

EXCISE-TAX RATE EXTENSION ACT OF 1964

JUNE 29, 1964.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 11376]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11376) to provide a 1-year extension of certain excise-tax rates, 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 1, 3, 4, 5, 6, and 7.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 3. LOSSES ARISING FROM CONFISCATION OF PROPERTY BY THE GOVERNMENT OF CUBA.

(a) TREATMENT OF LOSSES.—Section 165(i) of the Internal Revenue Code of 1954 (relating to certain property confiscated by Cuba) is amended to read as follows:

“(i) CERTAIN PROPERTY CONFISCATED BY THE GOVERNMENT OF CUBA.—

“(1) TREATMENT AS SUBSECTION (c)(3) LOSS.—For purposes of this chapter, in the case of an individual who was a citizen of the United States, or a resident alien, on December 31, 1958, any loss of property which—

“(A) was sustained by reason of the expropriation, intervention, seizure, or similar taking of the property, before January 1, 1964, by the government of Cuba, any political subdivision thereof, or any agency or instrumentality of the foregoing, and

“(B) was not a loss described in paragraph (1) or (2) of subsection (c), shall be treated as a loss to which paragraph (3) of subsection (c) applies. In the case of tangible property, the preceding sentence shall not apply unless the property was held by the taxpayer, and was located in Cuba, on December 31, 1958.

“(2) SPECIAL RULES.—

“(A) For purposes of subsection (a), any loss described in paragraph (1) shall be treated as having been sustained on October 14, 1960, unless it is established that the loss was sustained on some other day.

“(B) For purposes of subsection (a), the fair market value of property held by the taxpayer on December 31, 1958, to which paragraph (1) applies, on the day on which the loss of such property was sustained, shall be its fair market value on December 31, 1958.

“(C) For purposes of section 172, a loss described in paragraph (1) shall not be treated as an expropriation loss within the meaning of section 172(k).

“(D) For purposes of section 6601, the amount of any tax imposed by this title shall not be reduced by virtue of this subsection for any period prior to February 26, 1964.

“(3) REFUNDS OR CREDITS.—Notwithstanding any law or rule of law, refund or credit of any overpayment attributable to the application of paragraph (1) may be made or allowed if claim therefor is filed before January 1, 1965. No interest shall be allowed with respect to any such refund or credit for any period prior to February 26, 1964.”

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply in respect of losses sustained in taxable years ending after December 31, 1958.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

Amend the title so as to read: “An Act to provide a one-year extension of certain excise-tax rates, and for other purposes.”

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
JOHN W. BYRNES,
THOMAS CURTIS,

Managers on the Part of the House.

HARRY F. BYRD,
RUSSELL B. LONG,
GEO. A. SMATHERS,
JOHN WILLIAMS,
FRANK CARLSON,

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. 11376) to provide a 1-year extension of certain excise-tax rates, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment adds a new section 3 to the bill, relating to retailers excise taxes.

Subsections (a) and (b) of section 3 would amend sections 4001 (relating to imposition of tax on jewelry and related items) and 4011 (relating to imposition of tax on furs) of the Internal Revenue Code of 1954. Under existing law the tax imposed by these sections is equivalent to 10 percent of the price for which the articles are sold at retail. Under the amendment the tax would be equivalent to 10 percent of the price for which so sold, to the extent such price exceeds \$100.

Subsections (c) and (d) of section 3 would repeal subchapters C (relating to tax on toilet preparations) and D (relating to tax on luggage, handbags, etc.) of chapter 31 of the 1954 code.

Subsection (e) of section 3 would make technical amendments to reflect the changes made in the code by subsections (a), (b), (c), and (d).

Under subsection (f), the amendments made by section 3 would apply with respect to articles sold on or after the first day of the first month which begins after the date of the enactment of the bill.

The Senate recedes.

