

TAX TREATMENT OF INDIVIDUALS SERVING ON U.S.
"PUEBLO"

APRIL 7, 1970.—Ordered to be printed

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

REPORT

[To accompany H.R. 8654]

The Committee on Finance, to which was referred the bill (H.R. 8654) to provide that, for purposes of the Internal Revenue Code of 1954, individuals who were illegally detained during 1968 by the Democratic People's Republic of Korea shall be treated as serving in a combat zone, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

This bill provides that members of the crew of the U.S.S. *Pueblo* who were illegally detained by North Korea are to be treated for purposes of the tax laws in the same manner as if they had served in a presidentially designated combat zone during the period of their detention by North Korea. This means that for the period of their detention: members of this crew will receive an exclusion from income tax for their pay for service in the Armed Forces (the exclusion is limited to \$500 a month for officers); for the member of the crew who was killed during this period there will be a waiver of unpaid income taxes; for the member of the crew who was killed there will be a waiver of Federal death taxes; and for all personnel on the ship there will be an extension of time for filing tax returns, paying taxes, etc.

II. GENERAL STATEMENT

Present law.—Under present law, four tax benefits are provided for members of the Armed Forces who are in active service in a presidentially designated combat zone.

First, present law (sec. 112 of the code) provides an income tax exclusion for pay received for active service by a member of the Armed Forces for any month during which he either served in a combat zone or was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone. In the case of enlisted personnel, the exclusion applies to all of their pay. In the case of commissioned officers, the exclusion applies to the first \$500 per month of their pay. The Treasury regulations provide that military personnel who were serving in a combat zone and who are missing in action or prisoners of war continue to be entitled to the income tax exclusion to the same extent as if they had been in active service in the combat zone during the period they are missing or imprisoned.

Second, present law (sec. 692) provides for a waiver of income tax of a member of the Armed Forces who dies while in active service in a combat zone or as a result of wounds, disease, or injury incurred while in service in a combat zone. The waiver of tax applies to the taxable year in which the death occurs and also to any income tax for any other year which is unpaid at the date of his death.

Third, present law (sec. 2201) provides an exception from the Federal estate tax for any member of the Armed Forces who is killed in action while in active service in a combat zone or who dies as a result of wounds, disease, or injury suffered while in active service in a combat zone.

Fourth, present law (sec. 7508) provides an extension of time for performing various actions, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax. The extension of time applies to any individual who is serving in the Armed Forces or serving in support of the Armed Forces in a combat zone or who is hospitalized outside of the United States as a result of an injury received while serving in a combat zone. The period of service in the combat zone (and the period of continuous hospitalization outside the United States) plus the next 180 days are disregarded in determining whether the individual performed the various specified acts on time.

As indicated, the applicability of the four provisions discussed above is conditioned on the person being in service in a combat zone. A combat zone under present law (sec. 112(c)) is defined as an area which the President designates by Executive order as an area in which the U.S. Armed Forces are engaged in combat. In addition, service is considered as performed in a combat zone only if it is performed during the period the Presidential Executive order is in effect with respect to a particular area. Vietnam and adjacent waters is the only area currently designated as a combat zone. As a result, the four tax provisions discussed above currently are applicable only with respect to service in Vietnam or adjacent waters.

Reasons for bill.—The purpose of the four provisions of the tax law relating to service in a combat zone, in general, is to extend tax relief to military personnel subjected to the hazards and hardships of combat. The hardships, maltreatment, and constant threat of loss of life suffered by the members of the crew of the U.S.S. *Pueblo* during their illegal detention by North Korea are of comparable magnitude to those suffered by military personnel who are engaged in combat. Since, however, the *Pueblo* crew were not serving in an area which the President of the United States had designated as a

combat zone, either at the time of their capture or during their imprisonment, they are not entitled to the benefits of the four provisions of tax law relating to service in a combat zone.

In view of the hardships endured by the *Pueblo* crew during their detention by North Korea and the comparability of the risks to which they were subjected to the hazards of combat, it is appropriate to extend to the *Pueblo* crew the same tax benefits which are available with respect to service in a combat zone. Accordingly, this bill provides that the crew of the *Pueblo* are to be treated as serving in a presidentially designated combat zone during the period they were illegally detained by North Korea.

III. EXPLANATION OF BILL

The bill provides that, for purposes of the provisions of the tax laws mentioned above (namely, secs. 112, 692, 2201, and 7508 of the code), individuals who were removed from a U.S. vessel and illegally detained by the Democratic People's Republic of Korea at any time during the calendar year 1968 (i.e., individuals serving on the U.S.S. *Pueblo* at the time of her capture by North Korea) are to be treated during the period they were detained by North Korea as serving in a presidentially designated combat zone during the period of designated combatant activities in such zone. The bill also applies to individuals who died while being illegally detained by North Korea, since one member of the *Pueblo* crew was killed during the capture of the ship by North Korea.

Under the bill the income tax exclusion provided by sec. 112 will be applicable to pay received by the military personnel on the *Pueblo* crew for 1968, since during each month of 1968 they will be considered as having been in service in a combat zone. In addition, the exclusion will be available for any month after 1968 during any part of which a member of the military forces on the crew of the *Pueblo* was hospitalized as a result of wounds, disease, or injury incurred while he was detained by North Korea (provided a combat zone designation is in effect for such month).

In addition, the waiver of income tax provided by section 692 and the waiver of additional estate tax provided by section 2201 will be applicable in the case of the member of the *Pueblo* crew who was killed while the ship was being captured by North Korea.

Finally, the provisions of section 7508 relating to the extension of time for performing various acts under the tax laws will apply to the crew of the *Pueblo* (both military and civilian personnel) to the same extent as if during the period of their detention by North Korea they had been serving in a presidentially designated combat zone during the period of designated combatant activities.

