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SENATE.

REPORT  
No. 1257.

## INCOME TAX OF NONRESIDENT ALIENS.

MARCH 1, 1923.—Ordered to be printed.

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

### REPORT.

[To accompany H. R. 14050.]

The Committee on Finance, to which was referred the bill (H. R. 14050) to amend the revenue act of 1921 in respect to income tax of nonresident aliens, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

House Report No. 1649 on this bill is adopted and is as follows:

[House Report No. 1649, Sixty-seventh Congress, fourth session.]

The Committee on Ways and Means, to whom was referred the bill (H. R. 14050) to amend the revenue act of 1921 in respect to income tax of nonresident aliens, having had the same under consideration, reports it back to the House without amendment and recommends that the bill do pass.

The legislation herein recommended amends existing law, (1) by giving to an alien resident in a contiguous country a credit of \$400 for each dependent against his net income, as in the case of United States citizens; and (2) by providing that the income of such alien attributable to compensation for labor or personal services performed in the United States, not exceeding \$4,000, shall be subject to a normal tax of 4 per cent.

In effect, the bill establishes reciprocity between the United States and Canada in the matter of income taxes.

The necessity for this legislation arises from the act of the Canadian Parliament, assented to on June 28, 1922, which provides that nonresident aliens subject to the Canadian income tax laws shall not be allowed the exemptions heretofore granted, but shall pay a normal tax of 8 per cent upon all income in excess of \$1,000, and makes this provision operative "at a day to be named by proclamation of the governor in council, and the governor in council may name in the said proclamation the taxation periods to which the said subsection shall apply."

Should this proclamation be put into effect by the Canadian authorities, as it is now contemplated, citizens of the United States employed in American-owned factories across the border would be compelled to pay a tax to the Canadian Government of 8 per cent of all income in excess of \$1,000 derived from compensation for labor or

personal services in Canada, such tax being identical with the tax imposed on Canadians employed in the United States under the revenue act of 1921.

Section 210 of the revenue act of 1921 imposes a normal income tax of 8 per cent, but provides that the rate shall be 4 per cent on the first \$4,000 in the case of a citizen or resident of the United States. In the case of a married person or head of a family a personal exemption of \$2,500 is allowed, plus a credit of \$400 for each dependent, as provided for in section 216. The exemption in the case of a non-resident alien, however, is only \$1,000, irrespective as to whether he is married or single; he is allowed no credits for dependents, and must pay the normal tax of 8 per cent.

The Canadian law, on the other hand, extends to American citizens employed in Canada the same exemptions enjoyed by her own citizens, namely: In the case of single persons a tax of 4 per cent is assessed on incomes in excess of \$1,000 and not in excess of \$6,000; and in the case of married persons a tax of 4 per cent on incomes in excess of \$2,000 but not in excess of \$6,000, with an exemption of \$300 for each dependent. Income exceeding \$6,000 is taxable at 8 per cent.

Manifestly the revenue act of 1921 is unfair to Canadians employed in the United States when compared to the treatment accorded citizens of this country by the Canadian law, and unless this act is modified as proposed it can not be expected that Canada will continue the favorable provisions now extended to our citizens.

The situation is fully set forth in a letter from the Secretary of State dated January 2, 1923. The bill (H. R. 14050) is approved by the Secretary of the Treasury under date of February 15, 1923. These letters are as follows:

DEPARTMENT OF STATE,  
Washington, January 2, 1923.

HON. JOSEPH W. FORDNEY,  
*Chairman Committee on Ways and Means, House of Representatives,*

SIR: On the occasion of his visit to Washington the Hon. Mackenzie King, prime minister of Canada, brought up for discussion the income-tax laws of the United States as they affect citizens of Canada who reside in Canada but are employed in the United States. It appears that section 4 of the act of the Canadian Parliament, assented to June 28, 1922, provides as follows:

"4. Section 4 of the said act, as amended by chapter 49 of the statutes of 1920, is further amended by inserting the following subsection immediately after subsection (2a) thereof:

"(2b) Where any person liable to taxation under this act is not resident in Canada and is not a British subject, he shall not be entitled to the exemption provided for in paragraph (b) of subsection 1 of section 3 of this act, and in lieu of the normal tax provided for in paragraph (a) of subsection 1 of section 4 of this act, he shall pay a normal tax of 8 per cent upon all income in excess of \$1,000.

"This subsection shall come into operation at a day to be named by a proclamation of the governor in council, and the governor in council may name in the said proclamation the taxation periods to which the said subsections shall apply."

I am informed that this act was passed for the purpose of authorizing the Canadian Government to apply to nonresident aliens, including American citizens, treatment in effect reciprocal to that provided in the revenue act of 1921, which has resulted in hardship to Canadians employed in the United States but resident in Canada.

Section 210 of the revenue act of 1921, approved November 23, 1921, provides:

"That in lieu of the tax imposed by section 210 of the revenue act of 1918 there shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 8 per cent of the amount of the net income in excess of the credits provided in section 216: *Provided*, That in the case of a citizen or

resident of the United States the rate upon the first \$4,000 of such excess amount shall be 4 per cent."

