

EMPOWER THE COMMISSIONER OF INTERNAL REVENUE TO
ISSUE SUBPENAS IN CONNECTION WITH INDUSTRIAL ALCOHOL
PERMITS, TO RELIEVE A DONOR FROM ANY INCOME-TAX LIA-
BILITY RESULTING FROM GIFTS TO CHARITY OF HIS OWN PROD-
UCTS, AND TO REDUCE CERTAIN EXCISE TAXES

JULY 11 (legislative day, JUNE 2), 1949.—Ordered to be printed

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

REPORT

[To accompany H. R. 3905]

The Committee on Finance, to whom was referred the bill (H. R. 3905) to amend section 3121 of the Internal Revenue Code, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

SECTION 1

The purpose of section 1 of the bill is to confer upon the Commissioner of Internal Revenue the power to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence at hearings in connection with denials and revocations of industrial alcohol permits similar to that which is now vested in the Secretary of the Treasury in cases involving beverage liquor permits under the Federal Alcohol Administration Act.

Enactment of this section is not only desirable from the point of view of efficient and effective administration of the industrial alcohol permit system, but it may be necessary in permit-revocation proceedings in order to conform to the provisions of section 7 (c) of the Administrative Procedure Act. This section provides, among other things, that any "oral or documentary evidence" which may be received by an agency in cases of adjudication required by statute to be determined on the record after opportunity for an agency hearing (sec. 5 of the Administrative Procedure Act) must be supported by "reliable probative, and substantial evidence" which is derived from the record of the hearings, in which every party has "the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-

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examination as may be required for a full and true disclosure of the facts."

Up to the present time affidavits have been used as evidence in industrial alcohol permit revocation proceedings. This practice has received the sanction of the courts. But since the advent of the Administrative Procedure Act and since judicial review of administrative decisions in such cases does not involve a trial de novo, but is based upon the record of the hearings, it may be that the courts will bar the use of affidavits because they do not comply with the requirements of the character of evidence as set forth in the provisions of that act stated above. If this should happen, the Bureau of Internal Revenue would be seriously hampered in the administration of the industrial alcohol permit system.

Since proceedings in connection with the denial or revocation of industrial alcohol permits are so closely analogous to proceedings under the Federal Alcohol Administration Act as to beverage liquor permits, there would appear to be no reason for granting the subpoena power in the one case and withholding it in the other.

The enactment of section 1 is recommended by the Secretary of the Treasury, who states that the legislation proposed in such section has been cleared by the Bureau of the Budget.

SECTION 2

The necessity of section 2 of the bill is occasioned by a ruling of the Bureau of Internal Revenue (I. T. 3910), published in Internal Revenue Bulletin No. 13, of June 28, 1948, holding that a farmer who made a contribution of wheat to the Freedom Train must include as income for Federal income-tax purposes the fair market value of the wheat at the time of the gift. The effect of the ruling is to penalize farmers and other producers who make gifts of articles of their own production. The mere making of a gift is not income to the donor, yet the ruling holds that a farmer must treat the gift of his product as such. This is true even though the farmer has realized no gain from the gift of the wheat. If this ruling were permitted to stand, it will discourage a producer from making a gift of his own products to charity. A farmer could give his land to charity without realizing income from such a gift, but not his crops. A furniture dealer could give his factory to charity without realizing income, but not his furniture.

Your committee bill corrects this situation by making it clear that such gifts do not result in income to the donor under the Federal income-tax law.

SECTION 3

Section 3 of the bill repeals the war tax rates imposed by the Revenue Act of 1943 on jewelry, furs, toilet preparations, electric-light bulbs and tubes, communications, transportation of persons, and the retail tax on luggage. The repeal of the retail tax on luggage will restore the manufacturers' tax of 10 percent.

The manufacturers' tax on luggage applies to fewer articles than the retail tax. The manufacturers' tax applies only to trunks, valises, traveling bags, suitcases, hat boxes for use by travelers, fitted toilet cases (not including contents), and other travelers' luggage, and leather and imitation leather brief cases. Section 3 also provides for the

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reduction of the tax on photographic apparatus. The tax on cameras and camera equipment is reduced from 25 percent to 10 percent, and on films from 15 percent to 10 percent.

In the case of jewelry, watches selling at retail for not more than \$65, and alarm clocks selling at retail for not more than \$5 continue to be taxed at 10 percent.

The following table shows the reductions in rates and the loss in revenue involved on a full-year basis:

Estimated loss in revenue from excise-tax reductions under sec. 3¹

(Amounts in millions of dollars.)

	Section of code	Present rates	Rates under sec. 3	Estimated revenue, full year		Estimated reduction in revenue, full year
				Present rates	Rates under sec. 3	
Admissions.....	1700 (a).....	1 cent for each 5 cents or major fraction.	1 cent for each 10 cents or fraction.	384	211	173
Electric-light bulbs.....	3406 (a) (10).....	20 percent.	5 percent.	27	7	20
Furs.....	2401.....	do.	10 percent.	58	32	26
Jewelry.....	2400 ²	do. ²	do.	200	121	79
Luggage:						
Retailers' excise tax.....	1651.....	do.	None.	75	---	75
Manufacturers' excise tax.....	304.....	None.	10 percent.	---	9	+9
Toilet preparations.....	2402.....	20 percent.	do.	93	49	44
Telephone, telegraph, radio, etc.:						
Local telephone.....	} 3465 (a).....	{ 15 percent.	do.	225	158	67
All other.....			{ 8 to 25 percent.	5 to 20 percent.	310	246
Transportation of persons.....	3469.....	15 percent.	10 percent.	240	168	72
Photographic apparatus.....	3406 (a) (4).....	15 to 25 percent.	do.	42	25	17
Total.....				1,654	1,026	628

¹ Amounts shown represent estimated reductions in excise-tax collections. These estimates take account of increased consumption resulting from the reduced rates. They do not reflect any increases in income taxes because of lower business deductions. If effect is given to this factor the loss may be reduced by about \$50,000,000. Larger profits which might result from increased sales could reduce the revenue loss still further.

² Except watches selling at retail for not more than \$65 and alarm clocks selling at retail for not more than \$5, the rate on both of which is 10 percent.

The war excise-tax rates were imposed along with the excess-profits tax and heavy corporation income taxes and individual income taxes. The excess-profits tax has been repealed, and individual and corporate income taxes reduced. It is believed only fair that some reduction should be made in the war excise-tax rates, which are interfering with consumer purchasing power and are increasing the cost of doing business.

