

The original documents are located in Box 13, folder “1974/11/26 HR6191 Duty Suspension on Certain Forms of Zinc (vetoed)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE

ACTION

WASHINGTON

November 25, 1974

Last day:
to sign - November 29
to veto - November 26
(before recess)

MEMORANDUM FOR

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill: Duty Suspension on Certain
Forms of Zinc, H.R. 6191

BACKGROUND

This bill suspends until June, 1977, the import duties on zinc ore from most-favored-nations in order to reverse the increasing dependence on imports of zinc metal as distinguished from ores and concentrates which are processed by our smelters. The Administration has supported this duty suspension provision.

Added to H.R. 6191 are two sections which give preferential tax treatment to some of the victims of major flood and hurricane disasters which occurred in 1972. Certain taxpayers who deducted disaster losses from previous income tax returns would be given an exception from normal tax rules and therefore not have to treat certain damage awards and disaster loan forgiveness as ordinary income. In essence, the Congress has used the tax system to provide special relief to certain disaster victims.

ARGUMENTS FOR SIGNING

All your advisers support the suspension of import duties on zinc. The tax provisions, while bad law, are essentially for humanitarian purposes. The bill has the sponsorship and strong support of Representative Schneebeli, ranking minority member of the Ways and Means Committee, and Senator Hugh Scott. Treasury and Bill Timmons conclude that our need for their support on critical tax and trade legislation outweighs the objectionable provisions of this bill.

ARGUMENTS FOR VETO

The tax provisions give windfall benefits to certain selected classes of taxpayers in a retroactive fashion, and if it becomes law, this will build pressure to be extended to other groups. It is a very inefficient way to provide disaster benefits and will result in a revenue loss of about \$130 million. It is contrary to the thrust of your WIN program.



STAFF AND AGENCY POSITIONS

The following recommend signature:

Ken Cole
Bill Timmons
Interior
State
Treasury

The following recommend veto and issuance of a statement in which you support the zinc provisions and request a clean bill:

Roy Ash
Alan Greenspan
Bill Seidman
HUD

Phil Areeda believes the tax provisions are bad law but defers to Treasury on the "political" determination.

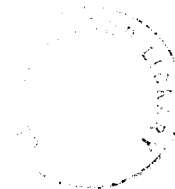
DECISION - H.R. 6191:

Sign (Tab A) _____ Veto _____
(Sign veto message at Tab B approved by Paul Theis)

If you decide to sign, Areeda, Ash, Cole, Seidman and Timmons recommend against any statement.

Agree, no signing statement _____

Disagree, issue signing statement
objecting, in principle, to the
tax riders _____



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LIBRARY

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DECISION - H.R. 6191:

Sign (Tab A) _____ Veto _____
(Sign veto message at Tab B approved by Paul Theis)

If you decide to sign, Areeda, Ash, Cole, Seidman and Timmons recommend against any statement.

Agree, no signing statement _____

Disagree, issue signing statement
objecting, in principle, to the
tax riders _____



VETISED
11/26/74
Delivered to
the House 4:15 P.M.



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

NOV 22 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6191 - Duty suspension on certain forms of zinc
Sponsors - Rep. Ullman (D) Oregon and 16 others

Last Day for Action

November 29, 1974 - Friday

Purpose

Suspends until June 30, 1977 the duty on certain forms of zinc; and contains a tax rider regarding the treatment of compensation received for certain disaster losses.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message attached)
Department of Housing and Urban Development	Concurs in veto recommendation (Informally)
Council of Economic Advisers	Disapproval
Department of the Treasury	Approval
Department of Commerce	Approval (sections 1 and 2)
Department of the Interior	Approval (sections 1 and 2)
Office of the Special Representative for Trade Negotiations	No objection (sections 1 and 2)
Department of Labor	No objection (sections 1 and 2)
Department of State	No objection (sections 1 and 2)
Small Business Administration	Defers to Treasury
Department of Agriculture	Defers to other agencies



Discussion

The enrolled bill contains the following provisions:

Duty suspension on certain forms of zinc (sections 1 and 2)

Although the use of zinc metal in the U.S. is growing, reaching 1.5 million tons in 1973, domestic production has dropped sharply in recent years -- from 1.1 million tons in 1969 to about 700,000 tons in 1973. Major reasons for the decline in production are the obsolescence of domestic smelters and the high cost of imported zinc ore -- supplies of domestic ore are inadequate to meet the need.

