

METHODS FOR PAYMENT OF TAX ON FERMENTED MALT LIQUORS

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

REPORT

(To accompany H. R. 5114)

The Committee on Finance, to whom was referred the bill (H. R. 5114) to permit the use of additional means, including stamp machines, for payment of tax on fermented malt liquors, provide for the establishment of brewery bottling house on brewery premises, and for other purposes, having had the same under consideration, report it back to the Senate without amendment, and recommend that the bill do pass.

GENERAL STATEMENT

The first section of the bill would amend section 3150 (b) of the Internal Revenue Code by inserting two new paragraphs. The first of these new paragraphs provides for payment of the tax on fermented malt liquor by stamp, under such rules and regulations, permits, bonds, records, and returns, and with the use of such tax-stamp machines or metering or other devices and apparatus, as the Commissioner with the approval of the Secretary shall prescribe. The purpose of this paragraph is to authorize the use of tax-stamp machines as an alternative method of paying the tax on fermented malt liquor. The second new paragraph provides for the imposition of penalties designed to punish fraud in connection with the manufacture or use of tax-stamps machines or the forging, altering, or counterfeiting of tax stamps.

Section 2 would technically amend section 3152 of the code by striking out subsections (a) and (c). Subsection (a), which requires every brewer to obtain tax stamps from the collector of internal revenue for his district, would be stricken because it is inconsistent with the use of the tax-stamp machines as an alternative method of paying the tax authorized by the proposed amendment of section 3150 (b). If the present method of paying the tax by engraved stamp should be continued, the proposed amendment of section 3150 (b) would furnish ample authority to provide by regulation for the pro-

curement of such stamps by the brewer. While subsection (c) purports to require the United States to furnish brewers the instruments prescribed for attaching, protecting, and canceling stamps for fermented malt liquor, it is unnecessary since brewers now provide themselves with such instruments.

Section 3 would amend section 3157 (a) of the code to provide for the transfer of unfermented, partially fermented, or fermented malt liquor from the brewery to another building or place (brewery bottling house) on the brewery premises for the sole purpose of being bottled and to provide for payment of the tax on bottled fermented malt liquor at the time of removal for consumption or sale. Section 3157 (a), as it now exists, does not permit the bottling of unfermented, partially fermented, or fermented malt liquor on the brewery premises; it authorizes the withdrawal and transfer of such liquor from vats in the brewery by pipe line or conduit to a brewery bottling house located off the brewery premises for the purpose of being bottled. The section also now requires payment of the tax at the time of removal of the fermented malt liquor from the brewery to the brewery bottling house, which presently must be located off the brewery premises. This in effect requires payment of the tax before the fermented malt liquor is bottled. The new proviso would require payment of the tax "at the time of removal for consumption or sale."

The amendment would substitute the phrase "fermented malt liquor" for the phrase "fermented liquor" wherever the latter appears in the section, and would make other changes in the provisions of the section which are designed to accomplish its purpose. The amendment would permit cereal beverages and fermented malt liquor to be transferred by pipe line or conduit from vats or tanks in the brewery to the brewery bottling house. The pipe line or conduit would be constructed and operated in such manner and with such cisterns, vats, tanks, valves, cocks, faucets, meters, and gages or other utensils or apparatus, located in the brewery or in the bottling house, and such locks, seals, and other fastenings, and under such rules and regulations as may be prescribed by the Commissioner, with the approval of the Secretary. The provision in the existing law expressly requiring all locks and seals to be provided by the Commissioner at the expense of the United States is omitted from the section. The Commissioner could, however, under his regulatory authority continue to require the use of such Government locks and seals as may be deemed advisable.

Section 4 would amend section 3158 of the code to authorize the bottling of fermented malt liquors and cereal beverages on the brewery premises. The bottling of such products on the brewery premises would be permitted only in the brewery bottling house located on such premises. The amendment would require the brewery bottling house to be separated from the brewery in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe. The amendment would also expressly authorize, subject to such conditions and under such regulations as the Commissioner with the approval of the Secretary may prescribe, the temporary storage in the brewery of undelivered tax-paid fermented malt liquor in stamped barrels or kegs returned to the brewery. The regulations now permit undelivered tax-paid fermented malt liquor returned to the brewery to be held there in temporary storage. The regulations con-

template the return to the brewery for temporary storage therein of undelivered tax-paid fermented malt liquor in stamped barrels or kegs only. The temporary storage of such tax-paid fermented malt liquor in the brewery is permitted for refrigeration to prevent spoilage. Refrigeration is not necessary to prevent spoilage of bottled fermented malt liquor.

