

AMENDING THE INTERNAL REVENUE CODE

JULY 1, 1941.—Ordered to be printed

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

REPORT

[To accompany H. R. 4158]

The Committee on Finance, to whom was referred the bill (H. R. 4158) to amend sections 3341, 3351, and 3361 of the Internal Revenue Code) and section 309 (a) of the Tariff Act of 1930, and to repeal section 2907 of the Internal Revenue Code, 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. 755, 77th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 4158) to amend sections 3341, 3351, and 3361 of the Internal Revenue Code (U. S. C., Supp., title 26) and section 309 (a) of the Tariff Act of 1930 (U. S. C., Supp., title 19, sec. 1309 (a)), and to repeal section 2907 of the Internal Revenue Code, having had the same under consideration, report favorably thereon with an amendment and recommend that it be passed.

The committee amendment is as follows:

On page 2, line 22, insert a comma, after the word "brewery", and strike out all thereafter down to and including "Code," in line 24.

GENERAL STATEMENT

This bill proposes to extend all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported from the United States, so far as applicable, to like articles upon which an internal-revenue tax has been paid when shipped from the United States to the Philippine Islands, the Virgin Islands, Puerto Rico, Guam, and American Samoa; to provide for the withdrawal of distilled spirits, fermented-malt liquors, and wines from internal-revenue-bonded warehouses, breweries, and wineries and bonded wine storerooms, respectively, for supplies of certain vessels and aircraft; and to repeal a provision of law requiring collection of the internal-revenue tax on the entire quantity of distilled spirits contained in a case at the time of its removal from warehouse, where it is withdrawn free of such tax for exportation and is found upon reinspection at the port of entry to have been tampered with or to have suffered any loss or discrepancy.

ANALYSIS OF THE BILL

Section 1 amends subsection (c) of section 3341 of the Internal Revenue Code so as to extend all provisions of law for the allowance of draw-back of internal-revenue tax on exported articles, so far as applicable, to like articles shipped to the Philippine Islands. Subsection (c), as it now stands, so extends only such of the provisions of law referred to as were in existence on March 4, 1915. The proposed amendment changes the existing law only by omitting the words "existing on March 4, 1915." The provisions of law existing on March 4, 1915, for the allowance of draw-back of internal-revenue tax on articles exported from the United States are those now embodied in sections 2136, 3250 (j), and 2887 of the Internal Revenue Code, and section 313 (d) of the Tariff Act of 1930. Those sections of law provide for the allowance of draw-back of internal-revenue tax upon the exportation of tobacco, snuff, cigars, and cigarettes, stills, distilled spirits in packages of not less than 20 wine-gallons, and flavoring extracts, medicinal, or toilet preparations made with domestic alcohol. Subsequent to March 4, 1915, section 313 (d) of the Tariff Act of 1930 was amended by section 402 of the Liquor Tax Administration Act by adding thereto a provision for the allowance of a draw-back equal to the internal-revenue tax found to have been paid upon the exportation of distilled spirits and wines manufactured or produced in the United States and bottled especially for that purpose. This amendment of section 313 (d) of the Tariff Act is now embodied in section 3179 (b) of the Internal Revenue Code. The proposed amendment of subsection (c) of section 3341 of the Internal Revenue Code will, therefore, have the effect of adding subsection (b) of section 3179 of the Internal Revenue Code to the several provisions of law for the allowance of draw-back of internal-revenue tax already applicable to articles shipped to the Philippine Islands, and thereby permit allowance of a draw-back equal to the internal-revenue tax found to have been paid upon shipment to the Philippine Islands of distilled spirits and wines manufactured or produced in the United States and bottled especially for that purpose or for export.

Section 2 of the bill amends section 3351 of the Internal Revenue Code by adding at the end thereof a new subsection, designated "(c)", which extends all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported, so far as applicable, to like articles shipped from the United States to the Virgin Islands. The existing law makes no provision for the allowance of draw-back of internal-revenue tax paid on articles shipped to those islands. The proposed amendment of section 3351 will give the Virgin Islands the same status as the Philippine Islands in respect of the allowance of draw-back of internal-revenue tax paid on articles shipped to the islands.

