

CONSOLIDATE AND CODIFY THE INTERNAL REVENUE LAWS OF THE UNITED STATES

JANUARY 30, 1939.—Ordered to be printed

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

REPORT

[To accompany H. R. 2762]

The Committee on Finance, to whom was referred the bill (H. R. 2762) to consolidate and codify the internal-revenue laws of the United States, having had the same under consideration, unanimously report it back to the Senate without amendment and recommend that the bill do pass.

DESCRIPTION OF THE CODE

This code contains all the law of a general and permanent character relating exclusively to internal revenue in force on January 2, 1939. In addition, it contains the internal-revenue law relating to temporary taxes, the occasion for which arises after the enactment of the code. The following should be noted in connection with the general character of the code.

First. It makes no changes in existing law.

Second. The code will be the law and not merely *prima facie* evidence thereof. This will give a new starting point behind which it will not be necessary to search to determine the law as to current taxes. It will then be necessary only to look to subsequent legislation, which would be amendatory of the code itself.

Third. The code is prospective in its application. For example, in the case of the income tax, the code applies only to taxable years beginning after December 31, 1938. In the case of taxable years beginning prior to January 1, 1939, the income-tax provisions of the code will have no application, but the applicable provisions of the Revenue Act of 1938 and prior revenue acts will govern. In the case of the estate tax, the code will apply only to estates of decedents dying after the date of its enactment, the existing revenue acts continuing to apply to estates of decedents dying on or prior to such date. In the case of the gift tax, the code will apply only to the calendar

2 CONSOLIDATE AND CODIFY INTERNAL REVENUE LAWS

year 1940 and subsequent calendar years, leaving such taxes for prior calendar years to be governed by the applicable provisions of the Gift Tax Act of 1932. In the case of the Social Security taxes, the code will apply to the calendar year 1939 and subsequent calendar years, leaving the prior years still under the Social Security Act.

As to the existing temporary taxes, the code applies only where the occasion for the tax arises after the effective date specified in the code. For instance, the code will apply to automobiles sold on and after the first day of the calendar month occurring next after its enactment and automobiles sold prior to that date will be subject to the provisions of the Revenue Act of 1932. Also, the code will apply to sugar manufactured on or after the first day of that calendar month occurring next after the enactment of the code, but in the case of sugar manufactured prior to that date, the existing law will apply. The following table shows the effective date of the various chapters of the code:

Chapter	Subject	Application or effective date
1	Income tax.....	Taxable years beginning after Dec. 31, 1938.
2	Additional income taxes:	
	Personal holding companies.....	Do.
	Excess-profits tax.....	Income-tax taxable years ending after June 30, 1939.
	Excess profits on Navy contracts.....	Contracts completed within income-tax taxable years beginning after Dec. 31, 1938.
	Unjust enrichment.....	Taxable years ending during the calendar year 1939, and subsequent taxable years.
3	Estate tax.....	Estates of decedents dying after the date of the enactment of the Code.
4	Gift tax.....	Calendar years 1940 and subsequent calendar years.
5	Board of Tax Appeals.....	The day following the date of the enactment of the Code.
6	Capital-stock tax.....	Year ending June 30, 1939, and subsequent years.
7	Tax on transfers to avoid income tax.....	The day following the date of the enactment of the Code.
8	Alaskan railroads tax.....	Taxable years beginning after Dec. 31, 1938.
9	Employment taxes.....	Calendar year 1939 and subsequent calendar years.
10	Admissions and dues.....	First day of the first calendar month beginning after the enactment of the Code.
11	Documents, other instruments, and playing cards.....	The day following the date of the enactment of the Code.
12	Safe-deposit boxes.....	First day of the first calendar month beginning after the enactment of the Code.
13	Circulation other than of national banks.....	June 1, 1939.
14	Cotton futures.....	The day following the date of the enactment of the Code.
15	Tobacco, snuff, cigars, and cigarettes.....	Do.
16	Oleomargine, adulterated butter, and process or renovated butter.....	Do.
17	Filled cheese.....	Do.
18	Mixed flour.....	Do.
21	Coconut and other vegetable oils.....	First day of the first calendar month beginning after the enactment of the code.
22	Fish, animal, and vegetable oils.....	Do.
23	Narcotics.....	Do.
24	White phosphorous matches.....	Do.
25	Firearms:	
	Pistols and revolvers.....	Do.
	Machine guns and short-barreled firearms.....	The day after the date of the enactment of the code.
26	Liquor.....	Do.
27	Occupational taxes.....	Taxable years beginning on or after the day following the enactment of the code.
28	Provisions common to miscellaneous taxes.....	The day following the date of the enactment of the code.
29	Manufacturers' excise and import taxes:	
	Excise taxes.....	The first day of the first calendar month beginning after the enactment of the code.
	Import taxes.....	The day following the date of the enactment of the code.
30	Transportation and communication.....	The first day of the first calendar month beginning after the enactment of the Code.
31	Documents and other instruments.....	The day following the date of the enactment of the Code.
32	Sugar:	
	Manufacture.....	The first day of the first calendar month beginning after the enactment of the Code.
	Importation.....	The day following the date of the enactment of the Code.

