

[CONFIDENTIAL]

REVENUE ACT OF 1938

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE UNITED STATES SENATE

SEVENTY-FIFTH CONGRESS

THIRD SESSION

ON

H. R. 9682

AN ACT TO PROVIDE REVENUE, EQUALIZE TAXATION
AND FOR OTHER PURPOSES

PART 2

MARCH 24, 1938

Printed for the use of the Committee on Finance



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1938

COMMITTEE ON FINANCE

PAT HARRISON, Mississippi, *Chairman*

WILLIAM H. KING, Utah

WALTER F. GEORGE, Georgia

DAVID I. WALSH, Massachusetts

ALBEN W. BARKLEY, Kentucky

TOM CONNALLY, Texas

JOSIAH W. BAILEY, North Carolina

BENNETT CHAMP CLARK, Missouri

HARRY FLOOD BYRD, Virginia

AUGUSTINE LONERGAN, Connecticut

PETER G. GERRY, Rhode Island

JOSEPH F. GUFFEY, Pennsylvania

ROBERT J. BULKLEY, Ohio

PRENTISS M. BROWN, Michigan

CLYDE I. HERRING, Iowa

EDWIN C. JOHNSON, Colorado

ROBERT M. LA FOLLETTE, Jr., Wisconsin

ARTHUR CAPPER, Kansas

ARTHUR H. VANDENBERG, Michigan

JOHN O. TOWNSEND, Jr., Delaware

JAMES J. DAVIS, Pennsylvania

FELTON M. JOHNSTON, *Clerk*

[CONFIDENTIAL]

REVENUE ACT OF 1938

THURSDAY, MARCH 24, 1938

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call at 10:20 a. m., in the Finance Committee Room, Senate Office Building, Senator Pat Harrison (chairman) presiding.

The CHAIRMAN. We will take up the estimates on exhibit B. Exhibit B, in the first line, "Revenue Act of 1936," shows \$873,000,000 for the calendar year 1938, does it not, Dr. Magill?

Mr. MAGILL (Roswell Magill, Under Secretary of the Treasury). It shows \$873,000,000 for the calendar year 1938, assuming the Revenue Act of 1936 was in effect for that year.

Under the revenue bill of 1938, the second line, it shows \$851,000,000.

Senator TOWNSEND. What would be the reason for the great difference between 1937 and 1939 as compared with 1938?

Mr. MAGILL. The receipts for the fiscal year 1939 will be made up to the extent of one-half of the receipts from income tax on account of the business year 1937 and to the extent of one-half of the calendar year 1938. 1938, as you can see from these figures I am now giving you, we estimated as being a much poorer year than 1937, but it is the combination of the two that gives the results for the fiscal year 1939 that appear in the outside column.

The CHAIRMAN. The flat rate is 19 percent?

Mr. MAGILL. Yes, and the figure is \$1,000,000,000.

Senator KING. For what year is that?

The CHAIRMAN. The calendar year 1938 was not provided for in this exhibit, and I asked Mr. Magill to furnish the figures for that year, and he is furnishing them now.

Mr. MAGILL. The third line, the \$1,000,000,000, a flat rate of 19 percent for the calendar year 1938, if effective all year, would yield \$1,000,000,000; 18½ percent would yield \$974,000,000.

Senator BROWN. How much?

Mr. MAGILL. \$974,000,000.

The last line, a flat rate of 18 percent, we estimate would yield \$948,000,000.

The CHAIRMAN. In other words under a flat rate of 18 percent as compared to the House bill for 1938, the House bill would raise \$851,000,000, according to your estimate, and the flat rate would raise \$948,000,000, or practically \$100,000,000 more.

Mr. MAGILL. That is right. Now, bear in mind, as you do, I take it, the House bill of 1938 includes a series of special provisions for

smaller corporations and includes a 16 percent rate for a series of corporations headed by banks, and so forth; in other words the House bill of 1938 gives a lower rate to a very large number of corporations, which would go to the higher rate if the 18 percent provision were put in. It also provides for certain deductions such as the allowance of losses on the sale of depreciable assets and the redeclaration of capital stock valuation each 3 years, which tend to decrease revenue.

Senator HERRING. There is no graduated rate up to \$25,000?

