

## PAYMENT OF TAX BY WAR SHIPPING ADMINISTRATION AS EMPLOYER OF SEAMEN

MARCH 8 (legislative day, FEBRUARY 26), 1945.—Ordered to be printed

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

### R E P O R T

[To accompany H. R. 1429]

The Committee on Finance, to whom was referred 1429) to permit the Administrator, War Shipping Administration, and the United States Maritime Commission, during the national emergency, to pay the tax imposed under section 1410 of the Internal Revenue Code without regard to the \$3,000 limitation in section 1426 (a) (1) of the Internal Revenue Code, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### GENERAL STATEMENT

The bill H. R. 1429, if enacted, will permit the War Shipping Administration as the employer of seamen serving on vessels owned or bare-boat chartered to the United States through the War Shipping Administration to pay the employers' pay-roll tax for old-age benefits without regard to the \$3,000 limitation placed upon the amount of wages subject to that tax. The bill also relieves the War Shipping Administration from filing claims for refund of taxes paid on wages in excess of \$3,000.

It will be recalled that in 1943 the Congress enacted legislation placing the services of seamen in the employ of the War Shipping Administration within the definition of "covered employment" as used in the Social Security Act, as amended, for the purpose of old-age and survivors' insurance, and directed the War Shipping Administration, as an employer, to pay the employer's pay-roll excise tax in accordance with existing law.

The bill is designed to overcome an existing administrative hardship in the War Shipping Administration arising out of the extent and character of that agency's operations. The War Shipping Administration is unable to enforce the \$3,000 limitation in cases where seamen work for two or more general agents of the War Shipping Administration as its employees in the same calendar year without establishing

a central wage record office in Washington to maintain the wage records of all the seamen in its employ, check the records for the \$3,000 limitation in each individual case, and prepare all the returns for seamen employed by it.

The War Shipping Administration estimates that the cost of operating such a central unit in Washington would amount to at least \$150,000 to \$200,000 a year. It estimates that the additional taxes which under the bill it may pay on wages in excess of \$3,000 would amount to not more than \$100,000 or a saving of \$50,000 to \$100,000 a year. The War Shipping Administration estimates that the cost of preparing and filing claims for refund of the employers' tax which it pays on wages in excess of \$3,000 would be as great as the cost of establishing and maintaining the central wage unit.

The bill relates only to the War Shipping Administration as an employer and does not affect in any way the employee's tax or his benefits under the social-security program. The bill is a war measure which the War Shipping Administration feels will facilitate a more effective prosecution of the war effort. No change in the basic policy of the social-security laws is involved. Representatives of the War Shipping Administration appeared before the committee in support of the bill. The Treasury Department and the Social Security Board have no objection to its enactment.

A comprehensive statement of the purpose of the bill appears in the report of the House Committee on Ways and Means, which is attached hereto.

[H. Rept. No. 34, 79th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 1429) to permit the Administrator, War Shipping Administration, and the United States Maritime Commission, during the national emergency, to pay the employer States Maritime Commission, during the national emergency, to pay the employer's tax imposed under section 1410 of the Internal Revenue Code without regard to the \$3,000 limitation in section 1426 (a) (1) of the Internal Revenue Code, report favorably thereon without amendment and recommend that the bill do pass.

#### GENERAL STATEMENT

The purpose of the bill is to permit the War Shipping Administration as an employer of seamen serving on vessels owned, or bareboat-chartered to the United States, through the War Shipping Administration, to pay the employers' pay-roll tax for old-age benefits without regard to the \$3,000 limitation placed upon the amount of wages subject to the tax. The bill is designed to overcome an existing administrative hardship in the War Shipping Administration, arising out of the extent and character of the operations of that agency.

