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## EXCISE TAX TECHNICAL CHANGES ACT OF 1958

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August 13, 1958.—Ordered to be printed

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Mr. MILLS, from the committee of conference, submitted the following

### CONFERENCE REPORT

[To accompany H. R. 7125]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7125) to make technical changes in the Federal excise tax laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 16, 18, 19, 21, 32a, 48 (2), 51, 53, 54, 55, 56, 57, 59, 61, 63, 83a, 83b, and 88b.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39a, 39b, 40, 41, 42, 43, 44, 45, 46, 47, 48 (1), 49, 50, 52, 58, 60, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 80b, 80d, 81, 82, 83, 84, 85, 86, 87, 88, 88a, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 111a, 111b, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, and 153; and agree to the same.

Amendment numbered 32b:

That the House recede from its disagreement to the amendment of the Senate numbered 32b, and agree to the same with an amendment as follows:

On page 40 of the House engrossed bill, line 7, after the period insert *No interest shall be allowed or paid on any overpayment in respect of dues or fees paid on or before the date of the enactment of this Act, if refund or credit of such overpayment would not be allowable but for subsection (c) of such section 4243, as added by subsection (b) of this section.*; and the Senate agree to the same.

## Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35 and agree to the same with the following amendments:

Restore the matter proposed to be stricken out by the Senate amendment.

On page 51 of the House engrossed bill, in line 4, strike out "137" and insert 135

On page 51 of the House engrossed bill, beginning with line 13, strike out all through line 2 on page 52 and insert:

"(a) *EXEMPTION.*—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under section 4251 or 4261 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization.

And the Senate agree to the same.

## Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment, omit the matter proposed to be inserted by the Senate amendment, and on page 58, line 10, of the House engrossed bill, strike out "6 cents" and insert 8 cents; and the Senate agree to the same.

## Amendment numbered 80a:

That the House recede from its disagreement to the amendment of the Senate numbered 80a, and agree to the same with an amendment as follows:

On page 146 of the House engrossed bill, in the matter following line 14, strike out "Sec. 5023. Tax on blending of beverage brandies." and insert:

"Sec. 5023. Tax on blending of beverage rums or brandies.

And the Senate agree to the same.

## Amendment numbered 80c:

That the House recede from its disagreement to the amendment of the Senate numbered 80c, and agree to the same with an amendment as follows:

On page 151, line 20, of the House engrossed bill, strike out "blended whiskies" and insert *blended whiskies, blended rums;* and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment as follows:

On page 42 of the Senate engrossed amendments, in line 14, strike out "law pertaining to the subject matter of such subtitle" and insert *law of the United States pertaining to the commodities subject to tax under such subtitle*; and the Senate agree to the same.

W. D. MILLS,  
N. J. GREGORY,  
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HARRY F. BYRD,  
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*Managers on the Part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7125) to make technical changes in the Federal excise tax laws, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Many of the Senate amendments made technical, clerical, clarifying, or conforming changes in the bill as passed the House. These changes include changes made necessary by the lapse of time and changes to conform the bill to the Tax Rate Extension Act of 1958 (including the repeal of taxes on transportation of property). With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

In addition to the amendments of the nature described in the preceding paragraph, the Senate amendments made a number of substantive changes. These changes, and the action agreed upon by the conferees, are explained below:

### TITLE I—MISCELLANEOUS EXCISE TAXES

#### *Exemption for nonprofit educational organizations*

Amendments Nos. 2, 16, 35, and 53: The bill as passed the House provided exemptions for nonprofit educational organizations from the retailers excise taxes (sec. 105 of the House bill), the manufacturers excise taxes (sec. 4221 (a) (5) of the code, as amended by sec. 119 (a) of the House bill), and the communications and transportation taxes (sec. 137 of the House bill). The House bill also included a provision under which the manufacturers excise tax paid with respect to an article was to be deemed to be an overpayment if the article was by any person sold to a nonprofit educational organization for its exclusive use (sec. 6416 (b) (2) (D) of the code, as amended by sec. 163 (a) of the House bill).