Mr. MAGILL. Not in these estimates, so it would cost a corporation making \$25,000 about \$1,000 more tax than the House bill.

Senator HERRING. A flat rate of 18 percent would cost more to the corporation making \$25,000 than the present House bill?

Mr. MAGILL. Yes.

Senator KING. Do you allow any deduction for the figures you have given for 1938?

Mr. MAGILL. This \$948,000,000 is in effect what you would get.

The CHAIRMAN. Dr. Magill, I want to ask you a question. You will find in the first item "Revenue Act of 1936," \$873,000,000 for 1938.

Mr. MAGILL. Yes, sir.

The CHAIRMAN. Now, for 1937—let us take 1939; that is \$1,053,000,000; is that right?

Mr. MAGILL. Yes, sir.

The CHAIRMAN. In other words, that takes the first half of 1939, does it not, and the last half of 1938?

Mr. MAGILL. The figure for the fiscal year 1938 would be made up to the extent of one-half of the receipts from income taxes as applied to corporations with respect to the calendar year 1937.

The CHAIRMAN. Yes.

Mr. MAGILL. And to the extent of one-half of similar receipts with respect to the year 1938.

The CHAIRMAN. Yes; well, could you not find the same figures—

Senator BROWN. Just a moment. You said fiscal year 1938; did you mean 1939?

Mr. MAGILL. 1939.

Senator BROWN. You said 1938.

Mr. MAGILL. I meant to say 1939.

The CHAIRMAN. Now, take 1937, \$1,541,000,000; that is right, is it not?

Mr. MAGILL. Yes, sir.

The CHAIRMAN. Under the 1936 act?

Mr. MAGILL. Yes, sir.

The CHAIRMAN. And then take for 1939, \$1,053,000,000.

Mr. MAGILL. Yes, sir.

The CHAIRMAN. Now is there \$1,138,000,000 would be the amount for the first half of 1938 and the last half of 1937—I want to get these figures you have for 1937; that is \$1,541,000,000?

Mr. MAGILL. Yes, sir.

The CHAIRMAN. Taking half of that, it would be \$770,000,000, and taking half of the \$873,000,000, it would be \$436,000,000, and that would be about \$1,260,000,000 if you take the latter half of one year and the first half of the other?

Mr. MAGILL. Yes.

The CHAIRMAN. Why would that not give you 1938?

Senator TOWNSEND. You cannot get below the \$873,000,000 unless you take half of 1937; in other words, how did you arrive at the \$873,000,000?

Mr. MAGILL. The \$873,000,000 is for the actual calendar year 1938, assuming that all of the provisions of whichever act or bill it is was in effect for all of that year.

Senator TOWNSEND. The year complete.

Mr. MAGILL. Yes.

Senator GEORGE. Under the present law?

Mr. MAGILL. Under whatever provision is stated in the left-hand column. The one Senator Harrison is referring to in the present law, the Revenue Act of 1936.

The CHAIRMAN. I have an estimate here from Mr. Parker, just a rough estimate, and I am trying to reconcile those two estimates. Mr. Parker, you ask Mr. Magill any questions you want so we may get this proposition straightened out.

Mr. MAGILL. I may say you are cross-examining the wrong citizen, because I did not make these estimates, but I will do the best I can.

Mr. PARKER (L. H. Parker, Chief of Staff, Joint Committee on Internal Revenue Taxation). You now have an estimate for 1937 of \$1,541,000,000—

The CHAIRMAN. That is for the calendar year?

Mr. PARKER. Yes, sir; the calendar year. For the calendar year 1938 we now have \$873,000,000. Now, the fiscal year 1939 receipts will be made up of two installments from corporation returns paid for the calendar year 1937 and two installments for the calendar year 1938. In other words, a certain proportion of the receipts, perhaps 50 percent or some other percent of the 1937 returns of income will be collected in the fiscal year 1939 and a certain percent of the 1938 returns will also be collected in that year. I wondered what percent you use and how you reconcile \$1,053,000,000 for fiscal 1939.

Mr. MAGILL. Mr. O'Donnell had better answer that, because he is in charge of making these estimates.