To assist existing U.S. smelters as well as new, technologically-advanced smelters projected for construction in the near future, H.R. 6191 would suspend, until June 30, 1977, the present duties -- ranging from 6 to 20 percent ad valorem -- on zinc ores and concentrates and zinc-bearing materials. This duty-free treatment, which would be extended only to imports from countries enjoying most-favored-nation status, would put U.S. smelters on a similar economic footing with smelters in most other countries which have produced substantial quantities of zinc metal using imported duty-free zinc ore.

In its report on the bill, the Senate Finance Committee states:

"...enactment of H.R. 6191 will assist in maintaining and improving the position of U.S. smelters vis-a-vis foreign smelters, thereby reversing the increasing dependence of this country on imports of zinc metal as distinguished from ores and concentrates... The committee is assured that suspension of the duty for the temporary period in this bill will not adversely affect domestic zinc mines..."

Tax treatment of certain disaster losses (section 3)

This section is designed to benefit certain taxpayers who suffered property losses as a result of major flood and hurricane disasters which occurred in 1972.

Under present tax law (section 165 of the Internal Revenue Code), taxpayers are generally permitted to deduct casualty losses which they sustain and which are not compensated for by insurance, public relief, loan forgiveness, or other means. In the case of losses caused by natural disasters, the taxpayer has the option of deducting the loss in the taxable year in which the loss occurred



or in the taxable year immediately prior to it. Any anticipated or realized tort compensation, insurance payments, loan forgiveness, or other compensation for a disaster loss must be offset against the amount of the loss in determining the allowable deduction, whether or not such compensation has actually been received by the time the deduction is claimed. If the compensation is not offset against the loss deduction, it must be included in the taxpayer's gross income in the year received.

Section 3 would provide two exceptions to the present law:

(1) For the Buffalo Creek disaster -- One exception is intended primarily to aid individuals affected by the bursting of the Buffalo Creek dam in West Virginia, in February 1972. After receiving tax refunds (or reduced tax liabilities) pursuant to casualty loss deductions claimed on 1972 or amended 1971 tax returns, the taxpayers concerned, mostly low-income individuals, were awarded tort damages which reduced or eliminated the amount of uncompensated losses for which they could properly have claimed deductions. Under the applicable tax rules, this unanticipated compensation should have been included in 1973 income since it was not taken into account in the loss claims previously filed.

Sections 3(a), (b), and (c) would allow a taxpayer who deducted losses attributable to a 1972 disaster and subsequently received tort compensation for those losses to retain the benefits of any tax reductions he may have received, and also to exclude from gross income for tax purposes the amount of the tort compensation received up to \$5,000. The following qualifications would apply:

- the basis of the taxpayer's damaged or replacement property would have to be reduced by the amount of excluded compensation
- the maximum exclusion would be \$5,000
- for taxpayers with adjusted gross incomes over \$15,000, the maximum excludable amount would be reduced by the ratio of \$15,000 to adjusted gross income
- any unexcludable compensation would be included in income in equal installments over a five-year period



The effect of H.R. 6191, therefore, would be to permit those affected by the Buffalo Creek disaster to retain a loss deduction for which they were compensated -- a treatment presently afforded to no other taxpayers.

The estimated revenue loss from this amendment would be small.

(2) For natural disasters occurring in 1972 -- Section 3(d) was added to the bill by the conference committee. It would allow individuals who received loans from the Small Business Administration (SBA) or Farmers Home Administration (FmHA) for losses arising from Presidentially declared 1972 disasters, principally Hurricane Agnes and the Rapid City disaster, to omit the cancelled or forgiven portions of such loans in calculating both their gross income and the amount of uncompensated property losses. The maximum amount of a disaster loss which could be cancelled under applicable Federal law (Public Law 92-385, the "Agnes Recovery Act") was \$5,000 per individual.

