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The 'Whiskey Rebellion' of 2019?

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Not long after the American Revolution, circa 1791, the Whiskey Tax became the first tax placed on domestic products by the newly formed United States federal government. This tax came on the heels of the Boston Tea Party, which itself led to the onset of the American Revolution. For the non-history buffs, the Boston Massacre (1770) and Boston Tea Party (1773) occurred after taxes on various imports (tariffs in today's language) were no longer going to be tolerated by the American Colonies. The rest, as you know, is history.

After the dust settled from the Revolutionary War and after the U.S. federal government was formed and began operations, the federal and state governments had large amounts of debt that they somehow needed to offset. Now enter, as referenced above, the Whiskey Tax. The tax motivated the Whiskey Rebellion between 1791 and 1794.

When the tax was levied, both consumers of whiskey, as well as the distillers of the product, were up in arms—quite literally. In 1794, roughly 500 armed men attacked and burned the home of the regional tax inspector and other rebellious actions were taken. Protesters blocked federal agents from collecting the tax. Violence and intimidation were widespread. President George Washington first called upon state militias to quell the rebellion, and eventually ordered nearly 13,000 federal troops into the area. Ultimately, in the face of this force, the rebellion dissolved and most of the armed men went on their way. Two convictions for treason were obtained, but Washington later pardoned both.

Eventually, the Jefferson Administration repealed the Whiskey Tax. This was obviously welcomed by many. But it also meant that other sources of revenue were needed.

It was clear that the model of high domestic taxes was not one the citizens of the new America were going to put up with—so tariffs and other trade regulations became the answer. There

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was the Embargo Act of 1807, which has been noted as one of the republic's first departures from free-trade, followed by protective tariffs on imports of manufactured products throughout the first quarter of the nineteenth century, concluding with tariffs passed by Congress during John Quincy Adams's presidency that imposed 38% tariffs on nearly all goods imported into the United States. Altogether, these tariffs and regulations helped define this as an era of American "Protectionism." The tide has come, gone, and come back again on strong tariffs and weak tariffs, on free trade and on fair trade, and we are currently in an environment where tariffs and retaliatory tariffs are once again becoming the norm (at least for now).

Most are well aware of—or have at least heard talk about—the Section 232 Steel and Aluminum Tariffs, the Section 301 China Tariffs, negotiations of the USMCA (the "New NAFTA" or "NAFTA 2.0"), and the discussion of trade deals and retaliatory tariffs around the country and world. But while we've been busy reporting on the United States steel industry and the American automotive industry, other American industries are being adversely impacted by the retaliatory tariffs imposed by the likes of our European friends.

One such industry currently being hit hard by these retaliatory tariffs has been the export of American whiskey. The European Union, for example, has imposed retaliatory tariffs in response to the latest U.S.-imposed tariffs. Canada, Mexico, China, and Turkey also have retaliatory tariffs in place on U.S. whiskey products. Those in the Appalachian Trail region involved in the American whiskey industry are very much aware of the impact retaliatory tariffs are having on this very important American industry. Once again, this "Whiskey Tax" is harming their livelihood.

With hundreds of distilleries in a state like Kentucky alone, a change in the Whiskey export industry is already having a far-reaching negative impact. The 2018 Whiskey export market in Europe was a \$1,180,000,000 market (as in \$Billion!). With more than 60% of the United States whiskey exports going to Europe, the onset of retaliatory tariffs has resulted in a reduction in the industry of over 10% in the second half of 2018. While this has not, thankfully, resulted in a new "Whiskey Rebellion," it has certainly hurt these American companies and, by extension, their shareholders and employees.

So, what can be done? As with any company facing tariffs or other import-export concerns, the options ultimately depend on a balance of commercial, legal, and business considerations, all of which the attorneys at Butzel Long are equipped to analyze and experienced in helping our clients navigate. Whether it is looking at options to take advantage of exclusion processes, providing helpful insight on operational efficiencies, or working to develop different supply chains, Butzel Long attorneys have been doing this work since 1854 when the firm was founded by cutting its teeth on the maritime and admiralty law issues.

The Whiskey Tax of the 1700s and 1800s created a forum that provides the earliest foundation for the history of the early tariffs on imports of goods and manufactured products in America. Since its creation in 1854, Butzel Long has been at the forefront of helping our clients run their businesses and protecting their trade. We continue to do that today.

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While the tariff and trade landscape has ebbed and flowed over the past centuries, the resolve, reputation, and skillset of the attorneys at Butzel Long has remained steadfast. When it comes to tariff and trade issues specifically, the Butzel Long Tariff Team (other members including Les Glick, Kate Karol, Raul Rangel, and He Xian – whose information is listed below) has been supporting clients in numerous industries to work to mitigate the impact of tariffs and regulatory taxes and costs—and we have done so successfully. Following in the footsteps of our founding attorneys, we too, along with all of our colleagues at Butzel Long, strive to be a counselor, first and foremost. We aim to be the substantive experts across a variety of legal practices, but also to help our clients “rebel” against those taxes and other laws or regulations that impact their best interests.

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