

Calendar No. 1029

88TH CONGRESS }
2d Session }

SENATE }

REPORT
No. 1086

DOUBLE TAXATION OF CERTAIN TOBACCO PRODUCTS

JUNE 16 (legislative day, MARCH 30), 1964.—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. 8268]

The Committee on Finance, to whom was referred the bill (H.R. 8268) to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This bill would prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory.

GENERAL STATEMENT

H.R. 8268 would eliminate a tax inequity in connection with the importation into the United States for reprocessing of certain domestically produced tobacco products and cigarette papers and tubes which have been previously exported.

Under existing law, when tobacco products, which have been exported without payment of internal revenue tax imposed by section 5701 of the Internal Revenue Code of 1954, are returned unchanged to the United States, they are dutiable under item 804.00 of the Tariff Schedules of the United States. Under this provision, in lieu of the regular duty, duty equal to the internal revenue tax imposed by section 5701 is collected when the tobacco products are released from customs. In some cases, these tobacco products are returned to the manufacturer's internal revenue bonded factory for further processing. Upon subsequent removal (after reprocessing) of the tobacco products from the internal revenue bonded factory for domestic use or consumption, the manufacturer pays the internal revenue tax imposed

by section 5701, and thus a tax is in effect paid twice on the same tobacco products.

This bill would alleviate this inequitable situation. The bill amends headnote 2 to subpart A of part 1 of schedule 8 of the tariff schedules and section 5704 of the Internal Revenue Code of 1954. Under the amendments, tobacco products and cigarette papers and tubes previously exported and otherwise subject to duty may be released from Customs' custody without payment of the duty attributable to the internal revenue tax, for delivery to a manufacturer of such articles in accordance with such regulations and under such bond as the Secretary of the Treasury or his delegate shall prescribe. The effect would be to eliminate the first of the two taxes described in the preceding paragraph. Of course, when the reprocessed tobacco products are removed from the bonded factory the full excise tax is then collected.

DEPARTMENTAL REPORTS

The Departments of Treasury, and State, as well as the Bureau of the Budget, have no objection to this legislation. The report from the Department of Commerce recommending enactment follows:

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., June 15, 1964.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department with regard to H.R. 8268, an act to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a bonded factory.

H.R. 8268 amends headnote 2 to subpart A of part 1 of schedule 8 of the Tariff Schedules of the United States by inserting a paragraph providing that "tobacco products and cigarette papers and tubes classifiable under such item may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax, for return to internal revenue bond as provided by section 5704(e) of the Internal Revenue Code of 1954."

Section 5704 of the Internal Revenue Code of 1954 (relating to exemption from tobacco tax) is also amended to accord in the code for treatment provided by the above amendment to the Tariff Schedules of the United States. Specifically, that part of the duty attributable to the internal revenue tax need not be paid on tobacco products and cigarette papers and tubes classifiable under item 804.00 in the new schedules (relating to duty on certain articles previously exported and returned).

This Department favors the purpose of H.R. 8268. The act would provide that domestically manufactured tobacco products be subject only once to payment of the internal revenue tax when they are exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory, provided that such products otherwise conform to the regulations set forth by the Bureau of Customs and the Internal Revenue Service. The proposed legislation would effectuate this purpose by amending the tariff statutes now in effect and by identifying the point at which the tobacco prod-

ucts in bond are transferred from Customs custody to the custody of the Internal Revenue Service. It is the understanding of this Department that enactment of H.R. 8268 would impose no particular administrative difficulties upon the Department of the Treasury.

The Department of Commerce therefore recommends the enactment of H.R. 8268.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES, *General Counsel.*

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 are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new material is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 5704 OF THE INTERNAL REVENUE CODE OF 1954

SEC. 5704. EXEMPTION FROM TAX.

(a) TOBACCO PRODUCTS FURNISHED FOR EMPLOYEE USE OR EXPERIMENTAL PURPOSES.—Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary or his delegate shall by regulation prescribe.

(b) TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TRANSFERRED OR REMOVED IN BOND FROM DOMESTIC FACTORIES AND EXPORT WAREHOUSES.—A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States; and manufacturers may similarly remove such articles for use of the United States; in accordance with such regulations and under such bonds as the Secretary or his delegate shall prescribe.

(c) TOBACCO MATERIALS SHIPPED OR DELIVERED IN BOND.—A dealer in tobacco materials or a manufacturer of tobacco products may ship or deliver tobacco materials, without payment of tax, to another such dealer or manufacturer, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States; or, in the case of tobacco stems and waste only, to any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine; in accordance with such regulations and under such bonds as the Secretary or his delegate shall prescribe.

(d) TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND TOBACCO MATERIALS RELEASED IN BOND FROM CUSTOMS CUSTODY.—Tobacco products, cigarette papers and tubes, and tobacco materials, imported or brought into the United States, may be released from

customs custody, without payment of tax, for delivery to a manufacturer of tobacco products or cigarette papers and tubes and such tobacco materials may be similarly released for delivery to a dealer in tobacco materials, in accordance with such regulations and under such bond as the Secretary or his delegate shall prescribe.

(c) *TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES EXPORTED AND RETURNED.*—*Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without payment of that part of the duty attributable to the internal-revenue tax, for delivery to a manufacturer of tobacco products or cigarette papers and tubes, in accordance with such regulations and under such bond as the Secretary or his delegate shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.*

TITLE I OF THE TARIFF ACT OF 1930

TARIFF SCHEDULES OF THE UNITED STATES

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISIONS

Part 1.—Articles Exported and Returned

Item	Articles	Rates of Duty	
		1	2
• • •	• • • • • Subpart A. Articles not Advanced or Improved Abroad	• • •	• • •
• • •	Subpart A headnotes: 2. For the purposes of item 804.00— (a) when because of the destruction of customs records or for other cause it is impracticable to establish whether drawback was allowed, or the amount allowed, on a returned article, there shall be assessed thereon an amount of duty equal to the estimated drawback and internal-revenue tax which would be allowable or refundable if the imported merchandise used in the manufacture or production of the returned article were dutiable or taxable at the rate applicable to, such merchandise on the date of entry, but in no case more than the duty and tax that would apply if the article were wholly of foreign origin; [and] (b) tobacco products and cigarette papers and tubes classifiable under such item may be released from customs custody, without payment of that part of the duty attributable to the internal-revenue tax, for return to internal-revenue bond as provided by section 8704(e) of the Internal Revenue Code of 1954; and [(b)] (c) in order to facilitate the ascertainment and collection of the duty provided for, the Secretary of the Treasury is authorized to ascertain and specify the amounts of duty equal to drawback or internal-revenue tax which shall be applied to articles or classes or kinds of articles, and to exempt from the assessment of duty articles or classes or kinds of articles with respect to which the collection of such duty involves expense and inconvenience to the Government which is disproportionate to the probable amount of such duty.	• • •	• • •
• • • 804.00	Articles previously exported from the United States which are excepted from free entry under any of the foregoing items by headnote 1 of this subpart and are not otherwise free of duty.....	A duty (in lieu of any other duty or tax) equal to the sum of any duty and internal revenue tax imposed upon the importation of like articles not previously exported, but in no case in excess of the sum of any customs drawback proved to have been allowed upon such exportation of the article and any internal-revenue tax imposed, at the time such article is entered, upon the importation of like articles not previously exported.	A duty (in lieu of any other duty or tax) equal to the sum of any duty and internal-revenue tax imposed upon the importation of like articles not previously exported, but in no case in excess of the sum of any customs drawback proved to have been allowed upon such exportation of the article and any internal-revenue tax imposed, at the time such article is entered, upon the importation of like articles not previously exported.