

STATE TAXATION WITH RESPECT TO SALES IN INTER- STATE COMMERCE

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

REPORT

[To accompany S. 3549]

The Committee on Finance, to whom was referred the bill (S. 3549) to amend the act of September 14, 1959, with respect to sales and use taxes imposed by States on sales and other business activities in interstate commerce, and authorizing studies by congressional committees of this type of taxation, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

This bill, as amended by your committee, provides for a study by the Committee on the Judiciary of the House of Representatives and the Committee on Finance of the Senate of all matters pertaining to the imposition of sales and use taxes by the States on sales and other business activities which are exclusively in furtherance of interstate commerce. The purpose of the prescribed study is to establish a sound factual basis for recommending to Congress proposed legislation providing uniform standards to be observed by the States in imposing sales and use taxes on interstate sales and business activities. Under the bill, the results of the study together with proposals for legislation are required to be reported to the House of Representatives and the Senate on or before July 1, 1962.

In 1959, following extensive hearings by various committees, Congress passed and the President signed into law a bill (Public Law 86-272) limiting the power of States to impose taxes measured by net income upon income derived from interstate commerce if the only business activities within the State consisted of (a) the solicitation of orders for sales of tangible personal property, if the orders were accepted and filled by shipment from a point outside the State, or (b) the

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solicitation of orders in the name of or for the benefit of a prospective customer (generally a retail dealer within the State), if the orders were accepted and filled by shipment from a point outside the State. In addition to making it plain that maintenance of a sales office by an independent contractor did not constitute "doing business" within the State so as to make the manufacturer liable for a net income tax within that State, the 1959 law provided for a congressional study to be completed on or before July 1, 1962, of State net income taxes on incomes derived from business conducted in interstate commerce for the purpose of recommending proposed legislation providing uniform standards to be observed by the States in imposing such taxes on incomes derived from business conducted in interstate commerce. The limitations enacted in 1959 constituted, in effect, stopgap legislation.

COMMITTEE AMENDMENT

As introduced, this bill would have provided similar limitations upon the imposition of sales and use taxes by the States with respect to sales in interstate commerce. It thus would have prevented sales and use taxes from being imposed by a State in situations such as prevailed in *Scripto, Inc. v. Carson* (362 U.S. 207 (1960)). Your committee believes that the study with respect to income taxes should be broadened to include sales and use taxes imposed by the States with respect to sales in interstate commerce rather than positive action taken on sales and use taxes at this time. Consequently, your committee has deleted that portion of the bill which would have imposed immediate limitations on the power of States to impose certain sales and use taxes. Under your committee's bill, as in the case of the income tax study, the study of sales and use taxes with respect to sales in interstate commerce and the recommendations are to be completed on or before July 1, 1962.

