

TERMINATION OF WARTIME TAX PROVISIONS

JULY 23 (legislative day, JULY 16), 1947.—Ordered to be printed

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

REPORT

[To accompany H. R. 4069]

The Committee on Finance, to whom was referred the bill (H. R. 4069) to terminate certain tax provisions before the end of World War II, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

With the exception of committee amendments to sections 5, 7, 8, and 15 of the bill, and the addition by your committee of a section 16 to the bill, the bill is the same as passed by the House. The report of the Committee on Ways and Means on the bill is attached hereto as appendix A. A detailed explanation of the bill (which, except with respect to the committee amendments, is equally applicable to the bill as reported by your committee) is included in the House report.

The first amendment in your committee bill is an amendment to section 5 of the bill. The committee amendment provides that for the purposes of the proviso clause of section 511 (h) of the Merchant Marine Act, 1936, the present war shall be considered as having terminated on March 31, 1948, instead of on the fifteenth day after the date of the enactment of the bill as provided in the House bill.

Section 7 of the House bill amended section 22 (b) (13) of the Internal Revenue Code so as to terminate on December 31, 1947, the income-tax exclusions of \$1,500 of service pay (as to officers) and of all service pay (as to enlisted personnel) now allowed Army and Navy personnel. Your committee has amended section 7 to provide that the income-tax exclusion of all service pay allowed to personnel serving in the armed forces of the United States below the grade of commissioned officer (or commissioned warrant officer) shall not terminate until December 31, 1948. The bill as reported by your committee retains the provision of the House bill terminating on December 31, 1947, the income-tax exclusion of \$1,500 of service pay now allowed to commissioned officers or commissioned warrant

officers serving in the armed forces of the United States and to citizens or residents of the United States serving in the armed forces of any of the other United Nations.

Section 8 of the House bill amended section 22 (d) (6) (A) of the code which makes special provision, in the case of taxpayers using the last-in first-out inventory method for income-tax reporting, for replacement of inventories depleted by involuntary liquidation because of circumstances related to the war. Your committee amends section 8 of the bill to provide that the relief under section 22 (d) (6) (A) of the code is allowable where the involuntary liquidation occurred in a taxable year beginning prior to January 1, 1948 (instead of prior to August 1, 1947, as provided in the House bill), and the replacement of inventory occurred in a taxable year ending prior to January 1, 1951 (instead of prior to August 1, 1950, as provided in the House bill).

Section 15 of the House bill provided that the wartime provision for percentage depletion in the case of certain minerals should be continued as permanent legislation, and further provided for percentage depletion in the case of china clay, bentonite, gilsonite, and thenardite for taxable years beginning after December 31, 1946. Your committee amendment to this section of the bill adds pyrophyllite and trona to the list of minerals for which percentage depletion is allowable for taxable years beginning after December 31, 1946.

Your committee further amended the House bill by adding section 16, for which there is no corresponding provision in the bill as passed by the House. Section 23 (q) (2) of the code provides that contributions or gifts (for religious, charitable, educational, etc., purposes) made by a corporation to an unincorporated organization (trust, chest, fund, or foundation) are not deductible if made within a taxable year beginning after December 31, 1946 (the date of the cessation of hostilities in the present war, as proclaimed by the President) unless such contributions or gifts are to be used within the United States or any of its possessions. Section 16 of the bill as reported by your committee amends section 23 (q) (2) so that the requirement that such gifts or contributions must be used within the United States or any of its possessions is applicable only to taxable years beginning after December 31, 1948.

APPENDIX A

(H. Rept. No. 802, 80th Cong., 1st sess.)

The Committee on Ways and Means, to whom was referred the bill (H. R. 4069) to terminate certain tax provisions before the end of World War II, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The purpose of this bill is to provide for the termination of a number of war and emergency statutory provisions related to internal revenue and customs. The bill also makes amendments to the Internal Revenue Code appropriate in connection with the termination of certain of the statutes.

INTERNAL REVENUES

The income-tax exclusions of \$1,500 of service pay (as to officers) and of all service pay (as to enlisted personnel) now allowed Army and Navy personnel are terminated December 31, 1947, and provision is made that service pay of

such officers and enlisted personnel after December 31, 1947, will be brought within the provisions of the Internal Revenue Code providing for withholding of income tax at source on wages.

The provision of section 1621 (a) of the Internal Revenue Code with respect to withholding of tax on remuneration for services outside of the United States is amended to relate such provision more closely to sections 116 (a) and 251 of the code relating, respectively, to earned income from sources without the United States and income from sources within possessions of the United States. This amendment is not limited to service personnel but includes civilians deriving income for services performed outside the United States.

