

STAFF DATA  
ON  
MINOR TAX BILLS PENDING BEFORE  
THE COMMITTEE ON FINANCE  
ON JANUARY 6, 1956

PREPARED FOR THE  
COMMITTEE ON FINANCE  
OF THE U. S. SENATE

BY THE  
STAFF OF THE JOINT COMMITTEE ON  
INTERNAL REVENUE TAXATION



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1956



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### 1. CARRYBACK AND CARRYOVER OF FOREIGN TAX CREDIT (H. R. 6728; H. REPT. 1346)

Under section 904 of the 1954 code, the foreign tax credit is limited by the so-called per country limitation, which restricts the credit to an amount equal to the same proportion of the taxpayer's total tax liability as the income from the foreign country bears to all of the taxpayer's income. Thus, under this limitation credit is denied with respect to that part of the income tax of a foreign country which is proportionately greater than the United States tax. This bill permits foreign taxes which cannot be claimed currently as a tax credit by reason of the per country limitation to be carried back to the 2 prior years or forward to the 5 succeeding years and used in those years to the extent permitted under the per country limitation.

### 2. REPLACEMENT OF INVOLUNTARY LIQUIDATIONS OF LAST-IN AND FIRST-OUT (LIFO) INVENTORIES (H. R. 6999; H. REPT. 1307)

Under section 1321 of the 1954 code, when an involuntary liquidation of LIFO inventory occurs, the taxpayer may redetermine his tax liability for the year in which such liquidation occurred if liquidated inventory is replaced in a year ending before January 1, 1956. Where the taxpayer elects to make these adjustments, all taxes, including excess-profits taxes, for the years affected must be redetermined. This bill would provide that these adjustments are not taken into account in applying section 459 (f) of the 1939 code.

This section provided excess-profits tax relief to manufacturers of certain metals by providing that the average base period net income computed under a modified growth formula must not exceed 80 percent of the excess-profits tax net income for the taxpayer's first taxable year under the 1950 Excess-Profits Tax Act. Thus, if LIFO inventory involuntarily liquidated in 1950 is replaced under section 1321, 1950 income will be decreased which, in turn, reduces average base period income which affects excess-profits taxes for years 1950-53. The bill would prevent this decrease in average base period income

### 3. REMOVAL OF THE 10-PERCENT EXCISE TAX ON AROMATIC CACHOUS (H. R. 4668; H. REPT. 1439)

This bill amends section 4021 of the 1954 code to exclude aromatic cachous (Sen Sen) from the list of toilet preparations on which a 10-percent excise tax is imposed.

4. AMENDMENT OF SECTION 421 (A) OF THE INTERNAL CODE OF 1954 RELATING TO RESTRICTED EMPLOYEE STOCK OPTIONS (H. R. 7064; H. REPT. 1355)

This bill amends the stock option provisions contained in section 421 of the Internal Revenue Code of 1954. It provides that an employee who has been separated from the service of an employer issuing a restricted stock option is to have 6 months after separation instead of the 3 months provided in present law to exercise the stock option. The change made by this bill will be effective with respect to restricted stock options exercised after December 31, 1954, for years ending after that date.

5. COMPUTATION OF CERTAIN CREDITS AGAINST INCOME WHEN A CORPORATION HAS NET CAPITAL GAIN (H. R. 7282; H. REPT. 1356)

Where a corporation uses the alternative method of computing its tax on long-term capital gains, a partial tax is first imposed by section 117 (c) (1) (A) of the 1939 code on the net income less the excess long-term capital gain. Certain credits are allowed against this ordinary net income, namely, the credit for dividends received, section 26 (b), the credit for dividends paid on certain preferred stock, section 26 (h), and a credit to Western Hemisphere trade corporations, section 26 (i). This bill deals with the determination of these credits against income in computing the partial tax on corporations using the alternative method for taxing capital gains.

