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APPROVED
OCT 29 1974

THE WHITE HOUSE

ACTION

WASHINGTON

Last day - Tuesday, October 29

October 26, 1974

Posted 10/29
To Archives
10/30

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill: Extension of Copper Duty
Suspension, H.R. 12281

BACKGROUND

The suspension of duties on certain forms of copper expired on June 30 of this year. This bill would reimpose the suspension until June 30, 1975, and make it retroactive to when the suspension expired. All your advisers support the suspension due to a domestic shortage of copper.

Congress attached to this otherwise desirable bill a rider which would provide tax relief of nearly \$1.4 million for a private corporation, State Lines, Incorporated, by permitting it to treat as a deduction a damage payment made in 1959. The payment was made pursuant to a court decision based on cargo which was lost by a liquidated corporation acquired by State Lines.

ARGUMENTS FOR SIGNING

Because of the copper shortage, there is a legitimate need for the duty suspension.

There are equitable considerations which could justify the tax relief.

ARGUMENTS FOR VETO

The tax rider involves an undesirable precedent by providing special relief from the tax laws for a corporation which made a calculated business decision that turned out to be the wrong choice. Further, this involves a potential revenue loss of \$1.4 million for the government.

Congress can easily reenact the copper duty suspension as a clean bill when it returns from its recess. (You can encourage Congress to take this action and indicate your support for the duty suspension by signing the attached veto statement.)



STAFF AND AGENCY POSITIONS

The following recommend signature:

Department of the Interior
Department of Treasury (objects to the tax rider
but avoids a veto recommendation because of
the merits of the copper duty suspension)

The following recommend veto and a statement which urges Congress to
pass a clean copper duty suspension bill:

Roy Ash (see attached enrolled bill memo)
Ken Cole
Bill Timmons
Phil Areeda

DECISION - H.R. 12281

Sign (Tab A) _____

Veto _____

MR7.
(sign veto message reviewed
by Paul Theis at Tab B)

APPROVED
OCT 29 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 24 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12281 - Extension of copper duty
suspension
Sponsor - Rep. Griffiths (D) Michigan

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Continues through June 30, 1975, the suspension of duties on certain forms of copper; and contains a tax rider relating to the basis of property received in liquidations.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Does not recommend disapproval
Department of State	No objection
Department of Labor	No objection
Department of Commerce	No objection (sections 1 and 2)
Office of the Special Representative for Trade Negotiations	No objection (sections 1 and 2)
Council on International Economic Policy	No objection (sections 1 and 2)
Department of the Interior	Approval

Discussion

The enrolled bill contains the following provisions:

Extension of copper duty suspension (sections 1 and 2)

Except for a period of one year, the duty on copper ore and articles was suspended from 1966 until June 30, 1974. This

suspension reflected the shortage of domestic copper production as compared to demand except during the year July 1, 1972 to July 1, 1973 when shortages and prices were reduced to the point at which a duty suspension was not considered necessary. The generally prevailing situation of excess domestic demand over supply currently exists, and, accordingly, H.R. 12281 would continue, until June 30, 1975, the past duty-free treatment of copper ore and articles. Such treatment would be made effective as of July 1, 1974 and be extended to imports from countries enjoying most-favored-nation status.

In its report on H.R. 12281, the Senate Finance Committee notes:

"Major primary copper producers, many importers, exporters, dealers and merchants, and consumers of copper support the proposed copper duty suspension. Some U.S. firms have experienced difficulty in buying domestic copper, particularly during periods of tight supply, and must rely heavily on higher-price imports to meet demand.

"The committee has been informed that the temporary suspension of duties on certain forms of copper as provided by H.R. 12281 would not adversely affect the domestic copper mining industry. Indeed, the committee is informed that the duty suspension would be likely to benefit employment in construction, transportation and electronics industries, which are major consumers of copper."

Basis adjustment for property received in the liquidation of a subsidiary (section 3)

This section contains a provision that would allow a private corporation, State Lines, Inc., (New State) which succeeded to the business of a liquidated corporation, States Steamship Company, (Old State) to deduct, as a loss for tax purposes, a payment by New State of a judgment for cargo lost by Old State. The cost to the Federal Government of such a provision would be approximately \$1.4 million.

Tax law provides that when a corporation acquires another corporation and liquidates the acquired corporation within two years, it must capitalize the liabilities of the acquired corporation. That is, it must treat the liabilities of the acquired corporation as part of the acquiring corporation's

basis in the acquired property even though those liabilities might have been deductible for tax purposes by the acquired corporation had it continued in existence.

The facts of the instant case are as follows:

In 1952 Old State lost a ship at sea. In 1955 the U.S. District Court held that Old State's liability was limited to an amount less than the insurance of the cargo with the result that it owed nothing. On appeal, the U.S. Court of Appeals affirmed the District Court's judgment on May 31, 1957. About a year before that, on July 11, 1956, New State acquired Old State. On June 30, 1957, one month after the Circuit Court affirmation, New State liquidated Old State. On November 15, 1957, the same Circuit Court of Appeals, on a petition for rehearing, reversed itself and New State became liable for a liability of Old State. Certiorari was denied by the Supreme Court in early 1959.

Because New State had liquidated Old State less than two years after its acquisition, it lost its option under law to treat the liability as a tax loss. This resulted in financial disadvantage to the corporation in that it had to pay a liability of \$1.4 million without claiming it as a tax loss. The New State could have retained the option of treating the Old State liability as a tax loss by waiting until two years after acquisition to liquidate. Presumably, there were financial advantages to liquidation at the time they chose. New State could also have preserved its option by waiting until the period for filing a petition for rehearing or review had passed (thereby making the judgment final) before assuming that no liability existed. Apparently it either chose to take a calculated risk or it acted in error.

