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HOUSEHOLD EFFECTS—MONOFILAMENT GILL FISH NETS—ACCIDENT AND HEALTH INSURANCE CONTRACT PREMIUMS

JULY 11, 1962.—Ordered to be printed

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

REPORT

[To accompany H.R. 12180]

The Committee on Finance, to whom was referred the bill (H.R. 12180) to extend for a temporary period the existing provisions of the law relating to the free importation of personal and household effects brought into the United States under Government orders, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

PURPOSE OF THE BILL

The purpose of H.R. 12180 is to extend for 2 years, until July 1, 1964, the existing provisions of law relating to the free importation of personal and household effects brought into the United States under Government orders.

GENERAL STATEMENT ON THE BILL

The act of June 27, 1942 (Public Law 633, 77th Cong.), allowed, until the day following the proclamation of peace by the President, the free entry of personal and household effects of any person returning to the United States under Government orders.

Public Law 450 of the 82d Congress extended the period of free entry to April 1, 1953.

Public Law 20 of the 83d Congress continued the free-entry privilege to July 1, 1955.

Public Law 126 of the 84th Congress extended the period of free entry to June 30, 1958. This public law also amended the basic law in several respects, including granting authority to the Secretary of

the Treasury to promulgate appropriate regulations so as to prevent abuse of the free-entry privilege with regard to alcoholic beverages and tobacco products.

Public Law 85–398 further extended the period of free entry to July 1, 1960, while Public Law 86–563 continued this free-entry privilege until July 1, 1962.

H.R. 12180 would further extend the free-entry privilege for a period of 2 additional years, until July 1, 1964.

The effect of this duty-free importation privilege is to avoid the imposition of undue administrative burdens upon persons evacuated to the United States, and constitutes an important morale factor and inducement to oversea service.

In view of the continued presence in many parts of the world of members of the Armed Forces of the United States and Government personnel, there is need for continuation of the exemptions from duty of personal and household effects brought into the United States under Government orders. The basic legislation is safeguarded from abuse not only by restrictions contained in the act but also by appropriate regulations issued by the Treasury Department, the Department of State, and within the Department of Defense. In particular, attention is invited to the fact that Public Law 126 of the 84th Congress conferred specific authority upon the Secretary of the Treasury to provide safeguarding regulations with regard to alcoholic beverages and tobacco products.

It is the intention now as was the case with regard to enactment of Public Law 84–126, that the Secretary of the Treasury will not apply an overly rigid interpretation of the language of the basic act to mean that the employee must physically accompany the household effects, since there are instances where a person in the service of the United States who, although not returning to the United States on the termination of assignment to extended duty outside the customs territory of the United States, is ordered by the Government agency involved from the post or station of such duty to duty at another post or station outside the customs territory of the United States, necessitating the return to the United States of his personal and household effects.

EXPLANATION OF THE AMENDMENTS

1. Importation of monofilament gill nets for use in fish sampling

The type of netting involved in this amendment is used only for fishery biological and related research. Duty-free treatment for the monofilament netting to be used for fish sampling would help to stretch the research dollar, according to the Department of the Interior. The report of that agency contains the following:

> The Department favors enactment of the bill.
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> The Department understands that the type of netting involved in this bill is used, at present, only for fishery biological and related research. Duty-free treatment for monofilament gill netting to be used for fish sampling would help to stretch the research dollar.
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> The Department also understands that comparable gill netting is not manufactured in the United States. The duty-free importation of this netting for any purpose, therefore,

would not upset the fish netting manufacturing system already established in this country.

The Department understands that early field tests on the tuna-catching potential of monofilament gill nets versus conventional gill nets in use today indicate that the monofilament gill nets may be substantially superior and thus possibly give the fisherman an increase in his catch per unit of effort. By making the commercial fisherman more efficient, he becomes more competitive in the world's fisheries products market.

As the commercial fisherman becomes more efficient, he becomes more competitive in the world's fisheries products market.

The Department suggests that the bill would be improved by applying the duty-free provision to all monofilament gill netting regardless of end use. This would simplify the administrative burden on the custom officials at the port of entry (e.g., the determination for each shipment that the end use will be for fish sampling only), and it is consistent with our policy of encourgaing the most liberal foreign trade.

