

TIME FOR TAXING TIRES AND TUBES

1728-5

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 318

**AN ACT TO AMEND SECTION 4071 OF THE INTERNAL REVENUE
CODE OF 1954**

JUNE 21, 1966

Printed for the use of the Committee on Finance



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CONTENTS

	Page
Text of H. R. 318.....	1
Department reports on H. R. 318:	
Bureau of the Budget.....	2
Department of the Treasury.....	2

WITNESSES

Burger, George J., vice president, National Federation of Independent Business.....	5
Crutcher, Edward, general credit manager, Firestone Tire & Rubber Co.....	14
Moran, Patrick J., chief tax counsel, General Tire & Rubber Co.; accompanied by Edward Crutcher, general credit manager, Firestone Tire & Rubber Co.; and Robert Scharlotte, manager, tax department, Goodyear Tire & Rubber Co.....	14
Scharlotte, Robert, manager, tax department, Goodyear Tire & Rubber Co.....	14
Stone, Lawrence M., Tax Legislative Counsel, Department of the Treasury.....	3

COMMUNICATIONS

General Tire & Rubber Co., letter of Patrick J. Moran, assistant counsel, to Tom Vail, chief counsel, Committee on Finance.....	15
National Tire Dealers & Retreaders Association, Inc., statement of W. W. Marsh.....	45
Rubber Manufacturers Association:	
Letter and attachments of W. J. Sears, vice president, to the chairman.....	39
Letter and attachment of Joseph Peter Kigin, legislative assistant, to Tom Vail, chief counsel, Committee on Finance.....	44

TIME FOR TAXING TIRES AND TUBES

TUESDAY, JUNE 21, 1966

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 2221, New Senate Office Building, Senator Russell B. Long (chairman) presiding.

Present; Senators Long, Smathers, Anderson, Douglas, Williams, Carlson, and Curtis.

Also present: Tom Vail, chief counsel.

The CHAIRMAN. This hearing will come to order.

This hearing was called to give interested parties an opportunity to let the committee know their views on H.R. 318. H.R. 318 relates to the time for imposing the Federal excise on tires and tubes delivered by manufacturers to their own retail outlet. Under present law the tax is imposed on the sale of the product, but for the manufacturer-retailer this bill would accelerate the time for taxpayments to the time of delivery.

The House bill is substantially identical to S. 895, introduced last year by the Senator from Illinois, Mr. Douglas. I recall the Senate agreed to the text of S. 895 as an amendment to last year's excise tax bill, but it was left out in conference.

The Treasury Department has submitted a report in opposition to H.R. 318, indicating that the tax advantage to independent tire dealers is not large, and that the bill would introduce new administrative and compliance problems to the excise tax structure.

Without objection a copy of H.R. 318, together with the Treasury report, will be made part of the record at this time.

(H.R. 318 and the Treasury report referred to follow:)

[H.R. 318, 89th Cong., 1st sess.]

AN ACT To amend section 4071 of the Internal Revenue Code of 1954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4071 of the Internal Revenue Code of 1954 (relating to tax on tires and inner tubes) is amended by redesignating subsections (b) and (c) as (c) and (d) and by inserting after subsection (a) the following new subsection:

“(b) SPECIAL RULE FOR MANUFACTURERS WHO SELL AT RETAIL.—Under regulations prescribed by the Secretary or his delegate, if the manufacturer, producer, or importer of any tire or inner tube delivers such tire or tube to a retail store or retail outlet of such manufacturer, producer, or importer, he shall be liable for tax under subsection (a) in respect of such tire or tube in the same manner as if it had been sold at the time it was delivered to such retail store or outlet. This subsection shall not apply to an article in respect to which tax has been imposed by subsection (a). Subsection (a) shall not apply to an article in respect of which tax has been imposed by this subsection.”

(b) The amendments made by subsection (a) shall take effect on the first day of the first calendar quarter which begins more than 20 days after the date on which this Act is enacted.

SEC. 2. Section 4226 of the Internal Revenue Code of 1954 (relating to floor stocks taxes) is amended by adding at the end thereof the following new subsection:

“(e) TAX ON CERTAIN TIRES AND TUBES.—On any tire or inner tube which, on the first day of the first calendar quarter which begins more than 20 days after the date of the enactment of this subsection, is held at a retail store or retail outlet of the manufacturer, producer, or importer of such tire or tube, he shall be liable for tax under section 4071(a) in the same manner as if such tire or inner tube had been sold by him on such first day. This subsection shall not apply to an article in respect of which tax has been imposed by section 4071 of the Internal Revenue Code of 1954. Such section 4071 shall not apply to an article in respect of which tax has been imposed by this subsection.”

Passed the House of Representatives October 7, 1965.

Attest:

RALPH R. ROBERTS,
Clerk.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 1, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to Chairman Byrd's letter of October 12, 1965, requesting the views of the Bureau of the Budget on H.R. 318, a bill "To amend section 4071 of the Internal Revenue Code of 1954."

The Treasury Department, in a report being made to your Committee on this bill, opposes its enactment for the reasons stated therein.

The Bureau of the Budget concurs with the views contained in that report, and opposes the enactment of H.R. 318.

Sincerely yours,

WILFRED H. ROMMEL,
Acting Assistant Director for Legislative Reference.

TREASURY DEPARTMENT,
Washington, D.C., April 5, 1966.

Hon. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the request of your Committee for the views of the Treasury Department on H.R. 318, "An ACT To amend section 4071 of the Internal Revenue Code of 1954." The bill would revise the time of imposition of the excise tax on tires and tubes sold by the manufacturers through their own retail outlets.

H.R. 318 is identical with an amendment added to the Excise Tax Reduction Act of 1965 on the Senate Floor. This amendment was eliminated in conference.

The excise taxes on tires of 10, or 5, cents a pound,¹ and on inner tubes of 10 cents a pound, are imposed under present law on the sale of the products by the manufacturer or importer. Thus, tire and tube manufacturers selling through their own retail outlets need not pay excise tax on the products until they are sold at retail, since this represents the first sale by the manufacturer. On the other hand, independent wholesalers and retailers must purchase tax-paid tires and tubes. Under the present tax rates, between 10 and 15 percent of an independent dealer's tire inventory will generally represent the excise tax.

To equalize this situation, H.R. 318 would make manufacturers or importers who sell tires and tubes of their own manufacture (or importation) through their own retail stores or retail outlets liable for tax upon the delivery of the products to the stores or outlets, rather than upon their sale at the stores or outlets. The bill also would impose floor stocks taxes on tires and tubes held by manufacturers, producers, or importers in their retail stores or retail outlets on the effective date of the bill.

¹ There is also a tax of 1 cent a pound on "laminated" tires.

The cost disadvantage to independent tire dealers under the present excise tax treatment is normally limited to the interest and insurance costs of carrying the portion of their inventory consisting of the excise tax. We have been informed by the tire manufacturers that, under their credit terms, independent tire dealers on the average pay for their tires 86 days after receiving them and sell them 95 days after receipt. Thus, for the bulk of the period the independent dealer has a tire in inventory, he will not have borne the cost of the excise tax. At most, he will have been required to absorb an interest (through loss of a discount) and insurance cost attributable to such tax. At six percent, the interest attributable to the excise tax on the average passenger car tire of between \$2 and \$2.50 is 1¼ cents per month.

The relatively small and stable portion of the replacement tire business accounted for by sales through manufacturers' stores further minimizes the significance of any tax disadvantages of independent distributors. Slightly less than 8 percent of unit sales of replacement tires was through tire manufacturers' stores in 1959-60. This is virtually unchanged from the ratio in 1955 and is less than the 10.3 percent so distributed in the period 1934-38.²

There are administrative and compliance advantages to retaining the present method of basing tax liability on the sale of the taxable articles. A "sale" has a legal meaning long refined by law and usage. It is a transaction which all producers and distributors use for their own accounting purposes. In contrast, H.R. 318 would introduce new concepts and criteria which are not clear as to their meaning and which could be exceedingly troublesome in implementation.

H.R. 318 would impose tax on tires and tubes when the manufacturer "delivers" them to his "retail store or retail outlet." Both of these concepts are new in the excise tax area and could lead to difficult interpretative and compliance problems. For example, to avoid circumvention of the tax, rules would have to be provided to cover situations where the manufacturer delivers the tires and tubes to a storage facility next to or close by his retail outlet. Moreover, rules would have to be developed for classifying outlets that sell both at wholesale and retail as either wholesale or retail outlets.

The Treasury Department does not believe that the relatively minor disadvantages to independent wholesalers and retailers that may result from the present tax provisions justify the administrative and compliance problems that would result from the totally new tax approach contained in H.R. 318. Moreover, if adjustments are made in the administration of a particular tax to accommodate to special circumstances within an industry, it can be expected that similar requests would soon be made with respect to other taxes and other industries. This could only lead to further complexity in an excise tax structure that has already been criticized for its complications.

For the reasons set forth above, the Treasury Department opposes the enactment of H.R. 318.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

The CHAIRMAN. Our first witness this morning is Mr. Lawrence M. Stone, tax legislative counsel, U.S. Treasury Department.

Will you proceed, Mr. Stone.

STATEMENT OF LAWRENCE M. STONE, TAX LEGISLATIVE COUNSEL OF THE U.S. TREASURY DEPARTMENT

Mr. STONE. Thank you, Mr. Chairman.

We appreciate your invitation to present the views of the Treasury Department on H.R. 318. This bill relates to the point at which the excise tax on tires and tubes is to be imposed when they are sold by the manufacturers through their own retail outlets.

²"Dual Distribution in the Automotive Tire Industry-1959," *Hearings before a Subcommittee of the Select Committee on Small Business, United States Senate, 86th Cong., Part 1, pages 366-367.* The 1959-60 data were presented by T. G. MacGowan, Director, Advance Planning Division, Firestone Tire & Rubber Company, at the annual meeting of the Rubber Manufacturers Association, New York City, November 16, 1961. Data were prepared by Warren W. Leigh, Dean of Business Administration, University of Akron.

The rate of the excise tax on tires and tubes varies depending on the type of article involved. Tires of the type used on highway vehicles are subject to a tax of 10 cents per pound. For most other tires, the rate is 5 cents per pound, while for inner tubes it is 10 cents per pound.

Under present law, the tax is imposed on the manufacturer at the time he first sells the tire or tube. Thus, if the manufacturer sells tires and tubes to an independent wholesaler or retailer, the tax attaches at the time of this sale with the result that the price to the independent dealer will in almost all cases include the tax. On the other hand, when a manufacturer sells tires and tubes through his own retail outlet, the tax does not attach until the retail sale is made—this being the first sale by the manufacturer.

It is estimated that between 10 and 15 percent of an independent dealer's tire inventory will represent the excise tax. The proponents of H.R. 318 contend that having to carry the excise tax imposes an unfair burden on the independent tire dealer as compared to the case of a manufacturer selling tires through his own retail outlet.

To equalize this situation, H.R. 318 would make manufacturers, or importers, who sell tires and tubes through their own retail stores liable for tax upon the delivery of the products to the stores, rather than upon the later retail sale by the stores. The bill also would impose floor stocks taxes on tires and tubes held by manufacturers, producers, or importers in their retail stores on the effective date of the bill.

The cost disadvantage to independent tire dealers under the present excise tax treatment is normally limited to the interest and insurance costs of carrying the portion of their inventory consisting of the excise tax. We have been informed by the tire manufacturers that, under their credit terms, independent tire dealers on the average pay for their tires 86 days after receiving them and sell most of them 95 days after receipt.

Thus, for the bulk of the period the independent dealer has a tire in inventory, he will not have borne the cost of the excise tax. At most, he will have been required to absorb an interest, through loss of a discount, and insurance cost attributable to such tax. At 6 percent, the interest attributable to the \$2 to \$2.50 excise tax on the average passenger car tire is $1\frac{1}{4}$ cents per month.

In the opinion of the Treasury Department, there are administrative and compliance advantages to retaining the present method of basing tax liability on the sale of the taxable articles. A "sale" has a legal meaning long defined by law and usage. It is a transaction which all producers and distributors use for their own accounting purposes. In contrast, H.R. 318 would introduce new concepts and criteria which are not clear as to their meaning and which could be exceedingly troublesome in implementation.

For example, to avoid circumvention of the tax, rules would have to be provided to cover situations where the manufacturer delivers the tires and tubes to a storage facility next to or close by his retail outlet. Moreover, rules would have to be developed for classifying outlets that sell both at wholesale and retail as either wholesale or retail outlets.

The Treasury Department does not believe that the relatively minor disadvantages to independent wholesalers and retailers that

may result from the present tax provisions justify the administration and compliance problems that would result from the totally new tax approach contained in H.R. 318.

For the reasons set forth above, the Treasury Department opposes the enactment of H.R. 318. Our views have been set forth in more detail in a report submitted to your committee on April 5 of this year.

Thank you.

Senator ANDERSON. I take it you are strongly opposed to the bill?

Mr. STONE. I would not say—we oppose the bill. I would not use any word such as “strongly,” or “violently.”

Senator ANDERSON. Are you for it, or against it, or neutral?

Mr. STONE. We are against it. But it is not a matter of life and death—is all I want to add.

Senator WILLIAMS. How much revenue is involved in this?

Mr. STONE. We could get that figure. We seem to have a disagreement with the industry as to what the exact figures are.

Senator ANDERSON. What is your estimate?

Mr. STONE. Somewhere in the order of \$5 to \$10 million or less.

Are you asking about the floor stock tax? Yes.

Senator WILLIAMS. The industry estimates about \$12½ million, is that right?

Mr. STONE. Yes. And we are lower. We are lower than \$5 million as a matter of fact. We cannot seem to find the discrepancy yet.

Senator ANDERSON. Thank you very much.

Mr. Burger.

Will you proceed, sir?

STATEMENT OF GEORGE J. BURGER, VICE PRESIDENT OF THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, WASHINGTON, D.C.

Mr. BURGER. I am George J. Burger, vice president, National Federation of Independent Business. I appreciate this chance to testify before you in favor of H.R. 318, legislation which has been approved in mandate vote among our more than 215,000 members in smaller, independent business and the professions, located in all 50 States.

H.R. 318 is a good bill, one that deserves your approval and enactment by the Congress this year. It seeks only equal justice under the law for independent businessmen who stock and sell automobile tires and inner tubes.

As you know, these independent businessmen are now subject to a competitive discrimination in that the law requires that they maintain continuing, sizable investments in prepaid Federal excise taxes on their stocks of tires and tubes, while the same law exempts from this burden the tire manufacturer-owned-and-operated retail stores with which they must compete.

H.R. 318 would do no more than put both types of sellers on the same taxpaying and tax-burden basis.