In 1943, the Congress enacted legislation placing the services of seamen, in the employ of the War Shipping Administration, within the definition of "covered employment" as used in the Social Security Act, as amended, for the purpose of old-age and survivors' insurance, and directed the War Shipping Administration, as an employer, to pay the employer's pay-roll excise tax in accordance with existing law. The War Shipping Administration, however, has encountered considerable difficulty in observing the limitation that only the first \$3,000 remuneration paid to any employee during a calendar year is subject to the employer's tax. The difficulty arises in cases in which a seaman, during the course of a year, serves as an employee of the United States on vessels operated by two or more general agents of the Administration. The first general agent for whom the seaman works is in a position to observe the \$3,000 limitation on wages subject to the employer's tax. The second general agent, however, has no means of checking on the wages paid to the seaman earlier in the same year by another general agent of the Administration.

The War Shipping Administration cannot enforce the \$3,000 limitation in cases where seamen work for two or more general agents in the same calendar year, without establishing a central wage record office in Washington to maintain the wage records of all the seamen in its employ, check the records for the \$3,000 limitation in each individual case and prepare all the returns for seamen employed by it.

In all cases where a seaman is employed by one general agent throughout a particular calendar year the War Shipping Administration encounters no difficulty in observing the \$3,000 limitation and advises it will not pay taxes on the amounts above \$3,000 in such cases.

In addition to relieving the administrative difficulties outlined above, a substantial saving will be effected not only in money, but also in manpower by the enactment of the bill. While it is difficult to determine accurately the amount of savings involved, the War Shipping Administration has attempted to approximate the amount. The cost of operating a central wage record unit in Washington to insure the enforcement of the \$3,000 limitation would amount to at least \$150,000 to \$200,000 per year, while the estimate on the additional taxes which, under the bill, it may pay on wages in excess of \$3,000 paid to seamen in its employ would amount to not more than \$100,000, or a saving of \$50,000 to \$100,000 per annum. In addition to the money involved, a central unit in Washington would require the use of calculating and business machines, which would have to be specially manufactured since there are none available on the market, and the employment of additional personnel, both in the manufacture and operation of these machines at a time when manpower is sorely needed in jobs more directly connected with the prosecution of the war. The figures used are merely estimates and approximations of variable factors with respect to which it is impossible to secure accurate figures and are contingent on the acquisition of the necessary machines and manpower to operate the central wage record unit.

The bill also relieves the War Shipping Administration from filing claims for refund of taxes paid on wages in excess of \$3,000. It is estimated that the cost of preparing and filing claims for refund would be as great as the cost of establishing the central wage unit to check and insure the observance of the \$3,000 limitation.

The bill relates only to the War Shipping Administration as an employer and does not affect the employee's tax or his benefits under the social-security program.

The bill will be effective during the period prior to the termination of the First War Powers Act of 1941, and is retroactive to services performed since September 30, 1941. It is a war measure which the War Shipping Administration believes will facilitate a more effective prosecution of the war effort. No change in the basic policy of the social-security laws is involved.

Representatives of the War Shipping Administration and of the Social Security Board appeared before the committee in support of the bill.

The following letters and attachments set forth more in detail the purpose of the bill:

JANUARY 5, 1945.

The Honorable SAM RAYBURN,  
*Speaker of the House of Representatives.*

MY DEAR MR. SPEAKER: The War Shipping Administration respectfully submits proposed legislation to permit the War Shipping Administration and the United States Maritime Commission to pay the employer's tax imposed on wages under section 1410 of the Internal Revenue Code, without regard to the \$3,000 limitation in section 1426 (a) (1) of the Internal Revenue Code. This legislation will continue in force until the termination of title I of the First War Powers Act, 1941, and will apply to the employer's tax imposed on wages paid for services performed after September 30, 1941, and prior to the termination of title I of the First War Powers Act, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration, or the United States Maritime Commission in case of employment by it prior to establishment of the War Shipping Administration.

Section 1426 (a) (1) of the Internal Revenue Code defines wages, taxable under the Federal Insurance Contributions Act, to mean the first \$3,000 of remuneration paid to an individual by an employer with respect to employment during any calendar year. It is the view of the War Shipping Administration that the operation of this statute should be suspended for the war period because of the substantial cost required to apply it to wages paid by the War Shipping Administration and the Maritime Commission as employers of seamen.

