

Calendar No. 2183

81ST CONGRESS }
2d Session }

SENATE

} REPORT
No. 2181

AMENDING SECTION 120 OF THE INTERNAL REVENUE CODE

JULY 28 (legislative day, JULY 20), 1950.—Ordered to be printed

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

REPORT

[To accompany H. R. 7303]

The Committee on Finance, to whom was referred the bill (H. R. 7303) to amend section 120 of the Internal Revenue Code, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

Sections 1 and 2.

The purpose of sections 1 and 2 (which were in the bill as passed by the House) is to correct an error made in the Current Tax Payment Act of 1943.

Section 120 of the Internal Revenue Code waives the 15-percent limitation on allowable charitable deductions in the case of an individual whose charitable contribution in the current taxable year and in each of the 10 preceding years, plus his income taxes paid during the year with respect to preceding years exceeded 90 percent of his net income. The Current Tax Payment Act enacted in 1943 provided, however, that payments of income tax made during that year should be deemed to be on account of 1943 income tax, but it failed to make an essential amendment to section 120 of the code to provide that the 90-percent limitation applied also to taxes paid with respect to the current year. Accordingly this bill merely provides that taxes paid not only with respect to the past year but also those paid for the current year may be used as a factor in arriving at the 90-percent figure for purposes of section 120. Thus, for example, if during the calendar year 1950 a taxpayer makes charitable gifts amounting to 20 percent of his net income and his payments of current taxes amount to 50 percent and payments of taxes for prior years amount to 25 percent, the 90-percent requirement of section 120 would be satisfied for such year.

In order to achieve the desired coordination of section 120 with the Current Tax Payment Act of 1943 the amendment contained in this

bill is made retroactive to taxable years beginning after December 31, 1942.

Your committee has made a clarifying amendment to section 2 of the bill made necessary by the addition of section 3.

Section 3

The purpose of section 3 (which was not contained in the House bill) is to restore and continue the policy which the Congress adopted in 1934 in regard to the salaries of the General Counsel for the Treasury Department, the Assistant General Counsel for the Bureau of Internal Revenue, and the other Assistants General Counsel.

At the time these offices and positions were established by the Revenue Act of 1934, Congress recognized the desirability of a strong coordinated legal staff in a department with such a volume of significant legal problems as the Treasury, and established positions of appropriate rank to enable the Secretary to maintain a top-flight legal staff. It was provided that the General Counsel and the Assistant General Counsel for the Bureau of Internal Revenue would be appointed by the President after Senate confirmation, and their salaries were fixed at \$10,000. The other Assistants General Counsel were to be appointed by the Secretary without regard to the civil service laws and their salaries were to be fixed by him at not to exceed \$10,000.

The General Counsel is in fact one of the Department's five top-ranking officers, ranking with the three Assistant Secretaries in responsibilities and duties assigned and performed as well as in departmental organization. The Assistant General Counsel for the Bureau of Internal Revenue, generally known as the Chief Counsel of the Bureau of Internal Revenue, occupies a position of similar importance in the Bureau of Internal Revenue. The other five Assistants General Counsel, specially authorized by the Congress, provide the basis of the General Counsel's staff.

The General Counsel was not included in the recent omnibus pay legislation, however, and this lack of coverage, coupled with classifications by the Civil Service Commission, has resulted in salaries for the General Counsel and Assistants General Counsel which are out of line with their relative importance to the Department. When the General Counsel and the Assistant General Counsel for the Bureau of Internal Revenue were omitted from the Executive Pay Act, those positions automatically lost the pay of the relative rank they have had and have deserved since their inception, because the highest grade they could be given under the Classification Act of 1949 was lower than that provided for Assistant Secretaries. Moreover, the Civil Service Commission has classified the other positions of Assistant General Counsel below positions in the General Counsel's office which are inferior in rank. These distortions in the status and organization of the Treasury's legal staff require remedial action to restore and continue the policy adopted in the Revenue Act of 1934. To this end, section 3 of the bill amends sections 3930 (a) and 3931 (a) of the Internal Revenue Code to increase the salaries of the General Counsel and the Assistant General Counsel for the Bureau of Internal Revenue to \$15,000 and amends section 3931 (c) of such code to increase the salaries of the other Assistants General Counsel to not more than \$14,000.

The \$15,000 salaries of the General Counsel and the Assistant General Counsel for the Bureau of Internal Revenue will become effective as of the date of the enactment of this bill, superseding those which they have been given under the Classification Act of 1949.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE AND OTHER CONTRIBUTIONS.

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in section 23 (o) (or corresponding provisions of prior revenue acts) plus the amount of income, war profits, or excess profits taxes paid during such year **[in respect of preceding taxable years]** *in respect of such year or preceding taxable years*, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of the applicable subsection, then the 15 per centum limit imposed by section 23 (o) shall not be applicable.

SEC. 3930. GENERAL COUNSEL—APPOINTMENT, SALARY, AND DUTIES.

(a) There shall be in the Department of the Treasury the office of General Counsel for the Department of the Treasury (hereinafter in this chapter referred to as the "General Counsel"). The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of **[\$10,000]** *\$15,000* per annum. The General Counsel shall be the chief law officer of the Department, and shall perform such duties in respect of the legal activities thereof as may be prescribed by the Secretary or required by law.

(b) The General Counsel shall have such powers, duties, and functions as were formerly vested in and exercised by the offices of General Counsel for the Bureau of Internal Revenue, Assistant General Counsel for the Bureau of Internal Revenue, Solicitor of the Treasury, and Assistant Solicitor of the Treasury.

SEC. 3931. ASSISTANT GENERAL COUNSEL—APPOINTMENT, SALARIES, AND DUTIES.

(a) The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant General Counsel for the Bureau of Internal Revenue and to fix his compensation at a rate not in excess of **[\$10,000]** *\$15,000* per annum. The Secretary may appoint and fix the duties of such other Assistant General Counsel (not to exceed five) and such other officers and employees as he may deem necessary to assist the General Counsel in the performance of his duties.

(b) The Secretary may designate one of the Assistant General Counsels to act as the General Counsel during the absence of the General Counsel. The General Counsel, with the approval of the Secretary, is authorized to delegate to any Assistant General Counsel any authority, duty, or function which the General Counsel is authorized or required to exercise or perform.

(c) The Assistant General Counsel appointed by the Secretary may be appointed and compensated without regard to the provisions of the Classification Act of 1923, as amended, and the Civil Service laws and shall receive compensation at such rate (not in excess of **[\$10,000]** *\$14,000* per annum) as may be fixed by the Secretary.