I will not burden you by repeating all the convincing arguments in favor of this bill. I have testified on similar legislation more than 12 times since 1947. Members of Congress and their committees have studied it time and again, and have approved it.

For instance, I have on file a letter from the congressional Joint Committee on Internal Revenue Taxation (1953) in which there is agreement that the cause of tax equality would be served by an amendment identical in aim with that of H.R. 318.

To verify that statement, Mr. Chairman, I am reading in the record a telegram from our head office at San Mateo, Calif., dated June 20:

In a letter dated to you August 6, 1955, Colin Stam, former staff chief of the Congressional Joint Committee on Internal Revenue Taxation stated with reference to the tire excise tax—"There is certainly much merit in your contention that the present provision discriminates against independent tire dealers since in their case the tax is paid before they receive the tire, and presumably included in the price charged, while where the manufacturers sell the tires in a retail store, the taxable sale does not occur until the tires are sold at retail."

Mr. Chairman, I want to add there—I have had 56 years' experience in the rubber tire industry, the bulk of that time, owning and operating an independent establishment, and have a wide acquaintanceship with tire dealers in the principal cities in 50 States and this is the first time that I have heard that the tire manufacturers sell the retail stores. It is my understanding those stocks are on consignment—I just want to correct that—where the dealer has to buy them.

The House Committee on Ways and Means, during the 87th Congress, studied and approved unanimously, a bill identical with H.R. 318. The House approved this bill.

Your own Finance Committee studied and approved a similar measure during the forepart of 1965, and attempted to secure its enactment as an amendment to a House-originated tax measure. The House, however, balked, and asked that the Senate wait for it to send over a bill on the subject. In this connection, the following discussion, reported on page 13574 of the Congressional Record of June 17, 1965, is of interest:

Mr. LONG of Louisiana. With regard to the particular amendment relating to manufactured tires in the hands of independent dealers, in my judgment it was a very meritorious amendment. The objection on the part of the House managers was not that they did not consider the amendment meritorious. Their objection was that they had sent a bill to the Senate several times to that effect and the Senate had not acted on it. Due to pride of authorship, Members of the House thought that those who had labored so hard in the vineyard, should get some credit for it, rather than put this provision in the bill as a Senate amendment. I hope we can have action on this issue at this session. The Senator from Illinois (Mr. Douglas) was the sponsor of the amendment.

Mr. DOUGLAS. Mr. President, I have no pride of authorship, even though the House apparently has. If the House will send us the bill again, so it can take credit for it, I will gladly support it.

Mr. LONG of Louisiana. It was a good piece of legislation, and should be agreed to.

Mr. DOUGLAS. If the only way to get good legislation enacted is by the House getting credit for it, I am in favor of having the House get credit for it. If this is the only way we can make progress, I am willing to conform to that rule.

Mr. LONG of Louisiana. That is a most generous attitude and it is characteristic of the Senator from Illinois. * * * I hope the Senator from Illinois will join the author of the measure in the House so that he may at least have the distinction of being co-author of the measure. All the House has to do is say "Yes," and it would be law some time next week.

Well, gentlemen, while it is not "next week," but "next year," the House has said "Yes." Mr. Jennings, author of H.R. 318, in his report on the favorable action of the House Ways and Means Committee, 89th Congress, 1st session, stated:

In the case of tire and inner tube manufacturers, or importers, maintaining their own retail stores or retail outlets, this means that no tax is imposed until the manufacturer makes a sale at retail; i.e., to the consumer. As a result, where a manufacturer has his own retail store, this means that no tax is paid on his retail inventory. With manufacturers who maintain large retail stores, carrying several hundred different types of tires in stock, the tax-free status of this inventory represents an important factor. On the other hand, the independent tire dealer, because the sale by the manufacturer, producer, or importer occurred prior to, or at the time of his acquisition of the tires and tubes, can have only tax-paid inventory. With the present tax rates of 10 cents a pound on highway tires and on inner tubes, information available suggest that independent tire dealers may have as much as 15 per cent of their inventory investment tied up in these taxes, an investment which their competitors, the tire manufacturers, with their own retail outlets, need not make. In addition to the large investment, tied up in inventory, the independent tire dealers, because of this higher inventory cost, also is faced with larger insurance costs with respect to this inventory.

This bill removes this competitive discrimination.

You have promised favorable action. The time for that action is now.

I thank you.

Mr. Chairman, to support my statement, on May 13, 1963, I had a letter from the staff director of the Senate Small Business Committee, which I would like to have put in the record also.

Senator ANDERSON. Without objection, that will be done.

(The letter referred to follows:)

U.S. SENATE,
SELECT COMMITTEE ON SMALL BUSINESS,
May 13, 1963.

Mr. GEORGE J. BURGER,
Vice President, National Federation of Independent Business,
Washington, D.C.

DEAR GEORGE: Pursuant to the request in your letter of May 10, I am enclosing a copy of our 1953 committee print entitled "Problems of Independent Rubber Tire Dealers," on page 5 of which there is a table on company stores. Our latest information on company stores of tire manufacturers for 1961 is as follows: Goodyear, 699; Firestone, 784; Goodrich, 604; General, 164; and U.S. Rubber, 166. I am also enclosing three copies of the recent committee report on SBIC's.

Wish best wishes.

Sincerely yours,

LEWIS G. ODOM, Jr.,
Staff Director and General Counsel.

Mr. BURGER. Now I am quoting from the Gasoline Retailer, March 2, 1966, New York:

U.S. Royal Tire opened seventeen new stores from coast to coast last year, known as Multiline Stores, the new outlets stock in addition to tires, home appliances, bicycles, T-V, auto accessories, and sporting goods.

From the Gasoline Retailer of December 15, 1965:

J. J. Creamer has been promoted to the newly-created position of manager, retail stores, Eastern System, General Tire and Rubber Company. The promotion was necessitated by the expansion of general retail markets, the firm reports. J. W. Coffey will continue as retail store manager in the western area.

From the Gasoline Retailer, May 18, 1966:

General Tire and Rubber Company plans four stores and service stations in Buffalo. General Tire & Rubber Company, tire division, has built four new stores in car service centers in the Buffalo area in the last four years, according to Morgan J. Morgan, President, General Tire Division. Formal opening took place recently for General's fourth Buffalo district store and service store at 3573 Delaware Avenue. The unit has six bays. Since the four proposed new centers have not been selected, but they will probably be in the suburbs, and cost \$250,000 each.

From Goshen, Ind., October 1965:

Goodyear is just putting in another company-owned store in a city of 15,000, and I bet you anything they will have lower prices than we distributors.

Now, here is a copy of an ad from the St. Louis Post-Dispatch, June 27, 1965:

Goodyear. This week's service. Bearings repacked, front wheels, 33 cents. Brakes adjusted, any car, 25 cents.

Senator ANDERSON. I am almost tempted to ask where that was. Mr. BURGER. Mr. Chairman, I hold in front of me a picture from a trade publication. "Partial stocks of 6,000 tires stocked at the General Service Center." I wrote the dealer in Los Angeles on April 5. I asked him was he aware of the fact that as an independent he had at least \$6,000, \$12,000, or \$20,000 tied up in excise tax in advance. No answer for the letter. Draw your own conclusion.

Senator ANDERSON. Off the record.

(Discussion off the record.)

Senator WILLIAMS. You may proceed.

Mr. BURGER. As I said, my experience as an independent in the rubber tire industry, as dealer, dates back beginning 1909, and continuing in activity in my own business up until the late thirties. And during that time, in 1923, 1924, and 1925, I was selected as spokesman for the tire dealers all over the Nation. Again in 1929 and 1930.

In 1935 I was drafted into the present Tire Dealers Association and continued in that activity up until January 1941. So my acquaintanceship with the basic problems of the competitive condition of these company-owned stores, and what the dealers face—whether it be in Wilmington, Del., or Chicago, Ill., or Jacksonville, Fla., or Miami, Fla.—the competition that the dealers face, the ruthless competition, from the company-owned stores, there is no end of it.

You may hear testimony as to the activities, the increasing activities of these tire manufacturers in the retail field. I am bringing to the attention of the Chair many of these examples because I believe that the two dominating influences in the rubber tire industry is both Goodyear and Firestone, because of their size.

Here are just copies of ads that appeared, of Goodyear, during the past 7 months in the Washington Star:

"Eleven Friendly Stores in this district." This is in January. February 2, there is another one, Service Stores. "Eleven Friendly Stores here to serve you."

Now, wait, I have a good one here for you. Here is one, they could not wait for the George Washington birthday sale, big ad, Washington Star. "The event being celebrated at 11 Washington area Goodyear stores. Sorry, George, we couldn't hold this sale." They

wanted to jump ahead of all the other stores in the district on the Washington Birthday sale.

I have one more from Virginia. They are announcing to the public they are opening more stores in that area.

Now, Senator Williams, to your credit, you have been very much interested in seeing that the Government gets proper income in taxes from all sources. I am quoting from a release of the Department of Defense:

Additional report shows one hundred firms were awarded 68.9 percent of all military Government's let by the Government during the fiscal year 1964 to June 1965. The net value of all military and space hardware purchases amounted to \$24,177,000,000. The tire companies amongst the hundred firms benefiting from these large expenditures are listed as follows:

Number 13 on the list, General Tire & Rubber Company, \$302 million. Number 43 on the list, Goodyear, \$82 million. Number 86, Firestone, \$28 million.

Now, in view of the increased earnings of these companies reported in financial papers this year, you would think they would come voluntarily and make in gratitude to the Government, to take up their tax burden in the same manner as these independent tire dealers companies.

Now, you may hear testimony about the gap from the time the dealer gets the tires, and by the time he sells them—some 40, 50, 60, 70, or 80 days. But they fail to tell you that any responsible tire dealer, any efficient tire dealer, must maintain adequate stock of tires on which that tax is being sustained.

So there was a survey made by the Burger Tire Consultant Service—I am not the owner of it—I represent them here in Washington—in December of 1965. And the question was presented to the subscribers of their magazine, which is devoted exclusively to the best interests of the independents. And the responses came from North Hollywood, Calif., another place in California, Galesburg, Ill., Ann Arbor, Mich., Winona, Minn., Joplin, Mo., St. Louis, Mo., Clifton, N.J., Carlsbad, N. Mex., Kingston, N.Y., and Rochester, N.Y.

I would like to have this filed in the record of the hearing, Mr. Chairman.

Senator WILLIAMS. It will be made a part of the record.

(The document referred to follows:)

SURVEY OF INDEPENDENT TIRE MERCHANTS

(Conducted by: Burger Tire Consultant Service 250 West 57th Street
New York, N.Y. 10019)

SUBJECT: COMPETITIVE EFFECTS FROM TAX-FREE INVENTORIES HELD IN TIRE
MANUFACTURERS COMPANY-OWNED RETAIL STORES

HERE'S A CHANCE TO SCORE: ANSWER THESE QUESTIONS ON EXCISE TAXES

Action to put you on equal terms with C-O stores, insofar as the collection of tire excise taxes is concerned . . . That's what Congress can do next January. The House of Representatives has acted already. What the Senate does with the House-passed bill is up to us, in large measure. You can help with the facts needed to pound home the BTCS case by giving George Burger the information he'll need in these questions.

1. Your average tax investment. On the average how much money do you have tied down in prepaid federal excise taxes on your tire-tube inventory?

2. Where this money comes from. If you have funds tied down in prepaid federal excise taxes, have you found it necessary to go outside your business for the money?

3. Company-owned stores and excises. Some tire makers say that C-O stores sell so few tires that the fact they carry stocks excise tax-free doesn't give them any advantage over competing independent dealers. Is this true or false?

4. Discounting the tab for excises. Tire makers say, too, that their terms of billing allow dealers to sell the tires before the tax is collected, therefore dealers suffer no disadvantage in competition with tax-free C-O's. Is this true or false?

5. Where is this money taken from? What area of business promotion, expansion suffers as a result of the money you have tied down in excises? Advertising? Hiring? New equipment, building, etc?

The source will be held in confidence.

INDEPENDENT TIRE DEALERS' RESPONSE

Response

No. Hollywood, California—12/15-65

- (1) \$10,000.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "all promotions."

Additional comment . . .

"Also necessary to charge subs tax on excise tax—also county taxes on inventory include excise tax. Depletes gross profit percentages."

Response

Atascadero, California—1/21/66

- (1) \$1445.44 plus recap rubber
- (2) Yes.
- (3) False.
- (4) False.
- (5)

Additional comment . . .

"Each year in the past the general rule is a drop in excise tax for each tread design you have in new tires. The dealer takes an absolute loss on this as it is unlawful to charge the amount of excise tax he paid the previous year."

Response

Bensenville, Illinois—12/15/65

- (1) \$6,500.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) Leaves me less money for "expansion, equipment, salaries."

Additional comments . . .

"When we sell tax exempt organizations it sometimes takes 4 to 6 months to get the tax credit from rubber company. We are waiting since June of 65 for \$78.00 from the City of Chicago."

Response

Urbana, Illinois—12/13/66

- (1) \$2,500.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "advertising & new equipment."

Response

Ann Arbor, Michigan—

- (1) \$5,000.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "advertising—hiring."

Additional comments . . .

"Don't forget the 'red tape' involved in addition to above—when many sales are made to tax exempt units: schools, churches, cities, counties. Very burdensome without compensation."

Response

Winona, Minnesota—12/18/65

- (1) \$40,000.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "new equipment."

Additional comments . . .

"Many tires become obsolete and are never sold, or remain in inventory indefinitely."

Response

Joplin, Missouri—12/15/65

- (1) \$1,400.00 plus
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "adv. needed equipment."

Additional comments . . .

"If tire company owned stores sell so few tires why don't they close them? They claim they need them for distribution. . . . We have to borrow money to keep up to date. . . . Due to large inventory required with so many sizes and types it is impossible to turn stock over fast enough to collect nearly all of excise we must advance."

Response

St. Louis, Missouri—12/13/65

- (1) \$1,500.00
- (2) No.
- (3) False.
- (4) False.
- (5) I have less money for "misc uses."

Additional comments . . .

"I don't know why the tire manufacturer is yelling. We dealers have paid it for years. They are in the same business. When tires leave their district branch for delivery to their stores for retail or resale it is hard to believe they don't know right from wrong."

Response

St. Louis, Missouri—12/13/65

- (1) \$17,000.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "operation of business."

Response

Clifton, New Jersey—12/14/65

- (1) \$4,000.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "advertising."

Response

Carlsbad, New Mexico—12/16/65

- (1) \$10,000.00 plus
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "operating my business."

Response

Kingston, New York—

- (1) \$5,000.00
- (2) Yes, at times.
- (3) False.
- (4a) False.
- (5) I have less money for "all phases."