The wartime provisions for special treatment under the admissions tax for members of the armed forces in uniform admitted free or at reduced rates, and which exempt from tax admissions to theaters and other activities operated on War and Navy Department reservations, are terminated December 31, 1947.

The transportation tax exemption applicable to members of the armed forces traveling on furlough tickets is terminated December 31, 1947.

Several provisions of law (secs. 3804 and 3805, of the Internal Revenue Code and sec. 13 of the Missing Persons Act) which permit, because of circumstances connected with the war, postponement of the time for performing various acts in connection with Federal tax liabilities, such as filing of returns, payment of taxes, etc., are terminated December 31, 1947. However, provision is made, by amendment to section 3804, for the granting of further relief after such date by the Commissioner of Internal Revenue in unusual cases.

The wartime provision allowing abatement or refund of income tax in the case of members of the armed forces dying while in active service is amended to limit its operation to the cases of such persons dying before January 1, 1948.

In the case of taxpayers using the last in first out inventory method for income tax reporting, existing law makes special provision for replacement of inventories depleted by involuntary liquidation because of circumstances related to the war.

This provision has been amended to provide that the relief is allowable where the involuntary liquidation occurred in a taxable year beginning prior to August 1, 1947 (instead of prior to the termination of the war) and the replacement occurred in a taxable year ending prior to August 1, 1950 (instead of not more than 3 years after the termination of the war).

Percentage depletion was allowed certain minerals during the war period. The minerals affected are ball and sagger clay, fluorspar, and rock asphalt provided for under the Revenue Act of 1942, and barite, beryl, feldspar, flake graphite, mica, lepidolite, spodumene, talc, and vermiculite provided for under the Revenue Act of 1943. These allowances were terminated with respect to taxable years beginning after December 31, 1946, the date proclaimed by the President as the date of termination of hostilities in World War II.

Your committee, after hearings on the subject, is of the opinion that such allowances should be continued for taxable years beginning after December 31, 1946, and also that percentage depletion should be allowed in the case of china clay, bentonite, gilsonite, and thenardite for taxable years beginning after December 31, 1946. Accordingly, the bill eliminates the existing provisions providing for such termination and allows percentage depletion for the four additional items last mentioned for the years specified.

The fifteenth day after the date of the enactment of the bill is fixed as the date of the termination of the present war for the purposes of the proviso of section 511 (h) of the Merchant Marine Act, 1936, which proviso permits, for tax purposes, further extension by the Maritime Commission of the period for the performance of certain acts with respect to ship construction reserve funds.

CUSTOMS

The wartime suspension of tariff duties with respect to certain metal scrap is terminated June 30, 1948, and the wartime suspension of tariff duties on coconuts and coconut meat is terminated the thirtieth day following the enactment of the bill.

The wartime provisions permitting free entry of articles consigned to members of the United Nations armed forces, prisoners of war, and enemy civilian internees, and of articles made by certain prisoners of war and internees detained by the enemy, is terminated June 30, 1948. The wartime provision permitting free entry of gifts in limited amounts from members of the armed forces, which terminated June 30, 1947, is extended to June 30, 1949, but on and after September 1, 1947, free entry is denied unless the article is purchased in or through authorized agencies of the armed forces of the United States or in accordance

with regulations prescribed by the major geographical commands of the United States armed forces.

DETAILED DISCUSSION OF THE TECHNICAL PROVISIONS OF THE BILL

SECTION 1

Section 1 of the bill would amend the act of March 13, 1942 (Public Law 497, 77th Cong.; 56 Stat. 171) which exempts from duty or internal revenue tax, scrap iron, scrap steel, relaying and rerolling rails, or nonferrous-metal scrap, entered for consumption or withdrawn from warehouse for consumption during the period beginning March 14, 1942, and ending with the termination of the unlimited national emergency proclaimed by the President on May 27, 1941. The proposed amendment provides that the period of exemption shall terminate with the close of June 30, 1948. However, by reason of the provisions of the act of April 29, 1947 (Public Law 42, 80th Cong.) copper scrap will continue to be exempt from the internal revenue tax imposed under section 3425 of the Internal Revenue Code until the close of March 31, 1949.

SECTION 2

Section 2 of the bill would amend the joint resolution of June 27, 1942 (Public Law 635, 77th Cong.; 56 Stat. 462), to terminate as of the close of June 30, 1948, the privilege of importation free of duties or internal revenue taxes of articles for members of the armed forces of the United Nations, of articles for enemy prisoners of war and enemy civilian internees, and of articles made by members of the armed forces of the United Nations while detained as prisoners of war or by nationals of the United States detained by the enemy, entered for consumption or withdrawn from warehouse for consumption beginning June 27, 1942, and until the expiration of 6 months after the termination of the unlimited national emergency proclaimed by the President on May 27, 1941. Section 2 substitutes for the present termination clause the specific date July 1, 1948.

