

## EXEMPTION FROM DUTY FOR RETURNING RESIDENTS

JUNE 28 (legislative day, JUNE 25), 1965.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted  
the following

### REPORT

[To accompany H.R. 8147]

The Committee on Finance, to whom was referred the bill (H.R. 8147) to amend the Tariff Schedules of the United States with respect to the exemption from duty for returning residents, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

#### I. SUMMARY OF COMMITTEE BILL

The committee bill provides that beginning on the day after the date of its enactment, the exemption from duty for returning residents is to be \$50, retail value, and this exemption is to apply only with respect to goods which actually accompany the returning resident. The bill also reduces the quantity of alcoholic beverages a returning resident may claim under his personal exemption from 1 gallon to 1 quart.

Special dollar limitations apply in the case of tourists returning from, or through, American Samoa, Guam, and the Virgin Islands. In these instances, the exemption from duty is to be \$200, retail value, but these tourists are not to be permitted to bring back with them more than 1 quart of alcoholic beverages on a tax- and duty-free basis.

#### II. GENERAL STATEMENT

##### *A. Present law*

Under the provisions of item 915.30 in part I of the appendix to the Tariff Schedules (temporary legislation), a U.S. resident who returns to this country before July 1, 1965, is allowed the following

personal exemptions from duty (and internal revenue tax imposed on importation) on articles he has purchased abroad:-

If the returning resident remains outside the customs territory of the United States for at least 48 hours, he may claim (no oftener than once in 30 days) an exemption from duty for \$100 (wholesale value) worth of articles acquired abroad, including within this exemption not more than 1 wine gallon of alcoholic beverages. (If he returns from the Virgin Islands of the United States or through a port of entry on the Mexican border, he need not have been absent from the United States for any specific length of time before claiming the exemption.)

Until April 1, 1964, a special provision applied in the case of persons arriving directly or indirectly from the Virgin Islands of the United States, who were allowed a duty exemption of \$200 (wholesale value), not more than \$100 of which could have been applied to articles acquired elsewhere than in the Virgin Islands. Since April 1, 1964, U.S. residents returning from the Virgin Islands have been entitled to no different exemption than that allowed residents returning from other places.

#### *B. History of present temporary law*

The present temporary law governing returning resident exemptions expires on June 30, 1965. It was originally enacted August 10, 1961 (Public Law 87-322), and became effective with respect to persons arriving in the United States on and after September 9, 1961, but prior to July 1, 1963. This expiration date was extended by Public Law 88-53 until July 1, 1965, except that the temporary special exemption to persons arriving from the Virgin Islands was extended only to April 1, 1964. Unless the temporary provisions are extended, residents returning to the United States after June 30, 1965, will be able to claim up to \$500 in personal duty exemptions under the permanent exemption provisions, as explained below.

#### *C. Description of permanent law*

Under the permanent exemption provisions of the Tariff Schedules of the United States (items 813.30-813.32), if a returning resident remains outside the customs territory of the United States for at least 48 hours, he may claim an exemption from duty (and internal revenue tax imposed on importation) for \$200 worth (wholesale value) of articles acquired abroad. If, however, he returns through a port of entry on the Mexican border, he need only have been absent from the United States for such time (not to exceed 24 hours) as the Secretary of the Treasury may by regulation provide with respect to such port. This exemption may be claimed no oftener than once in 30 days.

Also, under the permanent law, if the returning resident remains outside the customs territory of the United States for 12 or more days, he may claim an additional exemption from duty (and tax) for \$300 worth (wholesale value) of articles acquired abroad. This exemption, which may be claimed together with the basic exemption described above (totaling \$500), can be utilized no more than once in 6 months.

#### *D. Reasons for the effect of temporary law and changes therein*

The existing temporary legislation was originally enacted in 1961 on the recommendation of the President who pointed out that the returning resident exemption had been increased after World War II

from the previous \$100 level as a measure to aid foreign countries faced with a dollar shortage. He stated:

\* \* \* in the light of the existing balance-of-payments problem, this more liberal customs exemption, designed to encourage American expenditures abroad, is not presently warranted.

The 1963 extension of the temporary exemption was enacted on a recommendation of the Secretary of the Treasury based on the continuing need for balance-of-payments savings. In now recommending further extension and reduction of the exemption, the Secretary of the Treasury advised your committee that this is one of the several steps proposed by the President to deal with the continuing deficit in our balance of payments. The Secretary of the Treasury advised your committee that in 1964—

the deficit on the regular international transactions of the United States was \$3.1 billion. While that represented some improvement over the \$3.3 billion deficit in 1963, and the \$3.6 billion deficit in 1962, it does not represent enough progress, or progress that is fast enough.

This bill, by restricting still further the duty-free privilege of returning residents, should make a significant contribution to our efforts to achieve balance-of-payments savings, and will let the world know we are determined to combat the present situation on all fronts.

*Fair retail value.*—The change in the valuation of tourist exemption merchandise to "fair retail value" included both in the House bill and in the committee bill was recommended by the Treasury Department not alone for balance-of-payments reasons but also on the ground that it will provide a more realistic measure for goods brought in by tourists and will facilitate customs clearance of passengers since such values, normally, can be readily ascertained, inasmuch as such articles are ordinarily purchased at retail.

