

Calendar No. 1512

82D CONGRESS }
2d Session }

SENATE

} REPORT
No. 1584

DEDUCTIBILITY OF PROCEEDS FROM SPORTING EVENTS CONDUCTED FOR THE AMERICAN NATIONAL RED CROSS AND CHARITABLE CONTRIBUTIONS BY INDIVIDUALS

MAY 16 (legislative day, MAY 12), 1952.—Ordered to be printed

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

REPORT

[To accompany H. R. 7345]

The Committee on Finance, to whom was referred the bill (H. R. 7345) to exclude from gross income proceeds from certain sports programs conducted for the benefit of the American National Red Cross, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 3, line 6, after the word "by" insert "the first section and section 2 of".

On page 3, after line 9, insert the following new section:

SEC. 4. (a) Section 23 (o) of the Internal Revenue Code (relating to deductions by individuals for charitable contributions) is hereby amended by striking out "15 per centum" and inserting in lieu thereof "20 per centum".

(b) The amendment made by this section shall be applicable only with respect to taxable years beginning after December 31, 1951.

Amend the title so as to read:

An Act to exclude from gross income the proceeds of certain sports programs conducted for the benefit of the American National Red Cross, and for other purposes.

GENERAL STATEMENT

Your committee has agreed without change to the provisions of the House bill permitting a corporation primarily engaged in the furnishing of sports programs to conduct such a program exclusively for the benefit of the Red Cross without including the proceeds in its gross income.

Under present law, contributions or gifts by a corporation to organizations described in section 23 (q) of the Internal Revenue Code are deductible from gross income in an amount which does not exceed 5 percent of the taxpayer's net income. Contributions to the American

2 DEDUCTIBILITY OF PROCEEDS FROM CERTAIN SPORTING EVENTS

Red Cross have been held to be deductible as contributions to an organization of the type described. A taxpayer, such as a baseball club, which desires to conduct a sports program for the exclusive benefit of the Red Cross is required to include the proceeds from the program in its gross income, and the amount which it turns over to the Red Cross is subject to the limitation on charitable contributions. As a result, many sports organizations which would otherwise be willing to devote the proceeds from a particular program to the Red Cross are, in effect, prevented from doing so.

The treatment accorded by this bill is limited to sports programs conducted for the benefit of the American National Red Cross. The Red Cross has a unique status which clearly differentiates it from other charitable organizations. Congress has conferred on the Red Cross a quasi-governmental status under legislation which sets forth its principal functions and prescribes its organization and methods of operation. Specific duties, such as the furnishing of aid to the sick and wounded of armies in time of war, are imposed upon the Red Cross by statute. A portion of the board of governors of the Red Cross is appointed by the President of the United States, and its chairman is designated by him. Furthermore, the accounts of the Red Cross are audited by the Federal Government.

The amendment is limited to sports programs conducted after the date of enactment of this bill under agreements entered into after such date.

The Treasury Department has reported favorably upon similar legislation.

In addition to the relief granted in the case of sports programs conducted for the benefit of the Red Cross, your committee has added an amendment which increases the limit for income-tax deductions by individuals for contributions to charitable, educational, religious, and other organizations specified in the statute to an amount which does not exceed 20 percent of the individual's adjusted gross income. Under existing law the individual is limited to an amount for charitable contributions not in excess of 15 percent of his adjusted gross income. This amendment is made applicable to taxable years beginning after December 31, 1951. Your committee is of the opinion that by increasing the 15-percent limit to 20 percent, much-needed relief will be given to colleges, hospitals, and other organizations who are becoming more and more dependent upon private contributors to enable them to balance their budgets and carry on their programs. The plight in which many of our educational institutions find themselves at the present time is due to the fact that their endowment income is inadequate to meet rising costs. It is only through supplemental gifts by the alumni or other persons interested in the cause of education that they are able to continue their programs. Many of the smaller colleges whose alumni have not sufficient means to make adequate contributions are able to continue their existence only through gifts or contributions received by one or two prominent families in their community. Your committee believes that it is to the best interest of the community to encourage private contributions to these institutions and it is believed that this amendment will provide some assistance in this respect.

