

# Calendar No. 1482

91ST CONGRESS }  
2d Session }

SENATE }

REPORT  
No. 91-1470

## CEMETERY CORPORATIONS

DECEMBER 16 (legislative day, DECEMBER 15), 1970.—Ordered to be printed

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

### REPORT

[To accompany H.R. 16506]

The Committee on Finance, to which was referred the bill (H.R. 16506) to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### I. SUMMARY

H.R. 16506 would extend the tax-exempt status presently granted under the Internal Revenue Code to cemetery corporations which are chartered for burial purposes to cemetery corporations which operate a crematorium, either alone or in conjunction with their burial activities.

The Treasury Department has indicated that it has no objection to the enactment of this bill.

### II. GENERAL STATEMENT

*Reasons for the bill.*—Present law provides tax-exempt status to a cemetery corporation which is chartered solely for burial purposes if it is not permitted by its charter to engage in any business not necessarily incident to its burial purpose and if no part of the earnings of the corporation benefits any private individual.

The Internal Revenue Service in 1969 ruled that the operation of a crematorium was not necessarily incident to a burial purpose and thus caused an exempt cemetery corporation operating a crematorium to lose its tax-exempt status.

The committee agrees with the House that the operation of a crematorium is of the same nature as the activity which an exempt cemetery corporation presently is permitted to carry on. In other words, human bodies may be disposed of either by burial or by cremation; these are

merely alternative forms of accomplishing the same purpose. It is not appropriate for the exempt status of a cemetery corporation to depend upon which of these methods of disposing of bodies it utilizes. A cemetery corporation which operates a crematorium, either as its only activity or in conjunction with its burial purposes, should be permitted to qualify for tax-exempt status if it otherwise satisfies the requirements for exemption.

In 1964, the Internal Revenue Service ruled that the establishment and operation of a mortuary by an exempt cemetery corporation was not a business necessarily incident to the burial purposes for which it was organized and thus would cause the corporation to lose its tax exemption. The committee, by the action taken in this bill, intends no implications as to the tax status of cemetery companies operating mortuaries. In addition, by the action taken in this bill, the committee does not intend to affect, either favorably or adversely, the status under existing law of any other activities carried on by cemeteries, other than the operation of crematoriums.

*Explanation of bill.*—The bill modifies the tax exemption provided by the Internal Revenue Code for cemetery corporations to bring within the scope of the exemption corporations chartered solely for the purpose of the disposal of human bodies by burial or cremation. Thus, a cemetery corporation is to be permitted to operate a crematorium (either alone or in conjunction with burial) and qualify for tax-exempt status.

As under existing law, a corporation of the type specified above would not qualify for tax-exempt status unless it is not permitted to engage in any business not necessarily incident to the purpose for which it is created and unless no part of the net earnings of the corporation inures to the benefit of any private individual.

It is the committee's understanding that cemetery companies which qualify under present law for the separate exemption provided for "cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit" may presently operate crematoriums. In view of this, the bill does not modify the exemption provided for these cemetery companies.

The amendment made by the bill is to apply to taxable years ending after the date of enactment of the bill.

### III. 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 italic, existing law in which no change is proposed is shown in roman):

#### SECTION 501 OF THE INTERNAL REVENUE CODE OF 1954

##### SEC. 501. EXEMPTIONS FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) EXEMPTION FROM TAXATION.—An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(b) **TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.**—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II and III of this subchapter, but (notwithstanding parts II and III of this subchapter) shall be considered an organization exempt from income taxes for the purposes of any law which refers to organizations exempt from income taxes.

(c) **LIST OF EXEMPT ORGANIZATIONS.**—The following organizations are referred to in subsection (a):

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[(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.]

*(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.*

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