Additional comments . . .

"Not only should there be an equitable basis on levying the tax—the company-owned stores should not be permitted to compete with independents."

Response

Rochester, New York—12/15/65

- (1) \$1404.43
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "expansion."

Additional comments . . .

"We feel that the fact that company owned stores do not pay the federal tax is an unfair advantage."

Response

Canton, Ohio—

- (1) \$3,500.00
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "everything."

Response

Wilkes-Barre, Pennsylvania—12/31/65

- (1) \$6,000.00 to \$7,000.00.
- (2) Yes.
- (3) False.
- (4)
- (5) I have less money for working capital.

Response

Butler, Pa.—12/13/65

- (1) \$11,500.00.
- (2) Yes.
- (3) 100% False.
- (4) False.
- (5) I have less money for "expansion".

Additional comments . . .

"It is not a fair deal to we independent dealers."

Response

Austin, Texas—12/14/65

- (1) \$11,000.00.
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "hiring and equipment."

Response

Renton, Washington—12/20/65

- (1) \$6,000.00.
- (2) Yes.
- (3) False.
- (4) False.
- (5) I have less money for "expansion."

Additional comments . . .

"Also at a disadvantage over company-owned stores inasmuch as we pay tax on cost of inventory (which includes excise tax cost)."

Response

- (1) Tax on an average of \$150,000.00 tire stock.
- (2)
- (3) False.
- (4) False.
- (5) I have less money for "bank account."

Additional comments . . .

"It is true to a point, all tax should be removed. If it is to continue the list or our cost invoice price should be all in one figure and not separate. The trouble in keeping them separate is more costly than the investment."

Mr. BURGER. Now, boiling down to the final proposition. I am reading from a dealer's news, published by the National Tire Dealers Association, dated October 18, 1965:

The House passed H.R. 318, the bill that provides for the payment of excise taxes by company-owned stores at the time of delivery rather than at the time of the sale. NTDRA first pointed out this problem in 1955, when the association testified in favor of equalizing tax treatment before the House Ways and Means Committee. NTDA has supported the philosophy of equal tax treatment before congressional committees many times since. In discussing in the past the proposed legislation with rubber company officials, NTDRA learned that the effective change would be one of merely bookkeeping procedure for the manufacturers. Several companies told NTDRA that they have already been paying the tax at the time of delivery anyway.

Now, Senator Douglas, I have in my hand a copy of a letter dated March 2, 1962 from NTDRA, which in part I will quote, to a very prominent, courageous, independent tire dealer, in Lincoln, Ill., who has since passed away, God rest his soul.

Mr. L. D. Clapper, Lincoln, Ill.

In regards to the bill which is to require the rubber companies to pay the excise tax, we testified on this in 1953, made quite a point of it in 1955, and have been informed that since that time Firestone is now paying the excise tax, just like the independent tire dealers. Goodyear Tire & Rubber Co. phoned us 3 years ago, and said if this problem was important to us, they would be willing to do the same thing, and pointed out what we are talking about is merely a matter of putting more money into their service stores instead of less money, and that they were willing to do if we wanted to do it.

Mr. Chairman, this completes my statement. And I say in all fairness, all we are asking for is equal justice under the tax law.

Senator WILLIAMS. Thank you, Mr. Burger. Do you have any questions, Senator Douglas?

Senator DOUGLAS. Yes.

Isn't it true in the past the House would pass a bill putting this provision into effect, and the Senate would not pass it? The Senate would pass a bill and the House would not pass it?

Mr. BURGER. Exactly. I read that in my statement.

Senator DOUGLAS. You would be engaged in a process of battledore and shuttlecock, with the two Houses not moving, each House moving separately, but not agreeing with the other.

Mr. BURGER. Yes, sir.

Senator DOUGLAS. So what you are saying now is, accept the House bill?

Mr. BURGER. Exactly. To your credit, Senator Douglas, you were one of the ones I quoted.

Senator DOUGLAS. I have felt this way for a long time. I am disappointed that the Treasury takes a different point of view on the technical definition of a sale. The adoption of the Treasury point of view would give to a concern which is integrated so far as marketing is concerned a very real advantage over separate distribution systems. And I think carried out logically, it would have to further the integration of marketing under control of manufacturing, which I do not regard on the whole as a benefit to the country. I would like to see an independent distributing system.

I am deeply disappointed in the Treasury's position, which I think is technically not in the national interest.

Mr. BURGER. Mr. Chairman, I overlooked one very important document.

This is dated June 15, 1966, Bernard Singer, Inc., Albany Avenue extension at East Chester Street, Kingston, N.Y.

I would like that letter to be put in the record, Mr. Chairman.
 Senator WILLIAMS. It will be put in the record.
 (The letter referred to follows:)

BERNIE SINGER, INC.,
 Kingston, N.Y., June 15, 1966

GEORGE BURGER,
 Washington Building,
 Washington, D.C.

DEAR MR. BURGER; I understand that there is some legislation pending to eliminate the inequities now existing in the tire tax program, and I would like to offer my experiences in this matter if it would help end the discrimination now being practised against the independent dealer.

When the tax was increased during the Kennedy administration I objected strongly to the additional imposition placed on dealers such as myself while the stores operated by tire manufacturers remained as they had been—still free of paying the tax until the product had been sold. I delivered the check to some internal revenue agents at the Albany, New York office and turned it over under protest, after I was informed that if I failed to do so my bank account would be attached and my funds tied up for an indefinite period. This, you know, would have created quite a hardship for a business that has no large bank balance and must rely on regular and rapid turnover to keep operating.

These same agents admitted the unfairness of the law that forced the independent to tie up considerable monies while the company stores have the great competitive advantage of the use of this money as much needed working capital. I requested that they contact a company store a few blocks away and demand payment from them but they refused stating that the law did not require them to do so.

Even though we function in the same manner, despite some claims to the contrary, the small businessman is forced to operate at a disadvantage. There is little, if any, difference in our methods since we both attempt to make sales at a profit.

At my request for a hearing to the next higher authorities an appointment was arranged, but when I attended several weeks later I was confronted with the same men and received the same ruling. Once again I asked for hearing but failed to make this one since my wife was very ill and I could not go. With the prospect of continued sickness and a long frustrating fight I mistakenly allowed the matter to drop.

All that I and the other dealers I have spoken to ask for is EQUAL treatment. That is not too much to ask for. Your efforts in our behalf are greatly appreciated.

BERNIE SINGER.

Mr. BURGER. \$1,000 was involved in that deal, in 1964.

Senator WILLIAMS. Any further questions? If not, the next witness is Mr. Patrick J. Moran.

STATEMENT OF PATRICK J. MORAN, CHIEF TAX COUNSEL, GENERAL TIRE & RUBBER CO., ACCOMPANIED BY EDWARD CRUTCHER, GENERAL CREDIT MANAGER, FIRESTONE TIRE & RUBBER CO.; AND ROBERT SCHARLOTTE, MANAGER, TAX DEPARTMENT, GOODYEAR TIRE & RUBBER CO.

Mr. MORAN. Good morning. My name is Patrick J. Moran. I am chief tax counsel of the General Tire & Rubber Co. and a member of the Public Affairs Committee of the Rubber Manufacturers Association. I am here today representing the Tire Division of the Rub-

ber Manufacturers Association to present testimony in opposition to H.R. 318.

Accompanying me are Mr. Edward Crutcher, general credit manager, Firestone Tire & Rubber Co., and Mr. Robert Scharlotte, manager, Tax Department, Goodyear Tire & Rubber Co.

H.R. 318 would amend the excise tax law with regard to the taxation of tires and tubes. It would impose an advance payment of excise taxes on tire manufacturers who also operate their own retail outlets. The proponent of the bill has alleged that independent retail tire dealers are disadvantaged because they must carry excise tax payments as part of their inventory costs, whereas company-owned stores do not.

We submit that the bill will not benefit an independently operated dealer, but instead will serve only to place an additional financial burden on the tire manufacturers and an unnecessary administrative burden on the Internal Revenue Service.

This proposal has been a perennial issue and bills to accomplish this purpose have been introduced to both Houses of Congress over the past 10 years.

Despite the fact that hearings on this issue have not been held for over 10 years, the House of Representatives on two rather recent occasions has passed this measure and the Senate also passed it last year as a rider to a major tax bill. In each case, the bill failed to pass the test of necessity and legislative action was not completed.

Senator DOUGLAS. What do you mean by the test of necessity?

Mr. MORAN. The fact that the Congress did not find that this was necessary to—

Senator DOUGLAS. Each House found separately.

Mr. MORAN. Our point is that at the time it was passed, it was never found to be of such a necessity that it should be enacted into law.

Senator DOUGLAS. Each House has found separately that it was proper action.

Mr. MORAN. Yes; that is correct.

During each of these instances over the past 10 years the tire industry has unsuccessfully sought public hearings. In this regard, we appreciate the opportunity that your committee is giving us today to present facts surrounding this issue.

The basis for the tire industry opposition to this measure was documented in some detail in my letter to the Senate Finance Committee of March 7, 1966. This letter is appended to my statement and we respectfully request that it be made a part of the record of these hearings.

(The letter referred to follows:)

MARCH 7, 1966.

Mr. THOMAS VAIL,
Chief Counsel, Committee on Finance,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR MR. VAIL: We in the tire industry are unalterably opposed to H.R. 318, a bill which would amend the Internal Revenue Code with regard to the excise tax on tires and tubes. The industry has developed certain information to support the reasons for its objection to this proposed legislation.

The rubber industry vigorously opposes this legislation because there is no discrimination against independent tire dealers with regard to the imposition of excise taxes. The bill, as passed by the House of Representatives, would require an increase in the excise tax on tires. The bill would impose the tire tax at the time of shipment of tires by manufacturers thereof to their retail outlets. The bill includes a broad definition as to what constitutes inventory held for retail sale. It would tax the shipment of tires and tubes delivered to manufacturer-owned retail stores. The bill further provides:

"By 'retail store or retail outlet', your committee means one where the manufacturer, producer or importer sells tires or inner tubes at retail, and deliveries to such stores or outlets included deliveries made in the immediate vicinity of the stores or outlets primarily for future delivery to them. Tax would apply in those cases to all tires and inner tubes delivered to a 'retail store or retail outlet' even though a portion or all of the tires or inner tubes of a particular delivery to the store or outlet may be intended for sale at wholesale."

It is submitted that such an interpretation of retail sales and retail inventory constitutes a clear inequity against the tire manufacturers because their wholesale as well as retail inventory will be taxed. Such companies market tires through a great variety of methods of distribution. The tire manufacturers call only a fraction of their production through company-owned retail outlets.

During 1964, the latest year for which figures are available, the tire industry shipped 150,399,000 tires. 48,020,000 tires were shipped to original equipment manufacturers of vehicles and 100,309,000 in the replacement market. 2,070,000 tires were shipped for export. The distribution of replacement tires was made to the following outlets:

Outlet:	Units
Oil companies.....	23, 518, 000
Chain and mail order.....	19, 976, 000
Department and discount stores.....	4, 969, 000
Cooperatives.....	1, 833, 000
Direct shipments.....	580, 000
Independent wholesalers.....	8, 158, 000
Independent retail dealers.....	30, 556, 000
Company-owned stores.....	10, 263, 000
Military uses.....	456, 000
Total.....	100, 309, 000

The tire industry has integrated its wholesaling and distributing of tires, to the end that its inventories of tires can scarcely be identified as whether they are held for retail, wholesale, or redistribution. Suppose, for example, that there are some few retail sales made at a large regional distribution center. Is it the Government's intention to tax all shipments to such a warehouse? Additionally, is the Government interested in dealing with the tremendous added paperwork which this legislation will require? Recently, there has been an increasing amount of warehousing done at company store locations in order to better some independent customers. Enactment of H.R. 318 could force the companies to revamp their procedures, probably at substantial increased cost.

The system of distributing tires is made complex because the same distribution points must be made to serve company-owned and independent retail outlets, merchandising companies, private brand customers and gasoline stations. Therefore, it is virtually impossible to designate what portion of the inventory may be destined for sale in a company-owned retail outlet. The answer is certainly not to tax all tires and tubes in the inventory regardless of its type. The House of Representatives has exceeded all reason in laying a tax on a shipment to a retail outlet, which shipments will include a vast number of tires held at wholesale.

By way of illustrating the complexity which H.R. 318 would introduce for the Internal Revenue Service and the tire and tube manufacturers as well, let me relate the tire industry's method of dealing with National Account customers. These customers generally are large companies which operate throughout the country and require tires and tubes in great quantity at many locations. These customers are given the opportunity to purchase a particular manufacturer's

tires at any outlet throughout the country which markets the manufacturer's tires. The independent dealer, gasoline station or company-owned store must get credit for these special sales and account for them to the manufacturer. H.R. 318 would impose a real problem with regard to the accounting for the tax on such sales, because the shipment of such tires may or may not previously have been taxed. It would seem that H.R. 318 ought to provide for a credit to a manufacturer where tires are withdrawn from a retail outlet and placed in a wholesale inventory.

There has been great concern expressed for the volume of wholesale inventory that might be taxed under the broad definition of retail inventory included in the House Ways and Means Committee Report on H.R. 318. One manufacturer conservatively estimated that 9% of the floor stock tax provided in the bill would be imposed on a wholesale inventory. This company also admitted that the definition of what constitutes a shipment to a retail outlet was so vague that any estimate was most difficult. It also admitted that the volume of tax on wholesale inventory could be much greater. Three other companies estimated that at least 25% of the floor stock tax provided in H.R. 318 would be imposed on inventory held at wholesale. We in the tire industry believe that the House Ways and Means Committee was unaware of this inequity when it approved H.R. 318.

There are substantial differences among the tire companies in the manner in which they account for the movement of tires throughout their distribution system. Some companies' systems of accounting are based on a dollar amount and excise tax for each unit. These companies would have relatively little difficulty in reporting the increased tax due under H.R. 318 although the question remains as to when the tax will be imposed. Other companies, however, control the movement of tires on a unit basis. H.R. 318 would require these companies to completely revamp their accounting structures at considerable cost. They would be required to change their system in order to bill all shipments to their retail locations to include the Federal Excise Tax on each item as a means of determining the tax liability at the time of shipment.

It is important that all who must deal with the merit of H.R. 318 keep in mind that the excise tax on tires and tubes is presently imposed on the sale of such units. A sale is a transaction which is easily accounted for by the taxpayer and easily audited by the Government. It would seem that the adoption of the complexity of H.R. 318 could lead to some serious inequities when the Internal Revenue Service adopts inconsistent views, for example, when the tax is due. The taxing of a transaction other than a sale should not be adopted without the most careful consideration.