Subdivision (e) of section 216 of the act reads as follows:

"In the case of a nonresident alien individual \* \* \* the personal exemption shall be only \$1,000, and he shall not be entitled to the credit provided in subdivision (d)."

Subdivision (d) of the act, mentioned in subdivision (e), allows a credit of \$400 for each person, other than husband or wife, dependent upon the taxpayer for support, and subdivision (c) fixes a personal exemption of \$2,500 in favor of heads of families, or married persons living with husband or wife, whose net incomes do not exceed \$5,000.

It will be observed that in the present state of the law American citizens, resident and nonresident, are required to pay a normal tax at the rate of 4 per cent on the first \$4,000 of their net income in excess of certain credits. These credits are, in the case of a single person, a personal exemption of \$1,000; in the case of the head of the family or a married person, a personal exemption of \$2,500 unless the net income is in excess of \$5,000, and a credit of \$400 for each dependent. In the case of nonresident aliens, however, the normal tax is at the rate of 8 per cent on the net income in excess of \$1,000, and no additional exemption is made for married persons or the heads of families, nor credit allowed for dependents.

It appears that the present law differs in this respect from the revenue act of 1918 in that the latter allowed nonresident aliens the same personal exemptions and exemptions for dependents as American citizens enjoyed, provided the country of which the alien was a national extended corresponding exemptions to American citizens or imposed on them no income tax at all.

The Prime Minister considered this difference of treatment between American citizens and Canadian citizens to be unfair. He stated that the matter had caused considerable irritation in Canada, and he expressed the hope that the difficulty could be rectified without the enforcement of retaliatory measures by Canada.

The Secretary of the Treasury, to whom the matter presented by the Prime Minister was referred, states that protests have been received from other sources regarding the alleged discrimination against Canadians employed in the United States, contained in sections 210 and 216 of the revenue act of 1921. He adds that the present law has caused much irritation, which he thinks could be allayed by amending sections 210 and 216 of the revenue act of 1921 so as to extend to nonresident aliens, citizens of Canada or of Mexico, the application of the 4 per cent rate on the first \$4,000 of income derived by them from "wages, salaries, or other compensation for personal services rendered within the United States" in excess of the credit for dependents now granted citizens of the United States, under section 216 (d) of the act. He does not, however, consider it desirable to extend to such nonresident aliens the personal exemptions provided for in section 216 (c) now granted citizens of the United States.

It is my understanding that nonresident aliens would continue to enjoy the personal exemption of \$1,000 provided by section 216 (e). It is also believed that the benefits of the amendment should be extended to all nonresident aliens to avoid any claim of discrimination by nationals of other countries.

The President has authorized me to suggest to you the advisability of amending the revenue act of 1921 so as to meet the situation presented by the Prime Minister of Canada, and as a modification of the act as proposed by the Secretary of the Treasury will, it is believed, properly safeguard American interests, I have the honor to recommend that steps be taken to have the act amended in the manner above suggested.

It will be observed from the above-quoted provision of the Canadian law that it is to "come into operation at a day to be named by proclamation of the governor in council." I am informed by the British ambassador that the Dominion Government would regret to find themselves compelled to have recourse to the provisions of this act. It appears that the issuance of a proclamation is being suspended by the Canadian Government in the hope that this Government "will take such early action in regard to the provisions of the internal revenue act as to make consideration of the question of issuing the proclamation unnecessary."

I have addressed a similar communication to the Hon. Porter J. McCumber, chairman Committee on Finance, United States Senate.

I have the honor to be, sir, your obedient servant,

CHARLES E. HUGHES.

THE SECRETARY OF THE TREASURY,  
Washington, February 15, 1923.

Hon. JOSEPH W. FORDNEY,  
*Chairman Ways and Means Committee, House of Representatives.*

MY DEAR MR. CHAIRMAN: I have your letter of February 14, requesting any comments that I may care to offer with respect to a bill (H. R. 14050) "To amend the revenue act of 1921 in respect to income tax of nonresident aliens."

The proposed bill amends the existing revenue law and provides that so much of the income of nonresident alien individuals, residents of a contiguous country, attributable to compensation for labor or personal services performed in the United States as does not exceed \$4,000 shall be subject to a normal tax at the rate of 4 per cent in place of the normal tax at the rate of 8 per cent provided for by existing law. The proposed bill further amends the existing revenue law by granting to nonresident alien individuals, residents of a contiguous country, the credit against the normal tax of \$400 for each dependent.

I have heretofore stated in a letter of September 19, 1922, to the Secretary of State that all reasonable objections of citizens of Canada to the application to them of the provisions of the revenue laws could be met by such a modification of the existing law as contained in the proposed bill, and that the Treasury Department would not object to modifications of the law to that extent. Accordingly, I approve the proposed bill as to both form and substance.

Very truly yours,

A. W. MELLON,  
*Secretary of the Treasury.*

The amount of revenue that would be lost by the Government under this bill is comparatively insignificant, no accurate estimate being available, as indicated by the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT,  
Washington, February 17, 1923.

