

EXEMPTION FROM INTERNAL REVENUE TAXES

APRIL 29, 1941.—Ordered to be printed

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

REPORT

[To accompany H. R. 3835]

The Committee on Finance, to whom was referred the bill (H. R. 3835) to exempt from internal-revenue taxes, on the basis of reciprocity, articles imported by consular officers and employees of foreign states for their personal or official use, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The provisions of the bill are fully explained in the report of the House Committee on Ways and Means, which is appended to and made a part of this report.

[H. Rept. No. 327, 77th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 3835) to exempt from internal-revenue taxes, on the basis of reciprocity, articles imported by consular officers, and employees of foreign states for their personal or official use, having had the same under consideration, unanimously report it back to the House and recommend that the bill do pass.

The purpose of this legislation is fully set forth in the following letter from the Secretary of State:

MARCH 14, 1941.

Hon. ROBERT L. DOUGHTON,
House of Representatives.

MY DEAR MR. DOUGHTON: On March 6 you were good enough to introduce a bill entitled "A bill to exempt from internal-revenue taxes, on the basis of reciprocity, articles imported by consular officers and employees of foreign states for their personal or official use" (H. R. 3835).

On February 20, 1928, the United States signed at Habana, Cuba, a convention with other American republics defining the duties, rights, immunities, and privileges of consular agents in accordance with international usage and agreements. Article 20 of this convention reads as follows:

"ARTICLE 20

"Consular agents, as well as the employees of the consulate who are nationals of the state appointing them, not engaged in business with purposes of gain, in

the state where they perform their functions, shall be exempt from all national, state, provincial, or municipal taxes levied upon their person or property, except such taxes as may apply to the possession or ownership of real estate located in the state where discharging their duties or to the proceeds of the same. Consular agents and employees who are nationals of the state they represent, are exempt from tax on the salaries, honorariums, or wages which they receive in return for their consular services."

I have received from foreign consular agents stationed in the United States a number of requests for exemption from the payment of internal-revenue tax on articles imported by them for their personal or official use. These requests have come from the consuls who do not enjoy the exemption of most-favored-nation treatment in treaties between their governments and the United States, but who represent states parties to the Habana convention.

The Department of State has been obliged to refuse such requests, since the Treasury Department in a letter of November 13, 1936, states: "This Department [i. e., Treasury] is accordingly of the opinion * * * that the exemption to which consular officers are entitled under article 20 of the Consular Convention of February 20, 1928, between the United States and other American republics, * * * from taxes levied upon their person or property is without application to indirect, excise, consumption, or turn-over taxes." This application of the law is a constant source of misunderstanding between this Government and other governments parties to the convention who believe that their consuls are entitled to exemption from the payment of the tax under the article quoted above. And, I may add, there is nothing in the record to show that the United States delegation at the time of signing the convention intended to single out this particular form of taxation as one to be levied on the foreign consular officers stationed in the United States.

Difficulty has also been experienced with other countries. The provisions of article 13 of the treaty of January 22, 1855, between the United States and the Netherlands did not extend exemption from internal-revenue taxes, and the treaty did not contain a most-favored-nation clause concerning exemption from taxation. Nevertheless, the Netherlands Government accorded American consular officers this privilege, which subsequently was withdrawn owing to our inability to grant reciprocal treatment to corresponding consular officers of the Netherlands Government stationed in the United States.

In a number of other countries with which we have no treaties on the subject, American consular officers have been enjoying exemption from taxation in the nature of internal-revenue taxes. Through our inability to extend reciprocal treatment to the consular officers of those countries in the United States, there is danger that the privileges will be withdrawn.

Consular officers and employees of several countries already enjoy most-favored-nation treatment under the applicable provisions of treaties with this country, exempting them from the payment of internal-revenue taxes, and would not be affected by the proposed legislation.

The proposed legislation would be applicable to the following countries which are parties to the Habana convention of February 20, 1928, and which do not have most-favored-nation treaties relative to this subject with the United States: Brazil, Ecuador, Mexico, Nicaragua, Panama, and Uruguay. It would also extend exemption from internal-revenue taxes on a basis of reciprocity to other countries with which the United States does not have treaties in force on this subject. This would create a method by which exemption from taxes in the nature of internal-revenue taxes might be obtained for the benefit of American consular officers and employees in certain foreign countries in which they do not now enjoy such exemption.

Judging from past records, the amount of internal-revenue tax now collected by our Government which would be waived by the proposed legislation, would probably not exceed a sum of \$1,000 per annum. Since, on the whole, American consular officers and employees in the field import more articles for their personal and official use than do foreign consular officers in the United States, the reciprocal provision in the bill should accrue to the advantage of American officials abroad to a greater extent than to the consular representatives of foreign governments residing in the United States.

I therefore believe that, first, our good faith toward our American neighbors and, second, our own best interests would be served by legislation of the character proposed in H. R. 3835, and that its enactment by Congress at an early date is highly desirable.

Sincerely yours,

CORDELL HULL.

A somewhat comparable privilege is afforded by the Customs Regulations of 1937, specifically articles 432 and 433, extending special customs courtesies and free entry privileges to representatives of our own and foreign governments who arrive in the United States on official business; and by the administrative rulings and practices which have grown up in this connection. The legislation recommended is not intended in any way to affect this situation nor to cast any doubt whatever upon the validity of or authority for the customs regulations and the practices thereunder.