Under the 1939 code, these credits are limited to a percentage of "adjusted net income" (sec. 26 (b) and sec. 26 (h)) or of "normal-tax net income" (sec. 26 (i)). For the limited purpose of computing the maximum limitation on these credits under the partial tax, this bill includes the capital gains in income. This bill adopts the position of the Treasury effective prior to 1952 and concerns only the years 1952 and 1953.

6. PERIOD OF LIMITATION FOR FILING CLAIMS BY CERTAIN TRANSFEREES AND FIDUCIARIES FOR CREDIT OR REFUND (H. R. 5428; H. REPT. 1448)

Where a transferee or fiduciary waives the period of limitation on the assessment of tax, this bill amends section 311 (b) (4) of the 1939 code to extend, for a like period, the time in which a claim for credit or refund may be filed by the transferee or fiduciary. This bill gives relief to taxes arising under the 1939 code that is given by section 6901 to taxes under the 1954 code.

7. AMENDMENT TO SECTION 7 OF THE TECHNICAL CHANGES ACT OF 1949 (H. R. 6595; H. REPT. 1493)

This bill would permit refunds or credits of overpayment of estate taxes of certain decedents dying between November 11, 1935, and before January 30, 1940, where the case was closed on October 25, 1949. The bill would give relief to estates of decedents who either retained a life estate or other income interest in property transferred during life before March 4, 1931, or who had a reversionary interest of less than 5 percent in property transferred during life.

8. INCLUSION OF LIFE INSURANCE IN GROSS ESTATE OF DECEDENT DYING BETWEEN FEBRUARY 10, 1939, AND JANUARY 11, 1941 (H. R. 7012; H. REPT. 1494)

Under the law in effect from 1926 to 1941, insurance payable to beneficiaries other than the executor would be included in the gross estate to the extent of the excess over \$40,000 under policies taken out by the decedent upon his own life. Thus, under this statute policies could be included in the gross estate if the decedent had an incident of ownership in the policy, such as a reversionary interest, whether or not he paid the premiums.

Congress subsequently has amended the law applicable to decedents dying after January 11, 1941, but the law in effect from 1926 to 1941 has not been changed. Under the 1942 act, as amended, insurance is includible in the gross estate of a person dying after January 11, 1941, to the extent of premiums paid by the decedent whether or not he retained an incident of ownership. However, premiums paid while the old law was in effect will not be considered as having been paid by the decedent if he did not have an incident of ownership in the policy after January 11, 1941. For this purpose an incident of ownership does not include a reversionary interest of less than 5 percent.

This bill would exclude life insurance from the estate of a person dying between February 10, 1939, and January 11, 1941, who paid the premiums on the policies if he did not have a reversionary interest in the policy exceeding 5 percent.

9. CREDIT AGAINST ESTATE TAX FOR TAX ON CERTAIN PRIOR TRANSFERS (H. R. 7054; H. REPT. 1495)

The 1954 code enacted a new provision that gave a credit against the estate tax of a decedent for the estate tax paid on property by a prior decedent if the decedent had received property from the prior decedent within the preceding 10 years. The 1939 code had a deduction for the value of property included in the estate of the decedent if it had been included in the estate of a prior decedent within 5 years. However, no deduction was granted if the decedent was the spouse of the prior decedent and the estate tax marital deduction was availed of. This bill makes the provision in the 1954 code applicable to decedents dying after December 31, 1951, if the executor so elects and the decedent died within 6 months of her spouse.

10. REMOVAL OF DOCUMENTARY STAMP TAX ON TRANSFERS OF CERTAIN OBLIGATIONS PAID FOR IN INSTALLMENTS (H. R. 7364; H. REPT 1497)

This bill amends (section 4332 of the 1954 code in order to reenact an exemption contained in the 1939 code, namely the exemption from the stamp tax of transfers of certain obligations which must be paid for in installments not amounting to more than 20 percent of the cash value of the obligation at maturity.