This amendment, like the Buffalo Creek one, limits the tax benefit by reducing the excludable income proportionately by the ratio of \$15,000 to the taxpayer's adjusted gross income. Thus, if a taxpayer's income in the year of the loss is less than \$15,000, the entire amount forgiven would be disregarded for income tax purposes. For taxpayers with incomes of over \$15,000, the percentage of the forgiven loan which could be excluded from gross income would equal the percentage that \$15,000 is of total adjusted gross income.

The scale of disaster loan forgiveness in 1972 is indicated by the following:

	<u>Loan Forgiveness (\$M)</u>		
	<u>SBA</u>	<u>FmHA</u>	<u>Total</u>
Actual forgiveness under P.L. 92-385 (1/1/72-4/10/73)	784	98	882
Estimated forgiveness to individuals from disasters occurring in 1972	588	88	676

Treasury estimates that the revenue loss would be about \$130 million from enactment of section 3(d) of H.R. 6191. (An additional \$60 to \$75 million in tax revenue losses would occur if 1972 disasters declared by the Secretary of Agriculture also were eligible. Treasury and OMB believe, however, that the bill's language does not apply to such disasters.)



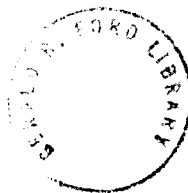
In its views letter on the enrolled bill, Treasury recognizes the undesirable features of the tax riders:

"We believe that section three of this bill is wrong in principle from a tax policy standpoint. It allows a casualty loss deduction where the taxpayer has not sustained any real out-of-pocket loss. This violates the general rule that taxpayers may not deduct personal expenditures and, unlike true casualty losses, is not justified as reflecting an impairment of the ability to pay taxes.

"The provision must, thus, be examined as a disaster relief grant program to be effected through the tax system. But because of the progressive rate structure, the tax system is not a good mechanism for providing disaster relief. That is, the value of an income exclusion (or an increased casualty loss) is greater for high-income taxpayers than for low-income taxpayers (or persons with income too low to have tax liability). The bill attempts to overcome this difficulty through a partial phase-out of benefits for higher-income taxpayers. But we believe it would have been better, if it is desired to afford additional relief for disaster losses, to increase the amount of disaster grants (as was done in 1972) and to limit such grants to low-income persons (as was done in the Disaster Relief Act of 1974).

"We are also concerned that the bill would entail a substantial revenue loss--about \$130 million. (The Buffalo Creek provisions would have only a small revenue effect.) Moreover, the provision is wholly retroactive and is discriminatory, applying only to losses occurring in 1972 as a result of Presidentially declared major disasters. In cases such as this, we are always concerned about the creation of a precedent that may later be extended to other taxpayers who may appear to be similarly situated and, thus, to have an equitable claim to similar treatment."

Despite these objections, however, Treasury recommends approval on other grounds. It points out that the bill is strongly supported by the ranking minority member of the Ways and Means Committee,



whose support the Administration needs on its own tax proposals and by the Senate Minority Leader. It also points out that approval of the bill extending the trona ore depletion allowance (P.L. 93-499) would be compared unfavorably with disapproval of this bill:

"Approval of that bill for the benefit of a few large mining companies combined with the veto of a bill providing hardship relief for a number of small taxpayers would put Treasury in a very difficult position in negotiating with the Committee on the other tax provisions before them. Logically, there is no connection between the two, but logic is not always controlling. The political reality is that the two will be viewed together and that a veto of this bill will considerably complicate the efforts of the Administration to secure the larger and more important tax legislation that we are seeking."

In its views letter, HUD, which has primary responsibility for disaster relief policy, opposes section 3 of the bill and states "...we do not consider that the benefits which would be provided by those sections are in any way justified by the objectives of the disaster assistance authorities administered by this Department. Moreover, we would like to reemphasize our belief that enactment of this legislation, from the standpoint of disaster assistance recipients, would seemingly justify prompt extension of similar benefits to all others who have received forgiveness loans."

However, HUD defers to Treasury on questions of tax policy and revenue loss considerations.