One manufacturer of tires and tubes is deeply concerned with the problem of discrimination against the manufacturer which would result through the adoption of H.R. 318. The sentiments of the company are endorsed by the entire industry.

We have already indicated that the tax on sales to independent dealers is paid on average, 45 days after the date of sale. We have further shown that the tire manufacturers do not collect the tax until 86 days after sale. Under the terms of H.R. 318, the manufacturer would be required to pay tax at the time of shipment to a retail outlet or a branch or warehouse in the vicinity of a retail outlet. Assuming approximately the same rate of turnover of retail inventories as we have assumed in the case of the independent dealers' inventories, the manufacturer would be required to pay the tax substantially in advance of the ultimate collection of the tax by the company outlet. We have reached the obvious conclusion that not only is there no discrimination against the independent dealer, but H.R. 318 would increase the existing inequity in the collection of tax from the manufacturer.

The tire industry previously estimated that the floor stock tax would amount to \$12.4 million imposed on only five companies. The detail of this floor stock tax is as follows:

The Goodyear Tire & Rubber Co.....	\$5, 000, 000
The Firestone Tire & Rubber Co.....	4, 600, 000
The B. F. Goodrich Co.....	1, 800, 000
The General Tire & Rubber Co.....	900, 000
United States Rubber Co.....	160, 000
Total.....	12, 460, 000

Some officials of the tire industry have recommended that we advance the proposition that the tire tax should be a retailers' tax instead of a manufacturers' tax. This would eliminate all inequities both real and assumed. However, this would make taxpayers out of several hundred tire dealers.

In the alternative, it may be that the Congress should consider an amendment to H.R. 318 which would require the manufacturer to pay the tax to the Government, not when a sale or retail shipment occurs, but rather when the manufacturer collects the tax from the customer. A tire manufacturer would not become liable for the tax at the time a sale of tires occurs, but rather would become obligated to pay the tax at the time he makes collection.

It is our hope that this report will prove to be of material assistance to the Senate Finance Committee when it weighs the worth of H.R. 318. Dealing, as we are, with a large and diversified industry, we urge that the Senate Finance Committee carefully consider the problems which H.R. 318 will add to the administration and collection of the tire excise tax. Your committee has a responsibility to separate the wheat from the chaff to prevent the unwarranted adoption of needless tax legislation.

Having made a thorough analysis of the effect of H.R. 318, the tire industry is unanimous in its opinion that this bill should be defeated. We urge that the objections of the tire companies be conveyed to the Members of the Senate Finance Committee.

Please feel free to contact me if you should require information in addition to that contained in this report.

Yours very truly,

THE GENERAL TIRE & RUBBER CO.,
PATRICK J. MORAN, *Assistant Counsel.*

Mr. MORAN. There are five manufacturers who own and operate retail tire outlets.

Senator DOUGLAS. Would you give their names.

Mr. MORAN. Goodyear Tire & Rubber Co., Firestone Rubber & Tire Co., U.S. Rubber—Uniroyal, I believe now, the B. F. Goodrich Co., and the General Tire & Rubber Co.

Senator DOUGLAS. What companies do not have retail outlets?

Mr. MORAN. The other tire manufacturers.

Senator DOUGLAS. Would you name them.

Mr. MORAN. I could only do it from memory, Senator. If you like, we would—

Senator DOUGLAS. You are the member of the Public Affairs Committee of the Rubber Manufacturers Association. You must know the names of the companies which do not have outlets.

Mr. MORAN. If you like, with your concurrence we would make a list and submit it as part of the hearings. (See p. 22.)

Senator DOUGLAS. What proportion of the tires manufactured by rubber companies are manufactured by companies which have retail outlets?

Mr. MORAN. Offhand I cannot say. We could get this information and submit it as part of the hearings.

Senator DOUGLAS. This is a very crucial issue. What proportion of the companies which have retail outlets sell through their retail outlets, and what proportion sell to independent dealers?

Mr. MORAN. I might quote, Senator Douglas, from my letter, the fact that the total replacement in 1964, which I think is a good indication of the replacement tire market today, includes 100 million units of tires.

Senator DOUGLAS. A hundred million tires?

Mr. MORAN. Right. This list indicates that the independent—sales to independent retail dealers is 30 million units.

I think the answer to your question, then, would be that sales to independents is 30 percent of total replacement market.

Senator DOUGLAS. That is for the industry as a whole. But what about the five companies which have retail outlets—what proportion of their tires are sold by independent retailers, and what proportion by their retail outlets?

Mr. MORAN. I am sorry, Senator Douglas, we don't have that information.

Senator DOUGLAS. What I am trying to get at is whether the two big companies that have retail outlets sell primarily through their own retail stores or sell to independent merchants. That is what I am trying to find out. A perfectly proper question, and one that a very skilled attorney, which I am sure you are, should know.

Mr. MORAN. I am sorry to say I don't have the answer to that. (See p. 39.)

Senator DOUGLAS. Very good.

Will you continue?

Mr. MORAN. There are five manufacturers who own and operate retail store outlets. Factual data has been collected from all five companies and summarized, the results of which are detailed in my appended letter of March 7, 1965.

In this testimony our position may be summarized in these four basic points:

1. The bill imposes a great, new administrative burden on both the taxpayers and the Internal Revenue Service.

2. The claimed inequity does not really exist because of the generally liberal credit terms granted to dealers by the tire manufacturers.

May I paraphrase this by saying that the tire manufacturers pay on average the excise tax to the Government 45 days after a sale, but are not reimbursed for the tax until much later.

3. The bill is contrary to the basic congressional policy of maintaining simplicity and equity whenever possible in the tax law.

4. The theoretical additional related costs of insurance for each independent dealer are insignificant.

This legislation would impose a great administrative burden, both on ourselves and on the Internal Revenue Service, to determine when payment of the tax is required, because the tire companies utilize a great variety of distribution methods. For example, shipments to independent dealers, retail outlets, national accounts, and private brand customers, are frequently made from a single distribution center. The tire industry has integrated its wholesaling and distributing of tires to the end that its inventories of tires can scarcely be identified as to whether they are held for retail, wholesale, or for redistribution.

The administrative regulations that would be required of the Treasury Department merely for the matter of interpretation of the

intent and coverage of the bill would be highly complex and detailed. Such changes in the collection, payment, and administration would disrupt the value of 34 years' experience in this area. Incidentally, the excise tax payment on tires and tubes, which are now easily collected, are the second largest contributor to the highway trust fund.

H.R. 318 would bring into the tax law new and disturbing concepts of tax legislation which heretofore have never won approval. Since the tire excise tax was first enacted in 1932, the incidence of tax has been on the "sale" of tires. We now have before us a proposal which would create a hybrid method of taxing tires. Some tires would be taxed at the time of sale and others would be taxed at the time of shipment.

A sale is a term long defined and refined in its meaning both by law and customary usage. Moreover, its incidence in a manufacturer's records is easily discernible for audit and accounting purposes. On the other hand, transfers between divisions are not accounted for in the fiscal records. The manufacturer would be forced to adopt additional, costly procedures for recording internal shipments. This information would serve no useful purpose, except to satisfy the requirements of this legislation.

Senator DOUGLAS. May I ask this question.

Do you conceive that you pay the tax only at the time of final sale to the customer?

Mr. MORAN. Yes.

Senator DOUGLAS. Only at the time of final sale?

Mr. MORAN. Yes, sir.

Senator DOUGLAS. How many days is that on the average after receipt of the tire by your tied dealer?

Mr. CRUTCHER. The average tire dealer—

Senator DOUGLAS. T-i-e-d—your tied dealer, your agent, who represents you in the retail store shop or filling station.

Mr. CRUTCHER. You mean an independent dealer, don't you. You are not talking about our company owned stores now.

Senator DOUGLAS. I am talking about company owned stores.

Mr. CRUTCHER. In company owned stores—we think it is approximately the same as the average independent tire dealer, which takes about 95 days to turn his inventory.

Senator DOUGLAS. So that during that period, there is no tax levied, but the independent dealer has to pay at the beginning of the 95 days.

Mr. CRUTCHER. The independent dealer gets billed at the beginning. When he has to pay is another matter. But he does get billed at the time—

Senator DOUGLAS. And that bill includes the tax?

Mr. CRUTCHER. The bill includes the tax.

Mr. MORAN. I think our later testimony, Senator Douglas, will clarify this point, as to the billing and the collection of the tax from the independent dealer.

Senator DOUGLAS. I had always thought the tax was collected by the Internal Revenue. Who collects the tax?

Mr. MORAN. We collect it from our customers, and we in turn pay it over to the Internal Revenue Service.

Senator DOUGLAS. That is, when you sell a tire to an independent dealer, you add the tax to the bill?

Mr. MORAN. Yes, sir.

Senator DOUGLAS. But your transfer to your own store does not carry with it any added payment at that time.

Mr. CRUTCHER. On that point, Senator, there could be some difference between the rubber companies. I have reason to believe that some of them maybe do bill their stores, and some of them do not. But that is insignificant. It isn't paid anyway until the tire is sold.

Senator CURTIS. Is this your contention—that while at the time tires are transferred physically to your company-owned store, you do not regard that as a sale, and the manufacturer's excise tax is not paid at that time to the Government, and that when tires are transferred physically from a tire company to an independent dealer, is it your contention that while theoretically the tax is due at the time of the transfer, that because you extend them a period of credit, which comes, according to your figures, somewhere near the time they are to be sold, that in actual practice they pay the tax about the time they sell the tire. Is that your position?

Mr. MORAN. Yes, it is. The point is that the independent dealer is never disadvantaged—on average is not disadvantaged—because he does not lay out the money to pay for tax which, as is claimed by the proponents of the bill, the company-owned stores do not have to pay out the tax.

Senator CURTIS. Some time back the Congress passed a measure which took care of the gasoline and I believe the fuel oil dealer, the retailer, who had paid his tax and then lost his inventory by fire, storm or flood. Are there no such provisions in reference to tires?

Mr. SCHARLOTTE. I am not familiar with any major problem in this area comparable with the gasoline.

Senator CURTIS. I am thinking of it in connection with the cost of insurance.

I am quite sure it is true that if gasoline upon which the tax is paid is destroyed, a refund is made, on the theory that the tax is collected on gasoline to build highways, and the gasoline was never used on the highways.

It may be a minor point, but it might have some bearing on the statement that their insurance costs are up because of the liability for the manufacturer's excise tax on tires adding to the total cost—ultimate cost—to the independent dealer, on which he has to protect himself with insurance.

Senator DOUGLAS. And if he doesn't take out insurance, he is completely out of luck.

Senator CURTIS. I don't know how necessary it would be to have the refund law that applies to destroyed gasoline apply to tires or other products. They may become too complicated.

Senator DOUGLAS. Or if tires are stolen, the independent dealer will have already paid his tax, and the company-owned store will not have to pay, because final sale has not been consummated.

Similarly in the case of fire, there would be no redress for the independent dealer. His tax has already been paid. There would be no charge for the company-owned store.

It seems to me these are factors. And I think the Senator from Nebraska has done very well in pointing them out—as well as interest costs.

Mr. MORAN. These are points that we will later show, that the increased costs of insurance, because of these factors which the Senator very well pointed out, is very minimal.

In answer to your question, I have here the names of the other tire manufacturers that are members of the Rubber Manufacturers Association, that are not one of the five major companies. I would like to read them into the record.

Senator DOUGLAS. I would appreciate it.

Mr. MORAN. Gates Rubber Co., Armstrong Tire & Rubber Co., Mansfield Tire & Rubber Co., Seiberling Tire, Dayton Rubber Co., Kelly Springfield Tire & Rubber Co., Lee Tire, Cordoroy Tire, Cooper Tire & Rubber, Mohawk Tire & Rubber Co., Denman Rubber Co., McCreary Tire, and Dunlop Tire & Rubber Co.

Senator DOUGLAS. These are all minor companies.

What proportion of the total production of tires is produced by the big five, each of which apparently has retail outlets, and what proportion is by the smaller tire companies, which do not have retail outlets. That is the test.

Mr. MORAN. We will obtain that information. If the hearings will stay open, we will introduce it as part of our testimony.

Senator DOUGLAS. With all deference, you must know what proportion the big five have of production of tires. I once knew—I cannot recall the figures at the moment, but there was an overwhelming predominance. These companies that you have just read are relatively minor so far as tires are concerned.

Mr. MORAN. I will be happy to provide that.

Senator DOUGLAS. Could you supply it by tomorrow morning?

Mr. MORAN. Yes, sir. (See p. 39.)

Senator DOUGLAS. Good.

Mr. MORAN. We have analyzed dealer inventory turnover experience and the credit terms extended to independent dealers. The five major tire companies having company owned stores have developed information indicating that the average independent dealer will dispose of his inventory within a 95-day period.

Tire manufacturers have various programs of extended credit terms which are granted to all independent tire dealers. As a result of these terms, the five major tire companies carry an average of 86 days' sales in dealer accounts receivable. Many large dealers pay their accounts before maturity in order to earn anticipation discounts so the average terms for smaller dealers will substantially exceed 86 days.

Consequently, it is our conclusion that the average small independent tire dealer does not pay excise tax prior to his disposal of the tires involved.

These points clearly show that the claim of inequity or discrimination against the independent tire dealer is either nonexistent or greatly exaggerated. If there is no inequity to be corrected, then there is no purpose to the bill except to harass the tire companies.

H.R. 318 has been proposed at a time when the Congress has expressed an interest in simplifying the tax law. Senator Long, the chairman of this committee, has taken a long step forward to

bring equity and clarity to our tax law in offering for your consideration his simplified tax reform, introduced as S. 2780. We find that H.R. 318 is contrary to the theory of simplification and is grossly inequitable to the tire manufacturers.

Our testimony today has already pointed out that the tire manufacturers pay the tire excise taxes to the Federal Government prior to collection from their customers. If the committee is to consider all the equities which bear on H.R. 318, it would seem that we should be asking for an amendment which would permit us to delay the payment of these excise taxes. Undoubtedly a more equitable procedure would be for the tire companies to be granted an additional 30 days to remit excise taxes at the end of the second month following the month in which a tire sale occurs.

As a matter of comparison, until recently employers were permitted a substantial period of time within which to pay to the Government payroll taxes withheld from their employees, the theory being that this grace period was a reward granted for collecting these taxes for the Government.

Although this grace period has been substantially reduced in the recent amendments to the income-tax regulations, the fact remains that no employer must remit employment taxes prior to their being withheld from the employees.

Consideration has been given in our industry to a proposal that the tire excise tax be made a retailers tax in order to answer the hypothetical objections which have been raised by the proponent of this bill.