### 11. CARRYOVER OF UNUSED PENSION TRUSTS DEDUCTIONS IN CERTAIN CASES (H. R. 4582; H. REPT. 1594)

Under the 1939 code, a parent corporation was permitted to deduct any unused pension trust contributions of its subsidiary corporation following the liquidation of the subsidiary when the liquidation was accomplished by a corporate merger of the subsidiary with the parent. The unused pension trust contributions could not be deducted by the parent, however, when the subsidiary was liquidated in a transaction which did not qualify as a merger under State law.

This distinction will not arise under the 1954 code because section 381 (c) (11) permits the acquiring corporation to deduct unused pension trust contributions of the subsidiary irrespective of whether the liquidation qualifies as a merger.

This bill adds a new paragraph to section 381 (c) of the 1954 code to allow a parent corporation to deduct unused pension trust contributions of its subsidiary in any taxable year to which the 1954 code applies if (1) the corporate laws of the State of incorporation of the subsidiary required the surviving corporation in a merger to be incorporated under the laws of that State, and (2) the properties were acquired in a tax-free liquidation of the subsidiary under section 112 (b) (6) of the 1939 code.

### 12. EXEMPTION FROM TRANSPORTATION TAX OF FOREIGN TRAVEL (H. R. 5265; H. REPT. 1598)

This bill would exempt from the tax on transportation of persons travel to places outside the United States from the last station inside the United States. In case of travel from one point in the United States to another point in the United States, the portion of the travel outside the United States will be exempt if any part of the trip is more than 200 miles outside the United States.

### 13. LIBERALIZATION OF THE EARNED INCOME LIMITATION ON RETIREMENT INCOME (H. R. 7036; H. REPT. 1595)

H. R. 7036 amends the retirement income credit provisions of section 37 of the 1954 code so that the earnings test under section 37 corresponds with the work test under the present social security laws.

Under section 37, an individual who is under 75 years of age is permitted to earn up to \$900 a year without affecting the amount of his retirement income credit. However, earnings in excess of \$900 in the case of an individual under age 75 reduce dollar for dollar the credit for retirement income. For those aged 75 or over there is no income limitation. These provisions were designed to correspond to the provisions of the social security laws which were in effect at the time the 1954 code was enacted. However, the Social Security Amendments of 1954, passed by Congress after the 1954 code was enacted, raised from \$900 to \$1,200 the amount of earned income which could be excluded in determining whether social security benefits were to be reduced, and made the work test inapplicable to those age 72 and over rather than age 75 and over.

The changes made in this bill conform to the changes made in the Social Security Amendments of 1954. The bill applies only to taxable years beginning after December 31, 1955.

#### 14. UNLIMITED CHARITABLE DEDUCTIONS FOR CERTAIN INDIVIDUALS (H. R. 7094; H. REPT. 1596)

Under the 1939 code the 20 percent limitation on charitable contributions did not apply where the taxpayer's charitable contributions, plus his income-tax payments in the current year and in each of the prior 10 years, exceeded 90 percent of his net income. The 1954 code liberalized this provision to require that the 90 percent test must be met in only 8 out of 10 preceding years. However, the 1954 code provision was effective only with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. This bill extends the unlimited charitable deduction provisions of section 170 (b) (1) (C) of the 1954 code to all taxable years to which the 1939 code applies.

A refund attributable to an overpayment of tax resulting from the enactment of the bill will be permitted only if the amount of the refund is paid as a charitable contribution. A 7-year period of limitation is provided in lieu of the 3-year period presently allowed in which to claim the refund, but no interest is to be paid on any refund resulting from the enactment of the bill.

#### 15. RECOGNITION OF GAIN OR LOSS IN CERTAIN RAILROAD REORGANIZATIONS (H. R. 7247; H. REPT. 1599)

This bill adds a new section 374 to the 1954 code to provide that no gain or loss will be recognized to a railroad corporation where its properties are transferred, pursuant to a court order in a receivership proceeding or in a proceeding under the Bankruptcy Act, in a reorganization approved by the court in exchange solely for stock or securities in another railroad corporation.

