

## REVENUE ACT OF 1940

---

JUNE 21, 1940.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

---

Mr. DOUGHTON, from the committee of conference, submitted the following

### CONFERENCE REPORT

(To accompany H. R. 10039)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10039) to provide for the expenses of national preparedness by raising revenue and issuing bonds, to provide a method for paying for such bonds, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 and agree to the same.

That the Senate recede from its amendments numbered 30, 46, and 47.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*Section 1700 (a) (1) of the Internal Revenue Code is amended by striking out "until July 1, 1941, is less than 41 cents" and inserting in lieu thereof "until July 1, 1940, is less than 41 cents, and after June 30, 1940, and before July 1, 1945, is less than 21 cents" and by striking out "is less than 41 cents, until July 1, 1941" and inserting in lieu thereof "is less than 41 cents until July 1, 1940, and is less than 21 cents after June 30, 1940, and before July 1, 1945".*

And the Senate agree to the same.

★

**Amendment numbered 26:**

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

**SEC. 212. CIGARETTES.**

*Subchapter A of chapter 15 of the Internal Revenue Code is amended by inserting at the end thereof the following new sections:*

**"SEC. 2004. DEFENSE TAX FOR FIVE YEARS.**

*"In lieu of the rates of tax specified in section 2000 (c) (2), the rates of tax for the period after June 30, 1940, and before July 1, 1945, shall be \$3.25 and \$7.80, respectively.*

**"SEC. 2005. FLOOR STOCKS TAX.**

*"(a) Floor Stocks Tax: Upon cigarettes subject to tax under section 2000 (c) (2) which on July 1, 1940, are held by any person for sale, there shall be levied, assessed, collected, and paid a floor stocks tax at a rate equal to the increase in rate of tax made applicable to such articles by section 2004.*

*"(b) Returns: Every person required by this section to pay any floor stocks tax shall, on or before August 1, 1940, under such regulations as the Commissioner with the approval of the Secretary shall prescribe, make a return and pay such tax, except that in the case of articles held by manufacturers and importers the Commissioner may collect the tax with respect to all or part of such articles by means of stamp rather than return, and in such case may make an assessment against such manufacturer or importer having tobacco tax stamps on hand July 1, 1940, for the difference between the amount paid for such stamps and the increased rates specified in section 2004.*

*"(c) Laws Applicable: All provisions of law, including penalties, applicable in respect of the taxes imposed by section 2000 shall, insofar as applicable and not inconsistent with this section, be applicable with respect to the floor stocks tax imposed by subsection (a)."*

And the Senate agree to the same.

**Amendment numbered 31:**

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*"(1) Upon all distilled spirits produced in or imported into the United States upon which the internal-revenue tax imposed by law has been paid, and which on July 1, 1940, are held and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor stocks tax of 75 cents on each proof-gallon, and a proportionate tax at a like rate on all fractional parts of such proof-gallon. The tax imposed by this subsection shall not apply to 100 wine gallons of the retail stocks of distilled spirits held by a person on premises as to which such person has incurred occupational tax as a retail dealer in liquors for the period beginning on July 1, 1940, and as to which no other occupational tax with respect to dealing in distilled spirits has been incurred by such person for a period beginning on such date.*

"(2) Every person required by this subsection to pay any floor stocks tax shall, on or before August 1, 1940, under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe, make a return and pay such tax. Payment of the tax shown to be due may be extended to a date not later than February 1, 1941, upon the filing of a bond for payment thereof in such form and amount and with such surety or sureties as the Commissioner, with the approval of the Secretary, may prescribe. Every retail dealer in liquors (even though not liable to pay such tax) shall make the return required by this paragraph.