TECHNICAL ANALYSIS OF THE BILL

Section 1

This section of the bill adds new paragraph (16) to section 22 (b) of the Internal Revenue Code, relating to exclusions from gross income. Section 22 (b) (16) would exclude from gross income amounts received as proceeds from a sports program conducted by a taxpayer which is a corporation primarily engaged in furnishing sports programs if (A) the taxpayer conducts such sports program pursuant to a written contract with, and exclusively for the benefit of, the American National Red Cross; (B) the taxpayer turns over to the American National Red Cross the proceeds from such sports program minus the expenses paid or incurred by the taxpayer which would not have been so paid or incurred but for the conducting of such sports program and which would be allowable as deductions as ordinary and necessary business expenses under section 23 (a) (1) (A) but for the prohibition placed in such section by section 2 of the bill; and (C) the facilities used in conducting such sports program are not regularly used during the taxpayer's taxable year in conducting sports programs for the exclusive benefit of the American National Red Cross.

To qualify for the exclusion provided for by section 22 (b) (16), the taxpayer must be a corporation primarily engaged in furnishing sports programs. A corporation is considered to be primarily engaged in furnishing sports programs if its principal activity consists in furnishing sports events, such as baseball, basketball, or football games, racing programs, or the like. A corporation primarily engaged in furnishing other types of amusement, such as motion pictures, circuses, or dance programs, would not qualify for the exclusion under section 22 (b) (16) since such amusement programs are not sports programs. The exclusion provided in section 22 (b) (16) applies only to proceeds from a sports program conducted under a written contract entered into by the taxpayer and the American National Red Cross prior to such sports program.

In order that the proceeds from a sports program may be excluded from gross income under section 22 (b) (16), the taxpayer must turn over to the American National Red Cross all of the proceeds from the program less only the expenses paid or incurred by the taxpayer in conducting such sports program which (1) would not have been so paid or incurred if the particular sports program had not been conducted, and (2) would be deductible as ordinary and necessary business expenses under section 23 (a) (1) (A) if deduction were not prohibited by the amendment of such section made by section 2 of the bill.

Thus, the only expenses which the taxpayer is allowed to deduct from the proceeds are those directly connected with the conduct of the particular sports program. If the president of the corporate taxpayer is paid on an annual basis, the taxpayer cannot deduct from the proceeds of such sports program any amount as a part of the salary of the president. Likewise, no part of a ballplayer's annual salary would be an expense deductible from the proceeds prior to turning such proceeds over to the American National Red Cross if the proceeds are to be excluded from gross income under section 22 (b) (16). On the other hand, if payments of compensation are made which would not have been made except for the conduct of such program, such payments qualify as expenses which would not have been paid or incurred but for such program; and such payments, to the extent

4 DEDUCTIBILITY OF PROCEEDS FROM CERTAIN SPORTING EVENTS

they are reasonable in amount, are deductible in determining the amount of the proceeds to be turned over to the American National Red Cross.

The proceeds from a sports program to which section 22 (b) (16) applies include all amounts paid for admission to the sports program, all other amounts received by the taxpayer from the conduct of such sports program, and all amounts received by the taxpayer from activities carried on in connection with such sports program. If section 22 (b) (16) is to be applicable, all such proceeds must be turned over to the American National Red Cross irrespective of when they are received by the taxpayer.

For example, the proceeds received by the taxpayer from the sale of the movie rights to a prize fight must be turned over to the American National Red Cross whenever received. Amounts received by the taxpayer from the sale of the television rights to the particular sports program would be included in the proceeds to be turned over to the American National Red Cross. Amounts received from activities carried on in connection with the sports program which must be turned over to the American National Red Cross if section 22 (b) (16) is to apply include, for example, amounts received from concessionaires or from the sale of goods and services and amounts received from program advertising, from parking lots, and from other incidental revenue-raising activities conducted in connection with the sports program. The amounts previously described in this paragraph are required to be turned over to the American National Red Cross, however, only if they would not have been received by the taxpayer if the particular sports program had not been conducted. For example, if facilities, such as a parking lot or restaurant, are operated by concessionaires on the basis of a flat fee to the taxpayer for the right to operate such concessions over a period of time, such as a particular sports season, the taxpayer is not required to turn over an allocable portion of such fees to the American National Red Cross. On the other hand, if the amounts received by the taxpayer from such facilities are fixed on a day-to-day basis, or are based on a percentage of receipts or profits for the period of the program, the proceeds to the taxpayer from such facilities must be included in the amount turned over to the American National Red Cross.