Senate amendments Nos. 2, 16, 35, and 53 struck out these provisions of the House bill.

The Senate recedes.

#### *Parts and accessories for farm equipment*

Amendment No. 3: The bill as passed by the House (sec. 111) provided an exemption for automobile parts and accessories (other than spark plugs and storage batteries) used by the manufacturer, producer, or importer thereof as a repair or replacement part or accessory for farm equipment. The House bill also provided an exemption for the sale of such parts or accessories to a purchaser who certifies that the part or accessory is to be used by him as a repair or replacement part or accessory for farm equipment or is to be resold

by him for such use. Present law which allows credit or refund with respect to such use is continued unchanged.

Senate amendment No. 3 struck out this provision of the House bill.

The House recedes.

*Tape and wire recorders, players, and recorder-players*

Amendments Nos. 7 and 8: The House bill amended section 4141 of the code to add to the base of the 10-percent tax on radios, television sets, etc., the following articles: Tape and wire recorders, players, and recorder-players. However, the bill as passed the House would have exempted those tape and wire recorders, etc., which were designed for certain commercial, industrial, or scientific uses.

Senate amendments Nos. 7 and 8 struck out these provisions of the House bill.

The House recedes.

*Stencil-cutting machines of the type used in marking freight shipments*

Amendment No. 9: The Senate amendment provides an exemption from the tax imposed by section 4191 of the code (business machines) for stencil-cutting machines of the type used in shipping departments in making cutout stencils for marking freight shipments.

The House recedes.

*Constructive sale price for manufacturers excise taxes*

Amendment No. 11: The House bill amended section 4216 of the code to permit the application of a constructive sale price in the case of sales by manufacturers to retailers.

The Senate amendment expanded the application of the constructive sale price provisions so as to also apply in the case of sales by the manufacturer to certain special dealers who do not in reality act as normal wholesale dealers. In the case of sales to a special dealer, if certain other requirements are met, the sales price for tax purposes is whichever of the following prices is lower: (1) The price for which the article is sold or (2) the highest price for which such articles are sold by such manufacturers, producers, or importers to wholesale distributors (other than special dealers). "Special dealer" is defined as a distributor of taxable electrical, gas, and oil appliances (taxed under sec. 4121 of the code) who does not maintain a sales force to resell appliances but who instead relies on salesmen of the manufacturer, producer, or importer of the appliances for their resale to retailers.

The House recedes.

*Sales of mechanical pencils, fountain pens, and ball-point pens for export*

Amendments Nos. 22 and 23: Senate amendment No. 22 provides that taxable mechanical pencils, fountain pens, and ball-point pens (taxed under sec. 4201 of the code) may be sold by the manufacturer on a tax-free basis for export only after the manufacturer receives notice of intent to export the pens or pencils. Senate amendment No. 23 provides that the registration requirements are not to apply in the case of pens and pencils sold by the manufacturer for export or for resale for export because the notice of intent rule mentioned above is to apply in lieu of the registration provisions.

The House recedes.

*Exemption of \$1 paid for admissions*

Amendment No. 25: Under present law (sec. 4231 of the code) the general admissions tax applies only if the amount paid for admissions is more than 90 cents (or in the case of a season ticket or subscription if the amount which would be charged for a single admission is more than 90 cents). The Senate amendment provides that the general admissions tax of 1 cent for each 10 cents or major fraction is to apply only to amounts in excess of \$1 paid for admission. The amendment also provides that in the case of a season ticket or subscription for admission the tax is imposed on the amount paid for such season ticket or subscription which is in excess of \$1 multiplied by the number of admissions provided by such season ticket or subscription.

The House recedes.

*Admissions inuring to the benefit of scholarship and fellowship funds*

Amendment No. 28: The Senate amendment adds to section 4233 (a) (1) (A) (exemption from admissions tax of certain religious, educational, or charitable entertainments, etc.) an exemption for admissions inuring to a tax-exempt educational, charitable, or religious trust or organization (described in sec. 501 (c) (3)) which is organized and operated exclusively to provide scholarships and fellowships for study above the secondary school level. The application of this provision is limited by subparagraph (C) of section 4233 (a) (1) (relating to nonexempt admissions).