In order to enforce the statute in its present form, the War Shipping Administration will have to set up a central unit at which it will maintain the personnel records of all seamen in the employ of the War Shipping Administration and the Maritime Commission. This central unit will also have to prepare the returns under the Federal Insurance Contributions Act covering the employer's and the employee's taxes on the wages paid to seamen in the employ of those agencies. This will necessarily involve a duplication of work at a cost which, in our opinion, will greatly exceed the amount of additional taxes which the War Shipping Administration and the Maritime Commission may have to pay, should the proposed legislation be adopted. Administrative and bookkeeping personnel engaged in such work could be released for duties more directly connected with the war effort and with the movement of vessels and vital war cargoes.

The proposed legislation also excuses the War Shipping Administration and the Maritime Commission from applying for refunds of the employer's taxes paid on wages in excess of the \$3,000 limitation. The applications for refunds would, in our opinion, necessitate as much work and the application of as much time and effort as the proper enforcement of section 1426 (a) (1) would require at the present time.

There is attached a copy of (1) a draft of a bill to carry out the above purposes, and (2) an explanatory statement thereon.

The Director of the Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation to Congress for its consideration.

Sincerely yours,

E. S. LAND, *Administrator.*

A BILL To permit the Administrator, War Shipping Administration, and the United States Maritime Commission, during the national emergency, to pay the tax imposed under section 1410 of the Internal Revenue Code without regard to the \$3,000 limitation in section 1426 (a) (1) of the Internal Revenue Code

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1426 (i) of the Internal Revenue Code is amended by adding at the end thereof the following: "The Administrator, War Shipping Administration, and the United States Maritime Commission, and their agents or persons acting on their behalf or for their account, may, for convenience of administration, make payments of the tax imposed under section 1410 without regard to the \$3,000 limitation in section 1426 (a) (1), but they shall not be required to obtain a refund of the tax paid under section 1410 of the Internal Revenue Code on that part of the remuneration of seamen in their employ not included in wages by reason of section 1426 (a) (1) of the Internal Revenue Code."*

(b) The amendments made by this act shall be effective as if made by section 1 (b) (1) of the act entitled "An Act to amend and clarify certain provisions of law relating to functions of the War Shipping Administration, and for other purposes," approved March 24, 1943 (Public Law 17, 78th Cong.; 57 Stat. 45).

STATEMENT TO ACCOMPANY PROPOSED BILL TO PERMIT THE WAR SHIPPING ADMINISTRATION AND THE UNITED STATES MARITIME COMMISSION TO PAY THE TAX IMPOSED ON WAGES UNDER SECTION 1410 OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE \$3,000 LIMITATION IN SECTION 1426 (A) (1) OF THE INTERNAL REVENUE CODE

The proposed bill, if enacted, will permit the War Shipping Administration and the United States Maritime Commission to pay the employer's tax, levied under section 1410 of the Internal Revenue Code (the Federal Insurance Contributions Act), on wages paid to seamen in their employ without regard to the \$3,000 limitation contained in section 1426 (a) (1) of the Internal Revenue Code. The proposed bill, if enacted, will remain in force until the termination of Title I of the First War Powers Act, 1941, and will apply to the employer's taxes imposed on wages paid for services, performed after September 30, 1941, and prior to the termination of Title I of the First War Powers Act on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration, or in respect of such services performed after February 11, 1942, the United States Maritime Commission.

Section 1426 (i) of the Internal Revenue Code, added by Public Law 17, Seventy-eighth Congress, first session, provided for the inclusion within the scope of the term "employment," as used in the Federal Insurance Contributions Act, of services performed on or in connection with any vessel by an officer or member of the crew as an employee of the United States, employed through the War Shipping Administration or of the United States Maritime Commission. The statute covered retroactively wages paid for such services performed after September 30, 1941. The term "wages" was defined to mean such amount of remuneration as was determined by the Administrator of the War Shipping Administration to be paid to the seamen, to whom the section applied, for such services. The Administrator of the War Shipping Administration and such agents as he would designate were authorized and directed to comply with the provisions of the internal-revenue laws on behalf of the United States as the employer of the individuals whose services constituted employment by reason of section 1426 (i) of the Internal Revenue Code.

