

TEMPORARY SUSPENSION OF DUTY ON SYNTHETIC  
RUTILE

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

## REPORT

[To accompany H.R. 11830]

The Committee on Finance, to which was referred the bill (H.R. 11830) to suspend the duty on synthetic rutile until the close of December 31, 1976, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

## I. SUMMARY

*House bill.*—The House bill would suspend until July 1977 the duty on synthetic rutile, which is used in the manufacture of white paints and pigments. The committee bill does not modify the House bill, but includes an amendment unrelated to the subject matter of the House bill.

*Committee amendment.*—The committee amendment revises the exemption from the excise tax on wagers for State run lotteries, to take account of changes in the conduct of State lotteries. Under existing law, an excise tax of 10 percent is imposed on all wagers, with certain exceptions, one of which is for lotteries conducted by a State, or the instrumentality of the State, if the eventual winner of the lottery is determined by a horse race. This exemption was enacted in 1965 to exempt the New Hampshire State Lottery, which was the first State lottery, from the excise tax on wagers. Since that time, however, other States have inaugurated lotteries, but the winners in most of these lotteries are determined on a basis other than by a horse race. The committee provision deletes the requirement that the winner be chosen by a horse race to make the exemption apply to all State-conducted lotteries. In addition, the committee provision specifies that an exemption from the occupational tax on vending machines is to

be provided for lottery tickets dispensed by machine, and also provides for the withholding of Federal income tax on lottery payments to winners.

## II. GENERAL STATEMENT

### A. TEMPORARY SUSPENSION OF DUTY ON SYNTHETIC RUTILE

At the present time, the United States is dependent on imports to meet its needs for both natural and synthetic rutile. Worldwide, both materials, which are functionally equivalent, being principal sources of titanium dioxide pigment used by the paint, paper and plastics industries, are in short supply. Rutile is also used in making titanium sponge, metal and alloys.

Natural rutile presently enters the United States duty free under item 601.51 of the Tariff Schedules of the United States (TSUS). Synthetic rutile, on the other hand, at the present time is dutiable under item 603.70 of the TSUS at 7.5 percent *ad valorem* under rate column numbered 1 (applicable to countries accorded most-favored nation treatment) and 30 percent *ad valorem* under rate column numbered 2 (applicable to Communist countries, except Poland and Yugoslavia). H.R. 11830 would add a new provision in the Appendix to the TSUS to suspend the 7.5 percent duty under column numbered 1 for a temporary period, i.e., until the close of June 30, 1977, but would effect no change in the present duty under column numbered 2.

Synthetic rutile is derived from ilmenite, a natural mineral which is found extensively in the United States. The committee is informed, however, that synthetic rutile is not presently produced in this country largely because of major ecological problems associated with the disposal of polluting effluents created in the ilmenite upgrading process and the currently prohibitive costs of curing those problems.

The Department of Commerce has submitted to the committee a report favorable to the enactment of the bill, stating:

The temporary suspension of duty on synthetic rutile would eliminate the unnecessary cost on a resource material during a period in which research is being conducted to develop a method of obtaining such material from abundant domestic resources of ilmenite without creating harmful environmental side effects. We believe that it is unlikely that the proposed suspension of duty during this period would have an adverse effect on the research efforts or on the domestic industry.

Imports of synthetic rutile come principally from Australia and Japan with a lesser amount from India. U.S. imports from these countries totaled 9,200 tons in 1972 and 16,000 tons in the first seven months of 1973. The committee believes that temporary suspension of the duty on synthetic rutile would aid the United States in obtaining a greater share of the limited world supply, thereby helping to maintain production and employment levels in domestic manufacturing, particularly in the paint and pigment industries. Temporary removal of the duty, as provided under the bill, would also serve domestic consumer and ecological considerations.

No unfavorable comment was received by the committee nor has any objection to its enactment been received from the executive departments or from any other source. Favorable reports on the bill have been received from the Departments of State, Treasury, and Commerce.

#### B. EXEMPTION FROM EXCISE TAX ON WAGERS IN STATE LOTTERIES

Under existing law, each person engaged in the business of accepting wagers is subject to an excise tax of 10 percent on the amount of wagers placed with him (sec. 4401). The excise tax on wagers generally applies to any person who is conducting a lottery. In addition, a related occupational tax of \$50 per year is imposed on each person who is liable for the tax on wagers (or who is engaged in the business of receiving wagers for or on behalf of a person who is in turn, liable to pay the excise tax on wagers) (sec. 4411). Also, a special occupational tax of \$250 per year is imposed on the operation of coin-operated gaming devices, including a vending machine which dispenses tickets on lotteries (sec. 4461). Finally, the payment of winnings of \$600 or more must be reported on information returns (Forms 1096 and 1099) (sec. 6041(a)).

