

RECIPROCAL EXEMPTION OF FOREIGN AIRCRAFT EARNINGS

APRIL 15 (legislative day, MARCH 29), 1948.—Ordered to be printed

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

REPORT

[To accompany H. R. 5448]

The Committee on Finance, to whom was referred the bill (H. R. 5448) to amend sections 212 (b) and 231 (d) of the Internal Revenue Code, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 3, line 2, strike the date "1947" and insert in lieu thereof the date "1945".

This bill extends to earnings of aircraft under foreign registry the reciprocal income tax exemption granted to earnings of ships under foreign flag since 1921. Under the bill the earnings of nonresident alien individuals and foreign corporations derived from the operation of aircraft registered under the laws of a foreign country will be excluded from their gross income for income-tax purposes if such foreign country grants an equivalent exemption to citizens of the United States and corporations organized in the United States. In view of the reciprocal character of the exemption your committee recommend amendment of the bill to make its provisions effective with respect to taxable years beginning after December 31, 1945. Reciprocal exemption of earnings from operation of aircraft as proposed by the bill has already been accomplished by income-tax conventions with Canada, the United Kingdom, France, and Sweden. Thirteen other countries have been found to satisfy the reciprocal requirement with respect to earnings of ships, and exemption of our aircraft from income taxation in those countries may be expected to follow enactment of this bill.

No loss to the Treasury is expected from enactment of this bill.

The report of the Committee on Ways and Means of the House of Representatives is as follows:

GENERAL STATEMENT

The bill would extend to earnings of aircraft under foreign registry the reciprocal income-tax exemption now granted to earnings of ships under foreign flag. Under the Revenue Act of 1921, earnings derived from the operation of ships documented under the laws of a foreign country were exempted from Federal income tax in the hands of nonresident alien individuals or foreign corporations, if that foreign country granted an equivalent exemption to citizens of the United States and to corporations organized in the United States. This exemption has been continued without change under subsequent revenue legislation.

Under the income-tax regulations, foreign countries which impose no income tax are considered as granting the equivalent exemption demanded by the statute. Countries which do impose an income tax and which have been found to satisfy the reciprocal requirement pertaining to ships' earnings include Belgium, Brazil, Canada, Denmark, Finland, France, Great Britain and Northern Ireland, Greece, Iceland, Ireland, Italy, the Netherlands, Norway, Panama, Spain, and Sweden. In the case of the foregoing countries, the reciprocal exemption has been evidenced by a formal exchange of notes through diplomatic channels. In the case of the following countries, there has been no formal exchange of notes but the Treasury has ascertained that they also satisfy the requirement for reciprocal exemption: Andorra, Argentina, Dominican Republic, Egypt, Guatemala, Honduras, Iran, Monaco, Morocco, Nicaragua, Saint Lucia, Siam, Straits Settlements, Switzerland, Uruguay, and Venezuela.

The exemption proposed to be extended by the bill to income consisting of earnings from the operation of foreign aircraft has already been so extended under income-tax conventions with Canada, Great Britain, France, and Sweden. The bill, therefore, would make generally available on a reciprocal basis, the exemption of aircraft earnings already accomplished by convention with these four countries. Other tax conventions are in process, but negotiations leading to the final exchange of ratifications of such conventions are usually long and tedious, involving many controversial issues. Your committee believes, therefore, that it would be definitely in the public interest to facilitate the exemption of aircraft earnings in the manner provided by the bill. Substantially all the earnings of ships are exempt from taxation by foreign countries and it is anticipated that the same policy with respect to earnings from the operation of aircraft will continue to find international favor.

Your committee is informed that reciprocal exemptions like the one proposed by this bill for incorporation into our income-tax law are already on the statute books of a number of foreign countries. Exemption of our air carriers from income taxation in those countries, therefore, will become practically automatic upon the enactment of the bill. The resulting saving of the time and expense necessarily involved in bilateral convention procedure is immediately apparent.

The present world leadership of the United States in international air transportation leaves little room for doubt that the enactment of this measure will mean a net gain in revenue to the Treasury. The tax relinquished on income derived by foreign carriers from sources within this country will probably be less than the taxes which would otherwise be imposed on the foreign income of our own carriers and which, subject to certain limitations, would be allowed as a credit against the United States tax imposed on the entire net income of our carriers. During the 6 months' period from January through June 1947, according to a Civil Aeronautics Board analysis of trans-Atlantic passenger traffic out-bound from and in-bound to New York City by scheduled United States and foreign air carriers, the number of passengers on United States planes was 60,398, as compared with 19,710 carried by foreign planes. Based on these figures, the percentage of passengers carried by United States planes during that period was over 75. This is particularly noteworthy in view of the fact that it is in the trans-Atlantic service that foreign competition is keenest and most highly developed.

But of greater significance, in the opinion of your committee, would be the encouragement furnished by the bill to the further expansion of the fast-growing, keenly competitive air-transport industry. Freedom from foreign taxation and the burdens of compliance with the diverse and unfamiliar administrative provisions of the laws that impose it will contribute much to the growth of our air-borne foreign commerce.

The Treasury Department is in accord with the policy of the bill, a policy which has been consistently followed in the negotiation of tax conventions with foreign countries since the development of commercial flying.

ANALYSIS OF THE BILL

SECTION 1

Subsections (a) and (b) of section 1 of the bill respectively amend in full sections 212 (b) and 231 (d) of the Internal Revenue Code.

The first of these code sections excludes from gross income and exempts from tax "the income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States." Section 231 (d) of the code grants the same exclusion and exemption, on the same reciprocal basis, to foreign corporations.

As amended by the bill, each of these code sections is divided into two paragraphs, the first of which continues the existing exemption of the earnings of ships under foreign registry and the second adds the new exemption of earnings derived from the operation of aircraft under foreign registry.

SECTION 2

Under section 2, the amendments made by the bill are applicable with respect to taxable years beginning after December 31, 1947.

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, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman, new matter proposed to be added is shown in italic):

"INTERNAL REVENUE CODE

"SEC. 212. GROSS INCOME.

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"(b) *EXCLUSIONS.*—*The following items shall not be included in gross income of a nonresident alien individual and shall be exempt from taxation under this chapter:*

"(1) *SHIPS UNDER FOREIGN FLAG.*—*[The income of a nonresident alien individual which consists exclusively of e] Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States; [shall not be included in gross income and shall be exempt from taxation under this chapter.]*

"(2) *AIRCRAFT OF FOREIGN REGISTRY.*—*Earnings derived from the operation of aircraft registered under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.*

"SEC. 231. TAX ON FOREIGN CORPORATIONS.

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