

ADDITIONAL CARRYOVER OF CERTAIN INVESTMENT CREDITS

MAY 25 (legislative day, MAY 17), 1978.—Ordered to be printed

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

REPORT

[To accompany H.R. 3790]

The Committee on Finance, to which was referred the bill (H.R. 3790) to suspend until the close of June 30, 1980, the duty on concentrate of poppy straw used in producing codeine or morphine, having considered the same, reports favorably thereon with an amendment of the text and an amendment of the title and recommends that the bill as amended do pass.

I. SUMMARY

The House-passed bill suspended until June 30, 1980, the duty on concentrate of poppy straw used in producing codeine or morphine. The committee amendment strikes the House provision because it has already been enacted as a provision of Public Law 95-161. The committee amendment in the nature of a substitute extends for 1 year the carryover period for investment tax credit carryovers for airline property which under present law would expire at the end of 1977.

II. EXPLANATION OF PROVISION

Present law

Under present law the investment tax credit for any year generally cannot exceed the first \$25,000 of tax liability plus 50 percent of the tax liability in excess of \$25,000. However, for airline property the 50 percent limitation is increased to 100 percent for taxable years ending in 1977 or 1978, with the limitation declining by 10 percent per year after that, so that the 50-percent limitation takes effect beginning in 1983.

If the amount of investment tax credit for any year exceeds the applicable limitation based on the amount of tax liability for that year, the excess is generally an investment credit carryback to each

of the 3 preceding taxable years and an investment credit carryover to each of the seven following taxable years and, subject to certain limitations, is included in the amount allowable as a credit for those years (sec. 46(b)). However, pre-1971 investment credits are allowed a 10-year carryover.

Under the 1976 Tax Reform Act the rules determining which year's investment credits are considered to be used first were modified so that in any year, carryover credits from prior taxable years—beginning with the earliest eligible preceding year—are to be used first in the current year before any credits arising in the current year—or any carryback from future years. If any portion of a credit remains unused after application of the carryback and carryover periods, the unused portion expires and cannot be used subsequently by the taxpayer.

Reasons for change

During 1970–71 and 1974–75 the economy suffered two serious recessions. Particularly in the airline industry the setbacks suffered in those years have had a continuing impact. Nonetheless, in order to remain competitive domestically and internationally, many airlines have continued to invest in new plant and equipment in the United States. However, where domestic operations have created net operating losses for airlines, these losses have often reduced or eliminated the taxable income in the earlier and later years and resulted in unused carryforward of investment tax credits. The committee is concerned that the expiration of the carryforward period for certain credits may adversely affect the domestic investment programs of U.S. firms, and thereby impact adversely on the longrun structure of capital formation of this industry. To mitigate these problems the committee amendment provides that investment tax credits which would otherwise expire in 1977—that is, investment credits earned in 1967—may be carried forward 1 additional year.

Explanation of provision

The committee amendment provides that investment tax credits that may be carried over to taxable years beginning in 1977, but which would otherwise expire at the end of that year, may be carried over to taxable years beginning in 1978 in the case of airline property. This additional 1-year carryforward in the case of the investment credit for airline property does not apply to credits that might expire in 1978 or later years, but only to credits which would expire in 1977 and applies only to extend their carryover period for 1 year.

The additional 1-year carryforward is to be allowed only to the extent that carryovers which otherwise would expire at the end of 1977 were not allowed as a credit in that or in any earlier year because of a net operating loss which occurred in that year or any earlier year. In determining the amount of any unused credit carryover attributable to investments in airline property in cases where a taxpayer has carryovers from the same taxable year attributable to nonairline property, the nonairline property shall be treated as having been used first, before any credit from airline property is used. For example, if in 1967 a taxpayer has \$150 of credits for airline property and \$50 of credits from nonairline property which are not used in that year, and if by the end of 1977 \$60 of those \$200 of carryover credits are used,

all \$50 of the credits attributable to nonairline property shall be treated as being used plus \$10 of the credit attributable to airline property.

Effective date

This provision applies only to taxable years beginning in 1978.

Revenue effect

The bill is expected to decrease budget receipts approximately \$1 million in fiscal year 1978 and \$1 million in fiscal year 1979. In later fiscal years the provision could decrease budget receipts by up to an approximate total of \$7 million. It cannot be determined whether or when this additional revenue loss would occur, because the \$7 million is attributable to carryover credits used in 1978 which merely displace other year investment credits. Thus, whether any revenue loss results depends on whether the displaced credits would be used in years after 1978 and reduce tax liability or would merely continue to displace otherwise usable credits.

III. EFFECT OF THE BILL ON THE BUDGET AND VOTE OF THE COMMITTEE
IN REPORTING THE BILL, AS AMENDED

Budget effects

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made about the effect on the budget of this bill, H.R. 3790, as amended. The committee estimates that the provisions contained in the bill, as amended, will have the following revenue effect for fiscal years 1978-83:

[In millions of dollars]

Fiscal year—	
1978	\$1
1979	1
1980	(1)
1981	(1)
1982	(1)
1983	(1)

¹ In fiscal years after 1979 the provision could decrease budget receipts by up to a total of approximately \$7,000,000 for all years combined. However, it cannot be determined whether or when this decrease would result, because to that extent the use of these carryover credits in 1978 merely displaces other credits, and thus whether any revenue loss results depends on whether the displaced credits would be used in years after 1978 or would expire.

Vote of the committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made about the vote of the committee to report H.R. 3790, as amended. The bill, as amended, was ordered favorably reported by voice vote.

IV. REGULATORY IMPACT OF THE BILL AS REPORTED AND OTHER
MATTERS TO BE DISCUSSED UNDER SENATE RULES

Regulatory impact

Pursuant to rule XXIX of the Standing Rules of the Senate, as amended by Senate Resolution 4—February 4, 1977—the committee makes the following statement concerning the regulatory impact that

might be incurred in carrying out the provisions of the bill as reported by the committee.

A. Numbers of individuals and businesses who would be regulated and economic impact of regulation.—The primary effect of the bill will be to reduce the tax liability of certain taxpayers making investments in airline property.

B. Impact on personal privacy.—The provisions of this bill make no changes in those provisions of Federal law affecting the personal privacy of taxpayers.

C. Determination of the amount of paperwork.—This bill will have an impact on the amount of paperwork of taxpayers involved only to the extent of possibly requiring one additional form to be filed with the Internal Revenue Service.

Tax expenditures

The bill, as amended, involves the following increased and new tax expenditures for fiscal years 1978–83:

[Dollar amounts in millions]

Fiscal year—	
1978	\$1
1979	1
1980	(1)
1981	(1)
1982	(1)
1983	(1)

¹ In fiscal years after 1979 the provision could decrease budget receipts by up to a total of approximately \$7,000,000 for all years combined. However, it cannot be determined whether or when this decrease would result, because to that extent the use of these carry-over credits in 1978 merely displaces other credits, and thus whether any revenue loss results depends on whether the displaced credits would be used in years after 1978 or would expire.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The committee states that the bill, as reported, does not make changes in existing law.

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