It should be noted that the existing method of valuing tourist exemption merchandise on the wholesale price in the country of acquisition, though historic in application, has not been possible of case-by-case determination. The traveler is required to report the price he pays for his goods and the customs authorities in practice make an allowance of 40 percent from the retail purchase price when determining the foreign wholesale value. This means that the present \$100 exemption in terms of retail value actually amounts, generally, to \$167. Thus, the actual reduction in the exemption which would be made by this bill, considering the change in the basis of valuation, is from \$167 to \$50.

The term "fair" is used in conjunction with "retail value" in order to enable the customs authorities to value duty exemption goods on the basis of the going retail price in the country of acquisition (including an insular possession) rather than on any special reduced or bargain price that a particular traveler may have succeeded in obtaining. In describing this provision to the committee during its hearing, the Secretary stated that in general, the price the returning resident states he paid for his foreign merchandise will be accepted by the Customs Service unless it should be substantially different from fair retail value in the country where the article was purchased.

*Alcoholic beverage allowance.*—Prior to 1936 there was no limitation on the quantity of alcoholic beverages that could be included in the returning resident exemption. In that year, as part of a comprehensive statute "To insure collection of revenue on distilled spirits, wines, and malt liquors \* \* \*," the returning resident exemption provision of the Tariff Act of 1930 was amended so as to limit the amount of alcoholic beverages that may be included in the exemption to 1 wine gallon (Public No. 815, 74th Cong., sec. 337). This was in the interest primarily of reducing the loss in internal revenue tax which, in the case of distilled spirits was at that time \$2 per proof gallon. The present rate of \$10.50 per proof gallon on distilled spirits and the extensive use of the alcoholic beverage privilege in connection with the returning resident exemption results in a considerable loss of revenue, aside from the ordinary customs duty loss (\$1.02 or \$1.25 per proof-gallon on whisky). This factor and the fact that each person in a family of whatever age, including infants, returning from abroad is individually entitled to the full amount of the exemption, including the gallon of alcoholic beverages, have persuaded your committee, as they persuaded the House, to reduce the quantity of alcoholic beverages that may be entered free of duty and tax under the returning resident exemption to 1 quart, but only if the person at the time of arrival in the United States, has attained age 21.

*Insular possessions of the United States.*—The special \$200 tourist exemption privileges with respect to U.S. residents arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States, which is larger than the exemption allowed to residents returning from other places subject to the requirement that at least three-fourths of the larger maximum exemption must be acquired in the possessions, is to benefit these possessions of the United States which depend importantly on tourist trade for their economic development. Tourist trade is the mainstay of the economy of the Virgin Islands, and while tourism is not yet extensive in American Samoa and Guam, these areas show promise as tourist trade areas. These three areas are under the American flag, and they are dollar areas, so that the balance-of-payments incidence involved is small.

In light of the special, more generous tourist exemption for these possessions which the committee has agreed to, it was felt that an additional preference in the form of duty- and tax-free treatment for 1 gallon of alcoholic beverages of tourists returning from or through the Virgin Islands, American Samoa, or Guam was unwarranted. Accordingly, the committee deleted from the House-passed bill that provision which permitted this privilege. Under the committee bill, no resident returning to this country, regardless of where he has been, may bring back more than 1 quart of tax- and duty-free liquor. As already stated, in order to avail himself of the 1-quart privilege under the new law, the tourist must be at least 21 years of age.

*Administrative exemptions.*—Section 321 of the Tariff Act of 1900 authorizes the Secretary of the Treasury to exempt from duty and tax articles not exceeding \$10 wholesale value sent as bona fide gifts from persons in foreign countries to persons in the United States, personal articles not exceeding \$10 wholesale value in baggage of persons arriving in the United States who are not entitled to the returning resident exemption, and other importations not exceeding \$1 wholesale value. The bill would change the basis of valuation in these instances from foreign wholesale value to fair retail value, as in the

case of the returning resident exemptions. This is essentially a conforming amendment, and under the effective date change approved by the committee, this amendment will apply to articles arriving in the United States after the date of enactment of this bill.

*E. Unaccompanied baggage*

Your committee added an amendment to the House-passed bill to terminate the so-called "articles to follow" privilege. This amendment carries out the recommendation of the President, made in his February 10 message on the balance of payments.

Elimination of this privilege, which is largely unique to our law, not only will result in a significant economy in the administration of the Customs Bureau, but also will end abuses under which tourists and those taking short business trips have been able to avoid both domestic and foreign taxes on many of their purchases by placing mail orders for them, and thus have been able to acquire goods which they could not normally buy tax free in the countries which they do visit. In describing abuses of this privilege, the Secretary told the committee during its hearing on the bill—

They have, for example, been able to go to Canada and, by this mail order device, arrange to have French perfume sent to their homes in the United States free and clear of all duties and taxes. What is notable is that these U.S. travelers could not have walked into a store in Canada and bought the same perfume free of Canadian taxes and duties. In other words, the "to follow" privilege has been taken advantage of in a way that was never intended.

