

EXTENDING THE TIME WITHIN WHICH CERTAIN ACTS  
UNDER THE INTERNAL REVENUE CODE ARE RE-  
QUIRED TO BE PERFORMED

MARCH 23, 1943.—Ordered to be printed

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

REPORT

[To accompany H. J. Res. 100]

The Committee on Finance, to whom was referred the joint resolution (H. J. Res. 100) to amend the Internal Revenue Code, having had the same under consideration, unanimously report favorably thereon without amendment and recommend that the joint resolution do pass.

The purposes and intent of the joint resolution are clearly pointed out in the report (No. 260) of the Committee on Ways and Means of the House of Representatives, reading as follows:

SECTION 1

Section 722 of the Internal Revenue Code, as amended by section 222 of the Revenue Act of 1942, contains general relief provisions designed to safeguard taxpayers from an excessive and discriminatory excess-profits-tax burden. It is provided that if the taxpayer establishes, under stated conditions, what would be a fair and just amount representing normal earnings to be used as a constructive average base period income for the purpose of an excess-profits tax based upon a comparison of normal earnings and earnings during an excess-profits-tax period, the tax shall be calculated by using such constructive average base period net income in lieu of the average base period net income otherwise applicable. The benefits of this section are extended to those cases where the taxable year involved begins after December 31, 1939, but not after December 31, 1941, if the taxpayer makes application therefor within 6 months after the date of enactment of the 1942 act. As the date of enactment of the Revenue Act of 1942 is October 21, 1942, the time prescribed for filing such application ends April 21, 1943. It has been ascertained that this period of time is too short to permit the adequate fulfillment of the legislative policy reflected by section 722. Section 1 of this resolution therefore allows taxpayers seeking relief for taxable years beginning after December 31, 1939, but not after December 31, 1941, an additional period of time, terminating on September 15, 1943, to file their necessary applications. This period coincides with that allowed for claims that may be filed with respect to returns filed on March 15, 1943, for the year 1942.

SECTION 2

The Revenue Act of 1942 provides for a post-war credit for corporations amounting to 10 percent of their excess-profits tax, in settlement of which bonds payable after the war are to be issued. Under section 780 of the Internal Revenue Code the Secretary of the Treasury is directed to establish a credit to the account of

each taxpayer subject to excess-profits tax for each taxable year, with certain exceptions, ending after December 31, 1941, and not beginning after the date of cessation of hostilities of the present war, equal to 10 percent of the excess-profits tax for such year. The amount of such credit is to be applied to the purchase of Government bonds which are required to be issued within 3 months after payment of the amount of the excess-profits tax shown on the excess-profits tax return for such taxable year. It now appears that it will be impossible to set up the administration for issuance of the bonds in the case of taxable years beginning or ending in 1942 in time to comply with the present law. Additional time is needed to formulate the procedure for ascertainment of the amount of the tax shown upon the returns, the correction of obvious errors, and the determination of the date of payment, as well as the actual issuance of the obligations. Section 2 of the resolution extends from 3 months to 1 year after payment of the tax the time for issuance of bonds purchased through application of the credit with respect to taxable years beginning or ending in 1942.

The necessity of this legislation is set forth in a letter to the chairman of the Committee on Finance from the general counsel of the Treasury Department, under the date of March 13, 1943, reading as follows:

TREASURY DEPARTMENT,  
March 15, 1943.

Hon. ROBERT L. DOUGHTON,  
Chairman, Ways and Means Committee,  
House of Representatives.

MY DEAR MR. CHAIRMAN: Reference is made to the proposed joint resolution to extend the time within which certain acts under the Internal Revenue Code are required to be performed, a draft of which is enclosed.

Section 1 of the proposed joint resolution amends section 722 of the Internal Revenue Code, which relieves taxpayers from an unduly burdensome excess profits tax under stated conditions. This section provides, in brief, that the taxpayer may have its excess profits tax recomputed upon the basis of a credit which would reflect the normal earning capacity of the taxpayer's business. Subsection (d) of section 722, which establishes the period of limitations for application for relief, states that an application relating to a taxable year beginning after December 31, 1939, but not after December 31, 1941, must be made within 6 months after the date of enactment of the 1942 act. The resolution proposes to extend this period of time to September 15, 1943, since the original period established by section 722 is too short to enable taxpayers to procure the full benefits intended by the Congress.

Section 2 of the resolution amends section 780 (b) of the code, dealing with the application of the post-war credit of excess profits tax to the purchase of bonds. Section 780 (a) authorizes and directs the Secretary of the Treasury to establish a credit to the account of each taxpayer subject to the excess profits tax, for taxable years ending after December 31, 1941, and not beginning after the date of cessation of present hostilities, of an amount equal to 10 percent of the excess profits tax for such year. Section 780 (b) now provides that Government bonds shall be issued to the taxpayer in an amount equal to the credit provided in section 780 (a) within 3 months after the payment of the tax shown on the return for the taxable year. The resolution extends to 1 year the time within which such obligations are required to be issued by the Treasury Department with respect to taxable years beginning or ending in 1942.

The 3-month period for issuance of the bonds is inadequate in the case of the credit for taxable years beginning or ending in 1942. Although it has been impossible to work out the administrative procedure within present time limits, once such procedure is established it may be possible to issue the bonds within 3 months after the time of payment of the tax. Consequently, the amendment to section 780 (b) would apply only to taxable years beginning or ending in 1942.

The Treasury Department believes that the foregoing amendments are desirable and recommends that the Congress adopt the proposed joint resolution.

I am sending a similar letter to the Honorable Walter F. George, chairman of the Committee on Finance of the Senate.

Sincerely yours,

RANDOLPH E. PAUL, *General Counsel.*