

EXEMPTION FROM ADMISSIONS TAX FOR ATHLETIC GAMES BENEFITING CRIPPLED OR RETARDED CHILDREN

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

R E P O R T

[To accompany H.R. 4857]

The Committee on Finance, to whom was referred the bill (H.R. 4857) to provide that the exemptions from the admissions tax for athletic games benefiting crippled or retarded children shall apply where the participants have recently attended designated schools or colleges as well as where they are currently students, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY OF BILL

This bill amends two of the exemptions from the admissions tax to provide that in determining whether an athletic game is played between "students" from elementary or secondary schools, or colleges, where the proceeds inure to a hospital for crippled children, or an exempt organization operated exclusively for the benefit of retarded children, the term "student" is to include anyone who was a student at the school or college within the 8 months immediately before the athletic game. This will make the exemption available for "all-star" and other similar benefit games even though the game is played shortly after the end of the school or college year. This is to be effective for amounts paid on or after the date of enactment. The bill, which is favored by the Treasury Department, was reported unanimously by the committee.

II. GENERAL STATEMENT

Among the exemptions provided by present law in the case of the admissions tax are:

- (1) Athletic games and exhibitions where the proceeds inure exclusively to the benefit of elementary and secondary schools;

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(2) Athletic games between teams composed of students from elementary or secondary schools, or colleges, if the gross proceeds from the games inure to the benefit of hospitals for crippled children;

(3) Athletic events between educational institutions during the regular athletic season if the proceeds inure to the benefit of the institutions, hospitals for crippled children, or both; and

(4) Athletic games between teams composed of students from elementary or secondary schools, or colleges, if the proceeds from the games inure to the benefit of an exempt educational, charitable, or religious organization operated exclusively for the purpose of aiding and advancing retarded children.

It will be noted that in the second and fourth categories listed above the exemption is available only if the athletic game is between teams composed of "students" from elementary or secondary schools, or colleges. Thus, under present law these exemptions are not available if any of the players have just graduated and therefore are no longer "students" in the schools they formerly attended. As a result, an exemption from the admissions tax presently may not be available where the otherwise qualifying benefit game is played after the close of the school year.

The committee believes there is no reason to discriminate against some of the "all-star" and similar athletic games by denying admissions tax exemptions merely because they are playing a short time after the close of the school year. Therefore, the committee in this bill is amending the Internal Revenue Code (sec. 4233(a)(11)) to provide that a "student" for purposes of the two exemption categories referred to above is to include an individual who was a student of a school or college at any time in the 8 months immediately prior to the athletic game in question.

This change is to be effective for amounts paid on or after the date of enactment of this bill. The revenue effect of the change is believed to be relatively small.

The Treasury Department has indicated that it favors the bill and it has been reported unanimously by the committee.

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

SECTION 4233 OF THE INTERNAL REVENUE CODE OF 1954

SEC. 4233. EXEMPTIONS.

(a) Allowance.—No tax shall be imposed under section 4231 in respect of:

(1) Certain religious, educational, or charitable entertainments, etc.—

(A) In general.—Except as provided in subparagraph (C), any admissions all the proceeds of which inure exclusively to the benefit of—

(i) a church or a convention or association of churches;
(ii) an educational institution described in section 501(c)(3) which is exempt from tax under section 501(a) or which is an educational institution of a government or political subdivision thereof, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(iii) a corporation or any community chest, fund, or foundation organized and operated exclusively for charitable purposes, described in section 501(c)(3) which is exempt from tax under section 501(a), if such corporation or organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions from the general public.

(iv) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support voluntary contributions;

(v) an organization (organized prior to October 1, 1951) described in section 501(c)(3) which is exempt from tax under section 501(a) and which is operated for the purpose of conducting an annual chautauqua program of educational, cultural, and religious activities at a permanent location;

(vi) National Guard organizations, Reserve officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions;

(vii) a trust or organization described in section 501(c)(3) which is exempt from tax under section 501(a) and which is organized and operated exclusively to provide scholarships and fellowships for study above the secondary level—

if no part of net earnings thereof inures to the benefits of any private stockholder or individual.

(B) Policemen's and firemen's disability funds.—Except as provided in subparagraph (C), any admissions all the proceeds of which inure exclusively to the benefit of a police or fire department of any city, town, village, or any municipality or exclusively to a retirement, pension, or disability fund for the sole benefit of members of such a police or fire department or to a fund for the heirs of such members.

(C) Nonexempt admissions.—The exemption provided under subparagraph (A) or (B) shall not apply in the case of admissions to—

(i) any athletic game or exhibition unless the proceeds inure exclusively to the benefit of an elementary or secondary school or unless in the case of an athletic game between teams composed of students from ele-

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mentary or secondary schools, or colleges, the entire gross proceeds from such game inure to the benefits of a hospital for crippled children.

(ii) wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions,

(iii) carnivals, rodeos (except as provided in paragraph (9)), or circuses in which any professional performer or operator participates for compensation, or

(iv) any motion picture exhibition.

Clauses (i) and (ii) shall not apply in the case of any athletic event between educational institutions held during the regular athletic season for such event, if the proceeds therefrom inure exclusively to the benefit of such institutions or to the benefit of hospitals for crippled children, or both.

* * * * *

(11) **Athletic games for benefit of retarded children.**—Any admissions to an athletic game between teams composed of students from elementary or secondary schools, or colleges, if the proceeds from such game inure exclusively to the benefit of an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and which is operated exclusively for the purpose of aiding and advancing retarded children. *In determining whether a team participating in an athletic game is composed of students from elementary or secondary schools or colleges for purposes of this paragraph or paragraph (1)(C)(i), an individual who is a member of such team shall be considered a student from an elementary or secondary school or a college if he was a student of such school or college at any time during the 8-month period ending on the date of the athletic game.*

(b) **State Defined.**—For purposes of subsection (a), the term “State” includes Hawaii, and the District of Columbia.

