

STAMP TAX ON CERTAIN DEPOSITS OF SECURITIES BY INSURANCE COMPANIES

MAY 1, 1952.—Ordered to be printed

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

REPORT

[To accompany H. R. 7230]

The Committee on Finance, to whom was referred the bill (H. R. 7230) to amend the Internal Revenue Code, so as to make nontaxable certain stock transfers made by insurance companies to secure the performance of obligations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this action the House report is accepted as follows:

PURPOSE

The purpose of the bill is to exempt from transfer tax all deliveries or transfers of shares or certificates of stock or of bonds to a trustee or public officer, made pursuant to a statutory requirement, either Federal or State, to secure the performance of an obligation, and a redelivery or retransfer of such shares, certificates, or bonds to the transferor, if such delivery, transfer, redelivery, or retransfer is accompanied by a certificate setting forth the facts.

GENERAL STATEMENT

Section 1802 (b) of the Internal Revenue Code imposes a tax on the transfer of legal title to shares or certificates of stock. Similarly, section 3481 (a) of the code imposes a tax on the transfer of legal title to bonds. The mere deposit of shares or certificates of stock, or of bonds, does not result in the imposition of the transfer tax, nor does the return of such shares or bonds merely deposited with another person. Under existing law, however, any delivery, transfer, redelivery, retransfer, withdrawal or other traffic in shares of stock, or in bonds, involving the transfer of legal title to such shares or bonds is subject to the transfer tax, whether to a trustee or public officer

and whether made pursuant to statutory requirement, unless otherwise specifically exempted by law.

Subsection (a) of the bill would amend section 1802 (b) of the code, relating to the stamp tax on transfers of capital stock and similar interests, so as to exempt from the tax any delivery or transfer to a trustee or public officer, made pursuant to Federal or State law, to secure the performance of an obligation, and any redelivery or retransfer of such shares or certificates to the transferor, if such delivery, transfer, redelivery, or retransfer is accompanied by a certificate setting forth the facts.

Subsection (b) of the bill would amend section 3481 (a) of the code, relating to the stamp tax on transfers of bonds, to provide for a similar exemption on the delivery, transfer, redelivery, or retransfer of bonds to a trustee or public officer under the same conditions and for the same purposes as provided under subsection (a) of the bill in the case of shares or certificates of stock.

The foregoing amendments would take effect on the day following the date of enactment.

Your committee is advised that the Treasury Department has no objection to the enactment of the bill.

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):

INTERNAL REVENUE CODE

SEC. 1802. CAPITAL STOCK (AND SIMILAR INTERESTS).

(a) ORIGINAL ISSUE.—* * *

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(b) SALES AND TRANSFERS.—On all sales, or agreements to sell, or memoranda of sales or deliveries of or transfers of legal title to any of the shares or certificates mentioned or described in subsection (a), or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each \$100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued) 5 cents and where such shares or certificates are without par or face value, the tax shall be 5 cents on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share as the case may be): *Provided*, That in case the selling price, if any, is \$20 or more per share the above rate shall be 6 cents: *Provided further*, That upon any transfer of an interest in a partnership owning shares or certificates of stock, the tax shall be limited to an amount equal to that percentage of a tax computed on the transfer of all of such shares or certificates of stock owned by the partnership as the interest transferred bears to the total interests in the partnership of all the partners: *Provided further* That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold nor upon the delivery or transfer for such purpose of certificates so deposited nor upon mere loans of stock nor upon the return of stock loaned: *Provided further* That the tax shall not be imposed upon any delivery or transfer to a trustee or public officer, made pursuant to Federal or State law to secure the performance of an obligation, or upon a redelivery or retransfer of such shares or certificates to the transferor, if such

delivery, transfer, redelivery, or retransfer is accompanied by a certificate setting forth the facts. Provided further, That the tax shall not be imposed upon deliveries or transfers to a broker or his registered nominee for sale, nor upon deliveries or transfers by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same, nor upon deliveries or transfers by a purchasing broker to his registered nominee if the shares or certificates so delivered or transferred are to be held by such nominee for the same purpose as if held by the broker, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: Provided further, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: Provided further, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers: Provided further, That as used in this section the term "registered nominee" shall mean any person registered with the collector in accordance with such rules and regulations as the Commissioner with the approval of the Secretary shall prescribe. The tax shall not be imposed upon deliveries or transfers of shares or certificates—

(1) From the owner to a custodian if under a written agreement between the parties the shares or certificates are to be held or disposed of by such custodian for, and subject at all times to the instructions of the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian;

(3) From a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such corporation; or from such nominee to such corporation

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

The tax imposed by this subsection shall not be imposed upon any delivery or transfer by an executor or administrator to a legatee, heir, or distributee of shares or certificates of stock if it is shown to the satisfaction of the Commissioner that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.

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SEC. 3481. TRANSFER OF BONDS.

(a) IMPOSITION OF TAX.—On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in section 1801 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That upon any transfer of an interest in a partnership owning such instruments, the tax shall be limited to an amount equal to that percentage of a tax computed on the transfer of all of such instruments owned by the partnership as the interest transferred bears to the total interests in the partnership of all the partners: *Provided further*,

That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon any delivery or transfer to a trustee or public officer, made pursuant to Federal or State law to secure the performance of an obligation, or upon a redelivery or retransfer of such instruments to the transferor, if such delivery, transfer, redelivery, or retransfer is accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

The tax shall not be imposed upon deliveries or transfers made after June 30, 1938, of instruments—

(1) From the owner to a custodian if under a written agreement between the parties the instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months, or both.