The House recedes.

*Dues and fees paid to certain swimming and skating clubs*

Amendment No. 32: The House bill provided that all amounts paid as dues or fees to any club or other organization organized and operated primarily for the purpose of providing swimming facilities for its members shall be exempt from the tax imposed by section 4241 (club dues) if certain conditions are established. The Senate amendment provides that the exemption from the club dues tax in the case of these swimming clubs shall also be applicable to clubs providing skating facilities.

The House recedes.

*Effective date for exemptions of assessments for capital improvements*

Amendment No. 32a: The House bill provides that subsection (b) of section 4243 of the code (assessments for capital improvements), as added by subsection (b) of section 132 of the bill, shall apply only with respect to assessments paid on or after the effective date specified in section 1 (c) of the bill for construction or reconstruction begun on or after such effective date. Section 1 (c) provides that the effective date is the first day of the first calendar quarter which begins more than 60 days after the date on which the bill is enacted. The Senate amendment provided that the effective date shall be applicable with respect to assessments paid on or after June 1, 1958, for construction or reconstruction begun on or after such date.

The Senate recedes.

*Effective date for exemption of swimming and skating facilities*

Amendment No. 32b: The House bill provided that subsection (c) of section 4243 (nonprofit swimming facilities), as added by subsection (b) of section 132 of the bill, shall apply only with respect to amounts (including assessments for construction or reconstruction) paid on or

after the effective date specified in section 1 (c) of the bill. Section 1 (c) provides that the effective date is the first day of the first calendar quarter which begins more than 60 days after the date on which the bill is enacted. The Senate amendment provides that the amendment added by the bill shall apply only with respect to amounts paid on or after January 1, 1958.

The House recedes with an amendment providing that interest shall not be paid with respect to any refunds resulting from this amendment where the dues or fees are paid on or before the date of the enactment of the bill.

#### *Stock issuance tax in case of recapitalizations*

Amendment No. 36: Section 141 (a) of the House bill provided that the tax imposed on shares or certificates of stock issued in connection with a transfer from any surplus account (other than earned surplus accounts) to capital will be based generally on the total increase in capital. Senate amendment No. 36 restores the provision relating to recapitalization in existing law, modifying it only to the extent necessary to take into account the change in method of computing the issuance tax from par value to actual value.

The House recedes.

#### *Stock transfer tax*

Amendment No. 39: Section 141 (a) of the House bill provided that in no case is the stock transfer tax to exceed 6 cents a share. Senate amendment No. 39 eliminated this ceiling on tax. The House recedes with an amendment to the effect that in no case is the stock transfer tax to exceed 8 cents a share.

#### *Certification of value of stock*

Amendment No. 39a: Senate amendment No. 39a provides that where tax is paid by stamp that the presentation for transfer of shares or certificates of stock or rights to subscribe for or to receive such shares or certificates shall be accompanied by a certification of the transferor or transferee as to the actual value of such shares or certificates which certification may be relied upon by any corporation or transfer agent without further inquiry.

The House recedes.

#### *Application of stamp taxes to certain corporate reorganizations*

Amendment No. 42: Senate amendment No. 42 provides a new exemption from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 of the code in the case of corporate reorganizations where the change is a mere change in identity, form, or place of organization, however effected.

The House recedes.

#### *Credit or refund in the case of certain exported articles*

Amendment No. 62: Under present law, a tax-free sale may be made, or subsequently a credit or refund may be claimed, only where there is knowledge at the time of the original sale that the article was being purchased for export.

Under the bill as passed by the House, it became immaterial whether the article was intended to be exported at the time of its sale by the original manufacturer.

