

INCOME TAXES OF MEMBERS OF ARMED FORCES DYING
IN SERVICE

JULY 24 (legislative day, JULY 16), 1947.—Ordered to be printed

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

REPORT

[To accompany H. R. 479]

The Committee on Finance, to whom was referred the bill (H. R. 479) relating to the income-tax liability of members of the armed forces dying in service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

With the exception of a technical amendment made by your committee to section 2 of the bill, the bill is the same as passed by the House. The report of the Committee on Ways and Means on the bill, attached hereto as appendix A, contains a detailed explanation of the bill.

APPENDIX A

[H. Rept. No. 1033, 80th Cong., 1st sess.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 479) relating to the income-tax liability of members of the armed forces dying in the service, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

DISCUSSION OF THE BILL

The purpose of the bill is to correct, retroactively, an inequitable situation which arises under the income-tax laws upon the death of a member of the armed forces. Under existing law if an individual, while in active service as a member of the military or naval forces of the United States or of any of the other United Nations, dies on or after December 7, 1941, and prior to the termination of the present war (as proclaimed by the President) no income tax is imposed for the taxable year in which he dies. The law further provides that the income tax for any earlier taxable year is abated if such tax is unpaid at the date of his death, and if such unpaid tax is collected after the date of death the tax shall be refunded.

Existing law, however, makes no provision for refunding any income tax that was paid prior to the date of death even though the tax was for a taxable year in which the individual was serving in the armed forces. The result of existing law

has been to encourage members of the armed forces to delay the payment of income tax since in the event of death while in service the taxes paid prior to death (except amounts paid for the taxable year in which death occurs) will not be refunded while any taxes unpaid at death are canceled and abated.

Your committee believes that the income tax should not be imposed, in the event of the death prior to January 1, 1948, of an individual while serving as a member of the armed forces, with respect to any taxable year ending on or after December 7, 1941, during which the decedent was a member of the armed forces, whether or not the tax for such years was paid by the decedent. Accordingly, section 1 of the bill amends section 421 of the Internal Revenue Code to provide that the income tax shall not be imposed in such cases. The effect of the amendment is that income taxes paid by a member of the armed forces who died on or after December 7, 1941, while in service, will be refunded with respect to any taxable year (ending on or after December 7, 1941) during which the decedent was a member of the armed forces.

Section 421 is further amended so as to be applicable only in the case of a member of the armed forces who dies on or after December 7, 1941, and prior to January 1, 1948, instead of prior to the termination of the present war as proclaimed by the President. This amendment conforms to a similar amendment proposed by section 9 of H. R. 4069, Eightieth Congress, previously reported by your committee.

The bill retains the existing provision of section 421 that income taxes unpaid at the date of the death of a member of the armed forces shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment. This provision as to unpaid taxes is applicable to any taxable year of the decedent (dying after December 6, 1941, and prior to January 1, 1948, while serving as a member of the armed forces) even though the taxable year for which the taxes are unpaid ended prior to December 7, 1941, and even though the decedent was not a member of the armed forces during such earlier taxable year.

Section 2 of the bill extends the time for filing a claim for credit or refund of an income tax paid by a member of the armed forces dying while in service with respect to the taxable year in which falls the date of his death, or with respect to any prior taxable year (ending on or after December 7, 1941) during any part of which he was a member of such forces. If the allowance of credit or refund of such an overpayment is barred prior to January 1, 1948 (by the statute of limitations, or any other law or rule of law), section 2 of the bill provides that credit or refund of the overpayment to the extent that the overpayment is attributable to the change in law made by the bill may be allowed or made if claim therefor is filed before January 1, 1949.

