Calendar No. 1016

93D CONGRESS
2d Session

SENATE

REPORT
No. 93-1059

EXTENDING THE TEMPORARY SUSPENSION OF DUTY ON CERTAIN CLASSIFICATIONS OF YARNS OF SILK

AUGUST 1, 1974.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 7780]

The Committee on Finance, to which was referred the bill (H.R. 7780) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

I. SUMMARY

House bill.—The House-passed bill would continue from November 8, 1973 through November 7, 1975, the suspension of duties on certain classifications of yarns of silk. The committee bill does not substantially modify the House bill, but includes an amendment unrelated to the subject matter of the House bill.

Committee amendment.—The committee amendment deals with the treatment processes which are treated as mining in computing the percentage depletion allowance for trona. The committee amendment provides that the decarbonation of trona is to be treated as an ordinary treatment process. The effect of this is to continue, as provided prior to 1971, to allow percentage depletion on trona based on the value of soda ash extracted from it.

II. GENERAL EXPLANATION

A. Spun Silk Yarn

The duties on spun silk yarns have been suspended by various public laws since the original duty suspension was enacted by Public Law 86–235, approved on September 8, 1959. The suspension of the duties on spun silk yarns was last extended by Public Law 92–161 for a 2 year period from November 7, 1971, to November 7, 1973.

Spun silk yarns are of two principal types: Standard spun silk (schappe) yarn and silk noil (bourrette) yarn. Standard or schappe spun silk yarns for general textile use are manufactured from long parallelized silk fiber stock recovered from waste cocoons and silk filature waste and are used for making sewing thread, decorative stripings for fine worsteds, lacing cord for cartridge bags, and, in combination with other fibers, certain types of necktie fabrics, shirtings, dress, and suiting fabrics, upholstery, and drapery materials.

The silk noil type of yarn is made from shorter length, and hence cheaper, silk fiber stock than schappe and must be spun on wool-spinning machinery. The material used consists of silk noils discarded as by-products in preparing silk waste for spinning in standard spun silk yarns.

The suspension of the duty was made in order to enable domestic producers of fine yarn fabrics to import fine silk yarns free of duty in order to make it more economical to produce fine yarn fabrics in competition with imported similar fabrics. The committee is advised that the same reasons which justified the original suspension of the duty justify the continuation of the suspension. Accordingly, H.R. 7780 would extend the suspension until November 7, 1975. The committee added a provision which would permit, within a limited period, importers to obtain a refund of duties paid on entries made after November 7, 1973, and before the date of enactment of this Act.

Section (a) of H.R. 7780 would also delete an incorrect reference to item 308.51 now contained in item 905.31 of the Tariff Schedules of the United States. The citation is incorrect since the item 308.51 covers yarns not described in item 905.31.

The committee has received favorable reports on H.R. 7780 from the Department of Commerce, the Office of the Special Representative for Trade Negotiations, and the Office of Management and Budget. No objection to the continuation of the duty suspension has been brought to the committee's attention.

B. Treatment Process of Decarbonation of Trona Ore To Be Considered as Mining

Under existing law, percentage depletion is allowed for certain minerals at specified rates. In computing the percentage depletion de-

duction, the rate of the depletion allowance is applied to the "gross income from the property." In the case of depletion on property other than oil or gas wells, present law provides (sec. 613(c)(1)) that the term "gross income" means "gross income from mining." The term "mining" for this purpose (sec. 613(c)(2)), in general, includes not only the extraction of the ores or minerals from the ground, but also certain "ordinary treatment processes" (specified in sec. 613(c)(4)).

In the case of trona, percentage depletion is allowed at the rate of 14 percent. Trona ore, however, is not sold in its crude form as extracted from the ground. The valuable mineral in the ore is sodium carbonate, commonly known as soda ash, and treatment processes must be applied to separate the waste materials from the soda ash. One of the processes applied is a calcining process which separates the unwanted water and carbon dioxide from the soda ash. A controversy now exists as to whether the process of calcining to achieve the decarbonation is an ordinary treatment process in the case of trona (as it has been treated prior to 1971) so that percentage depletion will be allowed on the value added by that process.