Section 1426 (a) (1) of the Internal Revenue Code is the source of the difficulty which the proposed bill seeks to remedy. The section defines wages taxable under the Federal Insurance Contributions Act to mean "all remuneration for employment, including the cash value of all remuneration paid in any medium other than

cash; except that such term shall not include (1) that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year."

The War Shipping Administration has no means at its disposal to determine when a seaman in its employ has reached the \$3,000 limit with respect to employment in a particular calendar year. The manner in which the War Shipping Administration operates its vessels makes it impossible for such a determination to be made without the expenditure of a large sum of money; larger, in fact, than the additional employer's tax which the War Shipping Administration would have to pay if the proposed bill were enacted.

Members of crews of vessels which are either owned by or bare-boat chartered to the United States, through the War Shipping Administration, are employees of the United States. Section 1426 (i) relates specifically to these individuals and to none other. The vessels upon which they serve are operated by the War Shipping Administration through designated agents referred to as general agents. The general agents are principally companies which had engaged in the water transportation business prior to December 7, 1941, and prior to the creation of the War Shipping Administration. The general agent, through his organization operates the vessels assigned to him under the general agent's form of service agreement. He arranges to crew the vessel, to supply it with food, fuel, and other vessel supplies, and to load and unload the cargo. He pays off the crew at the termination of the voyage after making all necessary tax deductions. The crew members he hires are not his employees; they are the employees of the War Shipping Administration.

Under the present method of handling the employer's and employee's taxes imposed by the Federal Insurance Contributions Act, the general agent at the conclusion of each voyage deducts the employee's tax from the wages paid to the seaman for services performed during the voyage, and arranges to turn over to the collector of internal revenue the taxes so deducted, together with the tax levied on the War Shipping Administration as employer. There is no assurance that a seaman, who signs off, will sign articles on the same vessel for a subsequent voyage, or that he will sign articles on another War Shipping Administration vessel operated by the same general agent. A vessel may come into port in need of repairs, and it may be laid up for a considerable period of time. Crew members, on signing off such a vessel, will, in all probability, seek employment on another vessel which may be operated by a private owner under a time charter arrangement with the War Shipping Administration, or by some other general agent for the War Shipping Administration. In the latter case they will continue to be employees of the War Shipping Administration.

Technically the \$3,000 limitation in section 1426 (a) (1), Internal Revenue Code, applies to the wages paid or reported with respect to employment during the calendar year by the War Shipping Administration to an individual seaman whether he serves, during the calendar year, on one or several vessels operated for the War Shipping Administration through its general agents. It is, however, practically impossible for one general agent of the War Shipping Administration to obtain accurate information regarding the wages a seaman received with respect to employment during a particular calendar year for services performed on other War Shipping Administration vessels operated by general agents. The most that one general agent can possibly know with respect to such prior payments would take care of wages that the seaman might have earned on the same vessel or another vessel operated by the particular general agent.

In order to properly apply the \$3,000 limitation to seamen employed by the War Shipping Administration, it would, in our opinion, be necessary to install a separate unit in Washington, charged with the responsibility of maintaining the personal wage records of every seaman in the employ of the War Shipping Administration through the general agents. In addition, the War Shipping Administration would have to take upon itself the duty of preparing, at this central office, the necessary returns required under the Federal Insurance Contributions Act. This would require the receipt of reports from all general agents of the War Shipping Administration, and the expenditure of substantial sums of money to maintain a unit to handle this particular job. It would involve a duplication of records and of work, since the general agent would have to maintain its own personnel records covering the same seamen, and would likewise have to make calculations of the amount of the employee's tax to be deducted from a seaman's wages before he signs off.

The proposed bill takes care of this situation by eliminating the application of the \$3,000 limitation to wages paid to War Shipping Administration employees serving on War Shipping Administration vessels operated under the general agent's form of service agreement. The general agent, when calculating the employer's tax, will figure the tax on the wages paid or reported with respect to employment during the particular calendar year or quarter and it will not be necessary for him to consider the wages paid in previous quarters of the same calendar year to make sure that the \$3,000 limit has not been reached. This may involve the payment of the employer's tax in excess of what the War Shipping Administration would have to pay if section 1426 (a) (1) continues in force insofar as War Shipping Administration seamen are concerned. This sum, however, is relatively small compared to the very substantial cost which would be incurred in order to properly apply section 1426 (a) (1).