The specific legal implications of the enrolled bill are that it would exempt this particular liquidation from the rules respecting capitalization of liabilities of recently acquired corporations and permit New State to deduct the payment as a loss when paid in 1959.

The Treasury Department, in its views letter on H.R. 12281, states:

"In general, the Treasury Department opposes amending tariff legislation to add tax or other provisions which, like section 3, clearly involve special relief

for particular taxpayers. From the standpoint of tax policy, section 3 is also objectionable on the grounds of retroactivity..."

Treasury does not recommend disapproval of the enrolled bill, however, because:

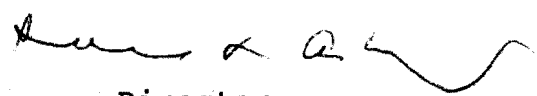
- section 3 is drafted in a manner which would not affect other taxpayers, and thus would not involve a general modification of the Internal Revenue Code; and
- the tariff amendments in sections 1 and 2 are considered to have a significant anti-inflationary effect.

Recommendation

We believe that H.R. 12281 should be vetoed on the grounds that:

- section 3 involves an undesirable precedent (at a revenue loss of \$1.4 million) which could invite others to petition the Congress for relief when they either make errors in corporate tax planning or lose on calculated risks; and
- extension of the duty suspension on copper could easily be reenacted by the Congress before the end of this session or early next session.

A proposed veto message is attached for your consideration.


 Director

Enclosures

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

OCT 25 1974

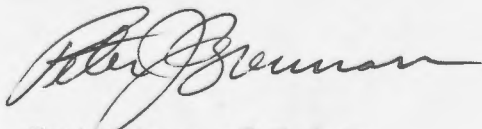
Honorable Roy Ash
Director, Office of Management
and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to the request of your office for our views on the enrolled enactment of H.R. 12281, "To continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes." This Department would have no objection to the President's approval of this measure insofar as it relates to the duty-free entry of the imports referred to above.

The Department defers to the views of the Department of the Treasury on section 3 of the enrolled enactment concerning the Federal tax consequences incidental to the distribution of property in complete liquidation of certain corporations.

Sincerely,



Secretary of Labor

OCT 25 1974

RECEIVED

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 713

Date: October 25, 1974

Time: 9:30 a.m.

FOR ACTION:

Mike Duval
~~Geoff~~
Phil Buchen
✓ Bill Timmons
Paul Theis

cc (for information): Warren Haedriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 25, 1974, Today

Time: 3:00 p.m.

SUBJECT: Enrolled Bill H.R. 12281 - Extension of copper duty suspension

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

OCT 23 1974

Dear Sir:

This is in response to your request for the views of the Treasury Department on the enrolled bill H.R. 12281.

The first section of the enrolled bill would amend the Appendix to the Tariff Schedules of the United States to extend for one year, that is until June 30, 1975, the suspension of duties on copper and copper products provided for in items 911.10, 911.11, 911.13, 911.14, 911.15 and 911.16 of the Tariff Schedules. The second section provides that such amendments shall apply to articles entered, or withdrawn from warehouse, for consumption on or after July 1, 1974. There are strong economic arguments for continuing this tariff suspension, which has generally been in effect since the mid-1960's. Domestic prices are high, copper is a major raw material import, and a lot of trade is involved (\$1 billion in 1973). The Treasury Department accordingly would recommend approval of this provision because of its significant though moderate (the tariff rate is one percent), anti-inflationary effect.

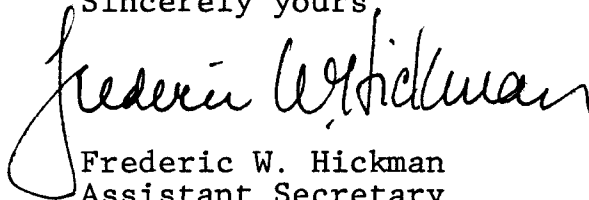
The third section of the enrolled bill contains an exception to the general tax rule that the basis of property received in a liquidation of a subsidiary within two years after purchase of its stock must be adjusted for the amount of liabilities to which the property was subject or which the parent assumed. The exception would provide that such basis adjustment is not required for property distributed prior to July 1, 1957, if the distributor and distributee did not consider the liability relevant to the value of the stock redeemed, they reasonably relied on a United States district court decision adjudicating the amount of the liability and its affirmance by the United States Court of Appeals, and the amount of such liability was not greater than would be compensated for by insurance. Section 3 would apply without regard to the fact that the Court of Appeals subsequently modified its decision after such distribution occurred. Section 3 also provides that to the extent the liability is not compensated for by insurance or otherwise, it shall be allowed as a deduction for the taxable year when paid and shall be effective in determining income tax liabilities for prior years.

In general, the Treasury Department opposes amending tariff legislation to add tax or other provisions which, like section 3, clearly involve special relief for particular taxpayers. From the standpoint of tax policy, section 3 is also objectionable on the grounds of retroactivity and because it would reverse a pending case in which the decision on the issue in question is against the taxpayer.

We appreciate the fact that the circumstances as presented to Congress -- involving a payment to satisfy a cargo damage claim -- indicate that there are equitable considerations which could warrant the relief sought. Furthermore, in view of the way in which section 3 is drafted it would not affect other taxpayers, and it does not involve a general modification of the Internal Revenue Code.

On balance, the Treasury Department would prefer to see the tariff amendments approved even though they are coupled with the tax provision described above. Accordingly, the Treasury would not recommend a veto of H.R. 12281. However, the Department does not view the tax amendment as providing a precedent for any other situation or a modification of any general tax principle, and the amendment should not be so construed.

Sincerely yours,

A handwritten signature in cursive script that reads "Frederic W. Hickman". The signature is written in dark ink and is positioned above the typed name.

