           “(c) APPLICATION OF TAX IN CASE OF SALES BY  
25           OTHER THAN PRODUCER.—In case any person acquires

1 from the producer of marijuana, by operation of law or  
2 as a result of any transaction not taxable under section  
3 5901, the right to sell such marijuana, the sale of such  
4 marijuana by such person shall be taxable under this  
5 chapter as if made by the producer, and such person shall  
6 be liable for the tax.

7 **“SEC. 5904. DEFINITIONS.**

8 “For purposes of this chapter—

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

12 “(2) MARIJUANA PRODUCT.—The term ‘mari-  
13 juana product’ means any article which contains  
14 marijuana, including an article which is a con-  
15 centrate, an edible, a tincture, a marijuana-infused  
16 product, or a topical.

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

20 “(4) MANUFACTURER.—The term ‘manufac-  
21 turer’ means a person who manufactures, com-  
22 pounds, converts, processes, prepares, or packages  
23 marijuana or marijuana products.

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

1           “(A) any person in the United States to  
2           whom nontaxpaid marijuana products, or any  
3           processed marijuana, manufactured in a foreign  
4           country, Puerto Rico, the Virgin Islands, or a  
5           possession of the United States are shipped or  
6           consigned; and

7           “(B) any person who smuggles or other-  
8           wise unlawfully brings marijuana or marijuana  
9           products into the United States.

10          “(6) DISTRIBUTOR.—The term ‘distributor’  
11          means a person who distributes marijuana or mari-  
12          juana products.

13          “(7) RETAILER.—The term ‘retailer’ means a  
14          person who sells marijuana or marijuana products to  
15          consumers.

16          “(8) MARIJUANA ENTERPRISE.—The term  
17          ‘marijuana enterprise’ means a producer, importer,  
18          manufacturer, distributor, retailer or any person  
19          who transports, stores, displays, or otherwise partici-  
20          pates in any business activity that handles mari-  
21          juana or marijuana products.

22           **“Subchapter B—Special Provisions Relating**  
23           **to Marijuana Enterprises**

“Sec. 5911. Occupational tax.

“Sec. 5912. Application for permit.

“Sec. 5913. Permit.

“Sec. 5914. Inspection of books.

1 **“SEC. 5911. OCCUPATIONAL TAX.**

2 “(a) IMPOSITION OF TAX.—There is hereby imposed  
3 a special tax to be paid by each person who is engaged  
4 in a marijuana enterprise.

5 “(b) AMOUNT OF TAX.—The amount of the tax im-  
6 posed under subsection (a) shall be—

7 “(1) \$1,000 per year in the case of a producer,  
8 importer, or manufacturer, and

9 “(2) \$500 per year in the case of any person  
10 engaged in a marijuana enterprise who is not de-  
11 scribed in paragraph (1).

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

13 “Every person, before commencing business as a  
14 marijuana enterprise, and at such other time as the Sec-  
15 retary shall by regulation prescribe, shall make application  
16 for the permit provided for in section 5913. The applica-  
17 tion shall be in such form as the Secretary shall prescribe  
18 and shall set forth, truthfully and accurately, the informa-  
19 tion called for on the form. Such application may be re-  
20 jected and the permit denied if the Secretary, after notice  
21 and opportunity for hearing, finds that—

22 “(1) the premises on which it is proposed to  
23 conduct the business are not adequate to protect the  
24 revenue,

25 “(2) the activity proposed to be carried out at  
26 such premises does not meet such minimum capacity

1 or activity requirements as the Secretary may pre-  
2 scribe, or

3 “(3) such person (including, in the case of a  
4 corporation, any officer, director, or principal stock-  
5 holder and, in the case of a partnership, a part-  
6 ner)—

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

15 “(B) has been convicted of a felony viola-  
16 tion of any provision of Federal or State crimi-  
17 nal law relating to marijuana or marijuana  
18 products, or

19 “(C) has failed to disclose any material in-  
20 formation required or made any material false  
21 statement in the application therefor.

