

## MARITAL DEDUCTION, FOR ESTATE-TAX PURPOSES, IN THE CASE OF LIFE INSURANCE OR ANNUITY PAYMENTS

JUNE 17 (legislative day, JUNE 15), 1948.—Ordered to be printed

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

### REPORT

[To accompany H. J. Res. 429]

The Committee on Finance, to whom was referred the joint resolution (H. J. Res. 429) relating to the marital deduction, for estate-tax purposes, in the case of life insurance or annuity payments, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

By virtue of this act, the Committee on Finance adopts the report of the Committee on Ways and Means which follows:

#### DISCUSSION OF JOINT RESOLUTION

The joint resolution amends section 812 (e) (1) (G) of the Internal Revenue Code, relating to the marital deduction under the estate tax for insurance proceeds receivable by the decedent's surviving spouse. The amendment expands the application of this provision in the following respect:

(1) The present provision applies only where some part of the principal is payable annually or at more frequent intervals. The amendment extends the application of the provision to include cases where the proceeds are held by the insurer subject to an agreement to pay only interest thereon annually or at more frequent intervals, and cases where interest is to be paid for a period and installments of the proceeds are to be paid for a period. In all such cases, however, payments of either or both must be made at least annually until the proceeds are disposed of in accordance with the terms of the contract.

(2) The amendment requires that the first payment (interest or installment, as the case may be) be payable under the terms of the contract not later than 13 months after the decedent's death, instead of within 1 year after his death as under the present provision.

(3) The present provision applies only to insurance upon the life of the decedent. The amendment makes the provision applicable also to proceeds under an insurance contract upon the life of another where the insured predeceases the decedent.

(4) The amendment also extends the provision to annuity and endowment contracts.

(5) Under the present provision and the amendment the surviving spouse must have power to appoint all amounts payable after the decedent's death under such

contract (to the extent not previously paid). The amendment clarifies this requirement by providing that a power will qualify under this provision if it is exercisable in favor of the surviving spouse or her estate (or in favor of either, whether or not exercisable in favor of others). The amendment also adds a provision (corresponding to a similar provision under sec. 812 (e) (1) (F) of the code, relating to trusts) requiring that if any person other than the surviving spouse has a power to appoint any part of the amounts payable under the contract, such power must not be exercisable for the benefit of any person other than the surviving spouse.

In order to qualify for a marital deduction the requirements of section 812 (e) (1) (G) must be met by the terms of the contract, viewed as of the date of the decedent's death.

The amendment is applicable with respect to estates of decedents dying after December 31, 1947.