The proceeds of a sports program subject to section 22 (b) (16) are not considered to include amounts received by the taxpayer for the State and turned over to the State (for example, taxes and breakage on a pari-mutuel wagering pool). Where the State law requires a license to be purchased by the taxpayer for the particular sports program, the cost of the license would be deductible from the proceeds prior to turning such proceeds over to the American National Red Cross.

If the proceeds from a sports program are to be excluded from gross income under section 22 (b) (16), the entire program must be conducted for the American National Red Cross. A part of a program cannot qualify under section 22 (b) (16). Thus, the taxpayer cannot exclude under section 22 (b) (16) one-half of the proceeds received by the taxpayer in conducting a double-header baseball program. Likewise, the proceeds from one race of a racing program consisting of more than one race would not be excludible from the taxpayer's gross income under section 22 (b) (16).

The bill provides that a taxpayer may not avail itself of section 22 (b) (16) if its facilities are regularly used for the conduct of sports programs for the American National Red Cross.

This section applies only if the arrangement between the taxpayer and the American National Red Cross is temporary in nature. It is contemplated that the arrangement which will qualify under the bill usually will entail the use of the particular facilities for a 1-day period. Section 22 (b) (16) would not apply to a corporation which is organized primarily to conduct one or more sports programs for the American National Red Cross.

Section 2

This section of the bill adds to section 23 (a) (1) (A) of the Internal Revenue Code a provision which prohibits the deducting of the expenses described in section 22 (b) (16) (B) which are paid or incurred by a taxpayer in conducting a sports program exclusively for the benefit of the American National Red Cross, where the proceeds from such program are excluded from the gross income of the taxpayer under section 22 (b) (16) as added by the first section of the bill. To the extent, however, that such expenses exceed the amount excluded from gross income by section 22 (b) (16), such expenses, if they constitute ordinary and necessary business expenses, are deductible under section 23 (a) (1) (A). For the purposes of section 23 (q), amounts excluded from the gross income of the taxpayer under section 22 (b) (16) are not to be considered contributions or gifts.

Section 3

This section of the bill provides that the amendments made by the bill shall be applied only with respect to sports programs conducted after the date of the enactment of the bill under agreements with the American National Red Cross entered into after such date.

Section 4

This section of the bill amends section 23(o) of the Internal Revenue Code (relating to deductions by individuals for charitable contributions) by increasing the limit from 15 percent of the taxpayer's gross income to 20 percent. The amendment made by this section will apply with respect to taxable years beginning after December 31, 1951.

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):

INTERNAL REVENUE CODE

SEC. 22. GROSS INCOME.

(a) GENERAL DEFINITION.—* * *

* * * * *

(b) EXCLUSIONS FROM GROSS INCOME.—The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

(1) LIFE INSURANCE, ETC.—* * *

* * * * *

(16) *SPORTS PROGRAMS CONDUCTED FOR THE AMERICAN NATIONAL RED CROSS.—In the case of a taxpayer which is a corporation primarily engaged in*

6 DEDUCTIBILITY OF PROCEEDS FROM CERTAIN SPORTING EVENTS

the furnishing of sports programs, amounts received as proceeds from a sports program conducted by the taxpayer if—

(A) the taxpayer agrees in writing with the American National Red Cross to conduct such sports program exclusively for the benefit of the American National Red Cross;

(B) the taxpayer turns over to the American National Red Cross the proceeds from such sports program, minus the expenses paid or incurred by the taxpayer (i) which would not have been so paid or incurred but for such sports program, and (ii) which would be allowable as deductions under section 23 (a) (1) (A) but for the last sentence thereof; and

(C) the facilities used for such program are not regularly used during the taxable year for the conduct of sports programs to which this paragraph applies.

As used in this paragraph, the term "proceeds from such sports program" includes all amounts paid for admission to the sports program, plus all proceeds received by the taxpayer from such program or activities carried on in connection therewith.

* * * * *

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

(a) EXPENSES.—

(1) TRADE OR BUSINESS EXPENSES.—

(A) In General.—All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. *In the case of any sports program conducted for the benefit of the American National Red Cross, expenses described in section 22 (b) (16) (B) shall be allowable under this subparagraph only to the extent that such expenses exceed the amount excluded from gross income by section 22 (b) (16).*

* * * * *

(o) CHARITABLE AND OTHER CONTRIBUTIONS.—In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

* * * * *

to an amount which in all the above cases combined does not exceed [15 per centum] 20 per centum of the taxpayer's adjusted gross income.