We believe that the tax riders in H.R. 6191 are so objectionable that the bill should be vetoed and summarize our reasons as follows:

- (1) the riders give windfall benefits
- (2) they are highly discriminatory by selecting only certain classes of taxpayers who had disaster losses
- (3) they are retroactive in effect
- (4) they set a highly undesirable precedent, and the likelihood of expansion of such windfall benefits to other groups is great



- (5) they would be of limited benefit to taxpayers in the lower income brackets where the need might be greatest
- (6) they inappropriately use the tax system to provide indirectly benefits which, if warranted, should be provided through direct grants
- (7) they reinstate on a piece-meal basis the undesirable "forgiveness" provisions of previous law, which Congress first repealed and then tried to restore but were unsuccessful when President Nixon vetoed the bill (the Senate sustained his veto)
- (8) they would result in the loss of \$130 million in revenues, a loss which we can ill afford in this period of budgetary stringency.

If you were to veto H.R. 6191, the remaining provisions regarding the duty suspension on zinc could be reenacted by the Congress before the end of this session.

We have prepared the attached draft of a veto message for your consideration.

See 2 a

Director

Enclosures



THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

October 30, 1974

Dear Mr. Rommel:

This is in response to your request for the views of the Council of Economic Advisers on H. R. 6191, an act "To amend the Tariff Schedules of the United States, and for other purposes."

There is no objection to the tariff alterations for the zinc content provided in this bill.

Unfortunately, the tax provisions of this bill continue the perforation of the Federal income tax structure. Even though the amount of the tax benefits permitted under the bill is of the vanishing kind -- they vary with the ratio of \$5,000 x 15,000 to adjusted gross income for individuals and to taxable income for all other taxpayers -- these provisions are inequitable.

The victims of various extraordinary flood and hurricane disasters are the intended beneficiaries of the bill. Up to the point where tax benefits are regarded as excessive as defined in the bill, such victims would be allowed to deduct casualty losses without including any corresponding casualty gains (insurance settlements, loans forgiven by SBA, HUD, VA) as an offset to the casualty loss for tax purposes. Hence, if the settlement precisely matches the loss, the victims will be net gainers from disaster at the expense of the government (i. e., all other taxpayers). The Treasury estimated that the cost of the measure



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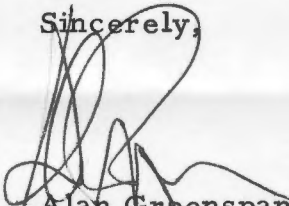
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could approach \$100 million in revenue foregone on settlements pending on past disasters alone. Only a small portion of this loss may be recouped eventually as a result of the base reduction of damaged or replacement property required by the Act.

The Council is opposed to this bill.

Sincerely,



Alan Greenspan



Mr. Wilfred H. Rommel
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 12-9-74

TO: Bob Linder

FROM: Wilf Rommel

Attached are agency views letters on H.R. 6191 which should be a part of the enrolled bill file. Please have them included in the file. Thanks.



OMB FORM 38
REV AUG 73



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

OCT 31 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Mrs. Garziglia

Dear Mr. Rommel:

Subject: H. R. 6191, 93d Congress, Enrolled Enactment

This is in response to your request for our views on the enrolled enactment of H. R. 6191, an Act "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

Section 1 of the enrolled bill would suspend until June 30, 1977, the duty imposed on the zinc content of zinc-bearing ores, zinc-dross and zinc skimmings, the zinc content of zinc-bearing materials, and zinc waste and scrap imported from countries accorded most-favored-nation treatment. Section 2 would apply the suspension of duty to articles entered, or withdrawn from a warehouse, for consumption on or after the date of the measure's enactment. We would defer to other interested agencies as to the desirability of the above tariff changes.

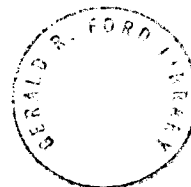
Sections 3 and 4 are designed to benefit taxpayers who suffered property losses as a result of the Presidentially declared major disasters which occurred in 1972. Section 3 would aid certain taxpayers -- primarily individuals affected by the Buffalo Creek, West Virginia dam failure in February, 1972 -- who suffered such losses and took advantage of a special tax rule. That rule allows deductions for



uncompensated property losses arising from major disasters to be claimed in the year preceding the year of the disaster rather than in the year in which the loss arose, as is normally allowed. After claiming deductions on original or amended 1971 tax returns, the involved taxpayers received tort recoveries which reduced or eliminated entirely the amount of uncompensated losses for which they could properly have claimed deductions.