Frederic W. Hickman
Assistant Secretary

Director, Office of Management and Budget
Attention: Assistant Director for
Legislative Reference, Legislative
Reference Division
Washington, D.C. 20505



DEPARTMENT OF STATE

Washington, D.C. 20520

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503

OCT 22 1974

Dear Mr. Ash:

The Secretary has asked me to reply to your communication (Office of Management and Budget Memorandum, dated October 21, signed by Mr. Rommel) requesting our views on H.R. 12281, an enrolled bill extending the suspension of import duties on certain forms of copper.

The Department of State has no objection from the standpoint of United States foreign economic relations to the enactment of the proposed legislation. We note, however, that the text of the bill also includes provisions amending the Internal Revenue Code and assume other executive agencies will comment on the effects of the proposed amendment on our tax policy. The Department of State would wish to review any negative positions to determine their impact on U.S. trade.

Cordially,

A handwritten signature in cursive script, reading "Linwood Holton".

Linwood Holton
Assistant Secretary for
Congressional Relations



**GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

OCT 22 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H. R. 12281, an enrolled enactment

"To continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes."

The Department of Commerce would have no objection to approval by the President of the provisions in Sections 1 and 2 of H. R. 12281 relating to the temporary suspension of import duties on certain forms of copper.

We have no recommendation to make concerning Section 3 which amends the Internal Revenue Code of 1954.

Enactment of this legislation would involve no increase in expenditures by this Department.

Sincerely,

Karl E. Bakke

General Counsel

OFFICE OF THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON

20506

October 21, 1974

W. L. Rommel, Esquire
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

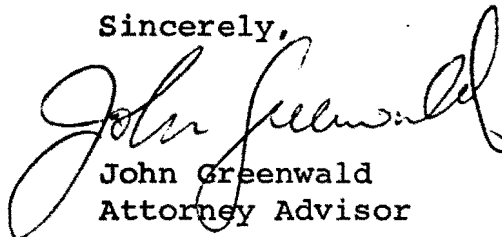
Attention: Mrs. Garziglia

Dear Mr. Rommel:

Reference is made to your request of October 17, concerning enrolled bills, H.R. 11452, H.R. 11251, H.R. 13631, H.R. 12035, H.R. 7780, H.R. 6191, H.R. 6642, H.R. 11830, and your request of October 21 concerning H.R. 12281.

This Office considers that the import duty suspensions provided by these bills provide no reason for withholding Presidential signature. We would, however, yield to the Treasury Department as to the advisability of the Administration's concurrence with the tax riders to each of these duty suspension bills.

Sincerely,



John Greenwald
Attorney Advisor

MEMORANDUM

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

October 21, 1974

FOR : MR. W. H. ROMMEL, Assistant Director for Legislative
Reference, OMB, Room 7201 - New EOB

FROM : SKIP HARTQUIST 

SUBJECT: Enrolled Bill Request - H. R. 12281

We have no objections to Sections 1 or 2 of H. R. 12281.

However, Section 3 relates to changes in the Internal Revenue Code and we defer to the Treasury Department for their views on that section.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 22 1974

Dear Mr. Ash:

This responds to your request for our views on the enrolled bill H.R. 12281, "To continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes."

We recommend that the President approve the enrolled bill.

H.R. 12281 would amend the Tariff Schedules of the United States by extending from June 30, 1974 to June 30, 1975, the suspension of duties on certain forms of copper such as copper-bearing ores, scrap, blister, and refined copper. Section 3 of the enrolled bill would permit a corporation in a limited type of situation to deduct as a loss its payment of a judgment against it as the successor to the business of a liquidated corporation, when the liquidation occurred before July 1, 1957.

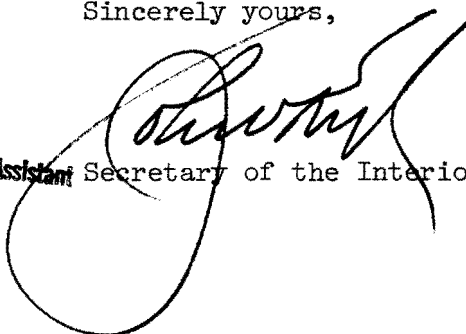
The effective rate of duty on unwrought copper products, in accord with the 1967 agreement in Geneva, has been reduced in stages from 1.7 cents per pound of contain copper in 1967 to 0.8 cent per pound effective January 1, 1972. Legislation suspending copper duties was enacted in 1966, and as a result of periodic extensions introduced in April 1972 to extend the suspension was not passed and, therefore, duties were reimposed, effective July 1, 1972. Public Law 93-77 reinstated the copper duty suspension, effective July 1, 1973 through June 30, 1974.

An examination of salient copper market trends is important for determination of a position on this trade bill. From 1964 to mid-1970, world copper producers had difficulty in keeping pace with the growing demand. However, after mid-1970, the increased production capacity of copper producers, coupled with a slowdown in the demand for copper, resulted in a rapid buildup of copper stocks and a decline in world copper prices. Beginning in mid-November 1972, world copper prices rose significantly in response to increased demand for copper and disruptions in the supply of copper from several countries. The ensuing shortage of copper relative to demand has continued to the present. The planned sale of 251,600 tons of surplus copper from the national stockpile during 1974 is equivalent to one-tenth of current annual consumption and the consensus is that this quantity will be absorbed into the market without undue disruption. A first offering of 49,873

tons in February was sold at an average bid price of 85.3 cents per pound compared with a domestic producer price of 68 cents.

Since there are no discernible factors at this time indicating significant shifts in the copper market detrimental to the copper producer, we favor extension of the copper duty suspension until June 30, 1975. It should be recognized that in the future the domestic producer may be faced with costly labor settlements, prospective large investments required to meet pollution control regulations, and periods of reduced demand which could cause an adverse, competitive position compared to the foreign producer. However, it is unlikely that these contingencies would become a serious problem during the period of time covered by the bill under consideration.