If the tire tax was a retailers tax, neither company owned stores or independent dealers would have any excise taxes in their inventories. Although true equity would be achieved, the Government would have to deal with over 100,000 more excise tax returns.

It should be clear to the committee that the benefits to be gained by imposing an excise tax on deliveries to company-owned stores has been greatly exaggerated by its proponent. Any alleged benefits which might be derived from this legislation have been greatly misrepresented. The average small dealer will not be helped if H.R. 318 is enacted. In fact, the only change will be to complicate life for the tire companies and the Internal Revenue Service. There is absolutely no benefit to the small independent dealer.

The Rubber Manufacturers Association was not given an opportunity to testify when the House of Representatives passed H.R. 318. If we had appeared, we could have pointed out that the acceleration of excise taxes from this bill will amount to \$12.5 million instead of the figure of \$2 million used by the House in its haste to adopt this legislation.

The committee report mentions that the increased insurance costs to independent dealers because of carrying a tax paid inventory is an important factor. We submit that the increased cost is not material. Insurance rates on tire inventories will vary from \$0.10 to \$0.75 per \$100 valuation, depending on the type of building, whether the building contains a sprinkler system and the type of location where the tires are stored. The average dealer maintains a tire inventory of of approximately \$30,000 including excise taxes. The increased annual insurance costs will vary from \$3.12 to \$22.36. At most it would not exceed .08 percent of this inventory. Surely the Congress is not going to adopt legislation which deals with such trifles.

In conclusion, may we say that it is evident that the very minor nature of the inequities facing the individual independent dealer precludes any favorable consideration of H.R. 318. It is especially inappropriate to adopt this legislation when one weighs the burden which would be imposed on the tire manufacturers having company-owned stores and on the Internal Revenue Service.

Moreover, the hybrid situation developed by H.R. 318 which would impose tax liability without the occurrence of an actual sale would be contrary to historical precedent and would be clearly defiant of the current tax philosophy. Both the U.S. Congress and the Department of the Treasury have called for a simplification of our Federal tax system and the removal of any obstacles which obstruct orderly administration of, and compliance with, this system.

Thank you for your attention.

The CHAIRMAN. Let me see if I understand what you are arguing over. I am not worried about complexity as much as I am about equity. You say:

The average independent tire dealer will dispose of his inventory within a 95-day period

and you say:

Tire manufacturers have various programs of extended credit terms which are granted to all independent tire dealers. As a result of these terms, the five major companies carry an average of 86 days' sales in dealer accounts receivable. Many large dealers pay their accounts before maturity in order to earn anticipation discounts, so the average term for small dealers will substantially exceed 86 days.

Now, are those dealers required to pay any interest on this 86 days, or to forego a discount if they have the advantage of 86 days of credit?

Mr. MORAN. I would like to ask Mr. Crutcher to explain that.

Mr. CRUTCHER. No; there is no interest charge in these terms for the dealers.

Senator WILLIAMS. There is a charge, however, through a reduced discount allowance.

Mr. CRUTCHER. If they do not pay within the approved terms, they would lose cash discounts. But bear in mind, this doesn't mean we give them 30 days and discount for 30 days, and then take this discount away if they don't pay within our more lengthy terms. These lengthy terms carry cash discount at maturity.

Senator WILLIAMS. Could you give us or put in the record the discount rates on the 90-day sales-----

Mr. CRUTCHER. This could be done. I think perhaps it would differ for each of the five rubber companies. I am not sure of this.

The CHAIRMAN. That is the information that we would like to have. I would take it that your company-owned stores, in effect, had the benefit of a cash discount. Would that not be correct?

Mr. CRUTCHER. The company-owned stores enjoy the same privilege on cash discount as the independent dealer.

Senator WILLIAMS. But you will furnish this for the record.

Mr. CRUTCHER. Senator, this can be done. Now, this would require each of the five companies to submit their own information, I believe. (See pp. 40-43.)

Senator WILLIAMS. Well, that wouldn't be too much trouble.

Mr. CRUTCHER. Bear in mind these terms might be different—well, would be different at different times of the year.

Senator WILLIAMS. But there is nothing secret about it, is there? I am not asking for trade secrets. It is public information—whatever terms you would have.

Mr. CRUTCHER. The information that any one rubber company would have would, of course, not be a secret between him and his own dealers. He would like to think it was a secret that his competitors don't know about it.

The CHAIRMAN. As a practical matter, don't his competitors know about it?

Mr. CRUTCHER. I think they learn it through the dealer organizations; yes, sir.

Senator WILLIAMS. Having been a small business operator, I know we used to take one man's prices, and we didn't hesitate a moment in discussing it with the next man we thought may have better prices.

Mr. CRUTCHER. I think you are right. The secret would not be a secret too long. The organizations seem to spread the information around.

The CHAIRMAN. Senator Douglas?

Senator DOUGLAS. Mr. Moran, at the top of page 7 you said that the House estimated that the acceleration of excise taxes would bring in \$2 million.

Mr. MORAN. Yes, sir.

Senator DOUGLAS. Your estimate is \$12½ million.

Mr. MORAN. Yes, sir.

Senator DOUGLAS. So the actual amount of the discrimination is six times as great as the House said it was; is that true?

Mr. MORAN. That is not so.

Senator DOUGLAS. It seems to me you have given very eloquent testimony in support of the bill.

Mr. MORAN. There is no discrimination to be corrected by the bill, whether it is 2 million or 12 million or a hundred million—there is still no discrimination to be corrected by the bill.

Senator DOUGLAS. We have \$12½ million of costs borne by the independent dealers, whereas the House said there were only \$2 million of costs. So I want to thank you for the honesty of your testimony, Mr. Moran, and congratulate you on bringing these facts forward, indicating that the evil is of a much graver nature than the House believed.

Mr. MORAN. We were very much interested, Senator Douglas, in trying to bring out in the open all of the information that we could possibly bring to bear, so that this committee could have all of the information that it needs to adequately consider this bill. And in view of the fact that this is the first time we have had a chance to testify in many years, and to bring to this Congress the facts in the case, I suppose a more skilled lawyer than myself would have suggested that we not mention this. But we are interested in trying to bring to this committee all of the information to show that there is no discrimination.

Senator DOUGLAS. The Bible says if you swear to your own hurt and changeth not, this redounds to your moral credit.

I want to say this redounds to your moral credit, and also to the argument for the bill in question.

In the next paragraph, Mr. Moran, do the insurance rates include insurance against robbery, or merely against fire?

Mr. SCHARLOTTE. My understanding is that the rates that we used were comprehensive coverage—fire, theft.

Senator DOUGLAS. And robbery?

Mr. SCHARLOTTE. Yes.

Senator DOUGLAS. Can you verify that? (See p. 39.)

Of course, a big company can say one-tenth of 1 percent is a minor thing. The little fellow may think one-tenth of 1 percent is the difference between surviving and not surviving.

Mr. MORAN. Surely \$3.12 is not the difference between surviving and not surviving.

Senator DOUGLAS. Per tire?

Mr. MORAN. No; per inventory. This is for the total inventory. The annual cost to a dealer who has a \$30,000 inventory would be increased \$3.12—between \$3.12 and if he was—had a bad risk, \$22.36. So his profit would be reduced by \$22 over the year.

Senator DOUGLAS. I am a little puzzled on the way you handled the payment of taxes on tires sold to independent dealers.

Is Mr. Stone of the Treasury Department in the room?

Apparently he is not here.

Do I understand you have already paid the tax of the independent to the Treasury at the time of delivery of the tire?

Mr. SCHARLOTTE. If I understand your question correctly—

Senator DOUGLAS. Let me make it perfectly plain. Suppose Firestone sells a tire to an independent dealer on the 1st of July. As he sells that tire, has he paid the tax to internal revenue?

Mr. SCHARLOTTE. The tax on a tire sold on July 1, 1966, would be paid by August 31, 1966.

Senator WILLIAMS. You have 60 days after the sale; is that correct?

Mr. SCHARLOTTE. It is less than that on average, because it is by the end of the month following the month of sale.

Senator WILLIAMS. I see. It would be 30 to 60 days.

Mr. SCHARLOTTE. On average, about 45 days.

Now, we sell the tire on July 1, 1966. We pay the tax on August 31, 1966. We will not collect the cash from the dealer until September 30 or later. And this is really the heart of our argument—that in terms of cash outlay—

Senator DOUGLAS. It is a month's disadvantage that the independent dealer has, and not 90 days; is that right?

Mr. SCHARLOTTE. We would argue that it is even less than 1 month, because the tire that he buys on July 1 he will sell within this 90-day period. He may not sell it. He may carry it the whole 90-day period. But so long as he has it in his inventory, he, at the same time, has not had to pay out cash to the tire manufacturer. So he can buy the tire on July 1, 1966, and he can still have the tire on hand September 30, 1966; but he has yet to pay a dollar of tax or a dollar of the cost of the tire, because of the ordinary credit that they are granted.

So that there is really only a short period. He may sell the tire August 15. He still doesn't have to pay for the tire until September 30.

This, as I say, is the crux of the matter. The tire manufacturer provides the credit which in large measure provides the working capital to carry inventory for the independent tire dealer.

Senator WILLIAMS. If the Senator would yield—I think that is the reason it would be so important for us to have a list of your discounts

on these 90-day sales; we could see what compensation the companies get for this carrying.

Senator DOUGLAS. And the comparative discounts as between the terms granted to the independent dealers and the terms granted to the company-owned stores.

Mr. MORAN. The terms are identical. The terms granted to independent stores and the terms granted to company-owned stores are identical. As Mr. Crutcher so well pointed out previously, we attempt to keep the independent and company-owned stores on an equal footing. This is very clear in our organization, and I am sure it is true in the other companies.

Mr. CRUTCHER. Senator Williams, to submit these terms that you ask—now, this of course can be done. As I say, in each of the five companies there would be some difference, I am sure. Now, this could be surveyed by the Rubber Manufacturers Association. It will take a little time for them to survey it and submit it. (See pp. 40-43.)

Senator WILLIAMS. Well, if you don't have it, perhaps Mr. Burger could get that from the independents, because I am sure that they all have it. We can get that from the dealers rather than the companies. I don't think that information would take too long to get.

Mr. CRUTCHER. I am sure Mr. Burger would be in no position to get it.

Senator WILLIAMS. Each dealer has a copy, has he not?

Mr. CRUTCHER. They do not.

Senator WILLIAMS. You mean an independent tire dealer in Elgin, Ill., or in Wilmington, Del., does not have a record of the discounts that are available to him by the company which he represents?

Mr. CRUTCHER. At different times of the year, Senator, no. These are announced at different times of the year.

Senator WILLIAMS. We will just take for example the one in effect as of today.

Mr. CRUTCHER. He would know what was in effect as of today.

Senator WILLIAMS. Surely.

Mr. CRUTCHER. He would know it not through a piece of literature of any kind, but he knows.

Senator WILLIAMS. And you know?

Mr. CRUTCHER. Yes.

Senator WILLIAMS. So you could easily furnish this as of today for each company?

Mr. CRUTCHER. The terms in effect as of today, yes. As of a month from now, they would be quite different.

Senator WILLIAMS. That is all right. We hope to have acted in less than a month.

The CHAIRMAN. If they haven't changed the pattern, it would probably serve our purposes to know what terms were in effect as of the first of this year—if the companies object to giving their present terms. Unless you wanted to say there has been some change in the policy to the advantage of the retailer.

Mr. CRUTCHER. Basically the point is this. In the winter months, longer terms are offered to the dealers, with cash discount at maturity—longer terms are offered than at other times of the year. On winter tires it is the reverse. Longer terms are offered in the summer.

The CHAIRMAN. As I understand your position, though, you contend that this doesn't really make any difference because you are

doing the same thing for your company-owned stores that you are doing for the independents, you are treating them both alike in that respect?

Mr. CRUTCHER. Identical, yes, sir.

Senator DOUGLAS. Are you willing to stand on that statement—that the discount terms at any one time are identical for company-owned stores and for independent dealers?

Mr. CRUTCHER. In principle—I can speak for my company.

Senator DOUGLAS. What is your company?

Mr. CRUTCHER. Firestone.

Senator WILLIAMS. Do your billings to the company-owned stores include the tax, or is that billed to them after the sale?

Mr. CRUTCHER. In our case, Senator, in the case of Firestone, it includes the tax, for bookkeeping purposes.

The CHAIRMAN. For bookkeeping purposes—

Mr. CRUTCHER. Not to pay the Government.

The CHAIRMAN. Actually you have not paid the Government then?

Mr. CRUTCHER. We have not paid the Government.

Mr. MORAN. The point here is that each company has a different method of accounting. It is difficult to generalize among the tire industry on whether they all treat the handling of this tax or the handling of their billings the same way.

Senator DOUGLAS. This is a very important point. I want to see if you want to have it stand on the record.

Mr. Moran, do you say that all of the companies give the identical discount terms to company-owned stores that they give to independently owned retail stores?

Mr. MORAN. "All" is a very difficult term to use in a situation like this. Our policy is clearly stated—that the independent stores—

Senator DOUGLAS. A lot of variation can exist if you say that is the policy, but it is not always followed.

What I am trying to get at is this.

Do you have more favorable discount terms for company-owned stores than you have for independently owned retail stores?

Mr. MORAN. No, we do not.

Senator WILLIAMS. In your statement, you list 100 military sales annually.

Now, for example, when you sell to the chain and mail order stores approximately 20 million tires, when and how do you bill those?

Mr. MORAN. We bill them at the time the tires are shipped to them.

Senator WILLIAMS. That is paid at the time the tire is shipped. Let's go down the line. Department and discount stores, about 5 million.

Mr. MORAN. Those sales are billed at the time of shipment.

Senator WILLIAMS. How about the cooperatives?

Mr. MORAN. The billing is treated the same way.

Senator WILLIAMS. Your direct shipments?

Mr. MORAN. Yes, the same billing.

Senator WILLIAMS. Independent wholesalers?

Mr. MORAN. They are billed for the tax at the time of shipment, and sale.

Senator WILLIAMS. The same way?

Mr. MORAN. Yes, sir.

Senator WILLIAMS. The independent retailers are billed the same way?

Mr. MORAN. They are treated the same way as any other customer.

Senator WILLIAMS. How do you collect from company-owned stores?

Mr. MORAN. At the time of sale.

Senator WILLIAMS. The retail sale, not at the time they are shipped, is that correct? Is that the differential?

Mr. MORAN. That is correct.

Senator WILLIAMS. Now, go back up to the top of the list. I notice there is 23½ billion that are sold through the oil companies. How are they billed?

Mr. MORAN. In the same way—at the time of shipment or sale to the oil company.

Senator WILLIAMS. The same as the mail-order stores or independent wholesalers?

Mr. MORAN. Yes, sir.