The following quotations are taken from the report of the Tariff Commission:

The bill, if enacted, would add a new paragraph 1825 to the free list of the Tariff Act of 1930 to provide for "Monofilament gill nets for use in fish sampling, under such rules and regulations as the Secretary of the Treasury may prescribe." It is apparent that the provision related to gill nets produced from manmade monofilaments such as nylon or some other synthetic textile. Gill nets made of synthetic textile monofilaments are dutiable under the provision for "manufactures of * * * filaments * * * of rayon or other synthetic textile" in paragraph 1312 of the Tariff Act of 1930, as amended. The statutory rate of duty applicable to articles included in this tariff classification is 45 cents per pound and 65 percent ad valorem. The rate has been reduced pursuant to the General Agreement on Tariffs and Trade to 25 cents per pound and 35 percent ad valorem.

As its name implies, a gill net is a net having meshes which allow the head of the fish to pass, but are too small for the remainder of the fish to pass through and, when the captive tries to escape, its gills are caught in the mesh and prevent escape. There are two general types of gill nets employed in commercial fisheries: anchor or bottom nets and floating or drifting nets. Anchor gill nets are sunk to the bottom and held in position with small anchors. Drift gill nets are rectangular in shape and are fished in strings. Suspended vertically from the surface of the water, drift nets have larger floats on the top line than other gill nets and only enough leads on the foot line to hold the webbing down. When made of nylon, gill nets are almost invisible in the water. Their use for commercial fishing is banned in some States.

It is not known how many persons employ gill nets in fish sampling and, therefore, an estimate cannot be made of the extent to which the proposed amendment might be utilized. However, informal advice from a representative of the Fish and Wildlife Service is to the effect that most fish sampling operations are performed by State agencies, that very few monofilament gill nets are in use in the United States, that most gill nets (usually nylon) now in use are made of "multifilaments" rather than "monofilaments" as specified in the bill, and that monofilament gill nets do not appear to be produced in the United States.

Information regarding the volume of imports of monofilament gill nets is not available.

2. Accident and health insurance contract premiums

Under present law life insurance companies are entitled to a special deduction of 2 percent of premiums attributable to group and accident and health contracts and group life insurance contracts for purposes of the phase 2 tax on underwriting income. The committee has modified present law to provide that individual accident and health contracts written by life insurance companies also will qualify for the special 2-percent deduction unless they are of the nonparticipating type and are issued or renewed for periods of 5 years or more, in which case present law already allows a deduction of 10 percent of the increase in reserves from nonparticipating contracts or, if greater, 3 percent of premiums attributable to nonparticipating contracts (other than group).

This amendment will be of special benefit to smaller life insurance companies which generally do not write substantial group accident and health contracts but which are active in the individual accident and health insurance market, where risks frequently are greater.

Your committee has also extended this special 2-percent deduction in computing underwriting income to casualty insurance companies writing accident and health contracts. This amendment will eliminate whatever advantages the special deduction has given life insurance companies in selling this type of policy in competition with casualty companies. This amendment does not apply to mutual casualty insurance companies since under present law they are not taxable on their underwriting income and your committee does not believe their investment income should be reduced by a deduction clearly associated with their underwriting accounts.

This amendment will apply to taxable years beginning after December 31, 1962.

This amendment is a modified version of the bill, S. 397, on which the Committee on Finance held public hearings on July 6, 1961. It is identical to a committee-approved amendment to the bill, H.R. 4317, which was subsequently passed by the Senate on September 1, 1961, but was lost in conference.

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):

THE FIRST SECTION OF THE ACT OF JUNE 30, 1955 (69 STAT. 242; PUBLIC LAW 126, 84TH CONG.)

AN ACT Relating to the free importation of personal and household effects brought into the United States under Government orders, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act of June 27, 1942, entitled "An Act to exempt from duty personal and household effects brought into the United States under Government orders", as amended (U.S.C., title 50 App., secs. 801 and 802), is hereby amended to read as follows: "That under regulations to be prescribed by the Secretary of the Treasury, after consultation with such agencies as he shall consider to be substantially interested, the personal and household effects (with such limitation on the importation of alcoholic beverages and tobacco products as the Secretary may prescribe) of any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty (as defined in the above-authorized regulations) at a post or station outside the customs territory of the United States, or of returning members of his family who have resided with him at such post or station, or of any person evacuated to the United States under Government orders or instructions may be brought into customs territory of the United States without the payment of any duty or tax imposed upon, or by reason of, importation."