SECTION 3

The act of December 5, 1942 (Public Law 790, 77th Cong.; 56 Stat. 1041), allowed, until the expiration of 6 months after the termination of hostilities as determined by proclamation of the President, the entry free of customs duties or internal revenue import taxes of so much of any shipment as did not exceed \$50 in value if there was filed in connection with the entry satisfactory evidence that the articles were bona fide gifts from a member of the armed forces of the United States on duty outside the continental limits of the United States. Pursuant to the President's proclamation, dated December 31, 1946, such exemption terminated on June 30, 1947. Section 3 of the bill amends such act, effective as of June 30, 1947, so as to extend the period for free entry through June 30, 1949. Section 3 also amends such act so as to deny free entry on or after September 1, 1947, unless the article is purchased "in or through authorized agencies of the armed forces of the United States or in accordance with regulations prescribed by the major geographical commands of the United States armed forces."

SECTION 4

The act of December 20, 1944 (Public Law 504, 78th Cong.; 58 Stat. 817), provides that no duty shall be collected under the Tariff Act of 1930, as amended, with respect to coconuts or coconut meat until the termination of the unlimited national emergency proclaimed by the President on May 27, 1941. Section 4 of the bill provides that such act shall be inapplicable with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after the thirtieth day after the date of the enactment of the bill.

SECTION 5

Section 511 of the Merchant Marine Act of 1936 provides among other things for special tax treatment with respect to ship construction reserve funds, certain percentages of which must be expended within periods of time determined under such section. Subsection (h) of section 511 provides a basis on which extensions of such periods of time may be granted, with a 2-year limitation, but until the termination of the present war further extensions may be granted ending not later than 6 months after the termination of the present war.

Section 5 of the bill provides that for the purpose of such subsection (h) the present war shall be considered as having terminated on the fifteenth day after the date the bill becomes law.

SECTION 6

Section 13 of the Missing Persons Act provides for deferment for a limited period of the due dates of income tax returns and payment of income tax in the case of military and naval personnel and civilian employees of the Government held as prisoners of war or military and naval personnel on sea duty or outside the United States.

Paragraphs (1), (2), and (3) of subsection (c) of section 13 set forth rules for determining the earliest due date, depending on the circumstances, for filing return and payment of tax. Under paragraph (2) no deferment under section 13 can extend beyond the 15th day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President. Section 6 of the bill would substitute for the language of paragraph (2) the specific date "December 31, 1947."

While the effect of the amendment is to make section 13 of the Missing Persons Act inoperative after December 31, 1947, relief in an appropriate case may be afforded after such date under section 3804 of the Internal Revenue Code as proposed to be amended by section 13 of the bill, or under section 513 of the Soldiers' and Sailors' Civil Relief Act of 1940.

SECTION 7

This section would terminate December 31, 1947, the allowance under section 22 (b) (13) of the Internal Revenue Code to military and naval personnel of certain exclusions from gross income.

Under section 22 (b) (13) there are excluded from gross income: (a) In the case of compensation received during taxable years beginning after December 31, 1942, for active service as a commissioned officer (or commissioned warrant officer) of the military or naval forces of the United States or as a member (if a citizen or resident of the United States) of the military or naval forces or any of the other United Nations, so much of such compensation as does not exceed \$1,500; and (b) in the case of compensation received during taxable years beginning after December 31, 1940, for active service as a member below the grade of commissioned officer (or commissioned warrant officer) in the military or naval forces of the United States, the entire amount of such compensation.

Such exclusions are applicable only to compensation received prior to the termination of the present war as proclaimed by the President.

Section 7 would amend section 22 (b) (13) of the code to limit the application of the exclusions to compensation for active service received prior to January 1, 1948, rather than prior to the termination of the war as proclaimed by the President.

SECTION 8

In the case of taxpayers using the elective-inventory method of income-tax reporting, section 22 (d) (6) (A) of the Internal Revenue Code makes special provision with respect to replacement of base-stock inventories depleted by involuntary liquidation resulting from conditions prevailing during the war. Section 8 of the bill amends section 22 (d) (6) (A) to make its provisions applicable in cases where the involuntary liquidation occurred in a taxable year beginning prior to August 1, 1947 (instead of in a taxable year beginning prior to the termination of the war), and the replacement occurred in a subsequent taxable year ending prior to August 1, 1950 (instead of a taxable year ending not more than 3 years after the termination of the war.)

