

AMENDING CERTAIN PROVISIONS OF LAW RELATING TO THE ESTATE TAX

JULY 9, 1956.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 6595]

The Committee on Finance, to whom was referred the bill (H. R. 6595) to amend certain provisions of law relating to the estate tax, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, lines 4 and 5, strike out "November 11, 1935, and before January 30, 1940" and insert in lieu thereof "February 10, 1939".

Page 1, lines 10, 11, and 12, strike "or from the application of the first sentence of section 207 (b) of the Technical Changes Act of 1953 (67 Stat. 615; Public Law 287, Eighty-third Congress),".

Page 2, line 1, strike "presented" and insert in lieu thereof "prevented".

Page 2, lines 15, 16, and 17, strike", or from the application of the first sentence of section 207 (b) of the Technical Changes Act of 1953".

PURPOSE OF BILL

This bill, as amended by your committee, provides that in the case of certain transfers of property described in the so-called Technical Changes Act of 1949, by persons who died after February 10, 1939, refund or credit of any overpayment of estate tax may be made if it was prevented on October 25, 1949, by any law or rule of law (other than a closing agreement or compromise), and if a claim is filed within 1 year from the date of the enactment of this bill.

GENERAL STATEMENT

The Supreme Court in 1949 held that the retention of a life estate from property transferred without the retention of a reversionary interest came under the provision relating to intantion to take effect

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in possession or enjoyment at or after death and was sufficient to require the property to be included in the gross estate of the decedent. (See *Commissioner v. Estate of Church*, 335 U. S. 632 (1949).) The Supreme Court also held in the case of *Estate of Spiegel et al v. Commissioner* (335 U. S. 701 (1949)), that the retention of an extremely remote reversionary interest by operation of law was sufficient to require the property to be included in the gross estate of the decedent.

In the so-called Technical Changes Act of 1949 Congress provided certain relief from the effects of the Church and Spiegel cases. This act excluded from the gross estate all transfers made before October 8, 1949, with retained reversionary interests where such interest arose by operation of law or had a value immediately before the decedent's death of less than 5 percent of the value of the transferred property. It also excluded from the estate of all decedents dying before 1950 (subsequently made applicable to all decedents dying after 1950) all transfers with retained life estates made before March 4, 1931 (and under certain circumstances before June 7, 1932). The act permitted refunds in cases barred by the statute of limitations or by court decision where a reversionary interest alone was involved, but did not provide for reopening cases involving a retained life estate which had become barred prior to the date of enactment of the act. Public Law 761 of the 81st Congress amended this act to reopen cases that were not barred on January 16, 1949, the date of the decision in the Church case.

EXPLANATION OF BILL

This bill reopens estate-tax cases of persons dying after February 10, 1939, the effective date of the 1939 code, if refund or credit was prevented on October 25, 1949 (the date of the enactment of the Technical Changes Act of 1949) by any law or rule of law other than a closing agreement or compromise. Your committee's bill is the same as that which passed the House, except that the House bill applied to persons dying after November 11, 1935, and before January 30, 1949; whereas, your committee's bill applies only to persons dying after February 10, 1939, the effective date of the 1939 code. The treatment accorded under this bill is consistent with the rule adopted in the Technical Changes Act of 1949 granting refunds in closed cases of decedents dying after the enactment of the 1939 code where the decedent retained only a reversionary interest having a value of less than 5 percent in the property transferred. This bill will allow refunds in cases where there was also a life estate retained and the reversionary interest had a value of less than 5 percent immediately before the decedent's death.

In some instances the exclusion of the transfer from the gross estate of the decedent may increase other taxes although it will decrease the estate tax of the transferor. For example, if the residuary legatee of the transferor made a gift expressed as a percent of his legacy, the value of the gift would be reduced by the fact that the estate tax on the transfers in trust with a retained life estate would be paid from the residuum. If he paid a gift tax on the assumption that the transfers in trust were not includible in the gross estate, he would properly have been given a refund of this gift tax when it was determined the transfers in trust were subject to the estate tax. Thus, the gift tax on such a

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gift would be decreased by the inclusion of the trust in the gross estate while the estate tax would be increased. Therefore, in determining the amount of the refund under this bill, it is required that the amount of the overpayment of estate tax be reduced by the amount of any gift tax refunded (together with interest paid thereon) by the United States by reason of the inclusion in the gross estate of the property causing the overpayment of the estate tax.

No interest is to be allowed or paid on any overpayment resulting from the application of this bill.

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