

# Calendar No. 1087.

67TH CONGRESS,  
4th Session.

SENATE.

REPORT  
No. 1118.

## COLLECTIONS AND REFUNDS OF TAXES.

FEBRUARY 5 (calendar day, FEBRUARY 9), 1923.—Ordered to be printed.

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

### REPORT.

[To accompany S. 4318.]

The Committee on Finance, to whom was referred the bill (S. 4318) authorizing the Secretary of the Treasury to make collections and refunds of taxes out of the proceeds of sales of property held in the Treasury, having considered the same, report favorably thereon with the recommendation that the bill do pass with amendments.

The amendments and explanation of the same are set out in full at the close of this report.

The purpose of the bill is to authorize the collection of unpaid income taxes on income received by enemy aliens prior to the seizure of their property and the refundment to American citizens out of the moneys so collected of any taxes paid by them on such income.

After the entry of the United States into the World War the property of enemy aliens was seized and taken into custody by the proper officials of the United States and some of this property was later sold to citizens of the United States and the proceeds deposited in the Treasury. In some cases it was discovered that the enemy aliens whose property was thus seized and sold had not paid income taxes on income received by them while they owned or controlled the property, and under existing legislation such income taxes in the amount of several millions of dollars are uncollectible from the enemy aliens, although the Treasury under the provisions of the revenue laws has compelled payment by the American purchasers of a relatively small proportion of such taxes.

The reason the major proportion of such income taxes are legally uncollectible in some cases under existing legislation is that all the property in the United States of the enemy aliens who received the income has been seized and sold, and although ordinarily under the provisions of the revenue laws the property of such enemy aliens or

the proceeds of its sale would be subject to distraint for nonpayment of taxes, the provision in the trading with the enemy act that such property shall be held subject to such disposition "as Congress shall direct" has been construed to nullify these provisions of the revenue laws and to preclude collection of these income taxes out of the moneys held by the Treasury Department as the proceeds of the sale of the property of the enemy aliens who received the income.

The passage of this bill is recommended with a view to remedying the situation above described. It does so by authorizing collection of all income taxes on income received by enemy aliens or by corporations controlled by enemy aliens out of the proceeds of the sale of property of such enemy aliens or enemy alien corporations and the refund to American citizens or corporations entirely owned by American citizens of all such taxes which have been paid by them on income which they did not receive. The bill effectuates one of the basic principles of the revenue laws that the ultimate payment of income taxes shall be made always by the real recipient of the income. The bill has been amended in the following respects and for the following reasons: In order to insure construction of the bill as an entity and preclude the possible importation into the bill of limitations and conditions from other parts of the revenue acts dealing with other and different situations, the word "case," in line 3, on page 1, has been stricken and the words "all cases where" have been inserted in lieu thereof. In order to remove any bar to the action authorized by the bill by reason of lapse of time the words "at any time" have been inserted in line 3, on page 1, after the word "has," and again in line 9, on page 1, after the word "have," and the words "any statute of limitations and section 3228 of the Revised Statutes to the contrary notwithstanding" have been inserted in line 5, on page 2, after the word "directed." In order to make all proceeds of all sales, whether derived from the disposition of the property of enemy alien persons or enemy alien corporations, available for collection and refund in all cases where taxes have not been collected or have been paid by Americans, the word "the" has been stricken in line 6, on page 2, and the word "any" inserted in lieu thereof, and the word "sale" has been pluralized, and the words "or either of them" have been inserted in line 7, on page 2, after the word "corporation," and the word "has" has been stricken in line 7, on page 2, and the word "have" inserted in lieu thereof, and the words "amount" and "sale," in line 11, on page 2, have been pluralized. In order to make the language of the bill correspond with the usual language of the revenue acts, the word "make" has been stricken in line 8, on page 2, and the word "refundment" has been stricken in line 9, on page 2, and the word "refund" inserted in lieu thereof, and the word "of" has been stricken in line 10, on page 2, and the words "or any of them" inserted in line 10, on page 2, after the word "them."

In order that the bill shall not authorize the payment of any money out of the Treasury other than moneys derived from the sale of alien enemy owned property, and in order that the action of the Treasury in making the collections authorized by the bill shall not be limited after the proceeds of the sales of alien enemy property have been

exhausted, the words have been inserted after the word "States," in line 13, on page 2:

*Provided, however,* That the amounts of such refunds shall not exceed the amounts of such proceeds of the sales of such shares of stock or other property so deposited in the Treasury of the United States pursuant to law: *And provided further,* That if the amounts of such proceeds of the sales of such shares of stock or other property so deposited in the Treasury of the United States pursuant to law are less than the amount of taxes payable under any revenue act of the United States, nothing herein contained, after such proceeds are exhausted, shall be construed to prevent the collection from sources other than such proceeds of any deficiency in such taxes so payable.

All of the foregoing amendments are either for the sake of clarity or in accord with considerations of the Treasury Department, which did not wish to make any recommendations with regard to the bill, and it is believed that with the foregoing amendments the administration of the bill is properly safeguarded. The bill takes no money out of the Treasury, but, on the contrary, makes available for use by the Treasury several millions of dollars over and above the proportionately small amounts required to make the necessary equitable refundments to American citizens.