The Senate amendment makes an exception to the House rule in the case of the export of articles taxable under sections 4061 (a), 4111, 4121, or 4141 (that is automobiles, refrigeration equipment, electric, gas, and oil appliances, and radio and television sets, phonographs, etc.). In the case of these articles, refunds or credits are to be available only if sold by the manufacturer, producer, or importer for export after receipt of notice from the purchaser of intent to export the article or to resell it for export.

The House recedes.

## TITLE II—ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES

### *Distilled spirits refunds—statute of limitations*

Amendment No. 76 (3): The bill as passed the House provided for refunds or credits of the tax (within certain limitations) for losses incurred incident to rectifying and bottling of distilled spirits after payment or determination of tax. The House bill did not contain a statute of limitations in respect of such refunds. Senate amendment No. 76 (3) provides a specific statute of limitations comparable to others provided in chapter 51.

The House recedes.

### *Blending and treatment of rums*

Amendments Nos. 80a, 80b, 80c, 80d, 88a, 111a, and 111b: These Senate amendments (for which there are no comparable provisions in the House bill) extend to rums the same privileges with respect to the addition of caramel on bonded premises, and with respect to blending as are extended to brandies under existing law.

The House recedes.

### *Production of beer for family use*

Amendments Nos. 83a, 83b, and 88b: Amendments Nos. 83a and 83b (for which there is no comparable provision in the House bill) would provide that the duly registered head of a family could produce for family use without payment of the tax an amount not to exceed 200 gallons of beer a year. Amendment No. 88b would revise the definition of "brewer" as contained in the House bill so as to relieve a producer of beer for family use from the special (occupational) tax on brewers.

The Senate recedes.

### *Applicability of certain provisions to Puerto Rico and the Virgin Islands*

Amendment No. 117: The House bill generally continued the provisions of existing law which applied the industrial alcohol laws of the United States to Puerto Rico and the Virgin Islands. The above Senate amendment provides that these provisions of the internal revenue laws which allow denatured alcohol and articles made therefrom to be brought into the United States free of tax shall not apply to the Commonwealth of Puerto Rico unless the Legislative Assembly of the Commonwealth expressly consents thereto in the manner prescribed for the enactment of law. This provision closely corresponds to the provision contained in the Narcotics Act of 1956. (See sec. 4774 I. R. C., 1954, as amended.)

The House recedes.



*Loss of distilled spirits of Puerto Rican origin*

Amendments Nos. 88, 146, and 147: The House bill would have allowed refunds or credits of tax in respect of distilled spirits, wines, rectified products and beer of Puerto Rican manufacture brought into the United States and thereafter lost by reason of a major disaster. Subsequent to the time the bill was reported by the Committee on Ways and Means the Legislative Assembly of the Commonwealth of Puerto Rico passed legislation providing for credits or refunds in respect of such Puerto Rican products brought into the United States and subsequently lost by reason of a major disaster.

The Senate amendments make the disaster refund provisions not applicable to Puerto Rican products.

The House recesses.

*National emergency provisions*

Amendment No. 129: The House bill continued the provisions of law allowing the Secretary to waive certain requirements where necessary in the interest of national defense. The House bill contained a termination date for this authority. This amendment strikes the termination date.

The House recesses.

*Tobacco return system*

Amendment No. 137: The House bill required that a system of payment of tax by return (rather than by stamp) be instituted for manufacturers of tobacco products, with a prescribed period of deferment of not less than 7 days. This amendment strikes this provision of the House bill. The effect of this amendment is to continue the the provision of existing law which leaves to the discretion of the Secretary of the Treasury whether or not to institute a return system.

The House recesses.

*Effective date provisions*

Amendment No. 149 (2): This amendment changes the effective date of the general revision of chapter 51 from July 1, 1958, to July 1, 1959, and makes the Senate amendments to subtitle F, as contained in title II of the bill, which are not related to the revision of chapter 51, effective on the day following the date of enactment. It also provides that any provision of chapter 51 may be made effective at an earlier date if regulations so provide.

The House recesses.

W. D. MILLS,  
N. J. GREGORY,  
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