

## IMPOSITION OF TIRE TAX ON TIRES DELIVERED TO MANUFACTURERS RETAIL OUTLET

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Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

### R E P O R T

[To accompany H.R. 318]

The Committee on Finance, to which was referred the bill (H.R. 318) to amend section 4071 of the Internal Revenue Code of 1954, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### I. SUMMARY OF BILL

This bill provides that the manufacturers excise tax on tires (10 cents or 5 cents a pound) and inner tubes (10 cents a pound) in the case of manufacturer-owned (or importer-owned) retail stores is to be imposed at the time of delivery to these stores, rather than at the time these tires or tubes are sold. This change is to be effective as of the first day of the first calendar quarter beginning more than 20 days after the date of enactment of this bill. This bill also imposes a floor stocks tax, at the regular tax rates, on inventories on hand in these stores on the date the new provision referred to above becomes effective.

#### II. GENERAL STATEMENT

Under present law (sec. 4071(a)), a tax of 10 cents a pound is imposed on highway-type tires and 5 cents a pound on other tires, and a tax of 10 cents a pound is imposed with respect to inner tubes, at the time they are sold by the manufacturer, producer, or importer.<sup>1</sup>

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

<sup>1</sup> A tax of 5 cents a pound is also imposed on tread rubber, and a tax of 1 cent a pound is also imposed on non-highway-type laminated tires.

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 suggests that independent tire dealers may have slightly over 10 percent 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 investment tied up in inventory, the independent tire dealers, because of this higher inventory cost, also are faced with somewhat larger insurance costs with respect to this inventory.

It has been suggested to your committee that although the independent tire dealers are billed for the tax at an earlier time than in the case of the retail-owned stores of manufacturers, nevertheless, because of liberal credit terms extended by the tire manufacturers, the independent tire dealers in fact were not bearing the burden of the tax for any appreciable length of time. A study made by the tire manufacturers with retail-owned outlets indicated that in the average case the independent dealers do not pay for their tires until 86 days after receiving them. It was also indicated that in the average case they sell the tires within 95 days after receiving them. This suggests that the independent dealer bears the burden of the tax in the average case for only about 9 days. In order to determine whether the independent dealers did in fact bear the burden of the tax for any appreciable length of time as well, as to obtain other information with respect to this bill, your committee held one day of public hearings on it. The hearings disclosed that passenger car tires generally are sold under what is called spring dating, winter dating, or under regular terms. In the case of spring and winter dating, an "anticipation discount" generally is allowed based on the value of the tires excluding the Federal excise tax. This discount is one-half of 1 percent a month or on an annual basis amounts to a 6-percent interest rate. The effect of this is that the independent dealer who buys under spring or winter dating, and pays cash at the time of shipment, pays less than the dealer who makes use of the credit extended to him. The fact that he pays less means that the dealer who obtains credit is in effect paying interest for the period during which the credit is being extended at something approaching a normal interest rate. This suggests, therefore, that in such cases the independent dealer, although in the average case making use of credit, is in fact bearing the burden of the tax in the same way as he would be if he paid cash at the time of shipment for the tires and borrowed the money for this payment from a bank and paid approximately a 6-percent interest rate on it. While spring and winter dating, where the anticipation discount is available, do not account for all the sales to the independent dealers, nevertheless they appear to account for something like two-thirds of the sales.<sup>2</sup> Although the

<sup>2</sup> The Rubber Manufacturers Association reports that the average credit terms are 86 days. Since it appears from the information submitted by the association that under regular billing the credit terms on the average are something like 40 days, the spring and winter dating, which provide substantially longer credit terms, must account for the bulk of the shipments, perhaps something like two-thirds.

anticipation discounts referred to do not include the Federal excise tax itself, a proportional share of any payment received from a dealer is allocated to the excise tax. As a result, it is impossible for the dealer to obtain the benefit of the anticipation discount without also paying the Federal excise tax in advance.

This bill removes the competitive discrimination against independent tire dealers by providing for the imposition of the tire or inner tube tax at the time the tire or inner tube is delivered to a retail store or retail outlet of the manufacturer, producer, or importer. 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 include deliveries made in the immediate vicinity of the stores or outlets primarily for future delivery to them. Tax would apply in these 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.

The bill adds language to make sure that the imposition of tax when tires or inner tubes are delivered to a retail store or retail outlet does not result in double taxation. Thus, the bill provides that if the tax is applied at the time of delivery, it is not again to apply at the time of sale, and conversely, if the sale occurs first and the tax applies at that time, it is not again to apply at the time of delivery.

The provision added by the bill is to take effect on the first day of the first calendar quarter beginning more than 20 days after the date of enactment of this bill.

The bill also provides for a floor stocks tax on tires and inner tubes held at manufacturer-owned (or importer-owned) retail stores or retail outlets at the time the new provision becomes effective. The floor stocks tax imposed in this case is the tax which would otherwise be imposed at the time the tire or inner tube is sold.

It is estimated that this bill will result in a nonrecurring revenue gain of something like \$10 million because of the speedup in the timing of the imposition of the tax in the case of these manufacturer-owned (or importer-owned) retail stores or retail outlets.<sup>3</sup>

### III. CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### SECTIONS 4071 AND 4226 OF THE INTERNAL REVENUE CODE OF 1954

##### SEC. 4071. IMPOSITION OF TAX.

(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed upon the following articles, if wholly or in part of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

- (1) Tires of the type used on highway vehicles, 10 cents a pound.

