

ABATEMENT OF JEOPARDY ASSESSMENTS

JULY 30 (legislative day, JULY 27), 1953.—Ordered to be printed

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

REPORT

[To accompany H. R. 6402]

The Committee on Finance, to whom was referred the bill (H. R. 6402) to provide for abatement of jeopardy assessments when jeopardy does not exist, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 6402 specifically authorizes the Secretary of the Treasury to abate so-called jeopardy assessments when the Secretary determines that jeopardy does not exist.

Under existing law if the Bureau of Internal Revenue believes that ultimate collection of a tax is in danger, it may make a so-called jeopardy assessment. This is an arbitrary assessment designed to get control of available assets of the taxpayer pending final determination of the liability, if any. At the present time, once such an assessment has been made, the Bureau believes that it does not have authority to revoke the assessment even though it finds that a mistake has been made and that there is no danger of losing the tax. As a result, the Bureau has had in the past and now has cases before it in which arbitrary jeopardy assessments, which may be greatly in excess of any tax finally found to be due, are a cause of financial embarrassment and danger to the taxpayer involved. The Bureau believes it is unable to do anything about such cases even though it agrees that there would in fact be no risk to the revenue in following normal procedures.

This bill simply permits the revocation of a jeopardy assessment whenever it appears that there is in fact no danger of losing any tax which may be due. Enactment of H. R. 6402 is recommended by the Treasury Department.

The bill will apply only to assessments outstanding at the date of enactment and assessments thereafter made.

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 are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

SEC. 273. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—* * *

(j) CLAIMS IN ABATEMENT.—No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this chapter.

(k) *ABATEMENT IF JEOPARDY DOES NOT EXIST.*—*The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of The Tax Court of the United States in respect of the deficiency has been rendered or, if no petition is filed with The Tax Court of the United States, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until such jeopardy assessment is abated.*

SEC. 872. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—* * *

(i) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector,

(j) *ABATEMENT IF JEOPARDY DOES NOT EXIST.*—*The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of The Tax Court of the United States in respect of the deficiency has been rendered or, if no petition is filed with The Tax Court of the United States, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until such jeopardy assessment is abated.*

SEC. 1013. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—* * *

(i) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess

shall be credited or refunded as provided in section 1027, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) *ABATEMENT IF JEOPARDY DOES NOT EXIST.*—The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of The Tax Court of the United States in respect of the deficiency has been rendered or, if no petition is filed with The Tax Court of the United States, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until such jeopardy assessment is abated.