DEAR MR. CHAIRMAN. In accordance with the request of the clerk of the committee, I have endeavored to get an estimate of what, if any, loss of revenue would be caused by H. R. 14050, the bill to amend the revenue act of 1921 in respect to income tax on nonresident aliens residing in countries contiguous to the United States. Without making a special examination of all income tax returns filed by nonresident aliens who would be affected by the bill, it is difficult to give any close estimate as to how much money may be involved, but the figures compiled by the statistical division of the Bureau of Internal Revenue as to income received from sources within the United States and taxes paid to the United States by aliens residing in Canada and Mexico indicate that the total loss of revenue would probably be not more than \$250,000. Whatever the figure may be, it is clear that it is relatively small and that the provisions of the present law can properly be changed in substantially the manner proposed by H. R. 14050, since the existing situation causes an amount of irritation quite out of proportion to the amount of revenue involved.

Very truly yours,

A. W. MELLON,  
*Secretary of the Treasury.*

Hon. J. W. FORDNEY,  
*Chairman Ways and Means Committee,  
House of Representatives.*

Under the revenue act of 1921 a citizen of the United States, if married, with one child dependent upon him for support, would pay no income tax if his salary was \$2,500; \$4 if his salary was \$3,000; \$24 if his salary was \$3,500; and \$44 if his salary was \$4,000; with two children, he would pay \$8 if his salary was \$3,500 and \$28 if his salary was \$4,000; with three children, he would pay \$12 if his salary was \$4,000; and if he had four children and received up to \$4,000 salary, he would have no tax to pay.

There is appended herewith two tables, the first showing the taxes of nonresident aliens under the revenue act of 1921 and the bill, and the second compares existing Canadian taxes on nonresident

aliens with those proposed under the proclamation proviso of the act of June 28, 1922. The tables are as follows:

TABLE 1.—Income taxes of nonresident aliens under the revenue act of 1921 and the bill H. R. 14050.

	Married man with income of—							
	\$2,500		\$3,000		\$3,500		\$4,000	
	Act of 1921.	H. R. 14050.	Act of 1921.	H. R. 14050.	Act of 1921.	H. R. 14050.	Act of 1921.	H. R. 14050.
1 dependent.....	\$120	\$44	\$160	\$64	\$200	\$84	\$240	\$104
2 dependents.....	120	28	160	48	200	68	240	88
3 dependents.....	120	12	160	32	200	52	240	72
4 dependents.....	120	None.	160	16	200	36	240	56
5 dependents.....	120	None.	160	None.	200	20	240	40

TABLE 2.—Canadian taxation of nonresident aliens under the act of June 28, 1922, and under the proclamation proviso of such act.

	Married man with income of—							
	\$2,500		\$3,000		\$3,500		\$4,000	
	Law.	Proviso.	Law.	Proviso.	Law.	Proviso.	Law.	Proviso.
1 dependent.....	\$5	\$120	\$28	\$160	\$48	\$200	\$68	\$240
2 dependents.....	None.	120	16	160	36	200	58	240
3 dependents.....	None.	120	4	160	25	200	44	240
4 dependents.....	None.	120	None.	160	12	200	32	240
5 dependents.....	None.	120	None.	160	None.	200	20	240

In order that the changes made by the bill from the present law may clearly appear, the original text of the provisions of the revenue act of 1921 are set out below, the proposed changes being indicated in stricken-through type and italics, the part struck through being omitted from the bill and the part in italics being new matter not included in the present law:

“NORMAL TAX.

“SEC. 210. (a) That, in lieu of the tax imposed by section 210 of the Revenue Act of 1918; there shall be levied, collected, and paid for each taxable year upon the net income of every individual (*except as provided in subdivision (b) of this section*) a normal tax of 8 per centum of the amount of the net income in excess of the credits provided in section 216; ~~Provided, That, except that~~ in the case of a citizen or resident of the United States the rate upon the first \$4,000 of such excess amount shall be 4 per centum.

“(b) *In lieu of the tax imposed by subdivision (a) there shall be levied, collected, and paid for the taxable year 1922 and each taxable year thereafter, upon the net income of every nonresident alien individual, a resident of a contiguous country, a normal tax equal to the sum of the following:*

“(1) *Four per centum of the amount of the net income attributable to compensation for labor or personal services performed in the United States in excess of the credits provided in subdivisions (d) and (e) of section 216; but the amount taxable at such 4 per centum rate shall not exceed \$4,000; and*

“(2) *Eight per centum of the amount of the net income in excess of the sum of (a) the amount taxed under paragraph (1) plus (b) the credits provided in section 216.”*

SEC. 2. That subdivision (e) of section 216 of the Revenue Act of 1921 is amended, to take effect January 1, 1922, to read as follows:

"(e) In the case of a nonresident alien individual, or of a citizen entitled to the benefits of section 262, the personal exemption shall be only \$1,000, ~~and he shall not be entitled to the credit provided in subdivision (d).~~ *The credit provided in subdivision (d) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country, nor in the case of a citizen entitled to the benefits of section 262.*"

NOTE.—Subdivision (d) of section 216 is as follows:

"(d) \$400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective."