Sincerely yours,


Assistant Secretary of the Interior

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D.C. 20503

THE WHITE HOUSE

WASHINGTON

October 25, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Action Memorandum - Log No. 713
Enrolled Bill H.R. 12281 - Extension
of Copper Duty Suspension

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

Date: October 25, 1974

Time: 9:30 a.m.

FOR ACTION: Geoff Shepard
Phil Buchen
Bill Timmons
Paul Theiscc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 25, 1974, Today

Time: 3:00 p.m.

SUBJECT: Enrolled Bill H.R. 12281 - Extension of copper duty
suspension

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
change in the material, please contact the Staff Secretary
immediately.

Warren K. Hendriks
For the President

TO THE HOUSE OF REPRESENTATIVES

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

I am returning without my approval H.R. 12281, "To continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes."

This bill would amend the Tariff Schedules of the United States by extending from June 30, 1974 to June 30, 1975, the suspension of duties on certain forms of copper such as copper-bearing ores, scrap, blister, and refined copper.

Unfortunately, the Congress attached to this desirable provision an unacceptable tax rider which would provide tax relief of nearly \$1.4 million for a specific corporation by permitting it to treat as a deduction a damage payment that it made in 1959 on behalf of a corporation it had acquired three years earlier and liquidated less than two years after such acquisition.

Tax law provides that a corporation acquiring and liquidating another corporation in less than two years must add the acquired corporation's liabilities to the basis of the acquired corporation, thereby losing the option of treating those liabilities as tax losses. In this case, the corporation whose taxes would be relieved by H.R. 12281 liquidated the assets of the acquired corporation within two years of the acquisition before the liability in question had been finally determined. When, as a result of litigation, the acquiring corporation was required to pay the liability of the acquired corporation, it could not treat that payment as a loss. The corporation could have avoided this situation by waiting two years to liquidate or by waiting until the litigation respecting the liability had finally been determined.

The tax code should not be changed so as to undo the consequences of an individual's assumption of risk or error. To do so would invite others who, in retrospect, find that they have made an error in corporate tax planning to similarly petition the Congress for relief, thereby diverting attention from pressing public business.

THE WHITE HOUSE

October , 1974

Date: October 25, 1974

Time: 9:30 a.m.

FOR ACTION: Geoff Shepard
Phil Buchen
Bill Timmons
✓ Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 25, 1974, Today

Time: 3:00 p.m.

SUBJECT: Enrolled Bill H.R. 12281 - Extension of copper duty suspension

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

1974 OCT 25 AM 11 09

MWB-Research

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

We assume that the form of this message including the title and the first paragraph, will be revised to conform with the approach taken in the veto message on H.R. 11541--the National Wildlife Refuge System, dated October 22, 1974.

TO THE HOUSE OF REPRESENTATIVES

~~I am~~ ^{withholding} ~~returning~~ ^{of} ~~without~~ ^{of} ~~my approval~~ ^{of} ~~H.R. 12281,~~ ^{of} ~~to~~ ^{of} ~~continue~~ ^{of} ~~until the close of June 30, 1975,~~ ^{of} ~~the suspension of duties on~~ ^{of} ~~certain forms of copper, and for other purposes."~~ ^{of}

~~INSERT "A"~~ ^{statement}
This bill would amend the Tariff Schedules of the United States by extending from June 30, 1974 to June 30, 1975, the suspension of duties on certain forms of copper such as copper-bearing ores, scrap, blister, and refined copper.

Unfortunately, the Congress attached to this desirable provision an unacceptable tax rider which would provide tax relief of nearly \$1.4 million for a specific corporation by permitting it to treat as a deduction a damage payment that it made in 1959 on behalf of a corporation it had acquired three years earlier and liquidated less than two years after such acquisition.

Tax law provides that a corporation acquiring and liquidating another corporation in less than two years must add the acquired corporation's liabilities to the basis of the acquired corporation, thereby losing the option of treating those liabilities as tax losses. In this case, the corporation whose taxes would be relieved by H.R. 12281 liquidated the assets of the acquired corporation within two years of the acquisition before the liability in question had been finally determined. When, as a result of litigation, the acquiring corporation was required to pay the liability of the acquired corporation, it could not treat that payment as a loss. The corporation could have avoided this situation by waiting two years to liquidate or by waiting until the litigation respecting the liability had finally been determined.

Remo
to
President
(attached
form)

The tax code should not be changed so as to undo the consequences of an individual's assumption of risk or error. To do so would invite others who, in retrospect, find that they have made an error in corporate tax planning to similarly petition the Congress for relief, thereby diverting attention from pressing public business.

THE WHITE HOUSE

October , 1974

FOR IMMEDIATE RELEASE

OCTOBER 22, 1974

Office of the White House Press Secretary
(Cleveland, Ohio)

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

~~I am withholding my approval from H.R. 11541, a bill which would amend the National Wildlife Refuge System Administration Act of 1966. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.~~

~~This bill would amend section 4(d) of the Act of October 15, 1966, by adding a new standard in determining the authority of the Secretary of the Interior to allow certain rights-of-way across lands of the National Wildlife Refuge System. This new standard would require the Secretary to review all reasonable alternatives to the use of such area, and then make a determination that the proposed right-of-way use is the most feasible and prudent alternative for such purpose.~~

If we are to have adequate energy-transmission and communication facilities, we must have rights-of-way on which to locate them. Of course, when such lands have a special status as wildlife refuges or national parks, we must fully protect this status when portions of these areas are sought for use as rights-of-way

Insert
in 1st
¶
according to
Dick Gilbert's
office
(COMB, ext 4710)
(also Rommel's
office)

Date: October 25, 1974

Time: 9:30 a.m.

FOR ACTION:

~~Michael Dusal~~
~~Groff Shepard~~
✓ Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: October 25, 1974, Today

Time: 3:00 p.m.

