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SENATE

REPORT
No. 95-434

# EXTENSION OF SUSPENSION OF DUTIES ON CERTAIN CLASSIFICATIONS OF SILK YARNS, AND OTHER MATTERS

SEPTEMBER 15, 1977.—Ordered to be printed

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

## REPORT

[To accompany H.R. 3373]

The Committee on Finance, to which was referred the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, having considered the same, reports favorably thereon with amendments to the text and an amendment to the title and recommends that the bill, as amended, do pass.

### I. SUMMARY

The first section of H.R. 3373 would temporarily permit, until July 1, 1980, duty-free entry of single and plied silk yarns, continuing a duty suspension which has been in effect since 1959. The most recent suspension expired on November 7, 1975.

Section 2 of H.R. 3373 would expand the definition of "mixed feed" and "mixed-feed ingredients" in the agricultural schedule of the Tariff Schedules of the United States (TSUS) to include animal feed products which are mixtures of not less than 6 percent by weight of soybeans or soybean products.

Section 3 of H.R. 3373, as amended, reduces the amounts of Federal excise tax on communications services (such as telephone calls) by deleting from the amounts of the communications companies' bills, upon which the Federal tax is computed as a percentage thereof, the amounts attributable to State or local sales or excise taxes on the same services.

### II. REASONS FOR THE BILL

There is no domestic production of silk yarns. Enactment of the first section of H.R. 3373 would reduce the cost of silk yarns to do-

mestic producers of fine silk fabrics and other silk products so that their products can be competitive with imported fine silk-yarn products.

Imports of animal feeds containing not less than 6 percent by weight of grains are now duty free. Enactment of section 2 of H.R. 3373 would accord the same duty-free treatment to animal feeds containing not less than 6 percent by weight of soybeans or soybean products.

The committee believes that the inclusion of State and local taxes in the Federal communications tax base results in an inequitable double taxation—a tax upon a tax. The potential scope of this problem may be seen in that it appears that 18 States have enacted sales taxes on telephone service which may be of a type known as "retailer taxes"—imposed on the provider of the service—rather than "consumer taxes," which are imposed on the user of the services.[1] Because, in these cases, the State imposes its tax upon the telephone company, rather than upon the subscriber, the State tax is regarded as a part of the company's charge for its service and accordingly included in the Federal tax base.

This practice appears inequitable to the committee for reasons other than its aspect as a double taxation. In many States, telephone companies and their subscribers incur no State or local taxes on telephone service. In their cases, the Federal tax is not increased by the inclusion of the State or local tax in the Federal tax base, and the amount of the increase in the Federal taxes of subscribers whose service charges include such State or local taxes appears to constitute an unwarranted discrimination. The same discrimination appears in comparing subscribers who must pay the additional tax with subscribers in States or localities which impose their tax on the users of the service, rather than upon the providers.

Furthermore, even within the States and localities in which this additional tax must be paid, there is no uniformity in the amounts of State or local telephone sales taxes imposed. The higher the sales tax becomes, the higher the Federal excise tax will be. Thus, the greater the revenue effort the State or locality is making, the more its telephone users suffer from the double tax.

## III. General Explanation

### A. SILK YARNS

The first section of H.R. 3373 would amend TSUS items 905.30 and 905.31 to provide for duty-free treatment for imports of single and plied silk yarns, not bleached and not colored, entered under column 1 (MFN) or column 2 (non-MFN) before July 1, 1980. TSUS items 905.30 and 905.31 provided for duty-free treatment for entries of silk yarns before November 8, 1975. Duty-free treatment would be applicable for entries, or withdrawals from warehouse, for consumption on or after the date of enactment, and for entries or withdrawals made after November 7, 1975, but before the date of enactment, upon request.

[1] These States are Alabama, Florida, Illinois, Iowa, Kansas, Kentucky, Maine, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, Tennessee, and Wisconsin. In addition, a number of local governments, in these and other States, impose their own communications taxes.

Silk yarn singles (not bleached and not colored) are now dutiable under TSUS item 308.40 at a column 1 rate of duty of 8.5 percent ad valorem and a column 2 rate of duty of 40 percent ad valorem. Plied silk yarns (not bleached and not colored) are now dutiable under TSUS item 308.50 at a column 1 rate of duty of 12.5 percent ad valorem and a column 2 rate of duty of 50 percent ad valorem. Column 1 imports of both items from designated beneficiary developing countries are eligible for duty-free treatment under the Generalized System of Preferences.

Silk yarns are used in thread, decorative strippings for fine worsteds, lacing cord for cartridge bags, and, in combination with other fibers, apparel, upholstery, and drapery materials. The major manufacturers of silk goods who import silk yarns employ between 3,000 and 4,000 workers in New York, New Jersey, Pennsylvania, and Virginia. There is no domestic production of silk yarns. Japan and the Peoples Republic of China are the principal suppliers of silk yarns.

The Subcommittee on International Trade of the Committee on Finance held hearings on H.R. 3373 on July 14, 1977. A report stating no objections to enactment of the first section of H.R. 3373 was received from the Department of Commerce and an information report was received from the U.S. International Trade Commission. No objections to this provision has been received by the committee from any source.