Mr. O'DONNELL (Al F. O'Donnell, Assistant Director, Division of Research and Statistics, Treasury Department). Our collection experience shows that the corporation income tax liabilities of a particular calendar year are collected through what we call a collection year ending in the following February. The amount collected in percentage of the figure that Mr. Parker has requested, including collections from July through February, is 51.7 percent. That represents the experience of a period of years.

Mr. PARKER. Fifty-percent in the last part of the year?

Mr. O'DONNELL. That is collected from July through February. In the balance of the year, March through June, we collect the remaining 48.3 percent.

In the estimate which Mr. Parker is trying to reconcile, so far as the corporation portion of these income tax collections is concerned, the collections in the fiscal year 1939 are made up, therefore, of 51.7 percent of the collections which we expect in respect of calendar year 1937 liabilities, and 48.3 percent of the collections in respect of calendar year 1938 liabilities.

Does that answer your question?

Mr. PARKER. It answers my question but if you apply those percentages to those amounts you will not get \$1,053,000,000.

Mr. O'DONNELL. No, they are not at all comparable since the respective years as indicated by footnote No. 4 contain varying amounts of individual income tax for which we have a different collection expense. Furthermore, the corporation portion of the fiscal 1939 collections are presumed to be the amount of money which the Treasury will actually receive in respect of current corporation income tax collections. Over the period of the last 9 years, historically, we have received only 93.5 percent of the current corporate liability, so that that percentage has been applied to the theoretical liabilities, because the fiscal year 1939 represents actual moneys expected to be received, excluding back tax collections.

Mr. MAGILL. As I understand it, the figures you have for 1936, 1937, and 1938 are supposed to be the theoretical liabilities, the corporate liabilities for those years.

Mr. O'DONNELL. That is correct.

Mr. MAGILL. But as far as the actual tax collections in 1939, you anticipate collection of only 93.5 percent of that.

Mr. O'DONNELL. That has been the experience with corporation income tax collections over the past 9 years; it does not deviate very much from year to year.

Mr. PARKER. You get the money eventually?

Mr. MAGILL. Yes.

Mr. PARKER. The difference comes about through a discount from the amount shown on the returns in arriving at the actual receipts?

Mr. O'DONNELL. That is right.

Senator BARKLEY. You have corporation income-tax liability of \$1,445,000,000 in 1936; does that assume there is no change in the law of 1936?

Mr. MAGILL. Yes.

Senator BARKLEY. And for 1937, too?

Mr. MAGILL. Yes.

Senator BARKLEY. And for 1939, which includes part of 2 calendar years, you drop to \$1,053,000,000?

Mr. MAGILL. Yes.

The CHAIRMAN. That is why I requested he base it on the calendar year 1938, which would give us \$873,000,000, according to their estimates, for the calendar year 1938.

Senator BARKLEY. You mean, without any change in the law, you drop from \$1,541,000,000 in 1937 to \$873,000,000 in 1938?

Mr. MAGILL. That is the estimate, yes; that the estimated receipts from corporation income-tax liability, as far as 1938 is concerned, if the law of 1936 were left in effect, would be \$873,000,000.

Senator BARKLEY. In other words, you drop off about half from 1937?

Mr. MAGILL. Not quite.

Senator BARKLEY. Nearly half, from \$1,541,000,000 to \$873,000,000.

Mr. O'DONNELL. The undistributed-profits tax in a good business year yields more revenue because many corporations have preferred stocks outstanding, and while that preferred stock is not the same as a fixed charge, in poor years they attempt to keep up their preferred-dividends payments. The result is that not only because of these preferred dividend payments but also because of attempts to maintain some uniformity of dividend payments on common stocks in years of low corporate earnings, corporations would have paid a large per-

centage of their available statutory net income in the form of dividends, even though there had been no undistributed-profits tax.

Senator BARKLEY. You must be looking for an awfully rotten business year in 1938, according to my understanding of the table; it may be I do not understand it.

Senator BAILEY. Now, as to last year—

Mr. O'DONNELL. That is reflected in the 1937—

Senator BAILEY. How does it drop down, as set forth here, to \$873,000,000, which is \$670,000,000 less; how did you get that in this good year? You are collecting taxes right now for the best year we have had since 1929, are you not?