(*b*) The amendment made by subsection (a) shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after July 1, 1955, and before July 1, [1962] *1964*.

TARIFF ACT OF 1930

TITLE II—FREE LIST

SECTION 201. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, the articles mentioned in the following paragraphs, when imported into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam), shall be exempt from duty:

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PAR. 1825. Monofilament gill nets for use in fish sampling, under such rules and regulations as the Secretary of the Treasury may prescribe.

INTERNAL REVENUE CODE OF 1954

Subchapter L—Insurance Companies

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PART I—LIFE INSURANCE COMPANIES

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Subpart C—Gain and Loss From Operations

SEC. 809. IN GENERAL.

(a) EXCLUSION OF SHARE OF INVESTMENT YIELD SET ASIDE FOR POLICYHOLDERS.—

(1) AMOUNT.—The share of each and every item of investment, yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) of any life insurance company set aside for policyholders shall not be included in gain or loss from operations. For purposes of the preceding sentence, the share of any item set aside for policyholders shall be that percentage obtained by dividing the required interest by the investment yield; except that if the required interest exceeds the investment yield, then the share of any item set aside for policyholders shall be 100 percent.

(2) REQUIRED INTEREST.—For purposes of this part, the required interest for any taxable year is the sum of the products obtained by multiplying—

(A) each rate of interest required, or assumed by the taxpayer, in calculating the reserves described in section 810(c), by

(B) the means of the amount of such reserves computed at that rate at the beginning and end of the taxable year.

(b) GAIN AND LOSS FROM OPERATIONS.—

(1) GAIN FROM OPERATIONS DEFINED.—For purposes of this part, the term "gain from operations" means the amount by which the sum of the following exceeds the deductions provided by subsection (d):

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received); and

(B) the sum of the items referred to in subsection (c).

(2) LOSS FROM OPERATIONS DEFINED.—For purposes of this part, the term "loss from operations" means the amount by which the sum of the deductions provided by subsection (d) exceeds the sum of—

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received): and

(B) the sum of the items referred to in subsection (c).

(3) LIFE INSURANCE COMPANY'S SHARE.—For purposes of this subpart, the life insurance company's share of any item shall be

that percentage which, when added to the percentage obtained under the second sentence of subsection (a)(1), equals 100 percent.

(4) EXCEPTION.—If it is established in any case that the application of the definition of gain from operations contained in paragraph (1) results in the imposition of tax on—

(A) any interest which under section 103 is excluded from gross income.

(B) any amount of interest which under section 242 (as modified by section 804(a)(3) is allowable as a deduction, or

(C) any amount of dividends received which under sections 243, 244, and 245 (as modified by subsection (d)(8)(B)) is allowable as a deduction,

adjustment shall be made to the extent necessary to prevent such imposition.

(c) GROSS AMOUNT.—For purposes of subsections (b)(1) and (2), the following items shall be taken into account:

(1) PREMIUMS.—The gross amount of premiums and other consideration (including advance premiums, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer) on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded. Except in the case of amounts of premiums or other consideration returned to another life insurance company in respect of reinsurance ceded, amounts returned where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management shall not be included in return premiums.

(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 810 or 811(b)(2) to be taken into account for purposes of this paragraph.

(3) OTHER AMOUNTS.—All amounts, not included in computing investment yield and not includible under paragraph (1) or (2), which under this subtitle are includible in gross income.

Except as included in computing investment yield, there shall be excluded any gain from the sale or exchange of capital assets, and any gain considered as gain from the sale or exchange of a capital asset.

(d) DEDUCTIONS.—For purposes of subsections (b) (1) and (2), there shall be allowed the following deductions:

(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts (including contracts supplementary thereto).

(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 810 to be taken into account for purposes of this paragraph.

(3) DIVIDENDS TO POLICYHOLDERS.—The deduction for dividends to policyholders (determined under section 811(b)).

(4) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 812).

(5) CERTAIN NONPARTICIPATING CONTRACTS.—An amount equal to 10 percent of the increase for the taxable year in the reserves for nonparticipating contracts or (if greater) an amount equal to 3 percent of the premiums for the taxable year (excluding

that portion of the premiums which is allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) which are issued or renewed for periods of 5 years or more. For purposes of this paragraph, the term "reserves for nonparticipating contracts" means such part of the life insurance reserves (excluding that portion of the reserves which is allocable to annuity features) as relates to nonparticipating contracts (other than group contracts). For purposes of this paragragh and paragraph (6), the term "premiums" means the net amount of the premiums and other consideration taken into account under subsection (c)(1).

