

INCOME TAX EXEMPTION FOR CERTAIN NONPROFIT ORGANIZATIONS ORGANIZED AFTER AUGUST 31, 1951, AND BEFORE SEPTEMBER 1, 1957

JANUARY 21, 1960.—Ordered to be printed

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

REPORT

[To accompany H.R. 6155]

The Committee on Finance, to whom was referred the bill (H.R. 6155) to amend the Internal Revenue Code of 1954 to exempt from taxation certain nonprofit corporations or associations organized after August 31, 1951, having considered the same report favorably thereon with an amendment and recommend that the bill as amended do pass.

I. SUMMARY OF BILL

This bill moves forward from September 1, 1951, to September 1, 1957, the date before which certain mutual deposit guarantee funds must be organized in order to qualify for income tax exemption. The other requirements for the exemption, which are left unchanged by this bill, provide that the organizations must be mutual, nonprofit organizations without capital stock and operated to provide reserves and insurance for building and loan associations, cooperative banks, or mutual savings banks.

Three of the four presently existing mutual deposit guarantee funds were organized before September 1, 1951, and therefore presently qualify for exemption. A fourth such organization organized after that date but before September 1, 1957, will qualify for exemption under this bill. These organizations perform essentially the same type of services as the FDIC and FSLIC, Federal corporations which are exempt from income taxation.

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II. COMMITTEE AMENDMENT

The bill as passed by the House of Representatives on August 25, 1959, provided relief with respect to taxable years beginning after December 31, 1958. In order to remove retroactive application, the effective date of relief provided by the bill was changed by your committee to taxable years beginning after December 31, 1959.

III. GENERAL STATEMENT

Under present law an exemption from income tax is provided for nonprofit, mutual organizations having no capital stock which are operated for the purpose of providing reserve funds for, and insurance of, shares or deposits in domestic building and loan associations, cooperative banks, or mutual savings banks. However, in order to be exempt these organizations also must have been organized before September 1, 1951. This special exemption was provided in the Revenue Act of 1951. Before that time all of these organizations were held exempt under the more general exemption then provided for mutual savings banks and saving or building and loan associations.

There are four such organizations now in existence: Two in Massachusetts, one in Connecticut, and one in Ohio. All of these are nonprofit, mutual deposit guarantee organizations without capital stock organized for the benefit of a group of mutual savings banks or for a group of building and loan associations. These guarantee organizations provide two services for their member banks. First, they provide a deposit insurance fund to aid their members in financial difficulty and in final extremities to pay off the depositors in full if a member bank is liquidated. Second, they also maintain a liquidity fund (which may or may not be a fund separate from the deposit insurance fund) to make loans to member banks which are basically sound but short of liquid assets. The deposit insurance fund is built by premium charges and the liquidity fund by deposits made with the guarantee organization. In addition, investment income is earned by the organization on both types of funds although there is little accumulation in the case of the liquidity funds since interest generally is paid on these deposits of the member banks.

As is indicated by the above description these guarantee organizations, although operating somewhat differently from the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, provide, essentially the same services for their members. The FDIC and FSLIC are Federal corporations and exempt from income tax on their investment earnings. Three of the four private organizations providing essentially the same services for their members also are exempt because they were organized before September 1, 1951, the approximate time when the exemption for these organizations was added to the law. Because the guarantee organization in Ohio, although performing the same services, was organized after that date it presently is denied exemption.

Your committee's bill corrects this discrimination by moving forward from September 1, 1951, to September 1, 1957, the date before which these guarantee funds must have been organized in order to obtain income tax exemption. However, this change is to apply for taxable years beginning in 1960 or subsequent years. The effect of

this is to grant exemption to the Ohio organization only for the present and future years. All other requirements for this exemption remain unchanged.

This bill is expected to have a negligible effect on revenues.

The favorable report of the Treasury Department is as follows:

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, January 20, 1960.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to a request for the views of this Department on H.R. 6155, to amend the Internal Revenue Code of 1954 to exempt from taxation certain nonprofit corporations or associations organized after August 31, 1951.

Section 501(c)(14) exempts from income tax corporations or associations without capital stock organized before September 1, 1951, and operating on a mutual nonprofit basis to provide reserve funds for, or the insurance of, shares or deposits in domestic building and loan associations, cooperative banks, and mutual savings banks. H.R. 6155 would extend the exemption to similar corporations or associations organized before September 1, 1957. The amendment would apply to taxable years beginning after December 31, 1958.

Present section 501(c)(14) originated in section 313 of the Revenue Act of 1951 which eliminated the exemption from tax previously accorded to domestic building and loan associations, cooperative banks, and mutual savings banks. It was added in conference. In its consideration of the Technical Amendments Act of 1958 (H.R. 8381), the Senate adopted a floor amendment (No. 8-5-58-D) identical to that contained in section 1 of H.R. 6155. That amendment was opposed by this Department on the ground there was insufficient time to examine the specific organizations involved and to determine whether there was a basic reason for the original date limitation. The amendment was dropped in conference.

It is understood that H.R. 6155 was introduced at the instance of the Ohio Deposit Guaranty Fund, a mutual deposit guarantee association which was organized on December 6, 1956, under an Ohio statute which became effective on October 12, 1955. The fund was organized exclusively for the purpose of assuring the liquidity of and guaranteeing the deposits in domestic building and loan associations in Ohio. According to advice given the Department, the fund's membership consists of more than 100 building and loan associations of which some 90-odd are located in Hamilton County, Ohio.

In the past the fund has unsuccessfully sought tax-exempt status administratively and through legislation. On June 25, 1958, its application for exempt status was denied by the Internal Revenue Service because it was organized subsequent to August 31, 1951. Amendment No. 8-5-58-D, previously referred to, was introduced by Senator Bricker.

It has been brought to the Department's attention that the predecessor of section 501(c)(14) was added to the Revenue Act of 1951 at the behest of two mutual deposit guarantee funds in Massachusetts. Such provision was drafted by counsel for those organizations who

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state that the 1951 cutoff date was included solely so that it could be represented that the revenue effects would be limited to the two Massachusetts funds, a fund in Connecticut and one in New Hampshire. The latter fund is no longer in existence.

Under the circumstances described above it would seem difficult to deny exemption from tax for the Ohio Deposit Guaranty Fund while the few existing similar organizations are exempt from tax. Accordingly, the Department would not object to enactment of the bill.

It should be noted that the relief provided by the bill as passed by the House in 1959 would apply with respect to taxable years beginning after December 31, 1958. In order to remove retroactive application, the effective date of relief provided by the bill should be changed to taxable years beginning after December 31, 1959.

The Bureau of the Budget has advised the Treasury Department that there is no objection to the presentation of this report.

Sincerely yours,

JAY W. GLASMANN,
Assistant to the Secretary.

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 501 OF THE INTERNAL REVENUE CODE OF 1954

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) EXEMPTION FROM TAXATION.—An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, or 504.

* * * * *

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) * * *

* * * * *

(14) Credit unions without capital stock, organized and operated for mutual purposes and without profit; and corporations or associations without capital stock organized before September 1, [1951] 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(A) domestic building and loan associations,

(B) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

(C) mutual savings banks not having capital stock represented by shares.