It was also recognized that the privilege has been frequently abused resulting in the duty-free admission of goods not entitled to this privilege. Further, complete policing of the privilege could only be achieved by expenditures not consistent with the Bureau of Customs' budget and other operating responsibilities.

It was noted also that administration of the provision is difficult and costly and in practice has been the cause of delay to returning residents who do not claim or use the privilege but who are held up behind those who do.

Under the committee bill tourists who return to this country before this new rule becomes effective may receive their "articles to follow" duty free as part of their exemption even after it becomes effective. Those returning after the effective date, however, must bring their foreign purchases with them if they are to be entered duty free.

*F. Balance-of-payments savings*

The Treasury Department estimates that the balance-of-payments savings resulting from the bill as approved by your committee will be \$100 million annually.

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):

## TARIFF ACT OF 1930

## TITLE I—TARIFF SCHEDULES OF THE UNITED STATES

## SCHEDULE 8. SPECIAL CLASSIFICATION PROVISIONS

Item	Articles	Rates of duty	
		1	2
	PART 2.—PERSONAL EXEMPTIONS  SUBPART A.—RESIDENTS AND NONRESIDENTS  Articles imported by or for the account of any person arriving in the United States who is a returning resident thereof:		
813.30	Other articles [(including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars)] accompanying such person, including (but only in the case of an individual who has attained the age of 21) not more than 1 quart of alcoholic beverages and including not more than 100 cigars, acquired abroad as an incident of the journey from which he is returning, for his personal or household use, but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury:		
813.31	Articles [not over \$200 in aggregate value if such person arrived from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the territorial limits of the United States for a period of not less than 48 hours, and in either case has not claimed an exemption under this item (813.31) within the 30 days immediately preceding his arrival] not over \$50 (or \$200 in the case of persons arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States, not more than \$50 of which shall have been acquired elsewhere than in such insular possession) in aggregate fair retail value in the country of acquisition; if such person arrives from the Virgin Islands of the United States or from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the territorial limits of the United States for a period of not less than 48 hours, and in either case has not claimed an exemption under this item (813.31) or under item 915.30 within the 30 days immediately preceding his arrival.....	Free	Free
[ 813.32	[In addition, articles not over \$300 in aggregate value if such person has remained beyond the territorial limits of the United States for a period of not less than 12 days and has not claimed an exemption under this item (813.32) within the 6 months immediately preceding his arrival.....	[Free	[Free]

<sup>1</sup> The provisions of item 813.31 and item 813.32 have been temporarily suspended. See item 915.30.

APPENDIX TO THE TARIFF SCHEDULES

Item	Articles	Rates of duty		Effective period
		1	2	
	<p>PART I.—TEMPORARY LEGISLATION</p> <p>SUBPART B.—TEMPORARY PROVISIONS AMENDING THE TARIFF SCHEDULES</p> <p>In lieu of the exemptions provided for in items 813.31 and 813.32 of part 2A of schedule 8, the following articles imported by or for the account of any person arriving in the United States who is a returning resident thereof:</p> <p>Articles not over \$100 in aggregate value (or \$200 in the case of persons arriving before April 1, 1964, directly or indirectly from the Virgin Islands of the United States, not more than \$100 of which shall have been acquired elsewhere than in the Virgin Islands of the United States), including not more than 1 wine gallon of alcoholic beverages and not more than 100 cigars, acquired abroad as an incident of the journey from which he is returning, for his personal or household use; but not imported for the account of any other person nor intended for sale, if declared in accordance with regulations of the Secretary of the Treasury, and if such person arrives from the Virgin Islands of the United States or from a contiguous country which maintains a free zone or free port, or arrives from any other country after having remained beyond the territorial limits of the United States for a period of not less than 48 hours, and in either case has not claimed an exemption hereunder within the 30 days immediately preceding his arrival.</p>	Free	Free	For returning residents arriving before July 1, 1965.
915.30				

TITLE III—SPECIAL PROVISIONS

PART I—MISCELLANEOUS

\* \* \* \* \*

SEC. 321. ADMINISTRATIVE EXEMPTIONS.

(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized under such regulations as he shall prescribe, to—

(1) disregard a difference of less than \$3 between the total estimated duties or taxes deposited, or the total duties or taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties or taxes actually accruing thereon; and

(2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate [value] fair retail

*value in the country of shipment* of articles imported by one person on one day and exempted from the payment of duty shall not exceed—

(A) \$10 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States, or

(B) \$10 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any [exemption from duty or tax under paragraph 1798(b)(2) or (c)(2)] *exemption from duty under item 812.25 or 813.31 of title I of this Act*, or

(C) \$1 in any case.

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of this subdivision (2).

(b) The Secretary of the Treasury is authorized by regulations to diminish any dollar amount specified in subsection (a) and to prescribe exceptions to any exemption provided for in such subsection whenever he finds that such action is consistent with the purpose of such subsection or is necessary for any reason to protect the revenue or to prevent unlawful importations.