SUBJECT: Enrolled Bill H.R. 12281 - Extension of copper duty suspension

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*Concur
in recommendation
to veto
D.C.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

HR 12281

Veto?

TO THE HOUSE OF REPRESENTATIVES:

I am withholding my approval of H.R. 12281, a bill which would "continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes." I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would amend the Tariff Schedules of the United States by extending from June 30, 1974 to June 30, 1975, the suspension of duties on certain forms of copper such as copper-bearing ores, scrap, blister, and refined copper.

Unfortunately, the Congress attached to this desirable provision an unacceptable tax rider which would provide tax relief of nearly \$1.4 million for a specific corporation by permitting it to treat as a deduction a damage payment that it made in 1959 on behalf of a corporation it had acquired three years earlier and liquidated less than two years after such acquisition.

Tax law provides that a corporation acquiring and liquidating another corporation in less than two years must add the acquired corporation's liabilities to the basis of the acquired corporation, thereby losing the option of treating those liabilities as tax losses. In this case, the corporation whose taxes would be relieved by H.R. 12281 liquidated the assets of the acquired corporation within two years of the acquisition before the liability in question had been finally determined. When, as a result of litigation, the acquiring corporation was required to pay the liability of the acquired

corporation, it could not treat that payment as a loss. The corporation could have avoided this situation by waiting two years to liquidate or by waiting until the litigation respecting the liability had finally been determined.

The tax code should not be changed so as to undo the consequences of an individual's assumption of risk or error. To do so would invite others who, in retrospect, find that they have made an error in corporate tax planning to similarly petition the Congress for relief, thereby diverting attention from pressing public business.

Arnold R. Ford

THE WHITE HOUSE,

To
Harris Handwritten
10-24-74
7:30 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 24 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12281 - Extension of copper duty
suspension
Sponsor - Rep. Griffiths (D) Michigan

Last Day for Action

October 29, 1974 - Tuesday

Purpose

Continues through June 30, 1975, the suspension of duties on certain forms of copper; and contains a tax rider relating to the basis of property received in liquidations.

Agency Recommendations

Office of Management and Budget	Disapproval (veto message attached)
Department of the Treasury	Does not recommend disapproval
Department of State	No objection
Department of Labor	No objection
Department of Commerce	No objection (sections 1 and 2)
Office of the Special Representative for Trade Negotiations	No objection (sections 1 and 2)
Council on International Economic Policy	No objection (sections 1 and 2)
Department of the Interior	Approval

Discussion

The enrolled bill contains the following provisions:

Extension of copper duty suspension (sections 1 and 2)

Except for a period of one year, the duty on copper ore and articles was suspended from 1966 until June 30, 1974. This

SUSPENSION OF DUTIES ON CERTAIN FORMS OF
COPPER

AUGUST 1, 1974.—Ordered to be printed

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

REPORT

[To accompany H.R. 12281]

The Committee on Finance, to which was referred the bill (H.R. 12281) to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

House bill.—The House bill would continue until July 1975 the suspension of duties on certain forms of copper, with a "peril point" level of \$0.51 per pound. The committee bill does not modify the House bill, but includes an amendment unrelated to the subject matter of the House bill.

Committee amendment.—The committee amendment permits a corporation in a limited type of situation to deduct as a loss, its payment of a judgment against it as the successor to the business of a liquidated corporation, when the liquidation occurred before July 1, 1957. The amendment is intended to correct an inequity arising from the requirement of present law that the assumption of the liabilities of a corporation liquidated within two years after the purchase of its stock be capitalized, and as a result no deduction would be available when the accrual takes place. At the time of liquidation, in the case presented to the committee, the liability had been determined by the decision of a Federal Court of Appeals and then, after the liquidation had been completed, that same court reversed itself. In this case therefore the loss, which would have been deductible by the predecessor corporation, was no longer deductible but resulted instead in a basis adjustment. That disallowance has produced an inequitable result, in the opinion of the committee, because the liquidation of the former

corporation was carried out in reliance on the earlier decision of the Court of Appeals, and the court's reversal of its own holding was not foreseeable.

II. GENERAL STATEMENT

A. DUTY SUSPENSION ON CERTAIN FORMS OF COPPER

Legislation suspending the duty of imports of unwrought copper (except nickel copper), copper waste and scrap, copper articles imported to be used in remanufacture by smelting, and on the copper content of certain copper-bearing ores and materials was enacted in 1966, and, as a result of periodic extensions, was continued through June 30, 1972. Legislation introduced in April 1972, to continue the copper duty suspension was not passed and, therefore, duties were reimposed, effective July 1, 1972. Enactment of H.R. 2323 (Public Law 93-77) reinstated the copper duty suspension, effective for a period from July 1, 1973, until June 30, 1974.

The rate of duty which is presently suspended under Public Law 93-77, and which would remain suspended to June 30, 1975, under H.R. 12281, is 0.8 cents per pound on the copper content of the articles imported from countries accorded most-favored-nation treatment. Imports of copper from most Communist countries would continue to be dutiable at existing rates of duty.

The previous suspension of duties on copper, beginning in 1966, was enacted to relieve the domestic supply shortage and for national defense purposes. Market trends indicate that following the period from 1964 until mid-1970, increased copper production capacity, together with a decline in demand, resulted in a rapid worldwide buildup of copper stocks and lower world copper prices. However, world copper prices rose significantly during the fourth quarter of 1972 due to increased demand and disruptions in the supply of copper from several countries. The resulting shortage of copper relative to demand has continued to the present, with consumption plus exports exceeding production plus imports in each successive calendar quarter since mid-1972. As indicated in a recent report by the Bureau of Domestic Commerce, domestic copper production is not expected to increase measurably during 1974.