SECTION 9

Section 9 would amend section 421 of the Internal Revenue Code, which allows abatement or refund of income tax in the case of members of the armed forces dying while in active service, to limit its operation to cases of persons dying prior to January 1, 1948. Section 421 now provides that where an individual dies on or after December 7, 1941, while in active service as a member of the military or naval forces of the United States or of any of the United Nations and prior to the termination of the present war as proclaimed by the President, there shall be no income tax liability for the taxable year in which his death occurred; that income tax under the Internal Revenue Code and the corresponding provisions of prior revenue laws for preceding taxable years which is unpaid at death

shall not be assessed and if assessed the assessment shall be abated and if collected shall be credited or refunded as an overpayment. The effect of the amendment is to limit the operation of this provision of law to cases where the individual died prior to January 1, 1948.

SECTION 10

Section 10 amends section 1621 (a) of the Internal Revenue Code, which section defines the term "wages" for purposes of collection of income tax at the source on wages and lists certain classes of remuneration excluded from such definition.

Paragraph (1) of section 1621 (a) excludes from the definition of wages, and hence from withholding of income tax at the source, remuneration for services performed as a member of the military or naval forces of the United States other than pensions and retired pay includible in gross income. Section 10 (a) of the bill would strike out paragraph (1), thus making such remuneration subject under section 1622 of the Internal Revenue Code to withholding of income tax at the source.

Section 1621 (a) (8) now excludes from the definition of wages, and hence from withholding of income tax at the source, remuneration for services for an employer performed by a citizen or resident of the United States while outside the United States (as defined in sec. 3797 (a) (9)) if the major part of the services for such employer during the calendar year is to be performed outside the United States.

Section 10 (a) of the bill would amend paragraph (8) to limit its application to remuneration for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of a foreign country or countries, and to remuneration for services for an employer performed within a possession of the United States by a citizen of the United States, if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services. Such amendment brings paragraph (8) more closely in harmony with the provisions of sections 116 (a) and 251 of the Internal Revenue Code relating, respectively, to earned income from sources without the United States and income from sources within possessions of the United States.

The amendment to paragraph (8) of section 1621 (a) requires the deletion of the last sentence of section 1621 (a) which provides that the exception of paragraph (8), with respect to services performed outside the United States, does not extend to wages paid for services performed on an American vessel or on any vessel as an employee of the United States employed through the War Shipping Administration. The tests provided in the proposed new paragraph (8) are considered adequate for the determination of any cases which fall within the contemplation of such last sentence and section 10 (a) of the bill, accordingly, strikes out such last sentence.

Section 10 (b) of the bill provides that the amendments made to section 1621 (a) shall be applicable to wages paid on or after January 1, 1948.

SECTION 11

This section would amend section 1700 (a) (1) of the Internal Revenue Code to terminate the special treatment under the admissions tax with respect to free and reduced-rate admissions extended to members of the military or naval forces of the United States or of any of the United Nations when in uniform, and members of the Civilian Conservation Corps when in uniform. The amendment would also terminate the exemption under the admissions tax of amounts paid for admissions to theaters and other activities operated by or under the control of the War Department or the Navy Department within posts, camps, reservations, and other areas maintained by the Military or Naval Establishment. The amendments made by the section, insofar as they are applicable with respect to amounts paid for admission, are applicable to amounts paid after December 31, 1947, and, insofar as applicable to free admissions, are applicable with respect to such admissions after December 31, 1947.

SECTION 12

This section would make inapplicable to amounts paid after December 31, 1947, the provisions of section 3169 (f) (2) of the Internal Revenue Code which allows an exemption from the tax on the transportation of persons applicable to payments for transportation or facilities furnished under special tariffs providing for fares of not more than 1¼ cents per mile for round-trip tickets sold to personnel

of the United States Army, Navy, Marine Corps, and Coast Guard traveling in uniform of the United States, and to members of the military or naval forces of any of the other United Nations traveling in uniform of such nation, at their own expense, when on official leave, furlough, or pass, including authorized cadets and midshipmen, issued on presentation of properly executed certificate.

SECTION 13

Section 13 would amend section 3804 of the Internal Revenue Code to provide that no period of time after December 31, 1947, may be disregarded under such section except, under certain limitations, in cases in which the Commissioner makes a determination under section 3804 (b) after the enactment of the bill.