Chapter	Subject	Application or effective date
33	Coal.....	The first day of the first calendar month beginning after the enactment of the Code.
34	Information and returns.....	The day following the date of the enactment of the Code.
35	Assessment.....	Do.
36	Collection.....	Do.
37	Abatements, credits, and refunds.....	Do.
38	Miscellaneous provisions.....	Do.
39	The Office of the Commissioner of Internal Revenue.	Do.
40	The Office of the Assistant General Counsel for the Bureau of Internal Revenue.	Do.
41	Collectors of internal revenue.....	Do.
42	Deputy collectors of internal revenue.	Do.
43	Internal-revenue agents.....	Do.
44	Storekeeper-gagers.....	Do.
45	Internal-revenue inspectors.....	Do.
46	Miscellaneous provisions.....	Do.

Fourth. The Code will not have any effect upon pending cases, suits, or controversies. All existing rights and liabilities are preserved.

Fifth. The Code repeals only such laws and parts of laws as are codified therein. It is believed that this Code, which is the result of intensive research extending over a period of 10 years, admits no reasonable doubt of its accuracy, but if it should develop that any provision has been improperly omitted, such provision is not repealed, but still remains the law. Likewise, temporary and obsolete provisions which are omitted from the Code are not repealed by it. Moreover, no provision of law corresponding to that contained in the Code is repealed until the corresponding Code provision becomes effective.

Sixth. If any error is found in the Code, it can be remedied by amendatory legislation. Conceding the possibility of error, it is the opinion of your committee that the interests of the Government and the taxpayer alike would be best served by the adoption of the Code as absolute law and the legislative correction of any errors that may be found in it. Such a procedure would be far less burdensome upon the parties concerned than the making of the Code prima facie law, thereby subjecting it to rebuttal upon the production of the original statute. This last procedure would compel both the Government and the taxpayer to make a thorough search of the numerous Statutes at Large in every case to establish that the prima facie law was in fact the law, thereby resulting in perpetuating the confusion which increases with each new edition of the Statutes at Large.

Seventh. The Code makes liberal use of catchwords, headlines, different types, indentations, and other typographical improvements.

Eighth. To obviate confusion with the law itself, the cross-references in the Code are in type different from that containing the law.

Ninth. The Code is arranged with a view of giving prominence to matters which concern the ordinary transactions of the ordinary classes of taxpayers.

The internal-revenue laws were first codified in the Revised Statutes of 1873, title XXXV,—which was made absolute law. A perfected edition of the Revised Statutes was prepared in 1878, but is only prima facie, not absolute, law. In the years 1897 to 1907 a commission was engaged by Congress to codify the Federal laws, but the work was never completed. Subsequently, Hon. Edward C. Little prepared a codification of Federal laws which was embodied in a bill

which passed the House of Representatives but failed of action in the Senate. The internal-revenue laws were again codified in title 26 of the United States Code, which was enacted as *prima facie* law in 1926. Scrutiny of the Code was invited in its preface for the purpose of correcting errors.

In 1930 the Joint Committee on Internal Revenue Taxation published a complete substitute for title 26 of the United States Code, containing all the law of a permanent character, relating exclusively to internal revenue, in force on December 1, 1930. This was not a mere duplication of the old title, for, in addition to correcting errors and eliminating obsolete matter, certain omitted provisions were added and the title completely rearranged in a manner considered logical and useful.

