

DECLARATION OF ESTIMATED INCOME TAX BY FISHERMEN

—————
AUGUST 3, 1962.—Ordered to be printed
—————

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

R E P O R T

[To accompany H.R. 6413]

The Committee on Finance, to whom was referred the bill (H.R. 6413) to extend to fishermen the same treatment accorded farmers in relation to estimated income tax, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. SUMMARY OF HOUSE PROVISION

H.R. 6413 provides that, for purposes of the estimated income tax, fishermen are to be accorded the same treatment as presently is available for farmers. Under the amended bill this is to be provided for taxable years beginning after December 31, 1962.

The principal advantage to taxpayers having income from farming—which the bill extends to those having income from fishing—is the privilege of filing the declaration of estimated tax, and paying the estimated tax, by January 15 after the end of the year in question (in the case of a calendar-year taxpayer), rather than filing the declaration by the prior April 15 and making quarterly payments of estimated tax.

II. SUMMARY OF COMMITTEE AMENDMENT

Your committee's amendment makes the extra 10-percent limitation on deduction of charitable contributions (presently available in the case of contributions to a church, school, hospital, or medical research organization) available also in the case of contributions to an organization which normally receives a substantial part of its support from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, organized and operated exclusively to receive, hold, invest, and administer property

2 DECLARATION OF ESTIMATED INCOME TAX BY FISHERMEN

and to make expenditures to or for the benefit of a State university or college, including a land-grant college or university. This provision, which is added by your committee, is to apply to taxable years beginning after December 31, 1960.

III. GENERAL EXPLANATION OF HOUSE PROVISION

Under present law those who derive two-thirds or more of their income from farming (including oyster farming) are in several respects treated differently than taxpayers generally under the system of declarations of estimated tax.

First, taxpayers other than farmers who have sufficient income are required to make an estimate on April 15 (in the case of a calendar-year taxpayer) of tax in excess of that withheld and pay this amount in four quarterly payments on April 15, June 15, September 15, and January 15 (sec. 6073(a)).¹ However, farmers, instead of making the estimate in April and paying the quarterly installments, may file an estimate by January 15 of the following year, paying the full estimated tax at the time of filing (secs. 6073(b) and 6153(b)).

Second, taxpayers other than farmers, instead of making their fourth payment of estimated tax on January 15 (in the case of calendar-year taxpayers), are permitted to file their regular income tax return and make their final tax payment by January 31 (sec. 6015(f)). In the case of farmers this date is February 15 instead of January 31.

Third, present law for taxpayers other than farmers bases the 6 percent per annum addition to tax on the excess of 70 percent of the actual tax due over the amount paid by withholding and by estimated tax (sec. 6654(b)). For farmers this percentage is 66% percent instead of 70 percent.

Fourth, there are four exceptions, or "escape valves" as they are sometimes called (in sec. 6654(d)), which, if any apply, mean that no 6 percent per annum addition to tax is to be made for underpayment of estimated tax. One of these exceptions, or escape valves, provides that in the case of any installment, there is to be no addition to tax if, in the case of taxpayers other than farmers, 70 percent of what the tax would be (determined on an annualized basis) for the part of the year up to the installment due date has been paid by that time (sec. 6654(d)(1)(C)). For farmers this percentage is 66% percent.

There are several reasons why this different treatment was provided in the case of taxpayers with income from farming. Probably the most important reason was the recognition that income from farming is particularly difficult to estimate before the end of the year, or at least before the end of the principal crop season. Also, the income receipts are likely to be concentrated in the latter part of the year in the case of farming. Furthermore, accurate recordkeeping is probably more of a problem in the case of farming than for most other self-employment income.

Your committee believes that the reasons cited above for the different estimated tax treatment for farming apply in most respects in the case of income of individuals from fishing. Therefore, the bill adds the phrase "or fishing" after each reference to farming in sections 6015(f), 6073(b), 6153(b), and 6654 (b) and (d)(1)(C). In addition, the bill makes technical conforming changes.

¹ Amendments of declarations of estimated tax may also be made by the payment dates for each quarter of the year.

The changes made by the bill as amended are to be effective with respect to declarations of estimated tax relating to the calendar year 1963 and subsequent taxable years.

IV. GENERAL EXPLANATION OF COMMITTEE AMENDMENT

Your committee's amendment adds a new category (clause (iv)) to section 170(b)(1)(A) of the Internal Revenue Code, relating to organizations which qualify for the extra 10-percent deduction for charitable contributions. The new category added by your committee's amendment comprises organizations, which normally receive a substantial part of their support from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a State university or college, including a land-grant college or university. The purpose of this provision is to extend the extra 10-percent limitation on deductions for charitable contributions to a university endowment association, the activities of which include encouraging and soliciting private support for the university, receiving and holding in trust all property given to the association for the benefit of the university or college, the administration of the endowment funds, and the maintenance of separate funds for gifts and bequests received for uses for which State-appropriated funds are not available or are insufficient, such as scholarships, student loans, equipment, furnishings, supplies, lectureships, and libraries. In some instances, university endowment institutions of the type included by your committee's amendment hold title to property comprising part of the campus area of a college or university, and participate in the erection of university buildings. In general, these foundations do a variety of things which are normally accepted functions of colleges and universities. They merely do them through separate corporations rather than through the university corporation.

Because the functions of these university endowment foundations are so similar to functions normally performed directly by colleges and universities, your committee does not believe that the extra 10-percent deduction should be denied in the case of contributions made to such foundations.

