

APPLICATION OF STATE SALES AND USE TAXES TO TRANSACTIONS IN FEDERAL AREAS

JULY 28 (legislative day July 25), 1939.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6687]

The Committee on Finance, to whom was referred the bill (H. R. 6687) to authorize the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measured by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof occurring in United States national parks, military and other reservations, or sites over which the United States Government may have jurisdiction, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments recommended by the committee are clarifying in nature.

The purpose of the bill is to provide that State sales and use taxes shall apply with respect to transactions in Federal areas in the same manner and to the same extent as with respect to transactions outside such areas. At the present time exemption from such taxes is claimed on the ground that the Federal Government has exclusive jurisdiction over such areas. Such an exemption may be claimed in the following types of cases: First, where the seller's place of business is within the Federal area and a transaction occurs there, and, second, where the seller's place of business is outside the Federal area but delivery is made in Federal area and payment received there. This bill will remove the right to claim an exemption because of the exclusive Federal jurisdiction over the area in both of these situations. The bill will not affect any right to claim an exemption from such taxes on any ground other than that the Federal Government has exclusive jurisdiction over the area where the transaction occurred. This bill will not permit the collection of a State sales tax with respect to purchases made by the Federal Government in the exercise of an essential

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governmental function, such as, for example, purchases of supplies for the exclusive use of a department of the Federal Government.

Additional information with respect to the bill is contained in the report of the Ways and Means Committee which accompanied it in the House of Representatives, which is as follows:

[H. Rept. No. 1267, 76th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6687) authorizing the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measure by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof occurring in United States national parks, military and other reservations, or sites over which the United States Government may have jurisdiction, having considered the same, report it back to the House without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of H. R. 6687 is to provide for uniformity in the administration of State sales and use taxes within as well as without Federal areas. It proposes to authorize the levy of State taxes with respect to or measured by sales or purchases of tangible personal property on Federal areas. The taxes would in the vast majority of cases be paid to the State by sellers whose places of business are located off the Federal areas and who make sales of property to be delivered in such areas.

The application of such taxes to the gross receipts of a retailer from sales in which delivery is made to an area over which it is asserted the United States possesses exclusive jurisdiction is being vigorously contested even though the retailer's place of business is located off the Federal area and the negotiations leading to the sale are conducted and the contract of sale is executed at the retailer's place of business. Despite the existence of these facts, which are generally sufficient to give rise to liability for the tax, and which, insofar as the theory of the tax is concerned, should, in the opinion of your committee, be sufficient to impose tax liability, exemption from the tax is asserted upon the ground that title to the property sold passes on the Federal area and, accordingly, the sale occurs on land over which the State lacks authority.

Passage of this bill will clearly establish the authority of the State to impose its sales tax with respect to sales completed by delivery on Federal areas, and except insofar as the State tax might be a prohibited burden upon the United States would not, with the exception hereinafter noted, impose any duty upon any person residing or located upon the Federal area. Such action would merely remove any doubt which now exists concerning the authority of the State to require retailers located within the State and off the Federal areas to report and pay the tax on the gross receipts from their sales in which delivery is made to a Federal area. A minor problem presented with respect to the application of State sales taxes on Federal areas involves the responsibility for such taxes of post exchanges, ship-service stores, commissaries, licensed traders, and other similar agencies operating on Federal areas.

Congress, in the amendment of section 10 of the Hayden-Cartwright Act, provided for the application of motor-vehicle fuel taxes with respect to the sales or distributions of such agencies. It would appear, therefore, to be entirely proper to provide for the application of sales taxes with respect to the retail sales of tangible personal property of such agencies.

The States have been extremely generous in granting to the United States exclusive jurisdiction over Federal areas in order that any conflicts between the authority of the United States and a State might be avoided. It would appear to be an equally sound policy for the United States to prevent the avoidance of State sales taxes with respect to sales on Federal areas by specifically authorizing, except insofar as the taxes may constitute a burden upon the United States, the application of such taxes on those areas.

The Treasury Department has no objection to the enactment of this bill, as indicated by the following letter from that Department:

TREASURY DEPARTMENT,
Washington, July 12, 1939.

Hon. R. L. DOUGHTON,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your request of June 20, 1939, for a report on H. R. 6687 (76th Cong., 1st sess.), a bill to authorize the levy of State, Territory, and District of Columbia taxes upon, with respect to, or measured by sales, purchases, or use of tangible personal property or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof occurring in United States national parks, military and other reservations or sites over which the United States Government may have jurisdiction.

The bill provides that all taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by sales, purchases, or use of tangible personal property, or upon sellers, purchasers, or users of such property measured by sales, purchases, or use thereof may be levied and collected in the same manner and to the same extent with respect to transactions occurring in whole or in part within United States national parks, military and other reservations or other sites located within the external boundaries of such State, Territory, or the District of Columbia as with respect to transactions occurring elsewhere within the territorial boundaries of said State, Territory, or the District of Columbia.

It appears that the bill merely attempts and purports to provide for uniformity in the administration of State sales and use taxes within as well as without the Federal areas above described. There is no design to permit taxation within such Federal areas as would be constitutionally denied the States as applied to transactions outside such areas. The justification for the proposed bill lies in the uncertainty and confusion existing in the matter of the extent of retained control and jurisdiction by the several States in areas at one time or another ceded to the United States.

Enactment of the proposed bill would not affect the activities of this Department. The Treasury Department has no objection to the passage of H. R. 6687.

In the event that further correspondence relative to this matter is necessary, please refer to IR : GC : A-331519.

Very truly yours,

HERBERT E. GASTON,
Acting Secretary of the Treasury.