The proposed bill will suspend the operation of section 1426 (a) (1) of the Internal Revenue Code, insofar as it affects the War Shipping Administration as the employer of seamen, until the termination of title I of the First War Powers Act, 1941, and it applies not only currently but to the employer's tax due with respect to wages paid to crew members for services performed since September 30, 1941, as an employee of the United States Maritime Commission and since February 11, 1942, as an employee of the War Shipping Administration. It will eliminate a substantial amount of detailed bookkeeping by the War Shipping Administration and its general agents in the application of section 1426 (a) (1) of the Internal Revenue Code. Employees who must now devote their time to such tasks can be released for work more directly connected with the effective prosecution of the war effort.

The proposed bill specifically provides that neither the United States Maritime Commission nor the War Shipping Administration need apply for refunds of the employer's tax paid on remuneration in excess of \$3,000. The filing of such claims would require as much bookkeeping and administrative work by the agencies concerned as would be necessary in order to apply section 1426 (a) (1). The proposed bill appropriately provides that claims for refunds will not be necessary.

#### SUMMARY

The operation of section 1426 (a) (1) of the Internal Revenue Code may very well be suspended during the national emergency with respect to the payment of the employer's tax by the War Shipping Administration and the United States Maritime Commission, for the following reasons:

1. The amount of employer's tax which the War Shipping Administration and the United States Maritime Commission will pay as a result of such suspension will, in our opinion, be relatively small in comparison with the cost of complying with section 1426 (a) (1).

2. A substantial amount of administrative and bookkeeping work by the War Shipping Administration and the United States Maritime Commission, and by shipping companies, as general agents of the War Shipping Administration, necessarily required in the enforcement and application of section 1426 (a) (1) will be dispensed with, and employees now engaged in such tasks will be released for work more directly connected with the effective prosecution of the war effort.

#### 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; existing law in which no change is made is in roman; and new language is in italics):

"Section 1426 (i) of the Internal Revenue Code (subsec. (i) in sec. 1 (b) (1) of Public Law 17, 78th Cong., 1st session, as amended by Public Law 285, 78th Cong., 2d session) (sec. a of H. R. 1429):

"(i) The term 'employment' shall include such service as is determined by the Administrator, War Shipping Administration, to be performed after September 30, 1941, and prior to the termination of title I of the First War Powers Act, 1941, on or in connection with any vessel by an officer or member of the crew as an employee of the United States employed through the War Shipping Administration, or, in respect of such service performed before February 11, 1942, the United States Maritime Commission, but shall not include any such service performed (1) under a contract entered into without the United States and during

the performance of which the vessel does not touch at a port in the United States, or (2) on a vessel documented under the laws of any foreign country and bare-boat chartered to the War Shipping Administration. The term 'wages' means, with respect to service which constitutes employment by reason of this subsection, such amount of remuneration as is determined (subject to the provisions of this section) by the Administrator, War Shipping Administration, to be paid for such service. The Administrator and such agents as he may designate for the purpose are authorized and directed to comply with the provisions of the internal revenue laws on behalf of the United States as the employer of individuals whose service constitutes employment by reason of this subsection, but the Administrator and his agents shall not be liable for the tax on any employee imposed by section 1400 (unless the Administrator or his agent collects such tax from the employee) with respect to service performed before the date of enactment of this subsection which constitutes employment by reason of the enactment of this subsection. *The Administrator, War Shipping Administration, and the United States Maritime Commission, and their agents or persons acting on their behalf or for their account, may, for convenience of administration, make payments of the tax imposed under section 1410 without regard to the \$3,000 limitation in section 1426 (a) (1), but they shall not be required to obtain a refund of the tax paid under section 1410 of the Internal Revenue Code on that part of the remuneration of seamen in their employ not included in wages by reason of section 1426 (a) (1) of the Internal Revenue Code.*"