Because of this recurrent shortage in domestic copper supply, the Congress enacted and the President signed Public Law 93-214 on December 28, 1973, authorizing the sale of 251,600 tons of surplus copper from the national stockpile. It is anticipated that the sale of this surplus copper, which is equivalent to one-tenth of current annual consumption, will be absorbed without disruption to the market. As reported by the Department of the Interior, a first offering on 49,873 tons from the copper stockpile in February 1974, was sold at an average bid price of 85.3 cents per pound compared with a domestic producer price of 68 cents per pound.

Copper imports for 1973 totalled 402,000 tons valued at \$493 million, with the principal supplying countries being Canada, Peru, Chile, Mexico, and the Republic of South Africa. Net imports during the period 1967-1973 accounted for approximately 7 to 8 percent of domestic copper supply.

Major primary copper producers, many importers, exporters, dealers and merchants, and consumers of copper support the proposed copper duty suspension. Some U.S. firms have experienced difficulty in buying domestic copper, particularly during periods of tight supply, and must rely heavily on higher-price imports to meet demand. The committee has been informed that the temporary suspension of duties on certain forms of copper as provided by H.R. 12281 would not adversely affect the domestic copper mining industry. Indeed, the committee is informed that the duty suspension would be likely to benefit employment in construction, transportation and electronics industries, which are major consumers of copper.

It is to be noted that the "peril point," under which the suspension of duty would no longer be applicable when the price of copper is below 51 cents per pound, would be continued.

B. BASIS ADJUSTMENT FOR PROPERTY RECEIVED IN THE LIQUIDATION OF A SUBSIDIARY PRIOR TO JULY 1, 1957

Under existing law, when the stock of a corporation is acquired by purchase and the acquired corporation is liquidated within two years, no gain or loss is recognized on the liquidation (sec. 332) and the basis of the acquired corporation's assets is taken to be the same as the acquiring corporation's basis in the purchased stock of the liquidated corporation (sec. 334(b)(2)). In the liquidation, liabilities of the liquidated corporation assumed by the acquiring corporation are capitalized and added to the acquiring corporation's basis for the assets, even though the liabilities might have been deductible by the liquidated corporation had it still been in existence. Capitalization of the liabilities is required even though the assumed liabilities may have been contingent at the time of liquidation.

Application of the rule has resulted in inequitable hardship in the case of the acquisition of the stock, and subsequent liquidation, of the States Steamship Company ("Old States"). To understand the inequity which the committee's provision is intended to correct, a brief summary of the facts in this case is necessary.

On January 9, 1952, a steamship owned by Old States was lost at sea with a cargo of wheat insured by the U.S. Government. When the United States sued to recover the value of the cargo from Old States, Old States took the position that its liability was limited to an amount less than the insurance on the cargo, with the result that they owed nothing. On November 17, 1955, the U.S. District Court (D. Ore.) held that Old States' liability was so limited.

In early 1956, a series of transactions took place, which resulted in the acquisition of all of the stock of Old States on July 11 by a newly formed corporation, State Lines, Inc. ("New States"). While Old States was still a wholly owned subsidiary of New States, the opinion of the District Court was affirmed by the Court of Appeals on May 31, 1957 (259 F. 2d 458 (9th Cir.)). In reliance on that decision, New States liquidated Old States on June 30, 1957, thereby acquiring all of its assets and assuming all of its liabilities.¹ The liquidation took place under the assumption that the Court of Appeals' decision on the liability question would be the final outcome of the case, since that

¹ Assumption of liabilities was required by State law.

decision affirmed the lower court's ultimate findings of fact as to Old States' liability.

However, on November 15, 1957, the Court of Appeals, on a petition for rehearing of the liability case, reversed itself and held that Old States was liable for the full amount of the Government's claim (259 F. 2d 463). After certiorari was denied by the Supreme Court in early 1959, New States paid the Government \$1,455,394 in full settlement of the liability case. The payment was deducted as a loss on the consolidated returns of New States and its affiliated corporations in 1959, and the deduction resulted in loss carrybacks to 1957 and 1958.

The Internal Revenue Service disallowed the deduction on the ground that it was a liability of Old States which, under the provisions of section 334(b) (2), had to be capitalized and added to the basis of the assets acquired by New States and therefore was not deductible. In subsequent litigation, the Tax Court (29 T.C.M. 133 (1970)) held the settlement deductible by New States on the ground that, in causing Old States to be liquidated, it had relied on the first decision of the Court of Appeals in the liability case. On appeal, the Court of Appeals reversed the Tax Court holding and held that the settlement had to be capitalized because of section 334(b) (2) Pacific Transportation Co. & Subsidiaries v. Commissioner, 483 F. 2d 209 (9th Cir. 1973).

The Court of Appeals in the latter case made clear its belief that its holding produced an inequitable result because of New States' reliance upon the court's decision in proceeding with the liquidation.² Had it been aware of the unforeseen possibility that the Court of Appeals would reverse itself, New States probably would have waited until final determination before completing the liquidation, thereby keeping Old States in existence and possibly permitting it to deduct the amount of the liability.³ In that case, because a consolidated return would have been filed for the entire group, whether or not the liquidation occurred, the tax result would have been the same as allowing New States to take the deduction in 1959, when the liability was finally determined.

Moreover, the reversal by the Court of Appeals of its own decision was unusual, particularly in this case where the issue involved the review of inferences drawn by the trial judge from his findings of fact. In such cases, a court rarely reconsiders its factual conclusions. The element of unforeseeability especially makes denial of the deduction hard to justify since New States clearly acted in reliance on the earlier decision.

The committee's provision permits New States to deduct the amount paid in settlement of the liability, instead of using it as a basis adjustment on the liquidation of Old States. The deduction is to be taken into account in determining the loss carrybacks of members of the affiliated group to earlier years.

