

TEMPORARY SUSPENSION OF DUTY ON CRUDE
FEATHERS AND DOWNS

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

REPORT

[To accompany H.R. 11452]

The Committee on Finance, to which was referred the bill (H.R. 11452) to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes, 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 provide for a temporary suspension of duty on certain feathers and downs.

Committee bill.—One committee amendment would limit the period of suspension until January 1977 (instead of the January 1980 date in the House bill). The second committee amendment would delete the provision of the House bill which would have permitted the President, in the exercise of his trade agreements authority, to grant a concession on the duty-free status for feathers provided for in the bill if such concession were granted during the statutory suspension of the duty.

The third committee amendment does not relate to the subject matter of the House bill. This committee provision deals with the treatment of dividends received by a member of an affiliated group from a subsidiary that is excluded from the group because it is a life insurance company. Under present law life insurance companies are excluded from filing a consolidated return with their affiliates even though the requisite stock ownership exists, because the unique method of taxing such companies would make it difficult from an accounting standpoint to consolidate their income with their affiliates which are not life insurance companies. Life insurance companies, as well as other corpora-

tions (such as banks) are expressly exempted from personal holding company status even though they receive the requisite amount of passive income because of the nature of their business activities. Certain problems exist in the case of life insurance companies where dividends which are received by members of an affiliated group from a life insurance subsidiary are treated as personal holding company income but would not be so treated if the life insurance company were permitted to file a consolidated return with the group. The committee believes it is appropriate to treat the dividends received by members of an affiliated group from a life insurance subsidiary in the same manner as they would be treated if the life insurance company were permitted to file a consolidated return. Accordingly, the committee's amendment provides that the dividends received by members of an affiliated group from a life insurance subsidiary will not be treated as personal holding company income. This is consistent with the treatment provided for banks under present law.

II. GENERAL STATEMENT

A. DUTY SUSPENSION ON CERTAIN FEATHERS AND DOWNS

H.R. 11452 would suspend for the temporary period stated above the duty on certain water fowl feathers and downs, principally those from ducks and geese, imports of which are presently classified under item 186.15 of the Tariff Schedules of the United States (TSUS). These feathers and downs are used primarily in the manufacture of pillows, comforters, sleeping bags, and outer-wear garments such as parkas and ski jackets.

Imports of feathers and downs under item 186.15 amounted to 9 million pounds valued at \$15.7 million in 1973. Major sources of imports include Taiwan, France, Mainland China, and West Germany. Imports under item 186.15 are dutiable at a rate column numbered 1 duty (applicable to countries accorded most-favored-nation treatment) of 15 percent ad valorem, and a rate column numbered 2 duty (applicable to Communist countries, except Poland and Yugoslavia) of 20 percent ad valorem.

In contrast with the duty of 15 percent on feathers and downs under item 186.15, there is a 7 percent ad valorem duty imposed on certain finished articles under item 748.40 of the TSUS in which feathers and downs are used as the raw material components. The Customs Service has ruled that such finished articles as sleeping bags and outer-wear garments are dutiable at the 7 percent rate under item 748.40.

Domestic manufacturers of sleeping bags and outer-wear garments, therefore, are placed in the position of competing against foreign suppliers of such finished products who pay less than one-half the duty rate imposed on feathers and downs.

The committee believes that this present advantage for foreign manufacturers and the correlative disadvantage to domestic manufacturers of finished articles of feathers and downs must be eliminated from the Tariff Schedules. The committee is convinced that enactment of H.R. 11452 is necessary to accomplish this objective.

The House bill would add to Subpart B of Part 1 of the Appendix to the Tariff Schedules two new items, 903.70 and 903.80. The first of these new items would provide duty-free entry for a temporary period (from the 180th day *after the date of enactment* of this bill until the close of December 31, 1979) for feathers and downs presently dutiable under rate column numbered 1 of item 186.15, provided that such feathers and downs meet both test methods 4 and 10.1 of Federal Standard 148 (a) promulgated by the General Services Administration. There would be no change in the rate column numbered 2 duty applicable under new item 903.70.

Upon the recommendation of the domestic industry, it is the intention of your Committee that "meeting both test methods 4 and 10.1 of Federal Standard 148a" means the following. Feathers and downs meet method 4—Determination of Oxygen Number (Titration Method)—when their oxygen number does not exceed 20 grams of oxygen per 100,000 grams of sample when tested by method 4. Feathers and downs meet method 10.1—Determination of Turbidity (Turbidimeter Method)—when they have a turbidity of not less than 75 centimeters when tested by method 10.1. It is our understanding that these test methods and specifications are acceptable to the U.S. Customs Service.

The other new item that would be added to the TSUS by the House bill, item 903.80, would provide duty-free treatment for a like temporary period of time for all other feathers and downs presently dutiable under item 186.15. The duty-free treatment would apply under new item 903.80 to both column 1 and column 2 rates.