The first paragraph of section 3 of the bill amends subsection (c) of section 3361 of the Internal Revenue Code by extending all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported, so far as applicable, to like articles shipped from the United States to Puerto Rico, Guam, and American Samoa. Subsection (c) now extends only those provisions of law "in effect on March 4, 1915," for the allowance of draw-back of internal-revenue tax on exported articles, so far as applicable, to like articles shipped to Puerto Rico. The existing law makes no provision for the allowance of draw-back of internal-revenue tax paid on articles shipped to Guam or American Samoa. The proposed amendment will have the effect of placing Puerto Rico, Guam, and American Samoa in a status of equality with the Philippine Islands and with the Virgin Islands in respect of the allowance of draw-back of internal-revenue tax paid on articles shipped to them from the United States. The proposed amendment changes the existing law by omitting the words "in effect on March 4, 1915," and "the island of" and by substituting a comma for the period after "Puerto Rico" and adding "Guam, or American Samoa."

The reasons for allowing draw-back of internal-revenue tax on certain articles when exported apply with equal force in the case of shipment of such articles to the insular possessions. The allowance of draw-back of such tax enables shippers of the articles from the United States better to meet competitive conditions prevailing in the insular possessions. The proposed amendments will have the effect of increasing trade with the insular possessions in the particular articles, without materially affecting the internal revenue derived from such articles.

The second paragraph of section 3 of the bill amends subsection (a) of section 309 of the Tariff Act of 1930, as amended, by inserting, after the words "internal revenue tax", a comma and the words "or from any internal revenue bonded warehouse, from any brewery duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code, or from any winery premises or bonded premises for the storage of wine, free of internal revenue tax."

Subsection (a), as it now stands, provides for the withdrawal, under regulations, of articles of foreign or domestic manufacture or production from bonded warehouses, bonded manufacturing warehouses, or continuing customs custody elsewhere than in a bonded warehouse, free of duty or internal-revenue tax, for supplies of certain vessels and aircraft. The purpose of the proposed amendment is to provide for the withdrawal of distilled spirits, fermented-malt liquors, and wines from the bonded place of storage or manufacture, as the case may be, free of internal-revenue tax, for supplies of such vessels and aircraft.

The amendment in the form proposed, however, appears to be susceptible of an interpretation not entirely consistent with its purpose. The use of the phrase "duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code" in connection with the word "brewery" carries an implication that the other establishments specified need not be duly qualified. Such an implication would be avoided if the words "duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code" were stricken out. The naming of the several kinds of premises from which the articles may be withdrawn, without reference to qualification, would be in harmony with the style used in the same section to describe customs bonded premises, and would not appear to be susceptible to questionable inferences. Giving effect to the amendment proposed by the committee, referred to on the first page of this report, the second paragraph of section 3 of the bill will read:

"That section 309 (a) of the Tariff Act of 1930, as amended, be further amended by inserting after the words 'internal revenue tax' a comma and the words 'or from any internal revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal revenue tax.'"

The amendment will have the effect of permitting the withdrawal, free of tax, for supplies for the vessels and aircraft specified, (1) of distilled spirits from internal-revenue-bonded warehouses, either in original packages or after bottling in bond; (2) of fermented malt liquors from breweries, either in barrels or kegs or for bottling and removal; and (3) of wines from bonded wineries and bonded wine storerooms, either in casks, barrels, cases, or other suitable containers. This would enable domestic producers of distilled spirits, fermented malt liquors, and wines to meet more effectively the competition of like articles of foreign manufacture which, under the existing law, may be withdrawn from customs custody for such purpose free of duty.

The third paragraph of section 3 of the bill would repeal section 2907 of the Internal Revenue Code. Section 2907 provides, in substance, that where upon reinspection at a port of entry any case of distilled spirits bottled in bond for export is found to have been opened or tampered with, or where any loss or discrepancy is found to exist as to the contents of any case, the tax on the spirits contained in each such case at the time of removal from warehouse shall be collected and paid. This section is inconsistent with section 2901 (c) of the Internal Revenue Code, which makes provision for relief from tax where distilled spirits on which the tax has not been paid are lost by theft, accidental fire, or other casualty, while in the possession of a common carrier subject to the Transportation Act of 1920 or the Merchant Marine Act of 1920. It is also inconsistent with the provisions of section 2889 of the Internal Revenue Code, which authorizes an allowance to be made for leakage or loss of spirits from distillers' original packages by unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employees, occurring during transportation to the port of export. The repeal of section 2907 will have the effect of permitting cases of bottled-in-bond spirits from which losses have been sustained in transit for export to be treated in substantially the same manner as distillers' original casks or packages when reinspected at the port of entry.

The following letter was received from the Secretary of the Treasury:

TREASURY DEPARTMENT,
Washington, May 22, 1941.

Hon. R. L. DOUGHTON,
Chairman, Committee on Ways and Means,
House of Representatives.