² One judge, concurring in the result, observed: "It is with great hesitation and considerable reluctance that I join in the foregoing opinion. If logical support could be found in the adjudicated authorities, I would introduce into tax law, under circumstances such as these, a principle of equity which would not permit the revenue gathering branch of our government to take advantage of a taxpayer's well intentioned reliance on the action of another branch." 483 F. 2d 209, 215.

³ Even that result may not have been possible because liquidation must take place within two years for section 334(b) (2) to apply and the liability case was not finally resolved until mid-1959, about three years after New States had purchased the stock.

It is estimated that enactment of this provision will decrease corporation income tax liability by about \$1.4 million.

III. COSTS OF CARRYING OUT THE BILL AND EFFECT ON THE REVENUES OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs to be incurred in carrying out this bill and the effect on the revenues of the bill. The committee estimates that the extension of the existing suspension of duties on certain forms of copper provided by the bill will not result in any additional revenue loss or administrative costs.

It is estimated by the committee that the amendment permitting a deduction for a liability assumed in connection with the liquidation of a subsidiary prior to July 1, 1957, will decrease corporation income tax liability by about \$1.4 million.

IV. VOTE OF COMMITTEE ON REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act, as amended, the following statement is made relative to the vote of the committee on reporting the bill. This bill was ordered favorably reported by the committee without a roll call vote and without objection.

V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

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EXTENDING UNTIL JULY 1, 1975, OF THE SUSPENSION OF
DUTIES ON CERTAIN FORMS OF COPPER

MAY 8, 1974.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mrs. GRIFFITHS, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 12281]

The Committee on Ways and Means, to whom was referred the bill (H.R. 12281) to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 12281, as reported, is to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper.

GENERAL STATEMENT

Legislation suspending the duty of imports of unwrought copper (except nickel copper), copper waste and scrap, copper articles imported to be used in remanufacture by smelting, and on the copper content of certain copper-bearing ores and materials was enacted in 1966, and, as a result of periodic extensions, was continued through June 30, 1972. Legislation introduced in April, 1972, to continue the copper duty suspension was not passed and, therefore, duties were reimposed, effective July 1, 1972. Enactment of H.R. 2323 (Public Law 93-77) reinstated the copper duty suspension, effective for a period from July 1, 1973, until June 30, 1974.

The rate of duty which is presently suspended under Public Law 93-77, and which would remain suspended to June 30, 1975, under H.R. 12281, is 0.8 cents per pound on the copper content of the articles imported from countries accorded most-favored-nation treat-

ment. Imports of copper from most Communist countries would continue to be dutiable at existing rates of duty.

The previous suspension of duties on copper, beginning in 1966, was enacted to relieve the domestic supply shortage and for national defense purposes. Market trends indicate that following the period from 1964 until mid-1970, increased copper production capacity, together with a decline in demand, resulted in a rapid worldwide buildup of copper stocks and lower world copper prices. However, world copper prices rose significantly during the fourth quarter of 1972 due to increased demand and disruptions in the supply of copper from several countries. The resulting shortage of copper relative to demand has continued to the present, with consumption plus exports exceeding production plus imports in each successive calendar quarter since mid-1972. As indicated in a recent report by the Bureau of Domestic Commerce, domestic copper production is not expected to increase measurably during 1974.

Because of this recurrent shortage in domestic copper supply, the Congress enacted and the President signed Public Law 93-214 on December 28, 1973, authorizing the sale of 251,600 tons of surplus copper from the national stockpile. It is anticipated that the sale of this surplus copper, which is equivalent to one-tenth of current annual consumption, will be absorbed without disruption to the market. As reported by the Department of the Interior, a first offering on 49,873 tons from the copper stockpile in February, 1974, was sold at an average bid price of 85.3 cents per pound compared with a domestic producer price of 68 cents per pound.

Copper imports for 1973 totalled 402,000 tons valued at \$493 million, with the principal supplying countries being Canada, Peru, Chile, Mexico, and the Republic of South Africa. Net imports during the period 1967-1973 accounted for approximately 7 to 8 percent of domestic copper supply.

Major primary copper producers, many importers, exporters, dealers and merchants, and consumers of copper support the proposed copper duty suspension. Some U.S. firms have experienced difficulty in buying domestic copper, particularly during periods of tight supply, and must rely heavily on higher-price imports to meet demand.

Your committee has been informed that the temporary suspension of duties on certain forms of copper as provided by H.R. 12281 would not adversely affect the domestic copper mining industry. Indeed, the Committee is informed that the duty suspension would be likely to benefit employment in construction, transportation and electronics industries, which are major consumers of copper.

It is to be noted that the "peril point," under which the suspension of duty would no longer be applicable when the price of copper is below 51 cents per pound, would be continued.

EFFECT ON THE REVENUES OF THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect on the revenues of this bill. Your committee estimates that the provisions of this bill will result in no additional revenue loss and will result in no administrative costs.

In compliance with clause 27(b) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by the committee in reporting the bill. The bill was unanimously ordered favorably reported by the committee.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TARIFF SCHEDULES OF THE UNITED STATES

* * * * *					
APPENDIX TO THE TARIFF SCHEDULES					
Item	Articles	Rates of duty			Effective period
		1	2		
	PART 1.—TEMPORARY LEGISLATION				
	Subpart B.—Temporary Provisions Amending the Tariff Schedules				
		Rates of duty			Effective period
		1-a	1-b	2	
	Metal waste and scrap (provided for in part 2, schedule 6), except lead, zinc, and tungsten waste and scrap; unwrought metal (except copper, lead, zinc, and tungsten) in the form of pigs, ingots, or billets (a) which are defective or damaged, or have been produced from melted down metal waste and scrap for convenience in handling and transportation without sweetening, alloying, fluxing, or deliberate purifying, and (b) which cannot be commercially used without remanufacture; relaying or rerolling rails; and articles of metal (except articles of lead, of zinc, or of tungsten, and not including metal-bearing materials provided for in schedule 4 or in part 1 of schedule 6 and not including unwrought metal provided for in part 2 of schedule 6) to be used in remanufacture by melting:				
911.10	Copper waste and scrap.....	Free.....	No change.	No change.	On or before [6/30/74] 6/30/76.
911.11	Articles of copper.....	Free.....	No change.	No change.	On or before [6/30/74] 6/30/76.
911.12	Other.....	Free.....	Free.....	Free.....	On or before 6/30/75.