Senator WILLIAMS. Then 90 percent of the tire sales are billed with the tax at the time of the shipment, is that correct?

Mr. MORAN. One-hundred percent of all sales are billed at the time of shipment.

Senator WILLIAMS. But the payment is not due in the company-owned stores at the time of shipment, is it?

Mr. MORAN. We don't want to lose sight of the fact that we are dealing with a section of the internal revenue code which discusses how you pay your excise taxes.

Senator WILLIAMS. I realize that. Let's not shadowbox here.

Is there not a difference between the manner in which the tax is collected on the 10½ billion that are sold through company-owned stores and the 90 million sold otherwise?

Mr. MORAN. No; there is no difference.

Senator WILLIAMS. Then you would have no objection to a bill being passed which said that all must pay this tax in identically the same period of time as related to shipments from the company. Since they are all already being done the same you would have no objection to us embracing or passing a bill that spells that out, and then that would eliminate all argument, is that correct?

Mr. MORAN. If that were to bring equity into the tax law, yes, we agree.

Senator WILLIAMS. You would support a bill that would levy the tax at the same time in connection with retail stores and company-owned stores, all related to the time of the shipment from the plant. You would support such legislation. Forget this bill, whether it does or doesn't. But I understand you would support that principle?

Mr. MORAN. I think, Senator Williams, your suggestion is embodied in a suggestion which I mentioned in my testimony with regard to the fact this ought to be considered as a retailer's tax. This would bring the point into focus that you suggested.

Senator WILLIAMS. What confuses me, Mr. Moran, is that first you say there is no difference in the manner in which the tax is being paid as related to the others, and then when the suggestion is made that we embrace in the bill a provision that says that the tax will all be collected on all categories in relationship to the shipment from the manufacturer—the same relationship, shipment from the manufacturer—then we find objection. You puzzle me some.

Mr. SCHARLOTTE. I think perhaps you are using the wrong word, because what we are talking about is a taxable event, and the taxable event is a sale, not a shipment.

Senator WILLIAMS. I think I understand it, too, but I wanted to get it out. The difference is that in these other categories the time of the sale is interpreted as when it leaves the manufacturer to the dealer, is that correct? Therefore, the tax is levied at that point. In the company-owned stores the time of the sale is interpreted as when they are sold at retail, and therefore there is a delayed action in the imposition of the tax. Is that correct?

Mr. SCHARLOTTE. No; there is no delayed action—unless you are trying to relate it to the ultimate consumer.

As you can see, most of the customers that we are talking about here are middlemen in the chain of distribution. And the company-owned stores are at the end of the line, at the retail level.

Now, we are simply saying that the present law is simple and workable. The tax is imposed at the time of a sale. And when we sell a tire at the company-owned store down the street, there is a tax payable. When we sell a tire to an oil company, the tax is payable.

Senator WILLIAMS. I think I understand the problem here, and I think I understand the situation.

The CHAIRMAN. Let me get in on this for a moment, because there is one thing I want to clear up. If I can clear up two points, I think I can reach my conclusion.

May I say to you, Mr. Moran, and your assistants, and also to Mr. Burger, as far as I am concerned you boys are going to win or lose this case right here in this hearing room, because every time I discuss this matter I have agreed with the last man I talked to, and the reason was because he always knew more about the subject than I did. If I talked with the independent tire dealers I agreed with them. When I talk to you fellows, I cannot meet your argument, so I wind up thinking you are right about it. Then I talk to them again, and it sounds like they are right again.

Let me see if I can nail down the points I think I need to know to arrive at a conclusion.

First let's talk about the tax itself.

The tax on tires and tubes is a manufacturer's tax, isn't it?

Mr. MORAN. Yes.

The CHAIRMAN. So the tax is imposed at the time you sell that tire. When you sell it to the independent tire dealer, as far as your relationship with him is concerned, somebody owes tax on the tire, is that correct?

Mr. MORAN. Yes, that is correct.

The CHAIRMAN. And the tax has to be paid to the Government 60 days after this sale.

Mr. MORAN. On an average, 45 days after the sale.

The CHAIRMAN. Right.

If you sell a tire to an independent dealer let's say, on April 1, when must the tax be paid?

Mr. MORAN. It is due on May 31, because on May 31 you pay the tax for all the sales during April.

The CHAIRMAN. I see.

Now, if you are dealing with your company-owned store, the day the tax is imposed is the date the store sells the tire.

So if you take the same analysis, then in the latter case the tax would measure from May 31 instead of from April 1. If you sold it on May 31, then the tax—the date would start to run from May 31 instead of April 1.

Mr. MORAN. If we sold a tire on—I don't understand your analysis, Senator Long.

The CHAIRMAN. All right.

First we discussed when the tax would be due. We agreed that if you sell a tire to an independent dealer on April 1, the tax is due on May 31 regardless of when the independent dealer resells it.

Mr. MORAN. Right.

The CHAIRMAN. Now, on the same day, April 1, you put a tire in your independent store. You really haven't sold it, but maybe for bookkeeping purposes you treat it as a sale. It is still in the company. The company still owns the tire. On April 1 you put it in your retail outlet and let's say you sell it on May 31.

Now, in that instance, when would the tax be due on that?

Mr. MORAN. If our retail store sold it on May 31, the tax would be due on June 30.

The CHAIRMAN. On June 30.

All right.

So the manufacturer would have an additional month, then, to pay the tax.

Now, the tax would then have been postponed from April 1 to May 31 in one case, and in the other case it would have been postponed until June 30.

Mr. MORAN. Remember, even though we sold this to an independent dealer on April 1, he would not pay us that tax until July 31.

The CHAIRMAN. You are talking about the independent dealer?

Mr. MORAN. Yes.

The CHAIRMAN. He would not pay you until July 31 because you are advancing him credit to carry that.

Mr. MORAN. Yes.

The CHAIRMAN. All right.

Now, to try to straighten my thinking, let's leave out your credit for a minute, because that confuses me. Let's just try to think about it with the credit out of it, and then put the credit in and see what difference that makes, because that is fundamental to your argument, as I understand it.

Mr. MORAN. Yes, sir.

The CHAIRMAN. I realize that is very important.

Now then, if there is no credit involved here, you would pay the tax, but you have to add it to the cost of the tire at that point.

Now, let's say he buys \$30,000 worth of tires from you. How much tax would that be against a \$30,000 inventory?

Mr. MORAN. About 10 percent.

The CHAIRMAN. So he would have—leaving out the credit feature you are speaking of—he would have about \$3,000 to pay interest on from April 1 to May 31. And your outlets would not have that interest factor to carry. So that would be interest on \$3,000 that he would be looking at, and insurance on the \$30,000.

Mr. MORAN. Right.

The CHAIRMAN. How much do you estimate the interest on that \$30,000 would be, just on the average?

Mr. CRUTCHER. One-half percent a month. \$15 a month.

The CHAIRMAN. So you are talking about \$15 a month for insurance, right?

Mr. MORAN. No, interest.

The CHAIRMAN. All right.

Now, that is 2 months, that is \$30 for interest we are talking about. In addition to that, we are talking about the insurance. Now, what do you think the insurance on \$30,000 inventory would be?

Mr. MORAN. We estimate between \$3.12 and \$22.36, for the year.

The CHAIRMAN. Let's get a figure, because I am trying to get all this together.

Mr. MORAN. Let's take \$12 a year on average, additional insurance.

The CHAIRMAN. I think that is about what it would amount to.

Mr. MORAN. That is the median of the insurance figures that we have in our testimony.

The CHAIRMAN. So you feel that that would only be about a dollar a month insurance?

Mr. MORAN. Right.

The CHAIRMAN. For 2 months, that is \$2. Now, that is \$32.

Now, if you isolate that feature, he would be looking at a \$32—he would have a disadvantage of \$32.

If I understand correctly, you contend you are selling these tires to the independent dealer for the same price that you are pricing them to your own sales outlets.

Mr. MORAN. Yes.

The CHAIRMAN. And that the discount terms are the same as between the two.

Mr. MORAN. Correct.

The CHAIRMAN. Now, assuming that to be correct, you say that you are letting them carry this inventory for an average of 85 days, and that they are not paying you interest on that.

Mr. MORAN. Correct.

The CHAIRMAN. If I understand your argument, you are contending that on the average these people get the benefit of interest on that—that the tax has been paid, all right, but on that \$3,000, they are getting the benefit of 3 months—of almost 3 months' interest on that money.

Mr. MORAN. That is correct.

The CHAIRMAN. In other words, because you let them have it on consignment, and you are not charging them interest on it, and you are giving them the same cash discounts that your own stores get, if I understand it—if you just rough that figure out, you would be entitled—they are actually gaining \$45 in interest, if you just rough it out to make that 3 months rather than 85 days—you are contending that they are getting the benefit of \$45 interest, because you are carrying this interest on this inventory rather than them.

Mr. CRUTCHER. You are carrying the accounts receivable, yes, for, as you say, nearly 90 days, and a long cash discount, when they do pay it.

Senator WILLIAMS. And of course the additional cash discount for the shorter period of time will show up in this report you are furnishing us.

Mr. CRUTCHER. I can only speak for one rubber company, but there is no variation in the cash discount.

The CHAIRMAN. Just to get this straight in my mind—I want to be fair to both sides, and I want to consider all factors.

I am trying to get down to dollars and cents. You are contending that by carrying this inventory, and without charging them interest

on the money they owe you, that you are in effect giving them the benefit of \$45 of interest expense that you are paying on inventory they are carrying?

Mr. MORAN. Yes. That is exactly it.

The CHAIRMAN. You contend that \$45 offsets the \$32 they are out by virtue of having to pay this tax at an earlier date?

Mr. MORAN. This is substantially it, Senator. In other words, if there is any inequity in the present system, it ought to be considered in favor of the tire companies.

The CHAIRMAN. Well, now, of course you would concede if you are not carrying some fellow's inventory for him, that he does have a good argument, that \$32?

Mr. MORAN. Right.

The CHAIRMAN. In other words, you would concede if this interest expense that you are carrying were not a part of this picture, he has a good argument?

Mr. MORAN. This is the very point. If he had to reach down in his pocket and pay over to us this excise tax, we would agree that he is disadvantaged. But our point is he doesn't have to pay this, and there is no disadvantage. In view of the terms that—

The CHAIRMAN. I might say if what you say is correct, and I were an independent tire dealer, and I could keep that inventory on that—sitting up there at no cost to me, and with you carrying the interest expense, that would be great—that is how I would do business.

But on the other hand, if by doing that I have to forgo my cash discounts to the extent that that causes me to lose as much in one respect or another as I gain by this, then of course it would wash it out.

Do I understand your contention to be that you don't have to do that?

Mr. MORAN. He doesn't have to do that. He still gets the discounts.

The CHAIRMAN. He still gets the discount—even though it is 90 days?

Mr. MORAN. Yes, sir.

Senator WILLIAMS. But does he get the same discount that he does if he pays in 30 days? The answer is no, isn't it?

Mr. CRUTCHER. To answer that, there is a short period of time each year—maybe 3 months out of each year—when a dealer gets long terms and gets extra anticipation discount by paying before maturity.

Senator WILLIAMS. I have not formed any opinion on this bill, but I think we would get a better understanding if we would just be frank with each other. There is a difference. Now, maybe there is not a difference enough here to be considered.

Just take the case of two tires and follow it through. You sell one to an independent dealer—and you don't always sell these the same month. You sell it May 10 from the company. The dealer sells it on June 10. In that instance the company would send in a check, and the dealer would pay it on July 1; is that correct? The first of the month, on the month following the sale. That would be July 1. Now, another tire is shipped the same day, May 10, to a company-owned store, and that store sells it June 10. The tax comes due August 1, 30 days later; is that correct?

Mr. CRUTCHER. This is true, because there has been no sale when you ship it to the store.

Senator WILLIAMS. I am just speaking mathematically. That is correct, is it not?

Mr. CRUTCHER. That is correct.

Senator WILLIAMS. So to that extent there would be a difference of 50 days in the payment of the tax. And in the case of the inventory that is financed from this insurance, that is the reason I want to see the discount terms. I don't think there is anything secret about it. It has always been my experience as an independent dealer in other products, that if we bought merchandise on 90-day credit we paid a certain price in 90 days, if we paid it 60 days we got a discount, and if we paid cash we got a larger discount. While you might say there is no carrying charge added on, there is a carrying charge whether you add it on or work it backward. I think that if we lay all these mathematical facts out on the table and recognize them we could form a better solution here—at least I can—because thus far you have not convinced me that they do not exist. If they are going to be evaluated I think we can evaluate them better laid right on top of the table.

Mr. CRUTCHER. Our terms at the moment, as of right now, happen to be passenger tires sold to a dealer, 50 percent 10th of next month, another 50 percent the 10th of the second month, 2 percent cash discount for each payment made at maturity.

Senator WILLIAMS. That is 2 percent?

Mr. CRUTCHER. Two-percent cash discount. They pay half of it the 10th of next month. Then 2-percent cash discount if they pay the other half the 10th of the second month. That is the passenger tires.

Senator WILLIAMS. Suppose the dealer pays cash on delivery?

Mr. CRUTCHER. The same 2-percent cash discount. No anticipation cash discount.

Now, the same principle applies on truck tires, except that on truck and tractor tires they may pay the entire amount on the second 10th—in other words, the 10th of the second month—and get 2-percent cash discount.

Senator WILLIAMS. If a dealer buys an inventory of snow tires at this time of the year, off season, what would be the terms?

Mr. CRUTCHER. The terms right now on snow tires—they are due one-third next November 10, one-third next December 10, and one-third next January 10, and in each case, 2-percent cash discount for the portion paid at maturity.

Senator WILLIAMS. And no discount for advance payment?

Mr. CRUTCHER. No, those do not carry anticipation discount of half a percent a month, for any amount prepaid. However, at other times of the year we do have terms carrying anticipation discounts.

Senator WILLIAMS. If he wants to take advantage of that half of a percent a month and pay it all, he would get this cumulative 2 percent on each of the one-third, plus a half of a percent a month as of the date of payment.

Mr. CRUTCHER. Yes. Then we would not have to go out and borrow money to finance his inventory.

Senator WILLIAMS. I understand that, but he would have this discount if he paid cash now, and he would have his money in the tax on the tire throughout this period.

Mr. CRUTCHER. He would.

Senator WILLIAMS. Now, in a company-owned store could it take advantage of the discount? You have company-owned stores, but you do not have to pay the tax until after it is sold. Would that be true, because you would not sell this tire until January, for instance?

Mr. CRUTCHER. We pay the tax—

Senator WILLIAMS. Sixty days—45 days after—

Mr. CRUTCHER. Whenever they sell it—the end of the month following the date of sale—in the case of our stores selling it, or in the case of our selling it to a dealer.

