

AMENDMENT OF SECTION 120 OF THE INTERNAL REVENUE CODE OF 1939 RELATING TO UNLIMITED DEDUCTION FOR CHARITABLE CONTRIBUTIONS

JANUARY 19 (legislative day, JANUARY 16), 1956.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 7094]

The Committee on Finance, to whom was referred the bill (H. R. 7094) to amend section 120 of the Internal Revenue Code of 1939 (relating to unlimited deduction for charitable contributions), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF BILL

This bill provides that an unlimited charitable deduction is to be available for charitable and other contributions under the 1939 code where in the current year and in 8 out of 10 of the immediately preceding years the individual's contributions to charity, plus his income-tax payments, accounted for 90 percent or more of his taxable income, but only if an amount equal to any refund under this provision is paid to, or set aside for, charity. This bill entitles a taxpayer who qualifies under its provisions to secure a refund whether his claim is filed before, on, or after the date of enactment of this bill.

GENERAL STATEMENT

Under the 1939 code the 20-percent limitation on charitable contributions did not apply where the taxpayer's charitable contributions, plus his income-tax payments, in the current year and in each of the prior 10 years equaled 90 percent or more of his taxable income. Congress in its consideration of the 1954 code last year decided that this was unduly restrictive, and provided instead that the 90-percent test need be met only in 8 out of 10 of the past years. However, this provision was effective only with respect to taxable years beginning

after December 31, 1953, and ending after August 16, 1954. The test remained as 10 out of the 10 past years under the 1939 code.

Just as Congress in 1954 considered the rule of 10 out of the last 10 years to be too restrictive with respect to the future, your committee believes that this rule is unduly restrictive with respect to prior years. For that reason, your committee has extended the 8-out-of-10-year rule to all taxable years to which the 1939 code applies. However, it is provided that any refund attributable to an overpayment of tax resulting from the enactment of this bill is to be permitted only if the amount of the refund is paid immediately as a charitable contribution. If the taxpayer has died at the time the refund is made, an amount equal to the refund must, under the terms of the decedent's will, be transferred for public, charitable, or religious uses (as described in sec. 2055 of the 1954 code, which provides a deduction for charitable, etc., contributions for estate-tax purposes), and the amount so transferred must be deductible from the value of the gross estate. It is also provided in the bill that no interest is to be paid with respect to such a refund.

The amount of the refund is not to be taken into account in determining the qualification of the taxpayer for an unlimited charitable deduction for any year or any liability of the taxpayer or his estate for income or estate-tax purposes. Provision is also made for a 7-year statute of limitations in lieu of the ordinary 3-year period of limitation prescribed in section 322 (b) (1) of the 1939 code. The provisions of section 322 (b) (2) or (3) of the 1939 code do not apply to the amount of the overpayment of income tax attributable to the amendment made by the bill.

This bill has been reported unanimously by your committee.

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, as reported, 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 OF 1939

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CHAPTER I—INCOME TAX

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SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE AND OTHER CONTRIBUTIONS.

In the case of an individual if in the taxable year and [in each of the ten preceding taxable years] *in eight of the ten preceding taxable years* the amount of the contributions or gifts described in section 23 (o) (or corresponding provisions of prior revenue Acts) plus the amount of income (determined without regard to subchapter E, relating to tax on self-employment income), war-profits, or excess-profits taxes paid during such year in respect of such year or preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of the applicable subsection, then the 20 per centum limit imposed by section 23 (o) shall not be applicable.

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