

EXTENDING THE PROVISIONS OF SECTION 403 (J) OF THE RENEGOTIATION ACT RELATING TO THE PROSECU- TION OF CLAIMS AGAINST THE UNITED STATES

MAY 12 (legislative day, APRIL 21), 1947.—Ordered to be printed.

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

REPORT

[To accompany S. 1073]

The Committee on Finance, to whom was referred the bill (S. 1073) to extend until June 30, 1949, the period of time during which persons may serve in certain executive departments and agencies without being prohibited from acting as counsel, agent, or attorney for prosecuting claims against the United States by reason of having so served, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

Section 109 and section 113 of the Criminal Code, and section 190 of the Revised Statutes, prevent certain persons by reason of service in a Government department, from acting as counsel in the prosecution of claims against the United States for a certain period after they leave Government service.

These sections were amended by section 403 (j) of the Renegotiation Act, which provided:

Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board during the period (or a part thereof) beginning May 27, 1940, and ending six months after the termination of hostilities in the present war, as proclaimed by the President, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department.

Since the President proclaimed the termination of hostilities in the present war on December 31, 1946, the period of grace provided for under the amendment made by the Renegotiation Act will expire June 30, 1947. However, there are still many practitioners in the

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Government service, winding up war settlements, who would be forced to leave before their work is completed if this grace period is not further extended. This is particularly true of the individuals who were appointed to the Excess Profits Tax Council at a considerable financial sacrifice to assist in the settlement of 722 cases, relating to excess profits tax relief.

In this connection the following letter was received from Mr. Percy Phillips of the American Bar Association:

I write this letter to bring to your attention the necessity for immediate legislation if we are to retain in the Government service certain members of the Excess Profits Tax Council of the Bureau of Internal Revenue who accepted appointment to the Council at a financial sacrifice and whose loss would be very serious.

I take the liberty of calling your attention to the following facts: On February 5, 6, and 7, 1946, the Joint Committee on Internal Revenue Taxation held hearings with reference to the alleged break-down in the administration of section 722 of the Internal Revenue Code. A large number of organizations and individuals testified to the general effect that the Bureau of Internal Revenue administration of section 722 was wholly unsatisfactory and was not carrying out the intent of Congress; in fact, that characterization of the testimony is a gross understatement. As a result of the criticisms made in those hearings, the Commissioner of Internal Revenue proposed to the Joint Committee that he should set up in the Bureau of Internal Revenue an Excess Profits Tax Council of 15 members, 5 to be appointed from within the Bureau and 10 from without the Bureau. After very considerable difficulty, the Commissioner succeeded in finding a number of highly qualified men who were willing, all at a personal financial sacrifice to themselves, to accept appointment to the Council. As a result, there has been a substantial improvement in the administration of section 722 of the Internal Revenue Code, which admittedly imposes a very difficult task, requiring the services of men of integrity, judgment, and courage.

At the time of these appointments, section 403 (j) of the Renegotiation Act, enacted as section 701 of the Revenue Act of 1943, protected these men in their right to resume their private practice after they left the Government service. That protection will terminate on June 30. The men from outside of the Bureau of Internal Revenue who accepted appointment to this Council cannot afford to jeopardize their future by continuing as members of the Council after June 30, unless there is an extension of the protection accorded by section 403 (j) of the Renegotiation Act. The public service is faced with the loss of the services of practically the entire staff of the Excess Profits Tax Council; a loss which should not be permitted.

My interest in this matter arises by reason of the fact that, as the then chairman of the section of taxation of the American Bar Association, I appeared and testified before the joint committee of Congress in an effort to secure some reform in the administration—or lack of administration—of section 722. While the reform obtained did not go as far as the recommendations of the American Bar Association, it has nevertheless served to remove many of the criticisms which had previously been made. I believe I can safely say that all who appeared to testify before the joint committee at the hearings in February 1946, would feel that the loss of the services of any of the members of the Excess Profits Tax Council would be a serious set-back to the proper and expeditious administration of section 722 of the Internal Revenue Code.

I take the liberty of pointing out to you that it will not be sufficient to have legislation passed on June 30 or shortly before that date, which would enable these men to continue as members of the Council, without injuring their private practice on their retirement. Faced with the necessity of resigning by June 30, these men are now proceeding with their plans to obtain office space or taking other steps to resume private practice. Naturally, such steps must be taken sometime in advance; these men cannot safely wait until the last moment before making decisions as to their future. For this reason, if it is the purpose of Congress to retain the services of these men, it is imperative that legislation be passed immediately to assure them that they can remain as members of the Excess Profits Tax Council after June 30 with the same privileges of resuming their private practice which are now given them by section 403 (j) of the Renegotiation Act.

I trust that it will be possible to give this matter immediate attention, with the view to the passage of a joint resolution which would amend section 403 (j) by extending the period of 6 months therein provided.

To meet this situation the bill extends this grace period to June 30, 1949.