Senator WILLIAMS. Is this delay differential in the time of payment—whether it is worth a consideration or not—but that is the argument between the two operations here now, isn't it?

Mr. MORAN. Yes, I think you have the facts straight.

Senator WILLIAMS. This is the argument. Whether we should correct it or shouldn't—that is the problem that is before us.

The CHAIRMAN. It would seem to me that the interest on the money that you are carrying would more than offset the tax. But the question is to what extent do the payment discounts offset that differential. That is why Senator Williams very correctly said we would like to know about your payment terms.

Now, is there any one of you here who can say that his company has cash discounts with no credit for anticipated payments that would benefit a person by paying in less than 90 days?

Mr. CRUTCHER. Snow tires.

The CHAIRMAN. In 90 days—under certain circumstances, on snow tires.

Mr. CRUTCHER. You mean there would be anticipation discount? Our terms as of today, no—there are no anticipation discounts on anything other than snow tires.

Senator WILLIAMS. It could be this differential in the wintertime when snow tires are in season—the discount then could be on the other type of tires for advance payment, for the summer months.

Mr. CRUTCHER. This is true.

Senator DOUGLAS. Is that true of Goodyear?

Mr. SCHARLOTTE. Basically it is the same.

Senator WILLIAMS. I understand it is true pretty much of all of them.

The CHAIRMAN. We have available to us lawyers, accountants, whatever it takes to study a tax problem. We would like to have the discount for that reason, so they can make a comparative study and try to come up with an overall answer. Until that study is completed, I will still be in doubt as to whether we ought to pass the bill or not.

Mr. MORAN. I think the key consideration is whether this is going to help any independent dealer in any substantial form. And we maintain it will not. There is little if any benefit to any independent dealer by passing this legislation.

Mr. SCHARLOTTE. And may I point out that Senator Douglas, for example, notices that there are some very large companies involved. There are very many dealers involved. But these dealers are our customers. And if these customers were really being hurt, we are so anxious to help our dealers that we would really make a special effort to work something out. But we really don't think that it helps these dealers. And they are our customers. If our customers were really being hurt, we would not be up here testifying against this.

The CHAIRMAN. What is your impression of their position? Do you think that they themselves seem to feel or don't feel that they are being discriminated against?

Mr. SCHARLOTTE. My personal judgment, observing the history of this particular bill, is that there are relatively few proponents who have been unusually vocal. And if my American history is correct, this is often the way legislation has been passed—because there have been one or two very persistent proponents.

But I don't see any ground swell from the oil companies, who are in the same boat, or the chainstores—and these big companies are much more aware of these financial problems. And they have not asked for this.

Mr. MORAN. I have studied the situation with regard to General Tire, because we just completed a series of sales meetings around the country, among our dealer sales organization.

This bill, or this supposed disadvantage was never mentioned by any dealer. We have received no letters from any of our dealers indicating that they are disadvantaged. We have received not one letter or comment that they are hurt because the General Tire, company-owned stores are favored by the present tax law.

The CHAIRMAN. There are a lot of these small concerns who really are not in a position to do much about the bookkeeping and the law and the way that you pay taxes and the way they pay taxes.

Undoubtedly, however, through, as you indicate, these big companies are, these large concerns that buy large amounts of tires—they have a chance to think about it.

Does Sears manufacture their own tires or buy them from one of the companies?

Mr. MORAN. They do not manufacture tires.

The CHAIRMAN. Sears sells the All-State tire. Is that a Sears subsidiary?

Mr. SCHARLOTTE. No, they are manufactured by an independent company. As far as I know, Sears does not even own any stock in them.

The CHAIRMAN. So your argument is that certainly Sears would know what the problem is on both sides of the fence, and so far as you know, they have expressed no interest in the matter?

Mr. SCHARLOTTE. That is right. Neither have any of the other people in this chain of distribution.

Mr. CRUTCHER. Nothing in the bill that would help them—the dealer, large or small.

The CHAIRMAN. How about Montgomery Ward?

Mr. MORAN. They buy their tires. They do not manufacture.

The CHAIRMAN. Do I understand they have not complained about it? They would certainly know about whatever discrimination exists.

Mr. MORAN. No, they have never complained.

The CHAIRMAN. And you say the same thing is true for other large purchasers of automobile tires.

Mr. SCHARLOTTE. Including the original equipment manufacturer. We have to pay the tax when we sell the tire to the original equipment manufacturer.

The CHAIRMAN. In other words, Ford Motor Co. would be a big buyer, General Motors, and Chrysler. And your position is that if dis-

crimination existed as to the independent dealer, it exists as to them, also, because they have it on hand prior to the time they sell the automobile. And they have not complained or expressed any resentment about it.

Mr. MORAN. I think that is the point. If there is any basis of any argument for discrimination, the chains ought to be in favor of making this a retailer's tax, wherein each one is put on this theoretical equal level.

This is the only answer to this dilemma.

The CHAIRMAN. As far as you are concerned, you would have no complaint about it being a retail tax?

Mr. MORAN. No.

Mr. SCHARLOTTE. We would not advocate it, because it is contrary to all the basic policies of good tax administration. We have just eliminated retail excise taxes, and one of the main reasons was because the druggist was involved—the local dealer—because the Revenue Service had a very difficult time administering the law. We hate to be in a position of advocating something that really doesn't make sense. But this is the only sensible answer to changing the inequity that has been discussed.

The CHAIRMAN. Senator Douglas?

Senator DOUGLAS. May I ask Mr. Crutcher to summarize the previous testimony on how Firestone charges taxes to its company-owned stores?

Mr. CRUTCHER. As Mr. Burger pointed out—there was a time a few years ago—and, Senator, I cannot tell you how many years ago it has been—when Firestone used to pay the tax to the Government at the time we billed our stores.

Senator DOUGLAS. That is what I thought you said.

Mr. CRUTCHER. There was a time we did this.

Senator DOUGLAS. That is precisely what this bill would require.

Mr. CRUTCHER. Yes. We discontinued doing that—and I cannot tell you how many years ago—but some years ago we discontinued doing that. But for accounting purposes, for our own convenience, we, so I understand—I am quite sure of this—continued to bill the excise tax to our stores, just for accounting purposes.

Senator DOUGLAS. At the time of sale?

Mr. CRUTCHER. No.

Senator DOUGLAS. Wait a minute. At the time of delivery?

Mr. CRUTCHER. At the time of delivery.

Senator DOUGLAS. That is precisely what this bill would require.

Why would this cause this great administrative upset if this is what you are already doing?

Mr. CRUTCHER. I think I can say the reason it would not is that we have never stopped doing it. We set this up some years ago to do the bookkeeping this way, and we continue to do the bookkeeping this way.

Senator DOUGLAS. You could continue if this bill were to be adopted. It would not make any change in your practice?

Mr. CRUTCHER. This is true. But it would not help the dealer, would it.

Senator DOUGLAS. It would not hurt you.

Mr. MORAN. The real problem, Senator Douglas, is the fact that—

Senator DOUGLAS. If you can do it, why can't the other four?

Mr. MORAN. When does a taxable event occur? When is a shipment to a retail store? From the committee report furnished by the House of Representatives, we don't know when a shipment to a retail store occurs. This is an administrative burden.

Senator DOUGLAS. One of your arguments has been the great administrative upset this would cause. But here is something that Firestone has been doing, and still is doing.

Mr. CRUTCHER. I believe we are still doing it. I am not sure.

Mr. SCHARLOTTE. But there is a historical reason for that. And the reason, as I understand it, that Firestone is different, is because originally their company-owned stores were separate subsidiary corporations, and they were by law required to collect the tax, because there was a sale from one legal entity to another. And this still exists, as I understand it, with some few Firestone stores. So that there was a unique situation.

Senator DOUGLAS. Irrespective of the origin, the continuation of the practice does not seem to have caused great administrative difficulties for Firestone.

Mr. CRUTCHER. I might add this. This billing is—this billing of the tire and the tax on our stores is strictly on shipments to that store.

Senator DOUGLAS. Yes, I understand.

Mr. CRUTCHER. And not to some nearby point, where they might later draw it out. In this respect too, I might also point out that the matter of consignment to dealers has—I hate to even bring this up, because it has not been introduced into this testimony at all—

Senator DOUGLAS. That is all right.

Mr. CRUTCHER. But the 6 is a fair percentage of tires that go to dealers are on consignment, and therefore they would not represent a sale.

Now, we don't bill tax on those. And conceivably that might be one of the rules that would get into this picture—a shipment to a retail point. When you ship to a dealer's consigned stock, that is a shipment to a retail outlet.

That would certainly be awkward, to try and bill and keep track of the tax on that. And I believe out of these five rubber companies, something in the vicinity of 15 percent of shipments to dealers are shipments into consigned stock.

Senator DOUGLAS. If Firestone can do it, it doesn't seem to me it would be too crushing for the others.

Mr. CRUTCHER. This brings up administrative problems that to my way of thinking would be not only a severe problem for the rubber companies, but likewise for internal revenue, to try to audit something that is almost unauditible.

The CHAIRMAN. Well, are there any further questions?

You provide that discount information for us. I think that will help. We will certainly study it and try to arrive at whatever would be the fair and equitable and just conclusion, all things considered.

(The following letter and attachments were submitted pursuant to questions raised by members of the committee:)

RUBBER MANUFACTURERS ASSOCIATION,
Washington, D.C., June 27, 1966.

Subject: H.R. 318—Proposed legislation related to the payment of Federal excise tax on tire and inner tubes.

Hon. RUSSELL LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to a request at the Committee hearing on H.R. 318 on June 21, 1966, there are enclosed statements of the basic credit terms granted by certain tire manufacturers to both independent tire dealers and the manufacturers' company-owned stores.

The enclosures were supplied by those tire manufacturing companies having their own retail facilities as well as acting as suppliers to independent dealers. The companies are listed as follows:

Firestone Tire & Rubber Company
General Tire & Rubber Company
The B. F. Goodrich Company
Goodyear Tire & Rubber Company
United States Rubber Company

You will note that none of the enclosures bears any attribution to a specific manufacturer, but each is identified as Dealer Credit Terms—"Company A", "Company B", etc. This identification is merely used to protect the confidentiality of the information supplied by each company. The listing of "Company A", "Company B", etc., bears no reference to the alphabetical order in which the companies are actually listed above.

A further enclosure is a simple chart which shows the over-all effect of these credit terms in relation to the so-called "inequity" which is the apparent target of H.R. 318. The chart is based on testimony at the June 21 hearing.

At the hearing, it became apparent that an understanding of these credit terms is of particular importance to the Finance Committee. A dealer is granted the 2% cash discount on all payments made at or before the specified maturity date. The average credit terms of 86 days reflects many transactions where the dealer is allowed a much longer period (in some instances as much as *200 days*) to pay for tires and tubes and is still granted the 2% cash discount. Thus, there is no forfeiture of a discount to the dealer—on the average—until after the 86 day period previously cited.

The anticipation discount which may be allowed at certain times is in addition to and entirely distinct from the 2% cash discount. Failure to obtain an anticipation discount is not a penalty but rather represents a dealer's decision as to where he wishes to invest his funds. The anticipation discount is thus compensation for such discretionary investment in his own inventory.

As to the estimated costs of insurance discussed at the hearing, such estimates include both fire and extended coverage; they do not, however, include coverage for theft.

At the hearing Senator Paul Douglas expressed an interest in the percentage of sales in the replacement market accounted for by the five manufacturers listed above.

Based upon data supplied to the Rubber Manufacturers Association from all tire companies for calendar year 1965, it has been developed that the five companies having their own retail facilities account for 60.60% of replacement shipments of highway-type tires (passenger, motorcycle, truck and bus) and that they account for 61.63% of replacement shipments of all taxable tires (including the above categories as well as farm, aircraft, industrial, pneumatic, bicycle, and solid tires).

I hope that the Finance Committee will find the foregoing helpful in its deliberation of this matter. However, should any questions arise regarding the enclosures, we shall endeavor to answer them.

Sincerely yours,

W. J. SEARS, *Vice President.*

Company A—Dealer credit terms

Product	Regular terms	Dating programs—Shipping dates and payment terms
Miscellaneous special brand tires.	2 percent, 3d 10th prox. Anticipation discount: ½ percent for payment 30-60 days in advance. 1 percent for payment 60 days or more in advance.	
Snow tires.....		July through Aug. 20: 2 percent, ½ Nov. 10; ½ Dec. 10; ½ Jan. 10. No anticipation discount.
Regular brand tires, passenger and truck tires.		Winter dating: After July 21: 2 percent, ½ Nov. 10; ½ Dec. 10; ½ Jan. 10. No anticipation discount.
Passenger tires and tubes, farm tires and tubes, truck tires and tubes, industrial tires and tubes, camelback, finished passenger retreads.		Spring dating: After Jan. 1: Zone I: 2 percent, ½ Apr. 10; ½ May 10; ½ June 10. Zone II: 2 percent, ½ May 10; ½ June 10; ½ July 10. Anticipation discount of ½ of 1 percent for each full month prior to due date.
Do.....		Special dating: Sept. 21 through Oct. 20: 2 percent, ½ Mar. 10; ½ Apr. 10; ½ May 10. Anticipation discount as above.
Do.....		Special winter dating: After Oct. 21: Zone I: 2 percent, ½ Mar. 10; ½ Apr. 10; ½ May 10. Zone II: 2 percent, ½ Apr. 10; ½ May 10; ½ June 10. Anticipation discount as above.
Passenger tires and tubes (except snow tires).		Special dating: Aug. 21 through Sept. 20: 2 percent, ½ Oct. 10; ½ Nov. 10. No anticipation discount.
Passenger tires and tubes.....		Mar. 21 through Apr. 20: Zone I: 2 percent, ½ May 10; ½ June 10. Zone II: 2 percent, ½ June 10; ½ July 10. No anticipation discount.
Do.....		Apr. 21 through May 20: 2 percent, ½ June 10; ½ July 10. No anticipation discount.
Do.....		May 21 through June 20: 2 percent, ½ July 10; ½ Aug. 10. No anticipation discount.
Do.....		June 21 through July 20: 2 percent, ½ Aug. 10; ½ Sept. 10. No anticipation discount.
Farm tires and tubes.....		June 21 through Aug. 20: 2 percent, ½ Oct. 10; ½ Nov. 10; ½ Dec. 10. No anticipation discount.
Passenger tires and tubes.....		July 21 through Aug. 20: 2 percent, ½ Sept. 10; ½ Oct. 10. No anticipation discount.
Farm tires and tubes.....	2 percent 2d 10th prox.	Aug. 21 through Sept. 20: 2 percent, ½ Nov. 10; ½ Dec. 10; ½ Jan. 10. No anticipation discount.
Industrial tires and tubes.....	2 percent 10th prox.....	
Truck tires and tubes.....	2 percent 2d 10th prox.....	
Passenger tires and tubes.....	2 percent 10th prox.....	