The committee amended the House bill by limiting the period of duty suspension until the close of December 31, 1976, as opposed to December 31, 1979, under the House bill. In addition, the committee deleted the section in the House bill which would have authorized the President, in the exercise of his trade agreements authority, to grant a concession on the duty-free status for feathers provided for in the bill if such concession were granted during the statutory suspension of the duty. This authority in the House bill was deleted, given the unlikelihood of the conclusion of a successful multilateral tariff negotiation by December 31, 1976.

B. TREATMENT OF LIFE INSURANCE COMPANY DIVIDENDS FOR PERSONAL HOLDING COMPANY CONSOLIDATED RETURN PURPOSES

Present law provides in general for a 70-percent tax on the undistributed income of a personal holding company (secs. 541-547). A personal holding company is defined as a corporation 60 percent of whose adjusted ordinary gross income is personal holding company income (generally passive investment income), and 50 percent of whose stock is owned by 5 or fewer shareholders. Certain types of companies (including banks and life insurance companies), whose active businesses involve the investment of funds and the earning of interest and dividends, are excluded from the personal holding company provisions (sec. 542(c)). However, dividends received from such a company are generally included in personal holding company income to the shareholder receiving the dividend.

In addition to the exceptions from the personal holding company provisions for certain types of companies (such as banks and life insurance companies), an exception is provided for a group of affiliated companies filing a consolidated return.¹

In such cases the personal holding company provisions are applied on a consolidated basis; only earnings of affiliated members from investments outside the consolidated group are considered to be personal holding company income. Thus, intercorporate dividends paid among members of the consolidated group are not personal holding company income or adjusted ordinary gross income attributable to the consolidated group (sec. 542(b)).

Life insurance companies generally are not eligible to participate as a member of a consolidated group which includes other non-insurance companies even though the requisite common ownership exists between such companies (sec. 1504(b)(2)), because the unique accounting methods by which life insurance companies are taxed make it difficult to consolidate their returns with other non-insurance companies. Consequently, under present law dividends from a life insurance company paid to another company constitute personal holding company income to that company even though sufficient common ownership exists to meet the requirements for filing consolidated returns.

Until recently, similar treatment was applied in the case of banks with respect to their personal holding company income. Although banks are permitted to file consolidated returns with other corporations (unlike life insurance companies), the personal holding company provisions (sec. 542(b)(3)) require that the personal holding company income of other members of the consolidated group in which a bank is a member be separately calculated rather than calculated on a consolidated basis because banks (like life insurance companies) are excluded from the personal holding company provisions. As a result, dividends from banks to other members of a consolidated group were treated as personal holding company income to the recipient of the dividend. However, the Internal Revenue Service in Revenue Ruling 71-531 reversed this treatment because of what it believed was Congress' expressed intent in excluding intercorporate dividends of members of a consolidated group generally. Thus, the Revenue Ruling held that dividends from banks to other members of a consolidated group are to be excluded from personal holding company income and adjusted ordinary gross income of the company receiving the dividend. However, in the case of life insurance companies, dividends received by a member of an affiliated group from a subsidiary which is a life insurance company (and thus excluded from filing a consolidated return with the group) are still treated as personal holding company income.

The committee believes that the present treatment of a life insurance company, which would be a member of a consolidated group but

¹ Section 1501 of the Code provides that an "affiliated group of corporations" (connected by 80 percent stock ownership) may elect to file a consolidated return in lieu of separate returns. The basic principle of the consolidated return is that the affiliated group is taxed upon its consolidated taxable income, representing principally the result of its dealings with the outside world after the elimination of intercompany profit and loss.

for the requirement prohibiting their inclusion, discriminates against such companies in contrast to banks and other companies generally. Furthermore, the present treatment is inconsistent with the expressed general policy of Congress to exclude intercorporate dividends of members of a consolidated group from the personal holding company provisions. For these reasons, the committee's provision specifies that dividends to any member of a consolidated group of corporations from a life insurance company are not to be included either as consolidated personal holding company income or as consolidated adjusted ordinary gross income if the life insurance company is not a member of the affiliated group because of the provision prohibiting insurance companies from participating in a consolidated group. Thus, the committee provision permits the parent or other corporations related to a life insurance company to exclude any dividends received from a life insurance company from any determination of whether 60 percent of the recipient corporation's income is personal holding company income.

This amendment is to apply to taxable years beginning after December 31, 1973.

It is estimated that there will be a revenue loss from this committee provision for a one-year period but that it will be negligible.

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 crude feathers and downs, provided by the bill will result in a revenue loss, based on imports during calendar year 1973, of \$2.5 million in the first full year for which it is effective. The change approved regarding the tax treatment of life insurance company dividends under certain circumstances will result in a revenue loss for a one year period. The committee estimates this revenue loss will be negligible.

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).