<sup>3</sup> This represents an upward revision of the estimate appearing in the House report based on data presented by the manufacturers which will be affected.

(2) Other tires (other than laminated tires to which paragraph (5) applies), 5 cents a pound.

(3) Inner tubes for tires, 10 cents a pound.

(4) Tread rubber, 5 cents a pound.

(5) Laminated tires (not of the type used on highway vehicles) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent, 1 cent a pound.

**(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)] (c) DETERMINATION OF WEIGHT.**—For purposes of this section, weight shall be based on total weight, except that in the case of tires such total weight shall be exclusive of metal rims or rim bases. Total weight of the articles shall be determined under regulations prescribed by the Secretary or his delegate.

**[(c)] (d) RATE REDUCTION.**—On and after October 1, 1972—

(1) the tax imposed by paragraph (1) of subsection (a) shall be 5 cents a pound;

(2) the tax imposed by paragraph (3) of subsection (a) shall be 9 cents a pound; and

(3) paragraph (4) of subsection (a) shall not apply.

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#### SEC. 4226. FLOOR STOCKS TAXES.

**(a) IN GENERAL.**—

(1) **1956 TAX ON TRUCKS, TRUCK TRAILERS, BUSES, ETC.**—On any article subject to tax under section 4061(a)(1) (relating to tax on trucks, truck trailers, buses, etc.) which, on July 1, 1956, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 2 percent of the price for which the article was purchased by such dealer. If the price for which the article was sold by the manufacturer, producer, or importer is established to the satisfaction of the Secretary or his delegate, then in lieu of the amount specified in the preceding sentence, the tax imposed by this paragraph shall be at the rate of 2 percent of the price for which the article was sold by the manufacturer, producer, or importer.

(2) **1956 TAX ON TIRES OF THE TYPE USED ON HIGHWAY VEHICLES.**—On tires subject to tax under section 4071(a)(1) (as amended by the Highway Revenue Act of 1956) which, on July 1, 1956, are held—

(A) by a dealer for sale,

(B) for sale on, or in connection with, other articles held by the manufacturer, producer, or importer of such other articles, or

(C) for use in the manufacture or production of other articles,

there is hereby imposed a floor stocks tax at the rate of 3 cents a pound. The tax imposed by this paragraph shall not apply to any tire which is held for sale by the manufacturer, producer, or importer of such tire or which will be subject under section 4218(a)(2) or 4219 to the manufacturers excise tax on tires.

(3) 1956 TAX ON TREAD RUBBER.—On tread rubber subject to tax under section 4071(a)(4) (as amended by the Highway Revenue Act of 1956) which, on July 1, 1956, is held by a dealer, there is hereby imposed a floor stocks tax at the rate of 3 cents a pound. The tax imposed by this paragraph shall not apply in the case of any person if such person establishes, to the satisfaction of the Secretary or his delegate, that all tread rubber held by him on July 1, 1956, will be used otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)).

(4) 1956 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on July 1, 1956, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 1 cent a gallon. The tax imposed by this paragraph shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

(5) 1959 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on October 1, 1959, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 1 cent a gallon. The tax imposed by this paragraph shall not apply to gasoline in retail stocks held at the place where intended to be sold at retail, nor to gasoline held for sale by a producer or importer of gasoline.

(6) 1961 TAXES ON CERTAIN TIRES AND INNER TUBES.—On tires subject to tax under section 4071(a)(1), and on inner tubes subject to tax under section 4071(a)(3), which, on July 1, 1961, are held—

(A) by a dealer for sale,

(B) for sale on, or in connection with, other articles held by the manufacturer, producer, or importer of such other articles, or

(C) for use in the manufacture or production of other articles,

there is hereby imposed a floor stocks tax at the rate of 2 cents a pound in the case of such tires, and a floor stocks tax at the rate of 1 cent a pound in the case of such inner tubes. The taxes imposed by this paragraph shall not apply to any tire or inner tube which is held for sale by the manufacturer, producer, or importer of such tire or tube, or which will be subject under section 4218(b) or 4219 to the manufacturers excise tax on tires or inner tubes. The tax on inner tubes imposed by this paragraph shall not apply to inner tubes for bicycle tires (as defined in sec. 4221(e)(4)(B)).

(7) 1961 TAX ON TREAD RUBBER.—On tread rubber subject to tax under section 4071(a)(4) which, on July 1, 1961, is held by a dealer, there is hereby imposed a floor stocks tax at the rate of 2 cents a pound. The tax imposed by this paragraph shall not apply in the case of any person if such person establishes, to the satisfaction of the Secretary or his delegate, that all tread rubber

held by him on July 1, 1961, will be used otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)).

(b) **OVERPAYMENT OF FLOOR STOCKS TAXES.**—Section 6416 shall apply in respect of the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

(c) **MEANING OF TERMS.**—For purposes of subsection (a), the terms “dealer” and “held by a dealer” have the meaning assigned to them by section 6412(a)(4).

(d) **DUE DATE OF TAXES.**—The taxes imposed by subsection (a) shall be paid at such time after September 30, 1956, as may be prescribed by the Secretary or his delegate; except that the tax imposed by paragraph (5) shall be paid at such time after December 31, 1959, as may be prescribed by the Secretary or his delegate, and except that the taxes imposed by paragraphs (6) and (7) shall be paid at such time after September 30, 1961, as may be prescribed by the Secretary or his delegate.

(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.*