Normally under such circumstances, taxpayers are required to include the subsequent loss compensation in income for the year in which it is received. To relieve the hardship which this allegedly works in the above situation, section 3 would allow the involved taxpayers to exclude from gross income the amount of tort compensation received, subject to certain qualifications. Thus, taxpayers would have to agree to reduce the basis of any damaged or replacement property by the amount of excluded compensation. Also, the maximum amount that could be excluded would be an amount which produced a "tax benefit" (i.e., tax reduction) of not more than \$5,000; a greater exclusion would be deemed to produce an "excessive tax benefit." Any unexcludable amount would have to be included in income in equal installments over a period of not more than five years beginning in the year in which the compensation was received. Finally, to avoid wealthy taxpayers receiving the full tax benefits involved, the section would reduce, by a formula keyed to income, the maximum excludable amount for taxpayers with incomes over \$15,000 (\$7,500 in the case of a married individual filing a separate return).

Section 4 of the enrolled enactment would create a similar type of tax benefit of far broader application and potential tax loss consequences. The section would allow the thousands of individuals who received Small Business Administration or Farmers Home Administration loans for losses arising from the major disasters, notably Hurricane Agnes, which occurred in 1972 to ignore, when calculating both the amount of uncompensated property loss they suffered and their gross incomes, the amounts of such loans which were cancelled pursuant to the \$5,000 loan cancellation feature of the so-called Agnes Recovery Act, Public Law 92-385. As under




section 3, the amounts which could be so ignored would be reduced for taxpayers having incomes over \$15,000, on the basis of a formula keyed to income.

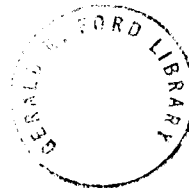
We have serious reservations about the equity of these proposed benefits and the precedent their enactment would establish. Section 3 contemplates a double tax benefit -- allowance of a deduction for an uncompensated property loss, despite compensation, plus noninclusion of the compensation in income -- for a select group of individuals and others who, despite their particular circumstances, would not appear to have an unusually compelling claim to such special treatment.

Section 4 is even more troublesome. In addition to the tax benefits which would be derived by ignoring cancelled loan amounts when calculating allowable property loss deductions and gross income, the section would have the effect of converting the cancelled loans into tax-free grants. This step would appear to be lacking justification, likely to prove expensive to the Federal Treasury, and could provide a strong impetus to and rationale for future legislative action to extend similar benefits to the many disaster victims who benefitted from loan cancellations in years other than 1972.

We would defer to the Department of the Treasury as to whether sections 3 and 4, considered in light of tax policy and revenue loss considerations, justify the President withholding his approval from the bill. We would like to make it clear, however, that we do not consider that the benefits which would be provided by those sections are in any way justified by the objectives of the disaster assistance authorities administered by this Department. Moreover, we would like to reemphasize our belief that enactment of this legislation, from the standpoint of disaster assistance recipients, would seemingly justify prompt extension of similar benefits to all others who have received forgiveness loans.

Sincerely,


Robert R. Elliott



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

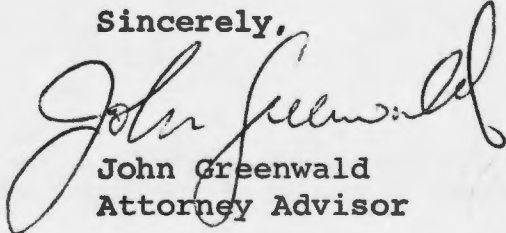
Attention: Mrs. Garziglia

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



OCT 21 1974



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

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. 6191, an enrolled enactment

"To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

Sections 1 and 2 of H. R. 6191, relate to the suspension of import duties on zinc contained in zinc ores and concentrates and zinc waste and scrap through June 30, 1977. Section 3 amends the Internal Revenue Code of 1954 with respect to the tax treatment accorded certain disaster losses.

This Department strongly recommends approval by the President of H. R. 6191 since we consider sections 1 and 2 to be of the utmost importance for the following reasons.

U. S. zinc metal production has declined sharply from 1.4 million short tons in 1969 to 688,000 tons last year, the result of closure by seven domestic producing facilities. The decline in domestic production has resulted in severe supply problems for U. S. consumers of zinc, and the shortfall has been made up by increased metal imports--at prices which in 1973 and early 1974 were often more than four times domestic producer levels.