Mr. O'DONNELL. That is reflected in the figure for 1937. Those liabilities reflected in the second column are for the calendar year 1937. We are during the current fiscal year collecting such payment of these liabilities as are paid in full plus two installments of the liabilities of those corporations which take advantage of this provision of the law. Then, in the fiscal year 1939 we get two more installments of corporation income tax collections based on the high level of 1937 business.

Senator BAILEY. But you collect taxes now for the calendar year 1937.

Mr. O'DONNELL. That is correct.

Senator BAILEY. Do you mean you expect to only get \$873,000,000 for the 1937 taxes?

Mr. O'DONNELL. No; that is in respect of the calendar year 1938 liability.

Senator BAILEY. The \$873,000,000 is what you will collect next year?

Mr. O'DONNELL. We will collect that in the last half of fiscal 1939 and the first half of fiscal 1940.

Senator BAILEY. If we do not change the act at all we could expect to get only \$873,000,000 next year?

Mr. O'DONNELL. In respect of calendar year 1938 liability, that is true.

Senator BAILEY. Next year we will be collecting in respect of this year?

Mr. O'DONNELL. Yes, sir.

Senator BAILEY. Then, all you say is we would get \$873,000,000. We would get \$873,000,000 on the 1936 act if we let it stay like it is?

Mr. O'DONNELL. That is true.

Senator BAILEY. That means a loss of nearly \$700,000,000?

Mr. O'DONNELL. That is true.

Senator BARKLEY. Now, in the line below, that is, the revenue bill of 1938, the House bill as it stands, if it had been in effect in 1936 you would have gotten \$1,282,000,000 in that year; \$1,420,000,000 in 1937; and in 1938, \$1,041,000,000?

The CHAIRMAN. No; it is \$851,000,000 for 1938.

Senator BARKLEY. I do not have those figures.

(Mr. Magill hands paper to Senator Barkley.)

Senator KING. Mr. O'Donnell, I am not quite clear. Assuming the continuity of the present law, what loss would there be during the next fiscal year, or calendar year, or gain?

Mr. O'DONNELL. That is shown in the figures that Senator Barkley was just discussing. We expect to receive \$1,541,000,000 in respect of the earnings of the last calendar year, the calendar year 1937. In

respect of the liabilities which will be incurred by the profits from earnings in the calendar year we are now in, we expect to receive \$873,000,000.

Senator KING. Under the undistributed profits tax, assuming that it should be continued throughout the calendar year there would be a loss of five or six or seven hundred million dollars?

Mr. O'DONNELL. There would be that difference from the anticipated collections under the previous years' liabilities.

Senator BARKLEY. This \$1,541,000,000 would be collected during 1938 and paid on the 1937 earnings?

Mr. O'DONNELL. It would be collected during two fiscal years.

Senator BARKLEY. And the \$873,000,000 would be collected in 1939?

Mr. O'DONNELL. In fiscal '39 and '40.

Senator BARKLEY. In the calendar year 1939?

Mr. O'DONNELL. That is right.

The CHAIRMAN. Mr. O'Donnell, what was the net income tax base estimated to be in the 1938 figures you have given?

Mr. O'DONNELL. Do you mean the statutory net income of corporations?

The CHAIRMAN. The basis upon which you figured these estimates?

Mr. O'DONNELL. We estimate that the statutory net income, excluding intercorporate dividends received in 1938, would be \$5,040,000,000.

Mr. PARKER. That excludes intercompany dividends?

Mr. O'DONNELL. Yes.

Mr. PARKER. How does 1937 compare with the same figure?

Mr. O'DONNELL. Our estimate of statutory net income of 1937, excluding receipts from intercorporate dividends is \$8,130,000,000; that is statutory net income excluding intercorporate dividends.

Senator GERRY. What year is that?

Mr. O'DONNELL. That is the calendar year 1937, Senator Gerry.

The CHAIRMAN. The thing I wanted to say was that under the revenue bill now being considered and which has been passed by the House, under your estimates for the calendar year 1938 we get \$851,000,000, and under a flat rate of 18 percent you would get \$948,000,000, or practically \$100,000,000 more for that year; that is your estimate?

Mr. O'DONNELL. That is true.

(At this point the chairman directed discontinuance of further report of the proceedings.)

(Whereupon, at 12:25 p. m. recess was taken until 2:30 p. m. in the hearing room of the Senate District of Columbia Committee in the Capitol.)