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CONFERRING UPON THE SECRETARY OF THE TREASURY SUBPENA POWERS IN CASES INVOLVING THE DENIAL OR REVOCATION OF INDUSTRIAL ALCOHOL PERMITS AND AUTHORITY TO GRANT A FURTHER EXTENSION OF TIME FOR FILING CERTAIN CORPORATION INCOME-TAX RETURNS

SEPTEMBER 5 (legislative day, SEPTEMBER 4), 1951.—Ordered to be printed

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

REPORT

[To accompany H. R. 4014]

The Committee on Finance, to whom was committed the bill (H. R. 4014) to amend section 3121 of the Internal Revenue Code report the same favorably with an amendment and recommend that the bill, as amended, do pass.

The Committee on Finance made no change in section 1 of the bill, as passed by the House, which confers upon the Secretary of the Treasury subpena powers in cases involving the denial or revocation of industrial alcohol permits. Section 2 of the bill, added by the Committee on Finance, authorizes the Secretary of the Treasury to grant a further extension of time for filing certain corporation income tax returns.

SECTION 1. CONFERRING UPON THE SECRETARY OF THE TREASURY SUBPENA POWERS IN CASES INVOLVING THE DENIAL OR REVOCATION OF INDUSTRIAL ALCOHOL PERMITS

Purpose

The purpose of this section of the bill is to confer upon the Secretary of the Treasury the power to require by subpena 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 him in cases involving beverage liquor permits under the Federal Alcohol Administration Act.

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General statement

Enactment of this legislation 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-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 subpena power in the one case and withholding it in the other.

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

SECTION 2. AUTHORIZING THE SECRETARY OF THE TREASURY TO GRANT A FURTHER EXTENSION OF TIME FOR FILING CERTAIN CORPORATION INCOME-TAX RETURNS

Purpose

This section of the bill authorizes the Secretary of the Treasury to grant, notwithstanding the 6-month limitation contained in section 53 (a) (2) of the Internal Revenue Code, extensions of time, but not beyond November 15, 1951, for filing the income-tax return of any corporation subject to the excess-profits tax for a taxable year ending after June 30, 1950, and before February 1, 1951.

General statement

Under present law the date for filing the income-tax return of a corporation subject to the excess-profits tax for a taxable year ending after June 30, 1950, and before January 1, 1951, is March 15, 1951. Under the authority granted by section 53 (a) (2) of the Internal Revenue Code the time for filing such returns may be extended for not more than 6 months; that is, not beyond September 15, 1951.

The date for filing the return of a corporation for a taxable year ending after December 31, 1950, and before February 1, 1951, is April 15, 1951; but under section 53 (a) (2) the time for filing such returns may be extended not beyond October 15, 1951. Under section 53 (a) (2), extensions of time for filing return have been granted in meritorious cases involving the excess-profits tax.

The basic excess-profits-tax regulations and the regulations relating to consolidated income and excess profits tax returns were approved some time ago, but the regulations under part II of the excess-profits-tax law (relating to the acquisition by one corporation of property from another corporation in certain tax-free transactions) appeared only recently in tentative form. Hence, in some cases, extensions beyond September 15, 1951, or October 15, 1951, will be desirable.

Your committee has selected November 15, 1951, as the cut-off date for the taxable years affected by the bill in view of the expectation that the part II regulations will be published in final form sometime before that date.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE

SEC. 3121. POWERS AND DUTIES OF PERSONS ENFORCING THIS PART.

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(d) APPLICABILITY OF OTHER LAWS—The provisions, including penalties, of sections 9 and 10 of the Federal Trade Commission Act (U. S. C., title 15, secs. 49, 50), as now or hereafter amended, shall be applicable to the jurisdiction, powers, and duties under this part of the Secretary, and to any person (whether or not a corporation) subject to the provisions of this part.

[(d)] (*e*) TRANSFER OF DUTIES.—For transfer of powers and duties of Commissioner and his agents, see section 3170.

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