In 1933 a new edition was published containing the internal-revenue laws in force on July 16, 1932. This edition was substituted for title 26 of the United States Code, and in its present form is *prima facie* law. A third edition was published in 1938, containing the internal-revenue laws in force at the beginning of that year. The staff of the Joint Committee on Internal Revenue Taxation, with the cooperation and assistance of the Treasury Department, has brought the internal-revenue code up to date by the present edition.

It has now been nearly 13 years since the United States Code was enacted as *prima facie* law and more than 8 years since the first edition of the internal-revenue code was published by the staff of the joint committee. However, because the internal-revenue title is not the law, but only *prima facie* evidence thereof, it cannot be relied upon and it is still necessary to go to the many volumes of the Statutes at Large to determine what the law actually is. The great mass of internal-revenue legislation since 1873, scattered through 34 volumes of the Statutes at Large, makes such a recourse an exceedingly difficult undertaking, even for the most experienced lawyer.

The only practical way to determine with certainty that the internal-revenue code is actually the law is to enact it, as was done with the Revised Statutes of 1873. It is believed that it has had a sufficient testing period to make it acceptable as free from error.

In the preparation of this edition valued aid has been rendered by the Treasury Department. The work performed there has been under the immediate supervision and direction of Mr. Preston C. Alexander, chairman of the Chief Counsel's Committee, and Mr. Wallace Streater, of the Interpretative Division. The original work of comparing the text of the code with the basic law was divided among some 25 or 30 attorneys in the Chief Counsel's office, whose recommendations passed through the respective division heads or their assistants to Messrs. Alexander and Streater for the final review. Appreciation is expressed of the services of all who collaborated, whose number is too large to permit the mention here of each by name.

Grateful acknowledgment is also made of helpful suggestions received from the Department of Justice.

In a letter to Hon. Pat Harrison, chairman of the Joint Committee on Internal Revenue Taxation, dated December 22, 1938, Mr. James W. Morris, assistant attorney general, stated:

DEPARTMENT OF JUSTICE,
 Washington, December 22, 1938.

HON. PAT HARRISON,
 Chairman, Joint Committee on Internal Revenue Taxation,
 Senate Office Building, Washington, D. C.

MY DEAR SENATOR HARRISON: In a recent conversation with Mr. Stam, chief of the staff of the joint committee, I was advised of the progress of the proposed codification of the revenue laws which has been undertaken by the committee.

I am glad to learn that the long realized need of a codification which will be recognized as the law rather than as merely prima facie evidence thereof is probably soon to be filled. This need has been especially impressed upon the Tax Division of the Department of Justice inasmuch as the function of handling revenue litigation rests with it.

It is evident that the confusion existing by reason of the number of revenue acts, containing in many instances the same basic provisions, to which reference must be made in the handling of cases arising under the various acts, constitutes a burden to the courts and counsel alike. Furthermore, several of these statutory provisions have been amended by Executive order, but, since such changes have not appeared on the face of the statutes it has been necessary to refer to the Executive orders to ascertain their nature and extent. The proposed codification will be particularly helpful in that it eliminates these sources of confusion.

I am confident that the enactment of the codification will be a definite step toward obtaining clarity, certainty, and simplicity in our revenue laws and will be of substantial aid to this Division in the handling of revenue litigation.

The staff of the joint committee deserves to be commended for its valuable contribution to the tax law.

Very truly yours,

JAMES W. MORRIS,
 Assistant Attorney General.

In a letter from George M. Morris, Esquire, Chairman of the Standing Committee on Federal Taxation of the American Bar Association, dated January 24, 1939, Mr. Morris said:

An examination of the codification of the Internal Revenue Laws as prepared by the staff of the Joint Committee on Internal Revenue, indicates that a highly sensible idea has been brought to a most satisfactory fruition.

Unless one has had experience handling questions which involve the statutes treating with our internal revenue, for a span of years (not at all an unusual experience in tax disputes), he can have little idea of the difficulty of achieving certainty as to what the applicable statute law is. If for taxpayers and their counsel these difficulties and uncertainties can be eliminated, the reduction of expense of tax controversies, and even the elimination of such controversies, should be greatly furthered.

Not only does it seem highly advisable that this painstakingly prepared codification should be enacted into law but it should be apparent that the sooner such action is taken the more beneficial will be the effect, particularly in the consideration of any revenue legislation during the present session of Congress. An intelligent consideration of any proposal for change would seem to require an assured knowledge of the law which it is proposed to change.