The controversy which now has arisen with respect to the tax treatment of trona relates to the application in its case of the term "ordinary treatment processes" of extracted ores or minerals. Prior to 1961, the term "ordinary treatment processes" was described in the code as processes normally applied by mine owners or operators to extracted ores or minerals in order to obtain the commercially marketable product. In the case of trona, the first commercially marketable product is soda ash. Thus, it was held under this description that the calcining of trona to produce soda ash qualified as an ordinary treatment process. In 1960, however, this description of treatment processes was eliminated (in P.L. 86–564) and instead an exclusive specific list of the ordinary treatment processes which are to be considered as mining was substituted. This list did not specifically contain the process used in the case of trona which resulted in its marketable product "soda ash." In addition, the 1960 amendment contained a provision which set forth the treatment processes not considered as mining (unless specifically provided for or necessary or incidental to processes as provided for) and calcining was among the list.

The problem that exists relates to statements made during the hearings in 1959 before the Committee on Ways and Means with respect to the Treasury Department proposal which specified the treatment processes which would be considered mining for purposes of computing percentage depletion. (Essentially, this same proposal was contained in the Senate amendment which was enacted in 1960, as described above.) The Treasury representative in response to the question of whether the Treasury proposal would prohibit the present practice of allowing decarbonation of soda ash said that it was not intended.

In 1971, the Treasury Department announced, while finalizing regulations dealing with the new code provision relating to ordinary treatment process, that for the future it will disallow the so-called "decarbonation" or "calcining" process as an ordinary treatment process with respect to trona; in effect, this would treat it as a non-mining

process. This means that percentage depletion would not be based on the market value of soda ash extracted from trona, but rather on the value of trona as mined, including certain other mining processes attributable to trona. Although the Treasury Department concedes there is some justification for the argument that there were assurances given in 1959 that in the case of trona no change was intended, the Treasury states that the 1959 representations were in error and based on mistaken assumptions. However, in view of these representations the Treasury has indicated that it will allow the calcining as an ordinary treatment process for all years through 1970, the year it announced its intention not to treat the "decarbonation" process of trona as a mining process.

The committee has concluded that the trona miners should be allowed to compute percentage depletion in the same manner as was allowed in the past and in the manner in which it was represented by the Treasury in 1959 would be the result under the new provision. The committee's decision is based on its belief that the decarbonation of the trona ore to eliminate water and carbon dioxide is essentially a concentration process which should be treated as an allowable mining process. To assure this result, the amendment provides that the decarbonation of trona is to be treated as an ordinary treatment process.

It is understood that in some cases customers want a higher bulk density soda ash, and to meet that need soda ash which has already been decarbonated is placed in a second calciner to produce a denser product. This densification step was not treated as an ordinary treatment process under the past practice, and is not to be treated as an allowable process under the committee's amendment.

This provision is to apply to taxable years beginning after December 31, 1970. This will provide the continued treatment of the decarbonation process of trona as mining since the Treasury Department is allowing this treatment for all taxable years beginning before 1971.

With respect to its effect on revenues, the committee does not believe that this amendment should be viewed as resulting in a revenue loss, since the amendment continues the treatment of trona to the same extent as in the past. However, based on the position the Treasury Department is taking as to the treatment of trona for the future, it can be argued that the amendment will reduce revenues by about $2 million annually.

III. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect of the revenues of the bill. The committee estimates that the extension of the existing suspensions of duties on certain classifications of spun silk yarn will not result in any additional revenue loss or administrative costs. In the committee's opinion, the provision added by the committee involves no revenue loss.

IV. VOTE OF COMMITTEE ON REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a roll call vote and without objection.

V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

○