In 1963, New Hampshire became the first State in recent history to establish a State lottery. The lottery was similar in operation to the Irish Sweepstakes, so that the lottery's ultimate winners were determined by the results of a designated horse race, which was run following a preliminary selection of the prospective winners by lot. The lottery, when established, was subject to the Federal taxes on wagering. In 1965, however, Congress provided an exemption for State-conducted sweepstakes, wagering pools, or lotteries from the excise tax on wagers. The exemption was specifically applied to the New Hampshire-type of lottery and has two basic requirements: (1) the sweepstakes, wagering pool, or lottery must be conducted by an agency of a State acting under authority of State law; and (2) the ultimate winners must be determined by the results of a horse race (sec. 4402(3)).

Since the appearance of the New Hampshire lottery, seven other States have established and are operating lotteries. Several more States have either authorized, or are investigating the feasibility of, lottery operations. The lotteries which have been established since 1965, including a revised version of the New Hampshire lottery, differ substantially in the manner in which they operate from the form of lottery which was made exempt by Congress in 1965. Although most States use a format which gives the appearance that the ultimate winners are determined on the basis of a horse race, as a matter of fact, ultimate winners are determined by lot. Consequently, the lotteries, as now conducted, do not satisfy the second requirement for exemption from the tax on wagers, that is, the use of a horse race to determine the winners.

The committee believes that the exemption of State lotteries from the tax on wagers should be continued. As a result, the committee's provision deletes the requirement that the ultimate winners of State lotteries must be determined on the basis of the results of a horse race. Accordingly, all State lotteries will be exempt from the wagering

tax regardless of the method used for determining the winners. Furthermore, since lottery tickets may be dispensed through coin-operated vending machines, the provision also adds a similar exemption from the special occupational tax on the operation of vending machines for State-run lotteries.

Since the committee believes that none of the Federal taxes on wagering should be imposed on State-run lotteries the changes referred to above are to be effective for wagers made, or for periods ending, after March 10, 1964.

As the popularity of State lotteries increases, problems have developed in the reporting, for Federal income tax purposes, of the winnings from these State lotteries. At present, information returns must be filed for winnings of \$600 or more. Although an Internal Revenue Service study based upon a sampling of these information documents has indicated a relatively high rate of compliance in the reporting of lottery winnings (85 percent of the winners reported their gains on timely filed income tax returns), the residual noncompliance is sufficient to warrant concern. Moreover, there is some concern that compliance may be much lower for winners of less than \$600, for whom information returns need not be filed.

Apart from the compliance problem, a payment problem may arise for winners who fail to pay their Federal income tax either on a quarterly basis or with their final return. Thus, winners may spend their lottery proceeds before the tax return filing date and then find that they are unable to pay the tax when due. The Internal Revenue Service reports that withholding at the source would alleviate payment problems for such taxpayers and would also reduce the incidence of delinquent account activity in its collection division.

To deal with this payment problem, the committee's provision requires a State to withhold tax from an amount of \$1,000 or more paid to any individual as a prize in a lottery conducted by it. For purposes of the withholding and related administrative provisions (including the credit against tax under section 31), the provision treats payments of State lottery winnings as if they were payments of wages by an employer to an employee. However, the withholding is applied at a flat rate of 20 percent of the gross payments, and the normal withholding exemptions are not applicable. In lieu of a Form W-4, a winner must furnish to the payor a statement showing the name, address, and taxpayer identification number of each person entitled to share in the payment.

The withholding requirement applies to prizes paid in kind, as well as cash payments. In such a case, since the State remains liable to pay the withholding tax, it can ask the winner to pay to it the amount of the tax required to be withheld before the prize is distributed.

Compliance with these provisions will depend in large measure upon the cooperation of the States rather than upon sanctions on the winners for failure to comply. Thus, the States will have to file Forms W-9 with respect to payments and amounts withheld. Since the States are presently providing the Internal Revenue Service with information returns, the committee does not believe that this requirement places an undue additional burden upon their lottery operations.

This provision will forestall the collection of as yet uncollected Federal wagering taxes on State lotteries. It is estimated that the

uncollected amount, which the committee believes should not be a tax liability, amounts to about \$180 million. It is estimated that the withholding of tax on prizes would increase fiscal year 1975 receipts by \$20 million at 1973 levels, but because more States will be conducting lotteries during the period January-June 1975 (as compared to January-June 1973) it is expected that the actual increase in budget receipts for fiscal year 1975 will be considerably greater than \$20 million. In addition, it is expected there will be a minor revenue pick-up from the better compliance obtained.

### III. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect on the revenues of the bill. The committee estimates that the temporary suspension of duties on synthetic rutile provided by the bill will result in a revenue loss of not more than \$275,000 in the first full year for which this provision is effective. The committee amendment pertaining to the exemption for State lotteries from the Federal excise tax on wagering will not result in any revenue loss since the committee believes that there should be no liability for this tax on the part of States conducting lotteries. It is expected that the withholding of Federal income tax on State lottery prizes will result in a minor revenue pick-up from the better compliance obtained.

### IV. VOTE OF COMMITTEE ON REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a roll call vote and without objection.

### V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

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