

## POWERS OF APPOINTMENT, CERTAIN DISCRETIONARY TRUSTS, AND DISCHARGE OF INDEBTEDNESS

JUNE 13 (legislative day, APRIL 21) 1947.—Ordered to be printed

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

### REPORT

[To accompany H. J. Res. 210]

The Committee on Finance, to whom was referred the joint resolution (H. J. Res. 210) to extend the time for release, free of estate and gift tax, of certain powers, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the joint resolution do pass.

By virtue of this action, the committee adopts the Committee on Ways and Means' report which follows:

#### RELEASE OF POWERS OF APPOINTMENT

Section 1 of the joint resolution extends to July 1, 1948, the period for tax-free release of powers of appointment created on or before October 21, 1942, the effective date of the Revenue Act of 1942. The Revenue Act of 1942 made a number of significant changes in the treatment, under the estate and gift taxes, of property which is subject to a power of appointment created by a person other than the holder of the power. However, in order to enable holders of previously created powers to adjust their affairs in the light of the new legislation, it was simultaneously provided that such persons could release their powers within a stated period of time without incurring any tax liability. This grace period has been extended on several occasions since the enactment of the 1942 act because of the difficulties persons have encountered in making the desired adjustments and the need for additional time to study possible changes in the 1942 legislation, particularly in connection with preexisting powers. Prior laws have extended the time for release of such powers to July 1, 1947. It is believed by your committee that the extension granted under the resolution will be ample to permit this whole matter to be considered in connection with the general revenue bill, to be taken up during the early part of next year.

#### GIFT TAX RELIEF FOR CERTAIN DISCRETIONARY TRUSTS

Section 2 (a) of the joint resolution amends section 1000 (e) of the Internal Revenue Code so as to extend the time for tax-free relinquishment by a grantor of certain powers, of the type involved in *Sanford Estate v. Commissioner* (308 U. S. 39), to name new beneficiaries or to change the interests of the existing

## 2 POWERS OF APPOINTMENT AND CERTAIN DISCRETIONARY TRUSTS

beneficiaries. Under the Revenue Act of 1943, the relinquishment of such a power on or after January 1, 1940, and prior to January 1, 1945, is not treated as a taxable gift. The period for release provided for in the Revenue Act of 1943 has been shown to be entirely too short to take care of many of the hardship cases, particularly in the case of persons who were abroad during the war, and were, therefore, not in a position to take advantage of the extension. The American Bar Association has suggested that the period for release be extended another year to eliminate the hardships and inequities created by the short length of time originally granted. Your committee has extended the time for relinquishment of Sanford powers for gift tax purposes to and including December 31, 1947.

Your committee has also provided that a relinquishment after December 31, 1947, is not subject to gift tax if it is shown to the satisfaction of the Commissioner that failure to effect the relinquishment prior to the date when the power was relinquished was for reasonable cause. Examples of reasonable cause include cases in which an earlier relinquishment cannot be made because of a disability or excusable lack of knowledge of the existence of a Sanford power. However, the unwillingness of a grantor to relinquish his power for personal or other reasons would not constitute reasonable cause. This section authorizes the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to promulgate regulations governing the scope and application of the provision relating to relinquishments after December 31, 1947.

Section 2 (b) of the joint resolution provides that if any amount paid prior to the date of the enactment of the joint resolution constitutes an overpayment of gift tax solely by reason of the amendment made by section 2 (a), no interest shall be allowed or paid with respect to the amount of such overpayment.

### EXTENSION OF TREATMENT OF INCOME RESULTING FROM DISCHARGE OF INDEBTEDNESS

Section 3 of the joint resolution extends the application of section 22 (b) (9) and (10) of the Internal Revenue Code to taxable years beginning after December 31, 1947, and prior to January 1, 1950. These sections exclude from gross income for income-tax purposes income realized by a corporation through the purchase of its own bonds, debentures, or other evidence of indebtedness, and also, in the case of railroads, gain realized from the cancellation of indebtedness in bankruptcy proceedings. The existing law limits the application of these sections to taxable years beginning before January 1, 1948. This resolution continues such sections in effect for another 2 years. It is believed by your committee that the whole problem of the tax treatment of income arising from the cancellation of indebtedness should be studied in connection with the general tax revenue bill, to be taken up early next year.