22 **“SEC. 5913. PERMIT.**

23 “(a) ISSUANCE.—A person shall not engage in busi-  
24 ness as a marijuana enterprise without a permit to engage  
25 in such business. Such permit, conditioned upon compli-

1    ance with this chapter and regulations issued thereunder,  
2    shall be issued in such form and in such manner as the  
3    Secretary shall by regulation prescribe. A new permit may  
4    be required at such other time as the Secretary shall by  
5    regulation prescribe.

6           “(b) SUSPENSION OR REVOCATION.—

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

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

13                           “(B) has violated the conditions of such  
14                           permit,

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

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

20                           “(E) is, by reason of previous or current  
21                           legal proceedings involving a felony violation of  
22                           any other provision of Federal criminal law re-  
23                           lating to marijuana, not likely to maintain oper-  
24                           ations in compliance with this chapter, or

1           “(F) has been convicted of a felony viola-  
2           tion of any provision of Federal or State crimi-  
3           nal law relating to marijuana or marijuana  
4           products,  
5           the Secretary shall issue an order, stating the facts  
6           charged, citing such person to show cause why his  
7           permit should not be suspended or revoked.

8           “(2) ACTION FOLLOWING HEARING.—If, after  
9           hearing, the Secretary finds that such person has  
10          not shown cause why his permit should not be sus-  
11          pended or revoked, such permit shall be suspended  
12          for such period as the Secretary deems proper or  
13          shall be revoked.

14          “(c) INFORMATION REPORTING.—The Secretary may  
15          require—

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

18               “(2) information reporting by such other per-  
19               sons as the Secretary deems necessary to carry out  
20               this chapter.

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



1 **“SEC. 5914. REGULATIONS.**

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

6 **“Subchapter C—Penalties**

“Sec. 5921. Civil penalties.

“Sec. 5922. Criminal penalties.

7 **“SEC. 5921. CIVIL PENALTIES.**

8 “(a) OMITTING THINGS REQUIRED OR DOING  
9 THINGS FORBIDDEN.—Whoever omits, neglects, or re-  
10 fuses to comply with any duty imposed upon him by this  
11 chapter, or to do, or cause to be done, any of the things  
12 required by this chapter, or does anything prohibited by  
13 this chapter, shall in addition to any other penalty pro-  
14 vided in this title, be liable to a penalty of \$1,000, to be  
15 recovered, with costs of suit, in a civil action, except where  
16 a penalty under subsection (b) or (c) or under section  
17 6651 or 6653 or part II of subchapter A of chapter 68  
18 may be collected from such person by assessment.

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

22 “(c) FAILURE TO PAY TAX.—Whoever fails to pay  
23 any tax imposed by this chapter at the time prescribed  
24 by law or regulations, shall, in addition to any other pen-

1 alty provided in this title, be liable to a penalty of 5 per-  
2 cent of the tax due but unpaid.

3 “(d) SALE OF MARIJUANA OR MARIJUANA PROD-  
4 UCTS FOR EXPORT.—

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

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

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

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

24 “(e) APPLICABILITY OF SECTION 6665.—The pen-  
25 alties imposed by subsections (b) and (c) shall be assessed,

1 collected, and paid in the same manner as taxes, as pro-  
2 vided in section 6665(a).

3 “(f) CROSS REFERENCES.—For penalty for failure to  
4 make deposits or for overstatement of deposits, see section  
5 6656.

6 **“SEC. 5922. CRIMINAL PENALTIES.**

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

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

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

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

24 “(4) SALES AND TRANSFERS OF MARIJUANA OR  
25 MARIJUANA PRODUCTS UNLAWFULLY.—Sells or oth-

1 otherwise transfers, contrary to this chapter or regula-  
2 tions thereunder, any marijuana or marijuana prod-  
3 ucts subject to tax under this chapter, or

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

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

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

17 shall, for each such offense, be fined not more than  
18 \$10,000, or imprisoned not more than 5 years, or both.

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

24 “(c) LIABILITY TO TAX.—Any person who possesses  
25 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 tics 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—

24 (A) applications for permits under section  
25 5912 of the Internal Revenue Code of 1986 (as

1           added by subsection (a)) after the date of the  
2           enactment of this Act, and

3                   (B) sales after December 31, 2013.

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