And the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*SEC. 401. Section 205 of the Public Salary Tax Act of 1939 is amended by adding at the end thereof a new sentence to read as follows: "If the amount of the deficiency in income tax for any taxable year beginning before January 1, 1939, attributable to compensation paid indirectly by the United States, or any agency or instrumentality thereof, for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any of the foregoing, is paid on or before March 15, 1941, then with respect to failure to pay such amount or make return of such compensation: (a) No criminal penalty shall apply; and (b) the additions to tax provided in sections 291 and 293 of the Internal Revenue Code shall not apply."*

And the Senate agree to the same.

R. L. DOUGHTON,  
THOS. H. CULLEN,  
JOHN W. MCCORMACK,  
JERE COOPER,  
ALLEN T. TREADWAY,  
FRANK CROWTHER,  
HAROLD KNUTSON,

*Managers on the part of the House.*

PAT HARRISON,  
WILLIAM H. KING,  
WALTER F. GEORGE,  
ARTHUR CAPPER,

*Managers on the part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10039) to provide for the expenses of national preparedness by raising revenue and issuing bonds, to provide a method for paying for such bonds, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: The Senate amendment provides that the tax on foreign corporations not engaged in trade or business in the United States and not having an office or place of business therein shall be at a uniform rate of 15 percent. Under the House bill the rate was 11 percent in the case of income from dividends, and 16 percent in the case of all other fixed and determinable receipts. (See amendments Nos. 2, 3, and 10.) The House recedes.

Amendment No. 2: The Senate amendment restores the 15-percent withholding rate in the case of interest on tax-free covenant bonds paid to foreign corporations not engaged in trade or business in the United States and not having an office or place of business therein. Under the House bill the rate was 16 percent. (See amendments Nos. 1, 3, and 10.) The House recedes.

Amendment No. 3: The Senate amendment provides for withholding of corporation tax at the source in the case of foreign corporations not engaged in trade or business in the United States and not having an office or place of business therein at the uniform rate of 15 percent rather than the 16-percent and 11-percent rates provided in the House bill. (See amendments Nos. 1, 2, and 10.) The House recedes.

Amendment No. 4: The Senate amendment substitutes for the requirement of the House bill that every trust with a gross income of \$100 or over file an income tax return, a requirement that every trust with a gross income of \$800 or over file a return and every trust with a net income of \$100 or over file a return. The House recedes.

Amendment No. 5: The Senate amendment eliminates the provision of the House bill under which cigarette papers in books of 25 papers or less were to be subject to the cigarette paper tax. The House recedes.

Amendments Nos. 6 and 7: These amendments make changes in section numbers. The House recedes.

Amendment No. 8: This amendment makes a change in a cross reference, and the House recedes.

Amendments Nos. 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 27, 28, 29, 32, 33, 34, 35, and 43: These amendments change the designation in the headings of sections and subsections and of columns in schedules, and references thereto, from "Super-tax" to "Defense tax." The House recedes.

**Amendment No. 10:** The Senate amendment provides for a uniform withholding rate of 16.5 percent for the 5-year period rather than the 12½ percent, 16½ percent, and 17½ percent rates provided in the House bill. The amendment also contains a clarifying change to assure the maintenance of treaty obligations in the case of withholding on dividends. (See amendments Nos. 1, 2, and 3.) The House recedes.

**Amendments Nos. 20, 23, and 24:** The Senate amendments provide that in cases where articles leased or sold with respect to which under section 3441 (c) of the Internal Revenue Code payment of the tax is required as the installment payments for the article are received, the increased rates in the bill will not apply if the lease, contract of sale, or conditional sale was made before July 1, 1940, and delivery of the article was made before that date. The House recedes.

**Amendment No. 25:** The Senate amendment eliminates the House provision under which admissions of more than 30 cents and less than 41 cents were subject to tax, for the 5-year period. It substitutes therefor the following rates:

If the amount paid is 10 cents or more, and less than 20 cents, 1 cent; if the amount paid is 20 cents or more, 1 cent for each 10 cents or fraction thereof; if the amount which would be charged for a single admission is 10 cents or more, 1 cent for each 10 cents or fraction thereof of the amount paid for a season ticket or subscription.

