

## CLAIMS FOR FLOOR STOCKS REFUNDS

JULY 26, 1955.—Ordered to be printed

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

### R E P O R T

[To accompany H. R. 3712]

The Committee on Finance, to whom was referred the bill (H. R. 3712) to extend the period during which claims for floor stocks refunds may be filed with respect to certain manufacturers' excise taxes which were reduced by the Excise Tax Reduction Act of 1954, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act, the Committee on Finance accepts the report of the Committee on Ways and Means, which is as follows:

#### PURPOSE

This bill amends section 3416 (a) (2) of the Internal Revenue Code of 1939 relating to the period for filing claims for floor stocks refunds with respect to refrigerators, quick-freeze units, and electric, gas, and oil appliances on which the tax was lowered by the Excise Tax Reduction Act of 1954. This bill removes the requirement in the 1939 Code that a claim for a credit or refund with respect to such floor stocks must have been filed before August 1, 1954, and provides instead that the claims for these credits or refunds must be filed on or before the 60th day after the date of enactment of this bill.

#### GENERAL STATEMENT

The Excise Tax Reduction Act of 1954 reduced the excise taxes on refrigerators, quick-freeze units, and electric, gas, and oil household appliances from 10 percent to 5 percent. The effective date of this reduction was April 1, 1954. Provision was made for refunds with respect to the higher tax which had been paid on floor stocks inventories of these appliances held by dealers (including wholesalers, jobbers, distributors, and retailers). Under the provision enacted, claims for these refunds had to be filed "before August 1, 1954." The refunds or credits were made to the manufacturer, producer, or importer of the appliance, who must reimburse the dealer for the amount of the refund prior to filing the claim for the refund (according to Treasury Department regulations).

For several reasons numerous manufacturers failed to file timely claims for this credit or refund. One reason given for failing to file timely claims was that July 31, 1954, fell on a Saturday and some taxpayers thought that in such a case the filing of claims on the following Monday (August 2) would be considered as timely. Others proceeded on the belief that if they filed their claim for a

refund with their quarterly return, which also was due on July 31 (if they had not made use of the depository receipt system) that the claim would be considered as timely filed if it bore a July 31 postmark on the envelope. Still other taxpayers who had made use of the Federal Reserve depository receipt system in paying their prior month's collections of excise taxes were not required to file their tax returns until August 10. Some of these manufacturers, lacking detailed knowledge as to the floor stock refund provision, assumed incorrectly that the claims for credit with respect to the floor stock provision could be taken against these taxpayments otherwise due on August 10.

It should also be pointed out that the manufacturers had to compile and verify the claims of their numerous dealers before the July 31 date. Moreover, there was no provision in the law that the dealers must submit their claims to the manufacturer prior to the July 31 date. This made it necessary for the manufacturers to establish an arbitrary "cutoff" date prior to July 31 for the forwarding of claims from dealers. In the interest of covering as many of these claims as possible, some manufacturers waited so long that they were unable to file their own claim for refund or credit until the very end of the period allowed. This, coupled with any of the misunderstandings described above as to exactly when the period for the filing of the refund or credit ended, resulted in a late filing in many cases.

The Internal Revenue Service has long followed the practice of considering tax returns mailed on the due date as timely returns. This is done under the Commissioner's general power to grant temporary extensions of time for the filing of returns. However, no such rule has been applied in the case of claims. Revenue Ruling 110 published in 1953, for example, stated as follows:

"Ordinarily it is the position of the Bureau that a claim must be actually received prior to the expiration of the statute of limitations under section 332 (b) of the Internal Revenue Code and the fact that it was placed in the mails in ample time to reach the office of the collector or Commissioner by the expiration of the statutory period is not sufficient to constitute a 'filing' within the meaning of section 322 (b). (Cf. I. T. 1921, C. B. III—1, 345 (1924); *Pleasant Valley Wine Co.*, 14 T. C. 519; *Frank A. Gray*, 16 T. C. 262, 266.)"

The problem presented was recognized by Congress in the Internal Revenue Code of 1954 and section 7502 of the 1954 code provides that documents, other than returns, are to be deemed to be filed on time if, as indicated by the postmark on the envelope, they are mailed within the prescribed time to the proper office, even though received by such office after the time has expired. This provision in the 1954 code applied, however, only in the case of mailings after the date of enactment of the 1954 code, namely, August 16, 1954.

The difficulty of a manufacturer in submitting his claim for refund without specific provision for an earlier statutory cutoff date for the forwarding of the claims of his dealers was recognized in the case of the floor stock refund provided for electric light bulbs. In this case it was provided that the manufacturer in filing his claim for refund or credit was to have 1 month more than the dealers in submitting their claims to the manufacturer.

Your committee believes that the enactment of this bill giving manufacturers a "new start" for the filing of these claims for credit or refund under the Excise Tax Reduction Act of 1954 will remove the discrimination resulting from the 1954 act. The revenue loss is estimated to be less than \$1 million.

#### 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):

## SECTION 3416 (A) OF THE INTERNAL REVENUE CODE OF 1939

## SEC. 3416. FLOOR STOCKS REFUND ON REFRIGERATORS, QUICK-FREEZE UNITS, AND ELECTRIC, GAS, AND OIL HOUSEHOLD APPLIANCES

(a) **IN GENERAL.**—Where before April 1, 1954, any article subject to the tax imposed by section 3405 (a), section 3405 (b), or section 3406 (a) (3) has been sold by the manufacturer, producer, or importer, and on such date is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the tax made applicable to such article on and after April 1, 1954, if such manufacturer, producer, or importer—

(1) has paid such amount as reimbursement to the dealer who held such article on April 1, 1954; and

(2) files claim for such credit or refund before [August 1, 1954] *on or before the sixteenth day after the date of the enactment of H. R. 3712, Eighty-fourth Congress.*