Since U. S. metal producers are dependent upon imported ores and concentrates for their raw materials, the situation has also caused a shift in U. S. imports during this period from ores and concentrates to value-added metal. We strongly believe that enactment of sections 1 and 2 would provide an important incentive to much needed expansion of domestic metal capacity, including the construction of new efficient facilities.



2.

Finally, enactment of these sections could substantially contribute to a reversal in the trend of U. S. zinc imports from metal to raw material, thus making a significant contribution to the U. S. balance of trade position.

We have no recommendations to make with respect to section 3 of H. R. 6191.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

Karl E. Bakke

General Counsel





DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 23, 1974

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

Dear Mr. Ash:

In reply to your request of October 18, the following report is submitted on the enrolled enactment H.R. 6191, a bill "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

This Department defers to the judgment of other agencies which have a primary interest in this matter.

This bill would amend subpart B of Part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) by inserting four new items (911.00-911.03) immediately after item 907.80.

This bill would suspend existing tariffs and would provide for temporary duty free entry into the United States under Column I for the following four zinc items: the zinc content of zinc-bearing ores, currently provided for in item 602.20; zinc dross and zinc skimming, currently provided for in item 603.30; the zinc content of zinc-bearing materials, currently provided for in items 603.49, 603.50, 603.54, and 603.55; and zinc waste and scrap, currently provided for in item 626.10. The terminal date for the tariff suspension on all four items would be June 30, 1977.

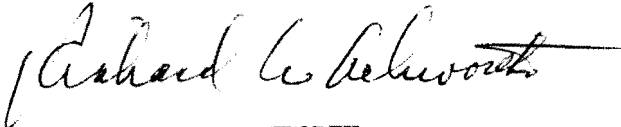
The bill also contains several amendments to the Internal Revenue Code of 1954, one of which deals with the income tax consequence of the cancellation of certain Federal disaster assistance loans made during 1972. This amendment provides that in the case of



an individual who was allowed a casualty loss deduction for a loss attributable to a disaster occurring during 1972 and who received a disaster loan from the Small Business Administration or an emergency loan from this Department, if such loan or any part thereof is cancelled, the taxpayer does not have to include the amount forgiven in his income for that year. The maximum amount of a disaster loss which could be cancelled under Federal law during the period to which this amendment applies was \$5,000. The provision is intended to apply to lower income taxpayers. Thus, if a taxpayer's income is less than \$15,000, the entire amount forgiven would be disregarded for income tax purposes. If the taxpayer's income is above \$15,000, he is permitted to disregard for tax purposes a percentage of the amount cancelled equal to the ratio of his income to \$15,000.

We defer to the Internal Revenue Service for comment on this amendment. However, it should be pointed out that the loan cancellation benefits associated with this Department's emergency loan program were reactivated for a limited period by Public Law 93-237 for disasters occurring after December 26, 1972, but prior to April 20, 1973. As we understand H.R. 6191, taxpayers who received emergency loans which involved cancellations based on disasters in early 1973 would not be eligible for the benefits of this bill.

Sincerely,



RICHARD A. ASHWORTH
Deputy Under Secretary





DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 22 1974

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

Dear Mr. Ash:

The Secretary has asked me to reply to your communication (Office of Management and Budget Memorandum, dated October 17, signed by Mr. Rommel) requesting our views on H.R. 6191, an enrolled bill temporarily suspending the import duty applying to certain forms of zinc.

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



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 23 1974

Dear Mr. Ash:

This responds to your request for our views on the enrolled bill H.R. 6191, "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

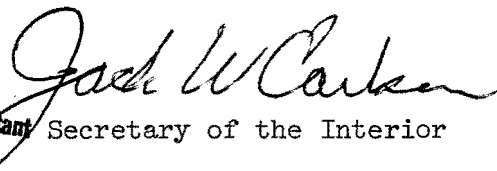
We recommend that the President approve the enrolled bill.

H.R. 6191, as enrolled, amends the Tariff Schedules of the United States by suspending the duty on zinc-bearing ores and materials, zinc dross and skimmings, and zinc waste and scrap until June 30, 1977; and it amends the Internal Revenue Code as to taxpayers who have incurred losses from certain disasters.