Under section 373 of the 1954 code, no loss is recognized where property of a railroad corporation is transferred to another railroad corporation in a receivership or bankruptcy proceeding. The bill provides for the nonrecognition of gain in such cases where the property of a transferor corporation is exchanged solely for stock or securities of the transferee corporation. In general, the provisions of this bill correspond to the provisions of section 371 which apply to reorganization by corporations other than railroad in receivership, foreclosure, or similar proceedings, or proceedings under chapter 10 of the Bankruptcy Act. Section 373 is amended so as to be limited to transfers before August 1, 1955.

#### 16. RETROACTIVE EXEMPTION FROM ESTATE TAX OF CERTAIN TRUST PROPERTY (H. R. 2667; H. REPT. 1605)

This bill amends section 208 (b) of the Technical Changes Act of 1953 by making that provision applicable to estates of decedents dying after December 31, 1947, instead of to estates of decedents dying after December 31, 1950.

Section 208 of the Technical Changes Act of 1953 exempts from the estate tax certain trust property subject to a power in the grantor to change the beneficiaries or their interests in the trust where the grantor died under a disability after December 31, 1950, and he was under this disability for a continuous period beginning not less than 3 months before December 31, 1947, and ending with his death. The reason for this act was that if the grantor had not been under a dis-

ability prior to December 31, 1947, he would have been able to remove the trust property from his estate without incurring a gift tax under section 1000 (e) of the 1939 code.

17. EXCISE TAX ON INSTALLATION CHARGES ON COMMUNITY TELEVISION RECEIVING ANTENNA EQUIPMENT (H. R. 3413; H. REPT. 1606)

H. R. 3413 amends section 4252 (e) of the 1954 code by providing that the term "wire and equipment service," for purposes of the 8 percent communications tax, is not to include the installation charges for community television receiving antenna equipment involving the use of cables or wires from the location of the receiving antenna to the location of the television receiving sets. This equipment is used primarily by subscribers in valleys and in mountainous areas where direct reception is obstructed. The amendment is to be effective with respect to installation begun on or after the date of enactment of the bill.

18. TAX TREATMENT OF CERTAIN TRANSFERS OF PATENT RIGHTS (H. R. 6143; H. REPT. 1607)

The 1954 code has a special provision assuring that certain transfers of patent rights by inventors and individuals that acquire an interest in the patent before it was reduced to practice will be treated as sales and not as licenses. This bill extends the provision in the 1954 code to taxable years beginning after May 31, 1950, which was the date the Treasury announced it would not treat these agreements as sales.

19. PROPERTY SUBDIVIDED FOR SALE (H. R. 6712; H. REPT. 1608)

Prior to the enactment of the 1954 code when a taxpayer subdivided real property for sale, he was likely to be considered as holding the property for sale to customers. A provision in the 1954 code gave special treatment to property held by individuals who were not real-estate dealers if the property had been held for more than 5 years and no substantial improvements had been made in the property by the taxpayer. This bill will extend the section to include corporations if none of the shareholders are real-estate dealers, and it will allow the taxpayer to install water or sewer facilities, roads, and other public utilities on the property if the property was acquired by foreclosure and has been held for 10 years.

20. INCREASE FROM 35 TO 60 CENTS IN THE EXEMPTION FROM TAX ON AMOUNTS PAID FOR THE TRANSPORTATION OF PERSONS (H. R. 7634; H. REPT. 1609)

When the 10-percent excise tax on transportation of persons was imposed in 1941, an exemption of 35 cents was provided in order to exclude from the tax the ordinary trip involved in commuting to and from work. This bill increases the exemption from 35 to 60 cents in order to adjust the exemption level to be consistent with the most common increase in the price of transportation services since 1941. The bill applies only to amounts paid on or after the first day of the month beginning more than 10 days after the enactment of the bill.