### B. ANIMAL FEEDS CONTAINING SOYBEANS

Section 2 of H.R. 3373 is a committee amendment which would amend headnote 1(b) to subpart C of part 15 of schedule 1 of the TSUS to include within the meaning of "mixed feed" and "mixed-feed ingredients," as used in TSUS item 184.70, mixtures of soybeans or soybean products or byproducts with molasses, oil cake, oil-cake meal, or other feeds stuffs when such mixtures contain not less than 6 percent by weight soybeans or soybean byproducts. The effect of this amendment will be to permit duty-free entry under TSUS item 184.70 of column 1 (MFN) imports of animal feed containing not less than 6 percent soybeans. Animal feed products containing not less than 6 percent soybeans are now dutiable under column 1 at 7.5 percent ad valorem under TSUS 184.75.

Section 2 of H.R. 3373 would permit an American company to import animal feeds from Canada containing not less than 6 percent soybeans duty free. Duty-free treatment is presently applicable to animal feeds containing not less than 6 percent grains. The soybeans used in the Canadian animal feeds are from the United States. In 1973, the American company increased the percentage of soy flour in its imported product on the basis of advice from the Customs Service. Subsequently, the Classification and Value Division of the Customs Service overruled the District Director of Customs and ruled that soybean flour is not a grain or grain product for the purposes of TSUS item 184.70.

Animal feeds containing milk or milk derivatives and classified under TSUS item 184.75 are currently subject to quota restrictions pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624 and TSUS item 950.17). These feeds consist principally of calf

milk replacers and bases from which milk replacers are made. None of the imported milk-replacer products are known to contain soybean products. However, many domestic calf milk replacers contain soybean products. Admixtures of soybeans or soybean products with milk products, or with products containing milk or milk derivatives, are excluded from the terms "mixed feeds" and "mixed-feed ingredients" to prevent such imports from avoiding the existing quota which applies only to articles classified under item 184.75. The exclusion of admixtures of soybeans or soybean products with other soybean products is intended to prevent the classification of admixtures of soybean oilcake meal (a principal product obtained in processing soybeans) with other soybean products under item 184.70 (duty-free) rather than under item 184.52 (0.3 cent per pound) which applies to soybean oil cake.

The substance section 2 passed the Senate on October 1, 1976, as an amendment to H.R. 2181, 94th Congress. That bill died when the 94th Congress adjourned sine die.

### C. TELEPHONE EXCISE TAX

A Federal excise tax is imposed on communications (local telephone service, toll telephone service, and teletypewriter exchange service) at the rate for 1977 of 5 percent of the communications company's charge for the service. This tax rate has been declining at the rate of 1 percentage point a year since 1973, and it is scheduled to expire at the end of 1981. The tax is imposed on the subscriber and is collected for the Federal Government by the communications company (typically a telephone company) from the subscriber.

In Revenue Ruling 69–151, 1969–1 C.B. 288, the Internal Revenue Service stated that State and local taxes imposed on telephone companies and passed on to the companies' customers, even if separately stated in the customers' bills, are includible in the amount on which the Federal excise is based. The rationale for the ruling is that such taxes are part of the charge by the telephone companies for their services even if they are stated separately from the remainder of the charges on subscribers' bills. Since the Federal excise tax is a percentage of the charge for the telephone service, refusal of the Internal Revenue Service to permit exclusion of State and local taxes imposed on the charge for the same service results in a higher Federal tax.

The committee bill excludes separately stated taxes of States, their political subdivisions, or of the District of Columbia from the amount on which the Federal excise tax on communications is based. As a result the Federal tax is not to be increased simply because a State, a State's political subdivision, or the District of Columbia imposes its own sales or excise tax upon the communications services subject to the Federal tax.

The State or local tax is to be excluded from the Federal tax base only if that State or local tax is separately stated in the billing received by the communications subscriber, except in the case of toll telephone service in coin-operated telephones, in which instance the State or local tax need only be separately stated on the records of the utility company, and need not be separately stated to the caller by the telephone company operator. These requisites are intended to simplify adminis-

tration of the tax by the Internal Revenue Service, as well as to enable subscribers to distinguish the amount of the State or local tax from the amount of the communications service charge upon which the Federal tax is based.

The type of State or local tax to be excluded from the Federal tax base by this measure is only a tax in the nature of a retail sales or excise tax. Gross receipts or gross earnings taxes are not excluded from the Federal tax base by this measure.

The amendment in section 3 is effective with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than 20 days after the date of enactment of the provision. However, State and local taxes are not to be excluded from the Federal tax base in the case of services rendered more than 2 months before the effective date of this provision even if the bill for those services is not rendered until this effective date or after it.

This somewhat delayed effective date is intended to permit the Internal Revenue Service to prepare administratively for this change in taxation of telephone service, and especially to permit it to notify all the various telephone companies and other affected communications companies which must bill in accordance with the requirements of this amendment if their subscribers are to benefit by the lower tax.