The other provisions of the amendment merely rewrite the provisions of existing law.

The House recedes with an amendment which restores the House provision but reduces the exemption so that admissions of less than 21 cents are exempt.

**Amendment No. 26:** The Senate amendment eliminates the increased rates of tax on tobacco products provided for the 5-year period by the House bill and the floor stocks tax imposed thereunder.

The House recedes with an amendment which eliminates all increases in tax on tobacco products, except cigarettes, and eliminates the increase in tax on cigarette papers. The conference agreement also substitutes for the House rates on cigarettes of \$3.50 per thousand and \$8.40 per thousand rates of \$3.25 per thousand and \$7.80 per thousand. The conference agreement also imposes a floor stocks tax at the increased rates on all cigarettes held on July 1, 1940, for sale.

**Amendment No. 30:** The Senate amendment increases, for the 5-year period, the rate on rectifying distilled spirits from 30 cents per proof gallon to 40 cents per proof gallon. There is no comparable provision in the House bill. The Senate recedes.

**Amendment No. 31:** The Senate amendment eliminates the exemption from the floor stocks tax on distilled spirits of 100 wine gallons held by a retail dealer in liquors. Under the amendment floor stocks of rectified distilled spirits are subjected to a rate 10 cents per proof gallon higher than the basic rate of 75 cents. For administrative reasons, this additional rate is not to apply to distilled spirits which are rectified spirits solely by reason of the addition of not more than 2½ percent by volume of coloring, blending, smoothing, or flavoring materials, and is not to apply to liqueurs, cordials, or similar compounds. Technical changes are made in the provisions relating to return and payment of the floor stocks tax.

The House recedes with an amendment which eliminates the additional 10-cent rate on floor stocks of rectified spirits. The amendment also contains an exemption of 100 wine gallons held by any person on retail stocks on July 1, 1940, on premises as to which he is for any period beginning on that date exclusively engaged in business as a retailer.

Amendments Nos. 36, 37, 38, 39, and 40: These Senate amendments increase the rates on certain still wines and strike out references to the tax on fortification of wine. These amendments are consistent with the recent increase in tax on still wines and the elimination of the tax on fortification of wines. The House recedes.

Amendments Nos. 41 and 42: Amendment No. 41 strikes out the exemption of retail dealers from the floor stocks tax on fermented malt liquors. Amendment No. 42 inserts a modified exemption of retail stocks. This provides that the exemption shall apply only to retail stocks which, on July 1, 1940, are held on retail premises. Such premises are confined to premises with respect to which the dealer is a retail dealer exclusively. If with respect to such premises the dealer is a wholesale dealer or brewer also, the exemption is not allowed as to any of the fermented malt liquor held on the premises. The House recedes.

Amendment No. 44: This amendment inserts a new title number, "Title IV." The House recedes.

Amendment No. 45: The Senate amendment amends the Public Salary Tax Act of 1939 to provide that no income tax shall be assessed or collected after the date of enactment of the bill which is attributable to compensation received prior to January 1, 1939, for personal service as a State officer or employee even though such compensation was paid directly or indirectly by the United States. There is no comparable provision in the House bill. The House recedes with an amendment which provides that, if the amount of deficiency in income tax which is attributable to such compensation is paid with interest on or before March 15, 1941, no civil or criminal penalties shall be imposed on account of failure to pay such amount or make return of such compensation.

Amendment No. 46: This amendment inserts a new section imposing an excess profits tax. The Senate recedes.

Amendment No. 47: This amendment proposes taxes which become effective in the event of war. The Senate recedes.

R. L. DOUGHTON,  
THOS. H. CULLEN,  
JOHN W. McCORMACK,  
JERE COOPER,  
ALLEN T. TREADWAY,  
FRANK CROWTHER,  
HAROLD KNUTSON,

*Managers on the part of the House.*