It is understood that the brewing industry desires permission to manufacture on the brewery premises, in addition to vitamins, ice, malt, and malt sirup, other byproducts incidental to the manufacture of fermented malt liquors and cereal beverages, such as malt tonics and refined yeast, and to process spent hops on such premises. It is also understood that the industry desires an extension of the authorized use of the brewery bottling house so as to permit the storage therein of bottles, tools, and supplies necessary or incidental to the manufacture or bottling of fermented malt liquor and cereal beverages. The Treasury Department has no objection to the granting of such privileges.

The amendment of sections 3157 (a) and 3158 of the code, providing for the bottling of fermented malt liquor on the brewery premises, will obviate the filing, investigation, and consideration of claims under section 3154 of the code, as amended by the act of July 3, 1948 (Public Law 899, 80th Cong.), and the making of refunds or the allowance of credits thereunder. Section 3154, as amended, authorizes refund or credit to a brewer (1) in the amount of the tax paid by him on fermented malt liquor removed from the brewery to the brewery bottling house and which has become unsalable by reason of its condition, and (2) in the amount of tax paid by him (not to exceed 2½ percent of the tax paid during the month on fermented malt liquor removed from the brewery to the bottling house) on fermented malt liquor manufactured by him which was lost in his bottling house through breakage or leakage or in the process of filling, capping, pasteurizing or labeling. According to a survey made by the Treasury Department in 1938, the average bottling-house loss of fermented malt liquor tax-paid for bottling, exclusive of the quantity becoming unsalable by reason of its condition, is 2.39 percent. Section 3154, as amended, therefore, in effect provides for refund or credit in the amount of the tax paid on practically all bottling-house losses except to the extent that the loss through breakage or leakage or in the process of filling, capping, pasteurizing, or labeling exceeds 2½ percent of the tax paid on the quantity removed during the month from the brewery to the bottling house.

Section 5 would amend section 3159 of the code by inserting a new subsection which would specifically provide for the punishment, by fine and imprisonment, of any brewer or other person who removes or in any way aids in removal from any brewery or brewery bottling house of any bottled fermented malt liquor on which the required tax has not been paid.

Section 6 would repeal section 3151, the second paragraph of section 3153, and section 3154 of the code, except that section 3154 would be continued in effect as to any claim accruing thereunder prior to the effective date of the act. Section 3151 provides for the preparation and furnishing of stamps for taxpaying fermented malt liquor. The section also requires the Commissioner to cause to be prepared suitable permits for the transfer of fermented malt liquor from a brewery

to a brewery warehouse. Section 3151, insofar as it relates to the preparation and furnishing of stamps for payment of the tax on fermented malt liquor, is inconsistent with the use of tax-stamp machines authorized by the first section of the bill; and, insofar as it relates to the preparation of transfer permits, section 3153 (a) contains sufficient authority for the issuance of such permits.

The first sentence of the second paragraph of section 3153 (a) requires the collector of the district in which a brewery warehouse is situated to furnish the brewer with stamps for taxpaying fermented malt liquor removed from such warehouse. This sentence of section 3153 (a) like the provisions of section 3151 relating to stamps, is inconsistent with the use of tax-stamp machines authorized by the first section of the bill and is therefore repealed.

Section 3154, as hereinbefore indicated, makes provision for the granting of refunds or credits to brewers in respect of tax-paid fermented malt liquor which became unsalable by reason of its condition or which was otherwise lost after removal from the brewery to the bottling house. If brewery bottling houses are required to be located on the brewery premises as proposed by the bill there would be no further need for section 3154, except as to claims accruing thereunder prior to the effective date of the act, because the tax on bottled fermented malt liquor would not be paid until the liquor is removed for consumption or sale.

Section 7 would make the proposed amendments effective on the first day of the first month which begins 6 months or more after the date of enactment of the act. Such postponement of the effective date would appear necessary to permit conformance to the prescribed changes.

The enactment of this bill would result in loss of the tax now collected and retained on bottling-house losses in excess of the losses in respect of which the tax is required to be refunded by section 3154 (a) (2). This loss of revenue would be small, as the present provision for refund of the tax on bottling-house losses covers the average bottling-house loss. On the other hand, it is estimated that adoption of a metered stamp system, as provided for in the amendment of section 3150 (b), would result in a decrease in the present cost of administering the stamp system by approximately \$52,000 annually. This estimate is based upon a contemplated elective metered stamp system. The enactment of this bill will also result in savings to the Government through the elimination of the necessity for filing claims for losses. In the report of the Secretary of the Treasury on H. R. 6356 (reported by committee as H. R. 6808), dated June 2, 1948, which authorized refunds for these losses, the Secretary estimated that the administrative cost of processing the claims for these losses would be approximately \$500,000 annually. It thus appears that the enactment of this bill will result in substantial net savings to the Government through the elimination of various administrative costs.

It is expected that the larger brewers would procure the requisite metering apparatus and install it at their plants, and that the metered stamps used by such brewers would supplant an equal number of the presently issued engraved stamps.

The Treasury Department approves of this legislation.