

PRISONERS OF WAR AND INTERNEES REMOVED FROM A POSSESSION OF THE UNITED STATES BY THE ENEMY

JULY 17 (legislative day, JULY 16), 1947.—Ordered to be printed

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

REPORT

[To accompany H. R. 3444]

The Committee on Finance, to whom was referred the bill (H. R. 3444) to amend section 251 of the Internal Revenue Code, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the bill is to extend to persons who while serving in the armed forces or as civilian employees, within a possession of the United States, were taken prisoner or interned by the enemy and removed to places outside such possession, the same treatment for income-tax purposes as though they had been permitted to remain in such possession.

The purposes and effects of the bill are explained in detail in the following report of the Committee on Ways and Means of the House:

The Committee on Ways and Means, to whom was referred the bill (H. R. 3444) to amend section 251 of the Internal Revenue Code, having considered the same, report favorably thereon and recommend that the bill do pass.

GENERAL STATEMENT

This bill provides that a citizen of the United States who was taken prisoner of war while serving within a possession of the United States as a member of the military or naval forces of the United States, or who was interned by the enemy while serving as an employee (whether the employment is governmental or private) within a possession of the United States shall receive the benefits of section 251 of the Internal Revenue Code even though his ultimate place of confinement by the enemy was not within a possession of the United States.

Service men and women, as well as civilians, who were sent to, or who were employed in, the Philippines or other possessions of the United States acquired a tax-exempt status for Federal income-tax purposes subject to the terms of section 251. This tax privilege was originally conferred by the Revenue Act of 1921 to induce citizens of the United States to accept employment or make investments in possessions of the United States. With the occupation of the Philippines by Japan, and the subsequent internment of military and civilian personnel and removal of these unfortunate individuals to a place of confinement outside the

Philippines, their tax-exempt status was lost. In effect, therefore, this bill attempts to restore to them the status which they lost at the point of a bayonet.

Under existing law a citizen of the United States is exempt from tax upon income from sources outside the United States, if at least 80 percent of his gross income is derived from sources within a possession of the United States, and if at least 50 percent of his gross income is derived from the active conduct of a trade or business within a possession of the United States. The percentage requirements must have been met by the taxpayer for the 3-year period preceding the close of the taxable year, or for such part of such period immediately preceding the close of such taxable year as may be applicable. A United States citizen meeting the percentage requirements qualifies for this tax treatment whether he is engaged in a trade or business on his own account or as an employee or agent of another.

Regulations of the Treasury Department provide that the salary or other compensation paid by the United States to the members of its civil, military, or naval personnel for services rendered within a possession of the United States represents income derived from the active conduct of a trade or business within a possession of the United States (Treasury Regulation 111, sec. 29, 251-1). Under this interpretation, military personnel serving in the possessions of the United States are generally not required to pay income tax on their pay for such service if such pay is not received in the continental United States, Alaska, or Hawaii, and if it amounts to 80 percent or more of their gross income from all sources for the period during which they served in the possession. For this purpose the term "possession of the United States" includes the Philippine Islands, prior to July 4, 1946, Guam, American Samoa, Wake, Midway Islands, Johnston Island, Baker Island, Howland Island, Jarvis Island, Kingman Reef, Sand Island, Panama Canal Zone, Pribilof Islands, Puerto Rico, Navassa, Serranilla Bank, and Swan Islands.

Section 251 has been held to be inapplicable in the case of prisoners of war and civilian employees who were captured or interned by the enemy while serving within a possession of the United States, if such persons were removed for confinement in any place not within a possession of the United States. This result is believed to constitute a grave injustice to members of the armed forces and civilian employees captured by the enemy. It is felt that an American citizen should not be deprived through enemy action of a right granted him by a Federal statute.

In many cases prisoners of war and civilian internees did not receive compensation until after their return to the United States. In such cases this bill provides that compensation attributable to the period of time during which such citizen was a prisoner of war or internee of the enemy should be considered as compensation received outside the United States.

The provisions of this bill are made applicable to taxable years beginning after December 31, 1941.