COMPANY B—DEALER CREDIT TERMS

We practice Cycle Billing, which extends the same number of payment days to all customers, but which varies the payment date according to whichever cycle a customer permanently operates within.

Cycle billing schedule (5 cycle periods)

Cycle No.	Billing period	Due date
No. 1.....	6th of a month through 5th of subsequent month.	25th of month after close of billing period.
No. 2.....	16th of a month through 15th of the subsequent month.	5th of month after close of billing period.
No. 3.....	26th of a month through 25th of the subsequent month.	15th of month after close of billing period.
No. 4.....	1st of a month through the end of the month.	20th of month after close of billing period.
No. 5.....	21st of a month through 20th of the subsequent month.	10th of month after close of billing period.

Regular terms

Payment due on date indicated on all products, except Heavy Service and Farm Tires and Tubes.

Heavy Service and Farm Tires and Tubes are due on same date in second month after close of billing period.

No anticipation allowed.

Spring dating

All customers in Zone I, purchases beginning January 1.

Payment due— $\frac{1}{4}$ April, $\frac{1}{4}$ May, $\frac{1}{4}$ June.

All customers in Zone II, purchases beginning January 1.

Payment due— $\frac{1}{4}$ May, $\frac{1}{4}$ June, $\frac{1}{4}$ July.

Anticipation allowed.

Winter dating

Purchases October through December 31:

Zone I— $\frac{1}{8}$ March, $\frac{1}{8}$ April, $\frac{1}{8}$ May.

Zone II— $\frac{1}{8}$ April, $\frac{1}{8}$ May, $\frac{1}{8}$ June.

Anticipation allowed.

Harvest terms (farm tires and tubes only)

Purchases January 21–August 20.

$\frac{1}{2}$ October, $\frac{1}{2}$ November, $\frac{1}{2}$ December.

No anticipation.

Winter tire terms

Purchases July through September.

$\frac{1}{2}$ November, $\frac{1}{2}$ December, $\frac{1}{2}$ January.

No anticipation.

Company C—Dealer credit terms

Shipping period	Product category	2-percent cash discount allowed if paid by following maturity dates	Subject to anticipation discount ¹
Sept. 21-Dec. 31	All tires and tubes	$\frac{1}{2}$ Mar. 10, $\frac{1}{2}$ Apr. 10, $\frac{1}{2}$ May 10	Yes.
Jan. 1-Mar. 20	do	$\frac{1}{2}$ Apr. 10, $\frac{1}{2}$ May 10, $\frac{1}{2}$ June 10	Yes.
Mar. 21-Apr. 20	All truck and tractor	$\frac{1}{2}$ May 10, $\frac{1}{2}$ June 10, $\frac{1}{2}$ July 10	Yes.
Apr. 21-May 20	All passenger	$\frac{1}{2}$ June 10, $\frac{1}{2}$ July 10	Yes.
May 21-June 20	All truck and tractor	$\frac{1}{2}$ July 10	No.
	Passenger (except snow tires)	$\frac{1}{2}$ July 10, $\frac{1}{2}$ Aug. 10	No.
June 21-July 20	Truck and tractor (except snow tires)	Aug. 10	No.
	Snow tires	$\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10, $\frac{1}{2}$ Jan. 10	No.
	Passenger (except snow tires)	$\frac{1}{2}$ Aug. 10, $\frac{1}{2}$ Sept. 10	No.
July 21-Aug. 20	Truck (except snow tires)	Sept. 10	No.
	Snow tires	$\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10, $\frac{1}{2}$ Jan. 10	No.
	Tractor tires	$\frac{1}{2}$ Oct. 10, $\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10	No.
	Passenger (except snow tires)	$\frac{1}{2}$ Sept. 10, $\frac{1}{2}$ Oct. 10	No.
Aug. 21-Sept. 20	Truck (except snow tires)	Oct. 10	No.
	Snow tires	$\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10, $\frac{1}{2}$ Jan. 10	No.
	Tractor tires	$\frac{1}{2}$ Oct. 10, $\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10	No.
	Passenger (except snow tires)	$\frac{1}{2}$ Oct. 10, $\frac{1}{2}$ Nov. 10	No.
	Truck and tractor (except snow tires)	Nov. 10	No.
	Snow tires	$\frac{1}{2}$ Nov. 10, $\frac{1}{2}$ Dec. 10, $\frac{1}{2}$ Jan. 10	No.

¹ In addition to the 2-percent cash discount, anticipation discount, where applicable as shown above, is allowed at the rate of 6 percent per annum from date of payment to maturity date.

Company D—Dealer credit terms

Shipping period	Product category	Credit terms (subject to 2 percent discount at maturity) ¹	Anticipation discount applicable ²
Sept. 21 to Dec. 31	All tires and tubes	$\frac{1}{2}$ (March, April, and May 10)	Yes.
Jan. 1 to Mar. 19	do	$\frac{1}{2}$ (April, May, and June 10)	Yes.
Mar. 20 to Apr. 19	Passenger tires and tubes	$\frac{1}{2}$ (May and June 10)	Yes.
Apr. 20 to May 19	Truck and farm	$\frac{1}{2}$ (June 10)	No.
	Truck tires and tubes	$\frac{1}{2}$ (May, June, and July 10)	No.
May 20 to June 19	Passenger tires and tubes	$\frac{1}{2}$ (June and July 10)	No.
June 20 to July 19	do	$\frac{1}{2}$ (June and July 10)	No.
July 20 to Aug. 19	do	$\frac{1}{2}$ (July and August 10)	No.
Aug. 20 to Sept. 19	do	$\frac{1}{2}$ (August and September 10)	No.
Sept. 20 to Oct. 19	Tubes	$\frac{1}{2}$ (October, November, and December 10)	No.
June 20 to Oct. 19	Snow tires (passenger and truck)	$\frac{1}{2}$ (November, December, and June 10)	No.
July 20 to Aug. 19	Passenger tires and tubes	$\frac{1}{2}$ (September and October 10)	No.
Aug. 20 to Sept. 19	do	$\frac{1}{2}$ (October and November 10)	No.
Sept. 20 to Oct. 19	do	$\frac{1}{2}$ (November and December 10)	No.

¹ Does not include relatively small zone 2 whose terms are generally similar but more favorable by one month later in time.

² Calculated at 6 percent per annum from date of payment to maturity. (The company statement period runs 20 to 19.)

³ Does not include snow tires.

Company E—Dealer credit terms

Shipping branch	Tires and tubes	Maturity date (2 percent cash discount allowed if paid by maturity date)	Subject to anticipation discount ¹
Dec. 1 to Mar. 25	All tires and tubes	Zone 1: 1/8 (Apr. 10, May 10, June 10)	Yes.
Mar. 26 to Apr. 25	do.	Zone 2: 1/8 (May 10, June 10, July 10)	Yes.
Apr. 26 to May 25	Passenger	Zone 1: 1/8 (May 10, June 10)	Yes.
	Truck and tractor	Zone 2: 1/8 (May 10, June 10, July 10)	Yes.
May 26 to June 25	All passenger	Zone 1: June 10	No.
	All truck and tractor	Zone 2: 1/8 (June 10, July 10)	Yes.
June 26 to July 25	All passenger	Zone 2: July 10	No.
	All truck and tractor	July 10	No.
July 26 to Aug. 25	All passenger	Aug. 10	No.
	All truck and tractor	Sept. 10	No.
Aug. 26 to Sept. 25	All passenger	Sept. 10	No.
	All truck and tractor	Oct. 10	No.
Sept. 26 to Oct. 25	All winter cleat	1/8 (Nov. 10, Dec. 10, Jan. 10)	No.
	All passenger	Oct. 10	No.
	All truck and tractor	Nov. 10	No.
Oct. 26 to Nov. 30	All winter cleat	1/8 (Nov. 10, Dec. 10, Jan. 10)	No.
	All passenger	Nov. 10	No.
	All truck and tractor	Dec. 10	No.
	All winter cleat	1/8 (Nov. 10, Dec. 10, Jan. 10)	No.
	All passenger	Dec. 10	No.
	All truck and tractor	Jan. 10	No.
	All winter cleat	1/8 (Dec. 10, Jan. 10)	No.

¹ In addition to 2 percent cash discount, anticipation discount, where applicable as shown above, is allowed at the rate of 1/8 of 1 percent per month from date of payment to maturity date.
 Zone 1: Southern part of United States.
 Zone 2: Northern part of United States.

TIRE DEALER, INVENTORY & TAX FINANCING, BY MANUFACTURER

Point of Sale to Dealer

Point of Sale by Dealer



Manufacturer Pays Tax Average of 45 Days

Manufacturer Finances Tax Average of 41 Days



Manufacturer Collects From Dealer Average of 86 Days



Dealer Sells Tire Average of 95 Days

Source: RMA Testimony Before Senate Finance Committee, 21 June, 1966.

The CHAIRMAN. We thank you gentlemen very much for your testimony.

I think you have done a fine job.

May I say to Mr. Burger I wasn't able to be in the room—I had to go off for two amendments which were agreed to in the automobile safety bill today. I hope I hit a blow good for the country there. I am going to read your statement, Mr. Burger, because you have labored long in this vineyard. If you want to add something to the record, go ahead and say it now.

Mr. BURGER. I would like to put a question to the Chair, that I would like to have in the record the names of the two witnesses that accompanied Mr. Moran, and who they represent.

The CHAIRMAN. That is in the record.

Now, Mr. Burger, if you want to add some additional statement, or anybody else wants to add something, you have until 5 o'clock this evening to get it to us, and we will include that in the record. If you want to respond to something the other fellow said, we will be glad to put that in the record as an addendum to your statement.

(Whereupon, at 12 noon the committee was adjourned, to reconvene subject to the call of the Chair.)

(By direction of the chairman, the following is made a part of the record:)

RUBBER MANUFACTURERS ASSOCIATION,
Washington, D.C., June 29, 1966.

Mr. THOMAS VAIL,
Chief Counsel, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. VAIL: In our discussion of June 27 concerning H.R. 318, you expressed an interest in the procedures involved in determining the "anticipation discounts" available to tire dealers for early payment to manufacturers to cover the cost of goods sold to the dealer.

In order to give you an illustration of this matter, I have prepared a chart showing the steps used in determining these anticipation discounts.

Although the situation established on the chart is hypothetical, I trust that it will serve to promote some clarity into this matter.

The conditions established in this situation approximate quite closely current industry practices in the area of anticipation discounts.

Sincerely yours.

JOSEPH PETER KIGIN,
Legislative Assistant.

ANTICIPATION DISCOUNTS GRANTED TO TIRE DEALERS

Conditions

1. Dealer purchased \$900.00 worth of tires on March 1.
2. Value of \$900.00 is exclusive of the Federal excise tax, since the discounts are not applicable to the tax.
3. Maturity dates for payment would be $\frac{1}{2}$ April 10, $\frac{1}{2}$ May 10, $\frac{1}{2}$ June 10.
4. Anticipation discount applicable would be $\frac{1}{2}$ of 1% per month from date of payment to maturity date.
5. Assume a payment-in-full date of March 10.

Value of tires excluding Federal excise tax.....	\$900. 00
Total 2 percent cash discount.....	18. 00
Total anticipation discount.....	8. 82
Total discounts.....	26. 82
Net payment by dealer.....	873. 18

Assuming payment in full on March 10, the discounts are figured as follows:

	Cash discount	Anticipation discount
Payment due Apr. 10: \$300 due minus 2 percent cash discount equals \$294 due minus $\frac{1}{2}$ of 1 percent anticipation discount (1 month anticipation).....	\$6	\$1.47
Payment due May 10: \$300 due minus 2 percent cash discount equals \$294 due minus 1 percent anticipation discount (2 months' anticipation).....	6	2.94
Payment due June 10: \$300 due minus 2 percent cash discount equals \$294 due minus $1\frac{1}{2}$ percent anticipation discount (3 months' anticipation).....	6	4.41
Total.....	18	8.82
Total discounts available.....	26.82	
Total cost to dealer for payment on Mar. 10.....	873.18	

NOTE.—If the dealer should pay after Mar. 10, the anticipation discount on the 1st maturity date would still be available to him and would be calculated on a daily basis using a 30-day month. Moreover, if the dealer should merely choose to pay on time for the 1st maturity period, the anticipation discount would still be available to him for the remaining maturity periods.

STATEMENT OF W. W. MARSH, IN BEHALF OF THE NATIONAL TIRE DEALERS & RETREADERS ASSOCIATION, INC.

The National Tire Dealers and Retreaders Association is an organization composed of approximately 3,500 tire dealers, of whom the overwhelming majority (approximately 80%) are also retreaders. We have been quite concerned with the future of the independent tire dealer and have so expressed ourselves in hearings before several legislative committees.

More than ten years ago we pointed out the inequities in the collection of federal excise tax on new tires and tubes because the dealer was required to pay the excise tax on delivery of the tires and tubes while we were given to understand that company owned stores were not. However, in the ensuing years and in further testimony on various subjects, principally on the federal excise tax matter in connection with the Highway Trust Fund, we were told that some companies pay the excise tax on delivery while others do not. The establishment of a weighted average of excise tax amounts for a given size tire was an arrangement between the Rubber Manufacturers Association and the Internal Revenue Service. Apparently from all indications, such an arrangement has been quite satisfactory to parties on both sides. As a result, our Association is not at all familiar with the bookkeeping procedures involved in the collection of this tax.

Our reason for taking the position that we did in the beginning was provoked by two reasons. One, if company stores were not required to pay tax in a manner similar to independent tire dealers, then this was basically unfair and discriminatory. Secondly, if something could be developed to improve the competitive position of the independent tire dealer, we certainly would favor such a concept.

Many changes have taken place in the tire industry in the past ten years in inventory procedures and the method of handling inventories. While we certainly are in complete accord with the Highway Trust Program, the fact still remains that the greatest hardship of the independent tire dealer exists because of the amount of tax money that he has tied up in his inventory and the increase in the capital investment because of his tax problem. The independent tire dealer-retreader has had a new burden thrust upon him by the imposition of a tax on his tread rubber used in retreading. He must absorb this increased cost in his federal-state-municipality bids and does not have the opportunities of tax recovery now extended to new tire manufacturers and their various outlets. Anything that can be done for these small businessmen to relieve the situation in the matter of their investments would be warmly welcomed. If there are existing inequities in the method of collection, these small businessmen would be grateful for anything which can be done to fortify their position in the community.