MY DEAR MR. CHAIRMAN: Referring to your letter of March 26, 1941, and to the reply of this Department dated March 27, the following report on H. R. 4158, a bill to amend sections 3341, 3351, and 3361 of the Internal Revenue Code and section 309 (a) of the Tariff Act of 1930, and to repeal section 2907 of the Internal Revenue Code, is submitted for the consideration of your committee.

The first section of the bill would so amend subsection (c) of section 3341 of the Internal Revenue Code as to extend all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported from the United States, so far as applicable, to like articles upon which an internal-revenue tax has been paid when shipped from the United States to the Philippine Islands. Subsection (c), as it now stands, extends only those provisions of law "existing on March 4, 1915," for the allowance of draw-back of internal-revenue tax on exported articles to like articles shipped to the Philippine Islands. The amendment would have the effect of adding subsection (b) of section 3179 of the Internal Revenue Code, which provides for the allowance of a draw-back equal to the internal-revenue tax upon the exportation of distilled spirits and wines bottled especially for the purpose, to the several laws for the allowance of draw-back of internal-revenue tax already applicable to articles shipped to the Philippine Islands. Subsection (b) of section 3179 was originally enacted on June 26, 1936, as an amendment of section 313 (d) of the Tariff Act of 1930 (U. S. C., title 19, sec. 1313 (d)).

Section 2 of the bill would amend section 3351 of the Internal Revenue Code by adding at the end thereof a new subsection designated "(c)," which would extend all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported, so far as applicable, to like articles shipped from the United States to the Virgin Islands. The existing laws make no provision for the allowance of draw-back of internal-revenue tax upon articles shipped to those islands. The proposed amendment of section 3351 will give the Virgin Islands the same status as the Philippine Islands, in respect to the allowance of draw-back of internal-revenue tax on articles shipped to the islands. The amendment will not only extend the provisions of subsection (b) of section 3179 to shipments of like articles to the Virgin Islands, but will similarly extend to articles shipped to those islands the provisions of the previously enacted laws for allowance of internal revenue draw-back now embodied in sections 2136, 3250 (j), and 2887 of the Internal Revenue Code, and section 313 (d) of the Tariff Act of 1930. These sections of law provide for the allowance of draw-back of internal-revenue tax upon the exportation of tobacco, snuff, cigars, and cigarettes, stills, distilled spirits in packages of not less than 20 wine-gallons, and flavoring extracts, medicinal or toilet preparations made with domestic alcohol, respectively.

The first paragraph of section 3 of the bill amends, in like manner, subsection (c) of section 3361 of the Internal Revenue Code by extending all provisions of law for the allowance of draw-back of internal-revenue tax on articles exported, so far as applicable, to like articles shipped from the United States to Puerto Rico, Guam, or American Samoa. Subsection (c), as it now exists, extends only those provisions of law "in effect on March 4, 1915," for the allowance of draw-back of internal-revenue tax on exported articles, so far as applicable, to like articles shipped to Puerto Rico. The existing law makes no provision for the allowance of draw-back of internal-revenue tax on articles shipped to Guam or American Samoa. The proposed amendment will have the effect of placing Puerto Rico, Guam, and American Samoa in a status of equality with the Philippine Islands and the Virgin Islands in respect to the allowance of draw-back of internal-revenue tax on articles shipped to them from the United States.

There appears to be no reason why the provisions of the draw-back laws should not be extended as proposed. The same reasons for allowing draw-back when articles are exported apply with equal force in the case of shipment of such articles to the insular possessions. Such extension of the draw-back laws will better enable shippers of the articles from the United States to meet competitive conditions prevailing in the insular possessions. While the proposed amendments, if enacted, will tend to increase trade with the insular possessions in the particular articles, the revenue derived from such articles will not be materially lessened.

The second paragraph of section 3 of the bill would further amend subsection (a) of section 309 of the Tariff Act of 1930, as amended, by inserting, after the words "internal revenue tax", a comma and the words "or from any internal revenue bonded warehouse, from any brewery duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code, or from any winery premises or bonded premises for the storage of wine, free of internal revenue tax." Subsection (a), as it now stands, provides for the withdrawal, under regulations, of articles of foreign or domestic manufacture or production from bonded warehouses, bonded manufacturing warehouses, or continuing customs custody elsewhere than in a bonded warehouse, free of duty or internal-revenue tax, for supplies of certain vessels and aircraft. The apparent purpose of the proposed amendment is to provide for the withdrawal of distilled spirits, fermented malt liquors, and wines from the bonded place of storage or manufacture, as the case may be, free of inter-

nal-revenue tax, for supplies of such vessels and aircraft. The amendment in the form proposed, however, appears to be susceptible of an interpretation not entirely consistent with the purpose indicated. The use of the phrase "duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code" in connection with the word "brewery" carries an implication that the other establishments specified need not be duly qualified. It is suggested that such an implication would be avoided if the words "duly qualified under the provisions of section 3155 (a) of the Internal Revenue Code" were stricken out. The naming of the several kinds of premises from which the articles may be withdrawn, without reference to qualification, would be in harmony with the style used in the same section to describe customs bonded premises and would create an inference that only premises established in accordance with law were contemplated.