(6) [GROUP LIFE, ACCIDENT, AND HEALTH INSURANCE] *CERTAIN ACCIDENT AND HEALTH AND GROUP LIFE INSURANCE.*—An amount equal to 2 percent of the premiums for the taxable year attributable to [group life insurance contracts and group accident and health insurance contracts] *accident and health insurance contracts (other than those to which paragraph (5) applies) and group life insurance contracts.* The deduction under this paragraph for the taxable year and all preceding taxable years shall not exceed an amount equal to 50 percent of the premiums for the taxable year attributable to such contracts.

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SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS.

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(c) POLICYHOLDERS SURPLUS ACCOUNT.—

(1) IN GENERAL.—Each stock life insurance company shall, for purposes of this part, establish and maintain a policyholders surplus account. The amount in such account on January 1, 1959, shall be zero.

(2) ADDITIONS TO ACCOUNT.—The amount added to the policyholders surplus account for any taxable year beginning after December 31, 1958, shall be the sum of—

(A) an amount equal to 50 percent of the amount by which the gain from operations exceeds the taxable investment income,

(B) the deduction for certain nonparticipating contracts provided by section 809(d)(5) (as limited by section 809(f)), and

(C) the deduction for [group life and group accident and health insurance contracts] *accident and health insurance and group life insurance contracts* provided by section 809(d)(6) (as limited by section 809(f)).

(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

(B) the amount (determined without regard to section 802(a)(3)) by which the tax imposed for the taxable year by section 802(a)(1) is increased by reason of section 802(b)(3).

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PART III—OTHER INSURANCE COMPANIES

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SEC. 832. INSURANCE COMPANY TAXABLE INCOME.

(a) DEFINITION OF TAXABLE INCOME.—In the case of an insurance company subject to the tax imposed by section 831, the term "taxable income" means the gross income as defined in subsection (b)(1) less the deductions allowed by subsection (c).

(b) DEFINITIONS.—In the case of an insurance company subject to the tax imposed by section 831—

(1) GROSS INCOME.—The term "gross income" means the sum of—

(A) the combined gross amount earned during the taxable year from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners,

(B) gain during the taxable year from the sale or other disposition of property, and

(C) all other items constituting gross income under subchapter B, except that, in the case of a mutual fire insurance company described in section 831(a), the amount of single deposit premiums paid to such company shall not be included in gross income.

(2) INVESTMENT INCOME.—The term "investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows: To all interest, dividends, and rents received during the taxable year, add interest, dividends, and rents due and accrued at the end of the taxable year, and deduct all interest, dividends, and rents due and accrued at the end of the preceding taxable year.

[(3) UNDERWRITING INCOME.—The term "underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred.]

(3) UNDERWRITING INCOME.—The term "underwriting income" means the premiums earned on insurance contracts during the taxable year less—

(A) losses incurred and expenses incurred, and

(B) the allowance for accident and health insurance contracts (determined under paragraph (7)).

(4) PREMIUMS EARNED.—The term "premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance.

(B) To the result so obtained, add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year.

For purposes of this subsection, unearned premiums shall include life insurance reserves, as defined in section 801(b), pertaining to the life, burial, or funeral insurance, or annuity business of an

insurance company subject to the tax imposed by section 831 and not qualifying as a life insurance company under section 801.

(5) LOSSES INCURRED.—The term "losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

(A) To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year.

(B) To the result so obtained, add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year.

(6) EXPENSES INCURRED.—The term "expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows: To all expenses paid during the taxable year, add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the taxable income subject to the tax imposed by section 831, there shall be deducted from expenses incurred (as defined in this paragraph) all expenses incurred which are not allowed as deductions by subsection (c).

(7) ALLOWANCE FOR ACCIDENT AND HEALTH INSURANCE.—The allowance under paragraph (3)(B) for accident and health insurance contracts is an amount equal to 2 percent of the premiums earned for the taxable year attributable to accident and health insurance contracts, except that such allowance for the taxable year and all preceding taxable years shall not exceed an amount equal to 50 percent of the premiums earned for the taxable year attributable to such contracts.

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