

**EXTENDING FOR 1 YEAR THE APPLICATION OF SECTION 108 (B)
OF THE INTERNAL REVENUE CODE OF 1954 (RELATING TO
INCOME OF A RAILROAD CORPORATION FROM DISCHARGE
OF INDEBTEDNESS)**

JULY 26, 1955.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 6887]

The Committee on Finance, to whom was referred the bill (H. R. 6887) to extend for 1 year the application of section 108 (b) of the Internal Revenue Code of 1954 (relating to income of a railroad corporation from discharge of indebtedness), having considered the same, report thereon with amendments and recommend that the bill, as amended, do pass.

**SECTION 1. EXTENSION FOR 1 YEAR OF THE APPLICATION OF
SECTION 108 (B) OF THE INTERNAL REVENUE CODE OF 1954**

Section 1 of this bill extends for 1 year the expiration date contained in section 108 (b) of the Internal Revenue Code of 1954. Under existing law, the provisions of section 108 (b) do not apply to any discharge of indebtedness occurring in a taxable year beginning after December 31, 1955. This latter date is extended to December 31, 1956, under the bill.

Under section 108 (b) of the 1954 code, income from the discharge of indebtedness of a railroad corporation is excluded from gross income if the discharge is effected pursuant to a court order issued in a receivership proceeding or in a proceeding under section 77 of the Bankruptcy Act. In such cases, the basis of the property of the railroad corporation is not reduced by reason of the exclusion from gross income of the amount of income attributable to the discharge of indebtedness.

A provision corresponding to section 108 (b) was contained in section 22 (b) (10) of the 1939 code. This provision was first added to the Internal Revenue Code by the Revenue Act of 1942 effective for taxable years beginning after December 31, 1939, and before January 1, 1946. Its application was extended in subsequent revenue acts

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to December 31, 1954, and was further extended to December 31, 1955, by the 1954 code. Because certain railroad receivership proceedings have not yet been concluded and no court order has been issued in these cases, the bill extends the applicability of the provision so that it will also apply to any discharge of indebtedness occurring in a taxable year beginning after December 31, 1955, and before January 1, 1957.

It is estimated that the revenue effect of this bill will be negligible. Your committee has made no change in this provision of the bill.

SECTION 2. DEDUCTION UNDER THE FEDERAL ESTATE TAX OF CERTAIN STATE DEATH TAXES

Your committee has added another provision to this bill. Under present law, a deduction from the Federal estate tax is granted for bequests to charity. Under the provision added by your committee, a deduction would also be granted for the amount of any estate, succession, legacy or inheritance tax imposed by a State upon the transfer by the decedent for public, charitable, or religious uses as described in section 2055.

The deduction for charitable bequests allowed by section 2055 of the 1954 code for bequests to charity is measured by the amount the charity actually receives and not the amount of the bequest. For example, if a State imposes a tax on the charitable bequest and the State tax must be paid from the charitable bequest, the Federal estate tax deduction would be limited to the amount of the bequest less the State tax paid from the bequest, and the Federal estate tax would be increased by the corresponding increase in the taxable estate of the decedent. If the additional Federal estate tax thus arising must also be paid out of the charitable bequest, the charitable deduction will, in turn, be reduced and the estate tax correspondingly increased. By this pyramiding of tax on tax, the Federal estate tax can be increased by much more than the State tax on the bequest and the combination of these two taxes can result in the dissipation of a large part of the bequest that the testator intended to be used for a charitable purpose.

To prevent the charitable purpose of the testator from thus being frustrated and to carry out the national purpose of not subjecting charitable bequests to the estate tax, your committee has added a provision that will grant a deduction for Federal estate tax purposes for the amount of any estate, succession, legacy, or inheritance tax imposed by a State upon a transfer by the decedent for public, charitable, or religious uses as described in section 2055 of the 1954 code. Thus, the estate will receive the same deduction whether or not a State tax is imposed upon a bequest, legacy, devise, or transfer that is deductible under any paragraph of section 2055 (a) of the 1954 code.

The deduction granted under the provision added by your committee will be disregarded in computing the credit for State death taxes under section 2011 of the 1954 code.

The amendment to section 2053 of the 1954 code made by your committee will apply with respect to the estate of decedents in any case in which the last date prescribed by law for filing the Federal estate tax return is on or after April 1, 1955.

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 matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 108 (B) OF THE INTERNAL REVENUE CODE OF 1954

SEC. 108. INCOME FROM DISCHARGE OF INDEBTEDNESS.

(a) SPECIAL RULE OF EXCLUSIONS.— * * *

(b) RAILROAD CORPORATIONS.—No amount shall be included in gross income by reason of the discharge, cancellation, or modification, in whole or in part, within the taxable year, of any indebtedness of a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act (11 U. S. C. 205 (m)), if such discharge, cancellation, or modification is effected pursuant to an order of a court in a receivership proceeding or in a proceeding under section 77 of the Bankruptcy Act. In such cases, the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income, and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. Subsection (a) of this section shall not apply with respect to any discharge of indebtedness to which this subsection applies. This subsection shall not apply to any discharge occurring in a taxable year beginning after December 31, [1955] 1956.

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SEC. 2053. EXPENSES, INDEBTENESS, AND TAXES.

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(d) CERTAIN STATE DEATH TAXES.—*Notwithstanding any other provision of this chapter, for purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of any estate, succession, legacy, or inheritance tax imposed by a State upon a transfer by the decedent for public, charitable, or religious uses as described in section 2055. Any tax deducted under this subsection shall be disregarded in computing the credit for State death taxes under section 2011.*

[(d)] (e) Marital Rights.— * * *