Amendment No. 2: Section 165(i) of the Internal Revenue Code of 1954 provides for income tax purposes that any loss of tangible property, if such loss arises from expropriation, intervention, seizure, or similar taking by the Government of Cuba, any political subdivision thereof, or any agency or instrumentality of the foregoing, shall be treated as a loss from a casualty within the meaning of section 165(c)(3) of the code. Section 165(i) was added to the 1954 code by section 238 of the Revenue Act of 1964, approved February 26, 1964, and as so added was prospective in application only.

In general, the effect of Senate amendment numbered 2 would be to revise section 165(i) of the 1954 code to limit its application to individuals who were citizens or residents of the United States on December 31, 1958, to extend its application to intangible property, and to provide that it apply only to losses before January 1, 1964, of property held by the taxpayer and located in Cuba on December 31, 1958. In addition, under the amendment (1) a loss is required to be treated as having been sustained on October 14, 1960, unless it is established that it was sustained on some other day, (2) the amount of any loss is not to exceed the fair market value of the property on December 31, 1958, and (3) for purposes of the net operating loss deduction under section 172 of the code, a loss would be taken into

account under the 3-year carryback and 5-year carryover rules rather than under the special 10-year carryover rules for expropriation losses as defined in section 172(k) of the code. Claims for refund or credit of any overpayment attributable to the application of the amendment may be made or allowed if claim therefor is filed before January 1, 1965, notwithstanding any law or rule of law. No interest is to be allowed on any overpayment for any period before January 1, 1965. For purposes of computing interest on underpayments of tax, the amount of tax is not to be reduced by virtue of the amendment for any period before February 26, 1964.

The amendment applies in respect of losses sustained in taxable years ending after December 31, 1958.

The House recedes with an amendment which makes technical and clarifying changes.

Amendment No. 3: This amendment adds a new section to the bill which would repeal the manufacturers excise tax on pens and mechanical pencils sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after the date of the enactment of the bill.

The Senate recedes.

Amendment No. 4: This amendment adds a new section to the bill which would repeal the manufacturers excise tax on lacrosse balls and sticks and on tennis and table tennis equipment sold by the manufacturer, producer, or importer thereof on or after July 1, 1964.

The Senate recedes.

Amendment No. 5: This amendment adds a new section to the bill which would provide an exemption from the manufacturers excise tax on musical instruments in the case of any musical instrument sold to a student in an educational institution if the instrument is to be used by the student in an orchestra, band, or similar organization sponsored by, or in a course of instruction offered by, such institution. The amendment would apply to sales of musical instruments made after the date of enactment of the bill to students of an educational institution.

The Senate recedes.

Amendment No. 6: Section 4231(6) of the Internal Revenue Code of 1954 imposes a tax equivalent to 10 percent of all amounts paid for admission, refreshment, service, or merchandise, at any roofgarden, cabaret, or other similar place furnishing a public performance for profit, by or for any patron or guest who is entitled to be present during any portion of such performance. Under Senate amendment numbered 6 the rate of tax would be reduced from 10 percent to 3 percent effective at 10 o'clock on July 1, 1964.

The Senate recedes.

Amendment No. 7: Section 4231(1) of the Internal Revenue Code of 1954 provides the general rule for the tax on admissions. Under this section there is imposed a tax of 1 cent for each 10 cents or major fraction thereof of the amount in excess of \$1 paid for admission to any place. In the case of a season ticket or subscription for admission, the tax is computed on the excess of \$1 multiplied by the number of admissions provided by the season ticket or subscription. Under Senate amendment numbered 7, there would be imposed (in lieu of the existing tax) a tax equivalent to 5 percent in respect of any admission to a live dramatic or musical performance presented in a theater, or presented in any other place if the presentation of

such performance is the principal activity being conducted in such place at the time of such admission. The amendment would apply only with respect to amounts paid, on or after the first day of the first month which begins more than 10 days after the date of the enactment of the bill, for admissions on or after such first day.

The Senate recesses.

W. D. MILLS,
CECIL R. KING,
HALE BOGGS,
JOHN W. BYRNES,
THOMAS CURTIS,

Managers on the Part of the House.

