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**MANUFACTURERS' EXCISE TAX ON THE LEASES OF  
CERTAIN AUTOMOBILE UTILITY TRAILERS**

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JULY 26, 1955.—Ordered to be printed

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

**R E P O R T**

[To accompany H. R. 3437]

The Committee on Finance, to whom was referred the bill (H. R. 3437) to amend the Internal Revenue Code of 1954 to provide for a maximum manufacturers' excise tax on the leases of certain automobile utility trailers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act, the Committee on Finance accepts the report of the Committee on Ways and Means, which is as follows:

GENERAL STATEMENT

Section 4217 of the 1954 code provides that "\* \* \* the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by the manufacturer, producer, or importer shall be considered a taxable sale of such article."

Under this provision, if a manufacturer leases articles subject to a manufacturers' excise tax, the manufacturers' tax will apply to the amount of each lease payment on the same basis as if it were a sale.

This bill modifies the rule described above by adding a new subsection (d) to section 4216, relating to the definition of price, providing that the maximum tax imposed on the leasing of certain automobile trailers, or semitrailers, is to be an amount equal to the applicable tax rate (10 percent or 8 percent at the present time) multiplied by the fair market value of the trailer at the time of the initial lease. The taxpayer is given the option under the new subsection (d) to pay the tax in full at the time of the initial lease or to spread the tax payments over the period of the lease payments. Under the latter option the tax payable with respect to each lease payment is to be an amount equal to the applicable tax rate multiplied by the amount of each lease payment until the total amount collected in this manner equals the maximum tax described above. Thereafter the lease payments are to be free of tax.

The new subsection (d) provides that the treatment described above is to be available for trailers or semitrailers suitable for use with passenger automobiles whether the trailers are subject to the 8-percent tax on trucks and similar items, or to the 10-percent tax on passenger automobiles, etc.

At the present time manufacturers of utility trailers who also maintain a rental business are discriminated against, relative to businesses which carry on either, but not both of these activities. Frequently the sum of the rental payments

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received on a utility trailer substantially exceeds the price at which a manufacturer would sell such a trailer, since each such rental payment includes not only a pro rata portion of the cost of the trailer but also a share of the expenses of maintaining the rental business as well. Thus, the tax payable by the manufacturer who leases utility trailers is likely to be substantially greater than the tax of the manufacturer who sells these trailers. Moreover, a competitor who may lease the trailers but does not manufacture them pays no excise tax at all.

Provision is made under the new subsection (d) for cases where a trailer is sold after having been leased for a period of time but not long enough for the payment of the full tax. In such cases it is provided that the tax payable at the time of the sale is to be the difference between the tax already paid and the maximum tax described above. However, in such cases the tax is not to exceed the applicable tax rate (at the time of the initial lease) multiplied by the actual sales price of the trailer.

The committee amendment also makes provision for articles which have been leased prior to the effective date of the bill. In such a case the bill, as amended, provides that the lease is to be considered a new lease as of the effective date of the bill and that taxes paid on prior lease payments are to be ignored in applying this provision. If no lease is in effect on the date of enactment of the bill the taxpayer is to consider the first lease made after that date as the initial lease.

This bill is to be effective on the first day of the first month beginning more than 10 days after the date of its enactment.

It is estimated that the revenue loss involved in this provision will be negligible.

### 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):

#### SECTIONS 4216 AND 4217 OF THE INTERNAL REVENUE CODE OF 1954

##### "SEC. 4216. DEFINITION OF PRICE.

"(a) Containers, Packing and Transportation Charges.— \* \* \*

\* \* \* \* \*

"(c) PARTIAL PAYMENTS.—In the case of—

- (1) a lease (*other than a lease to which subsection (d) applies*),
- (2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,
- (3) a conditional sales, or
- (4) a chattel mortgage arrangement wherein it is provided that the sales price shall be paid in installments,

there shall be paid upon each payment with respect to the article that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment.

"(d) LEASES OF CERTAIN TRAILERS.—*In the case of any lease of a trailer or semitrailer taxable under section 4061 (a) and suitable for use in connection with passenger automobiles, there shall be paid, at the election of the taxpayer—*

- (1) upon the initial value a tax at the applicable rate specified in section 4061 (a) based upon the fair market price on the date of such lease, or
- (2) upon each lease payment with respect to such trailer or semitrailer, a percentage of such payment equal to the rate of tax which would be imposed upon the sale of such trailer or semitrailer, until the total of the tax payments under such lease and any prior lease equals the total tax. In any case where a trailer or semitrailer which has been leased is sold before the total tax has been paid, the tax payable on such sale shall be the difference between the tax paid on the lease payments and the total tax. For purposes of this paragraph, the term "total tax" means the tax computed, at the rate in effect on the date of the initial lease, on the fair market value on the date of such lease. However, in the case where a trailer or semitrailer which has been leased is sold before the total tax has been paid, the total tax shall not exceed a tax computed, at the rate in effect on the date of the initial lease, on the amount received on such sale (determined without regard to

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*section 4216 (b)) plus the total of the payments received by the lessor under any lease of such trailer or semitrailer.*

### SEC. 4217. LEASE CONSIDERED AS SALE.

"For the purposes of this chapter, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by the manufacturer, producer, or importer shall be considered a taxable sale of such article. *This section shall not apply to the lease of an article upon which the tax has been paid in the manner provided in section 4216 (d) (1) or the total tax has been paid in the manner provided in section 4216 (d) (2).*"