The proposed amendment will have the effect of permitting the withdrawal, free of tax, for supplies for the vessels and aircraft specified, (1) of distilled spirits from internal-revenue-bonded warehouses, either in original packages or after bottling in bond, (2) of fermented malt liquor from breweries, either in barrels or casks or for bottling and removal; and (3) of wines from bonded wineries and bonded wine storerooms, either in casks, barrels, cases, or other suitable containers. This would enable domestic producers of distilled spirits, fermented malt liquors, and wines to meet more effectively the competition of similar articles of foreign manufacture which, under the existing law, may be withdrawn from customs custody for such purpose free of duty. The amendment will not materially affect the revenue.

The third paragraph of section 3 of the bill would repeal section 2907 of the Internal Revenue Code. Section 2907 provides, in substance, that where upon reinspection at a port of entry any case of distilled spirits bottled in bond for export is found to have been opened or tampered with, or where any loss or discrepancy is found to exist as to the contents of any case, the tax on the spirits contained in each such case at the time of removal from warehouse shall be collected and paid. This section is inconsistent with section 2901 (c) of the Internal Revenue Code, which makes provision for relief from tax where distilled spirits on which the tax has not been paid are lost by theft, accidental fire, or other casualty, while in the possession of a common carrier subject to the Transportation Act of 1920 or the Merchant Marine Act of 1920. It is also inconsistent with the provisions of sections 2885 and 2886 of the Internal Revenue Code, which deal with the exportation of distilled spirits in distillers' original casks or packages. The latter sections provide for an accounting for any loss or discrepancy disclosed upon reinspection of any cask or package at the port of entry, but do not necessarily require collection of the tax on the spirits remaining in the package. The repeal of section 2907 will have the effect of permitting cases of bottled-in-bond spirits from which losses have been sustained in transit for export to be treated in substantially the same manner as distillers' original casks or packages when reinspected at the port of entry.

The Treasury Department will interpose no objection to the proposed legislation.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a, of rule XIII, of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

(Amended provisions of the Internal Revenue Code)

SEC. 3341. SHIPMENTS FROM THE UNITED STATES.

(c) DRAW-BACK OF TAX PAID IN THE UNITED STATES.—All provisions of law [existing on March 4, 1915,] for the allowance of draw-back of internal-revenue tax on articles exported from the United States are, so far as applicable, extended

to like articles upon which an internal revenue tax has been paid when shipped from the United States to the Philippine Islands.

SEC. 3351. SHIPMENTS FROM THE UNITED STATES.

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(c) *DRAW-BACK OF TAX PAID IN THE UNITED STATES.*—All provisions of law for the allowance of draw-back of internal-revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal-revenue tax has been paid when shipped from the United States to the Virgin Islands.

SEC. 3361. SHIPMENTS FROM THE UNITED STATES.

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(c) *DRAW-BACK OF TAX PAID IN THE UNITED STATES.*—All provisions of law [in effect on March 4, 1915,] for the allowance of draw-back of internal-revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal-revenue tax has been paid when shipped from the United States to [the island of] Puerto Rico, Guam, or American Samoa.

(The Tariff Act of 1930, as amended)

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SEC. 309. SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.

(a) *EXEMPTION FROM CUSTOMS DUTIES AND INTERNAL-REVENUE TAX.*—Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax, or from any internal revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

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(Internal Revenue Code)

【SEC. 2907. COLLECTION OF TAX IF EXPORT CASES ARE TAMPERED WITH.】

【Where, upon reinspection at the port of entry, any case containing or purporting to contain distilled spirits for export is found to have been opened or tampered with, or where any mark, brand, stamp, label, or seal placed thereon or upon any bottle contained therein has been removed, changed, or willfully defaced, or where upon such reinspection any loss or discrepancy is found to exist as to the contents of any case so entered for export, the tax on the spirits contained in each such case at the time of its removal from warehouse shall be collected and paid.】