Item	Articles	Rates of duty		Effective period	
		1	2		
911.13	Copper bearing ores and materials (provided for in items 602.30 or 603.50, part 1, schedule 6).	Free of duty imposed on copper content under items 602.30 or 603.50.	No change....	On or before [6/30/74] 6/30/75	
		Rates of duty			Effective period
		1-a	1-b	2	
911.14	Cement copper and copper precipitates (provided for in item 612.02, part 2C, schedule 6).	Free....	No change.	No change.	On or before [6/30/74] 6/30/75
911.15	Black copper, blister copper, anode copper (provided for in item 612.03, part 2C, schedule 6).	Free....	No change.	No change.	On or before [6/30/74] 6/30/75
911.16	Other unwrought copper (provided for in item 612.06, part 2C, schedule 6).	Free....	No change.	No change.	On or before [6/30/74] 6/30/75

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EXTENDING UNTIL JULY 1, 1975, THE SUSPENSION OF
DUTIES ON CERTAIN FORMS OF COPPER

OCTOBER 1, 1974.—Ordered to be printed

Mr. MILLS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 12281]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12281) to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The committee of conference report in disagreement the amendment of the Senate to the text of the bill and the amendment of the Senate to the title of the bill.

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
H. T. SCHNEEBELI,
HAROLD R. COLLIER,

Managers on the Part of the House.

RUSSELL LONG,
HERMAN E. TALMADGE,
WALLACE F. BENNETT,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE
COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12281) to continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment adds a new section 3 to the bill to permit a corporation in a limited type of situation to deduct as a loss its payment of a judgment against it as the successor to the business of a liquidated corporation, when the liquidation occurred before July 1, 1957. The amendment permits a taxpayer to deduct a loss occasioned by a contingent liability created as the result of a reversal of a U.S. Court of Appeals decision which was not foreseeable. The amendment is intended to correct an inequity under existing law so that taxpayers who have acquired the assets of a liquidated corporation may deduct the unanticipated loss in the year incurred in the same fashion as the liquidated corporation would have been permitted to had it remained in existence.

This amendment is reported in technical disagreement. The managers on the part of the House will offer a motion that the House recede from its disagreement to the Senate amendment to the text of the bill, and agree to the same.

The managers on the part of the House will offer a motion that the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
H. T. SCHNEEBELI,
HAROLD R. COLLIER,

Managers on the Part of the House.

RUSSELL LONG,
HERMAN E. TALMADGE,
WALLACE F. BENNETT,

Managers on the Part of the Senate.

(3)



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To continue until the close of June 30, 1975, the suspension of duties on certain forms of copper, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That items 911.10 (relating to copper waste and scrap), 911.11 (relating to articles of copper), 911.13 (relating to copper bearing ores and materials), 911.14 (relating to cement copper and copper precipitates), 911.15 (relating to black copper, blister copper, and anode copper), and 911.16 (relating to other unwrought copper) of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/74" and inserting in lieu thereof "6/30/75".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after July 1, 1974.

SEC. 3. (a) Notwithstanding the provisions of section 334 of the Internal Revenue Code of 1954 (relating to basis of property received in liquidations), no adjustment to the basis of any property distributed in complete liquidation of a corporation prior to July 1, 1957, shall be made for any liability if—

(1) the distributor and distributee did not consider the liability relevant to the value of the stock with respect to which the distribution was made,

(2) the distributor and distributee reasonably relied upon a decision of a United States district court specifically adjudicating the amount of the liability and its affirmance by the appropriate United States court of appeals, and

(3) the amount of the liability so adjudicated was not greater than would be compensated for by insurance.

The provisions of this section apply without regard to whether such decision was subsequently reversed or modified by that United States court of appeals following distribution of such property in complete liquidation.

(b) To the extent that the liability described in subsection (a) is not compensated for by insurance or otherwise, the amount thereof shall be allowed as a deduction under the appropriate provision of the Internal Revenue Code of 1954 for the taxable year in which payment thereof was made and shall be effective in determining income tax liabilities of all taxable years prior thereto.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

October 17, 1974

Dear Mr. Director:

The following bills were received at the White House on October 17th:

S.J. Res. 236 ✓	S. 2840 ✓	H.R. 7768 ✓	H.R. 14225 ✓
S.J. Res. 250 ✓	S. 3007 ✓	H.R. 7780 ✓	H.R. 14597 ✓
S.J. Res. 251 ✓	S. 3234 ✓	H.R. 11221 ✓	H.R. 15148 ✓
S. 355 ✓	S. 3473 ✓	H.R. 11251 ✓	H.R. 15427 ✓
S. 605 ✓	S. 3698 ✓	H.R. 11452 ✓	H.R. 15540 ✓
S. 628 ✓	S. 3792 ✓	H.R. 11830 ✓	H.R. 15643 ✓
S. 1411 ✓	S. 3838 ✓	H.R. 12035 ✓	H.R. 16857 ✓
S. 1412 ✓	S. 3979 ✓	H.R. 12281 ✓	H.R. 17027 ✓
S. 1769 ✓	H.R. 6624 ✓	H.R. 13561 ✓	
S. 2348 ✓	H.R. 6642 ✓	H.R. 13631 ✓	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.