Section 3804 is a wartime provision which has for its purpose the disregarding of a period of time in determining whether certain acts affecting Federal tax liabilities are timely performed and in determining the amount of any credit or refund (including interest). It is applicable both in the case of acts to be performed by the taxpayer and in the case of acts to be performed by the Government. Under subsection (c) of section 3804 the period of time disregarded shall not extend beyond whichever of the following dates is the earlier:

(1) The fifteenth day of the third month following the month in which the present war is terminated, or

(2) In the case of an individual with respect to whom a period of time is disregarded under the section, the fifteenth day of the third month following the month in which an executor, an administrator, or a conservator of the estate of such individual qualifies.

Section 13 of the bill amends section 3804 (c), insofar as it is based on the termination of the war, so as to provide a definite cut-off date of December 31, 1947, but permits a further period to be disregarded if the Commissioner so prescribes in any case in which he makes a determination under section 3804 (b) after the date of the enactment of this bill, and the determination is based on the existence prior to January 1, 1948, of one or more of the three following circumstances:

(1) By reason of an individual being outside the Americas,

(2) By reason of any locality (within or without the Americas) having been an area of enemy action or having been an area under the control of the enemy, or

(3) By reason of an individual in the military or naval forces of the United States being outside the States of the Union and the District of Columbia.

The effect of the amendment is that no period of time which is being disregarded under subsection (a), or being disregarded under subsection (b) of section 3804 pursuant to regulations prescribed or determinations made by the Commissioner prior to the enactment of the bill, may extend beyond December 31, 1947. Nor may any period after December 31, 1947, be disregarded under section 3804 except in the special cases in which the Commissioner makes a determination under section 3804 (b) after the enactment of the bill; that is, no period after December 31, 1947, may be disregarded under the section, except in the relatively few cases where, by reason of circumstances coming within the scope of subsection (b) and existing prior to January 1, 1948, the Commissioner determines, after the enactment of the bill, that it is proper to extend the benefits of the section on behalf of either the taxpayer or the Government with respect to a period after December 31, 1947.

For such cases it is considered desirable to use the mechanism of subsection (b) of existing law which provides a basis for disregarding periods of time which may not be disregarded under subsection (a) or for disregarding a period of time in addition to that disregarded under subsection (a), and which is broader in scope than subsection (a).

It is contemplated that any period after December 31, 1947, disregarded under subsection (b), will be a reasonable one in the circumstances, and that if an exceptional case arises where the circumstances which make performance of an act impossible or impracticable are such that they will not be cured by the passage of time, a reasonable period may be disregarded under subsection (b) after which no period of time will be disregarded with respect to such act.

An example of the type of case in which the Commissioner is authorized under the amendment to disregard a period of time after December 31, 1947, is that of a member of the armed forces who returns to this country on, for example, March 1, 1948, after having been outside the Americas continuously for several years and by reason of having been outside the Americas prior to January 1, 1948, his circumstances are such that it is impossible or impracticable for him to file on March 15,

1943, his income-tax return for the calendar year 1947. In such case an appropriate period of time may be disregarded with respect to both the due date for filing such return and the due date of the tax.

SECTION 14

Section 14 would amend section 3805 of the Internal Revenue Code to terminate as of December 31, 1947, the wartime extension in the case of China Trade Act corporations of the due dates for filing income-tax returns and payment of tax. Existing law provides as to such corporations that for taxable years beginning after December 31, 1940, no income-tax return or payment of tax shall become due until the fifteenth day of the sixth month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President. Section 14 substitutes for the war-termination clause the specific date December 31, 1947.

SECTION 15—PERCENTAGE DEPLETION

Section 15 by amendment to section 114 of the Internal Revenue Code and by repeal of section 124 (e) of the Revenue Act of 1943 continues in effect, as permanent legislation, the wartime allowance of percentage depletion at the rate of 15 percent in the case of the following minerals: Fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, barite, ball and sagger clay, and rock asphalt. Section 15 also adds china clay, bentonite, gilsonite, and thenardite.

Pursuant to the provisions of section 124 (e) of the Revenue Act of 1943 and the President's proclamation of December 31, 1946, declaring hostilities in World War II terminated, the provisions of section 114 of the code regarding percentage depletion as to the items named above (except china clay, bentonite, gilsonite, and thenardite) ceased to be applicable with respect to taxable years beginning after December 31, 1946. Section 15 repeals section 124 (e) of the Revenue Act of 1943 as of the date of its enactment and further provides that the amendments made to section 114 of the code shall be applicable with respect to taxable years beginning after December 31, 1946. The effect of this is that the percentage depletion rules as to the minerals named in existing law continue without change, and percentage depletion is allowable in the case of china clay, bentonite, gilsonite, and thenardite for taxable years beginning after December 31, 1946.