Moreover, the attention of your committee has been called to the fact that in at least 9 States² legal restrictions limit the ability of State and land-grant colleges or universities to receive directly gifts and bequests from the public for particular purposes. This is especially true of gifts not made in trust. Because of these restrictions, endowment foundations have been created in connection with many State colleges and universities (often by alumni groups) for the purpose of receiving gifts and bequests from the general public and of making expenditures for the benefit of such colleges and universities. Private universities or colleges, on the other hand, are not similarly restricted in their ability to receive gifts and bequests directly. Accordingly, your committee has limited the scope of its amendment to endowment foundations which normally receive substantial support from the Federal or State Government or political subdivisions thereof or from direct or indirect contributions from the

² Iowa, Kansas, New York, Oregon, South Dakota, Utah, Virginia, West Virginia, and Wisconsin.

4 DECLARATION OF ESTIMATED INCOME TAX BY FISHERMEN

general public established to make expenditures to or for the benefit of State colleges and universities, including land-grant colleges and universities. Moreover, this limitation will prevent private foundations from qualifying for the extra 10-percent deduction under this provision.

This provision (clause (iv) of sec. 170(b)(1)(A) of the code) is to apply to taxable years beginning after December 31, 1960.

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):

INTERNAL REVENUE CODE OF 1954

SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

(a) ALLOWANCE OF DEDUCTION.—

(1) **GENERAL RULE.**—There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

(2) **CORPORATIONS ON ACCRUAL BASIS.**—In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) the board of directors authorizes a charitable contribution during any taxable year, and

(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the Secretary or his delegate shall by regulations prescribe.

(b) LIMITATIONS.—

(1) **INDIVIDUALS.**—In the case of an individual the deduction provided in subsection (a) shall be limited as provided in subparagraphs (A), (B), (C), and (D).

(A) **SPECIAL RULE.**—Any charitable contribution to—

(i) a church or a convention or association of churches,

(ii) an educational organization referred to in section 503(b)(2), **[or]**

(iii) a hospital referred to in section 503(b)(5) or to a medical research organization (referred to in section 503(b)(5)) directly engaged in the continuous active conduct of medical research in conjunction with a hospital, if during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made, *or*

(iv) an organization referred to in section 503(b)(3) organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,

shall be allowed to the extent that the aggregate of such contributions does not exceed 10 percent of the taxpayer's adjusted gross income computed without regard to any net operating loss carryback to the taxable year under section 172.

(B) GENERAL LIMITATION.—The total deductions under subsection (a) for any taxable year shall not exceed 20 percent of the taxpayer's adjusted gross income computed without regard to any net operating loss carryback to the taxable year under section 172. For purposes of this subparagraph, the deduction under subsection (a) shall be computed without regard to any deduction allowed under subparagraph (A) but shall take into account any charitable contributions [to the organizations described in clauses (i), (ii), and (iii)] described in subparagraph (A) which are in excess of the amount allowable as a deduction under subparagraph (A).

* * * * *

SEC. 6015. DECLARATION OF ESTIMATED INCOME TAX BY INDIVIDUALS.

* * * * *

(f) RETURN AS DECLARATION OR AMENDMENT.—If on or before January 31 (or February 15, in the case of an individual referred to in section 6073(b), relating to income from farming or fishing) of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Secretary or his delegate—

(1) if the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(2) if the tax shown on the return (reduced by the sum of the credits against tax provided by part IV of subchapter A of chapter 1) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by subsection (e) to be filed on or before January 15.

In the application of this subsection in the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the 15th or last day of the months specified in this subsection, the 15th or last day of the months which correspond thereto.

* * * * *

6 DECLARATION OF ESTIMATED INCOME TAX BY FISHERMEN

SEC. 6073. TIME FOR FILING DECLARATIONS OF ESTIMATED INCOME TAX BY INDIVIDUALS

(a) INDIVIDUALS OTHER THAN FARMERS OR FISHERMEN.—Declarations of estimated tax required by section 6015 from individuals [not regarded as farmers] *regarded as neither farmers nor fishermen* for the purpose of that section shall be filed on or before April 15 of the taxable year, except that if the requirements of section 6015 are first met—

(1) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(2) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(3) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(b) FARMERS OR FISHERMEN.—Declarations of estimated tax required by section 6015 from individuals whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the succeeding taxable year.

* * * * *
SEC. 6153. INSTALLMENT PAYMENTS OF ESTIMATED INCOME TAX BY INDIVIDUALS.

* * * * *
(b) FARMERS OR FISHERMAN.—If an individual referred to in section 6073(b) (relating to income from farming or fishing) makes a declaration of estimated tax after September 15 of the taxable year and on or before January 15 of the succeeding taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

* * * * *
SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

* * * * *
(b) AMOUNT OF UNDERPAYMENT.—For purposes of subsection (a), the amount of the underpayment shall be the excess of—

(1) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax shown on the return for the taxable year or, if no return was filed, 70 percent (66 $\frac{2}{3}$ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for such year, over

(2) The amount, if any, of the installment paid on or before the last date prescribed for such payment.

* * * * *
(d) EXCEPTION.—Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed

for the payment of such installment equals or exceeds whichever of the following is the lesser—

(1) The amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least—

(A) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months, or

(B) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to personal exemptions under section 151 for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year, or

(C) An amount equal to 70 percent (66½ percent in the case of individuals referred to in section 6073(b), relating to income from farming or fishing) of the tax for the taxable year computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this subparagraph, the taxable income shall be placed on an annualized basis by—

(i) multiplying by 12 (or, in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income (computed without deduction of personal exemptions) for the months in the taxable year ending before the month in which the installment is required to be paid,

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

(iii) deducting from such amount the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment); or

(2) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.