## IV. Cost of Carrying Out the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates that the annual customs revenue loss resulting from the enactment of the first section of H.R. 3373 will be approximately $17,000. The annual customs revenue loss resulting from the enactment of section 2 will be approximately $250,000. The committee estimates the revenue effect of section 3 of the bill (on the assumption that these provisions are first effective with respect to amounts paid pursuant to bills first rendered on or after December 1, 1977) will be revenue losses of $10 million in fiscal year 1978, $12 million in fiscal 1979, $9 million in fiscal 1980, $6 million in fiscal 1981, and $2 million in fiscal 1982.

## V. Regulatory Impact of the Bill

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee states that the first section and section 2 of H.R. 3373, as amended, will not regulate any individuals or businesses. The committee estimates that several million customers of telephone companies will be affected by section 3 of the bill. The effect will be a slight reduction in telephone tax liabilities, in substantially all of the cases amounting to no more than $1 per year. Section 3 of the bill is not expected to have any impact on personal privacy and is expected to have at most an insignificant impact on recordkeeping requirements of telephone companies in certain States and localities.

## VI. Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the committee states that the bill, as amended, was ordered favorably reported by a voice vote.

## VII. Changes in Existing Law

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

TARIFF SCHEDULES OF THE UNITED STATES

* * * * * * *

SCHEDULE 1.—ANIMAL AND VEGETABLE PRODUCTS

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| Item | Articles | Rates of duty 1 | Rates of duty 2 | Effective period |
|---|---|---|---|---|
| | PART 15.—OTHER ANIMAL AND VEGETABLE PRODUCTS | | | |
| * | * * * * | * | * | * |
| | Subpart C.—Animal Feeds | | | |
| | Subpart C headnotes: | | | |
| | 1. For the purposes of this subpart— | | | |
| | (a) the term "animal feeds, and ingredients therefor" embraces products chiefly used as food for animals, or chiefly used as ingredients in such food, respectively, but such term does not include any product provided for in schedule 4 (except part 2E thereof) or schedule 5 (except part 1K thereof); and | | | |
| | [(b) the terms "mixed feeds" and "mixed-feed ingredients" in item 184.70 embrace products which are admixtures of grains (or products, including by-products, obtained in milling grains) with molasses, oil cake, oil-cake meal, or other feed-stuffs, and which consist of not less than 6 percent by weight of the said grains or grain products.] | | | |
| | *(b) the terms "mixed feed" and "mixed-feed ingredients" in item 184.70 embrace products which are admixtures of grains (or products, including byproducts, obtained in milling grains) or of soybeans (or products, including byproducts, obtained in processing soybeans) with molasses, oil cake, oil-cake meal, or other feed-stuffs except that there shall not be included in the terms 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 products which are admixtures of soybeans or soybean products with other soybean products, or of soybeans or soybean products with milk products, or with products containing milk or milk derivatives; and which consist of not less than 6 percent by weight of said grains or grain products or of said soybeans or soybean products.* | | | |
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APPENDIX TO THE TARIFF SCHEDULES

| Item | Articles | Rates of duty 1 | Rates of duty 2 | Effective period |
|---|---|---|---|---|
| | PART 1.—TEMPORARY LEGISLATION | | | |
| * | * * * * | * | * | * |
| | Subpart B.—Temporary Provisions Amending the Tariff Schedules | | | |
| * | * * * * | * | * | * |
| | Yarns wholly of noncontinuous silk fibers (provided for in part 1D, schedule 3): | | | |
| 905.30 | Singles, not bleached and not colored, measuring over 58,800 yards per pound (item 308.40) | Free | Free | On or before [11/7/75] *6/30/80.* |
| 905.31 | Plied, not bleached and not colored, measuring over 29,400 yards per pound (item 308.50) | Free | Free | On or before [11/7/75] *6/30/80.* |
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# INTERNAL REVENUE CODE OF 1954

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**SEC. 4254. COMPUTATION OF TAX.**

[(a) General Rule.—If a bill is rendered the taxpayer for local telephone service or toll telephone service—

[(1) the amount on which the tax with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that

[(2) if the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group, and (B) the tax on the remaining items not included in any such group shall be based on the charge for each item separately.

[(b) Where Payment is Made for Toll Telephone Service in Coin-Operated Telephones.—If the tax imposed by section 4251 with respect to toll telephone service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that, where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.]

***SEC. 4254. COMPUTATION OF TAX.***

*(a) General Rule.—The amount on which a tax imposed by section 4251 is based shall not include, if separately stated, any tax on the amount paid for such service imposed by a State or political subdivision of a State or by the District of Columbia.*

*(b) Bills Rendered for Local Telephone Service or Toll Telephone Service.—If a bill is rendered the taxpayer for local telephone service or toll telephone service—*

*(1) the amount on which the tax with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that*

*(2) if the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group and (B) the tax on the remaining items not included in any group shall be based on the charge for each item separately.*

*(c) Where Payment Is Made for Toll Telephone Service in Coin-Operated Telephones.—If the tax imposed by section 4251 with respect to toll telephone service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that, where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.*

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