The amendments to the Internal Revenue Code are not related to the Tariff Schedules and they do not affect the policies of this Department. The Department therefore has no comment on their inclusion in the bill.

The Department favors, however, the portion of the bill which would suspend the tariffs on zinc-bearing ores, materials, etc. Zinc ores and concentrates are used for the production of zinc slab. Since the 1950's the United States has imported between 40 and 58 percent of the ores and concentrates that it has smelted into zinc slab. In recent years, however, the United States' zinc smelting capacity has decreased while the domestic demand for zinc slab has increased. As a result, we are increasing our imports of zinc slab which, among other things, has the effect of exporting part of our zinc smelting industry. H.R. 6191 will help to reverse this trend by decreasing costs to our sagging zinc smelting industry.

Sincerely yours,


Assistant Secretary of the Interior

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

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. 6191, "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, 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 amendments to the Internal Revenue Code of 1954 regarding certain disaster losses.

Sincerely,



Secretary of Labor





U.S. GOVERNMENT
SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

OCT 21 1974

Mr. Wilfred H. Rommel
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Rommel:

This is in response to your request of October 18, 1974, for the views of the Small Business Administration with respect to H.R. 6191, an enrolled bill "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

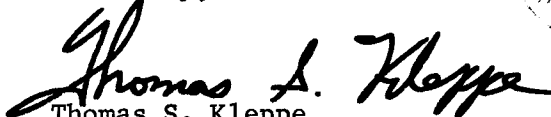
Section (d)(1) of H.R. 6191 permits individuals to omit, in their calculation of gross income under section 61 of the Internal Revenue Code and losses under section 165 of the Code, any part of a disaster loan under Section 7 of the Small Business Act which has been cancelled, where such loan was attributable to a disaster occurring in calendar year 1972. Section (d)(2) limits this provision, in the case of individuals with adjusted gross incomes over \$15,000, to that portion of the total cancellation as \$15,000 bears to the individual's adjusted gross income.


The effect of this provision would be to enable individuals to recover that portion of their tax liability attributable to the prior requirement to include such cancellations in gross income. Unfortunately, we do not have the resources to determine the amount of revenue lost to the Treasury resulting from this provision.

In addition, since the other provisions of the bill are not directly related to small business, we do not take a position on them. For these reasons, therefore, we defer to the Department of the Treasury for a recommendation as to whether the President should approve or disapprove this enrolled bill.

Thank you for the opportunity to comment.

Sincerely,


Thomas S. Kleppe
Administrator





DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

NOV 21 1974

Dear Sir:

This is in response to your request for the views of the Treasury Department on the enrolled bill H. R. 6191.

The first two sections of the enrolled bill would suspend until June 30, 1977, the duty on (1) zinc-bearing ores provided for in item 602.20 of the Tariff Schedules, (2) zinc dross and zinc skimmings provided for in item 603.30, (3) zinc-bearing materials provided for in items 603.49, 603.50, 603.54 and 603.55, and (4) zinc waste and scrap provided for in item 626.10. The Department anticipates no unusual administrative difficulties under this provision and has no objection to it.

Section three of the enrolled bill would provide preferred casualty loss treatment for certain disasters occurring during calendar year 1972. In keeping with the general principle that individuals may not deduct personal expenditures in determining their taxable income, non-business losses are generally not an allowable deduction. An exception is made, however, for casualty losses because unexpected, large losses arising from natural disasters or other casualty may cause an unanticipated depletion of personal resources and impair ability to pay taxes. To limit the deduction to a true out-of-pocket loss, no deduction is allowed to the extent the loss is "compensated for by insurance or otherwise." If a taxpayer fails to reduce the claimed deduction by the amount of such compensation received in a later year, he may be required under the tax benefit rule to include the compensation in income. Section three would depart from these principles by providing tax-free treatment for tort damages received by the victims of the Buffalo Creek disaster (subsections (a)-(c)) and for the grant portion of disaster relief loans under the Small Business Act and the Consolidated Farm and Rural Development Act (subsection (d)).

In terms of revenue effect, the provision for tax-free treatment of the grant portion of disaster relief loans is by far the more important; and, while the tax policy principles are the same in both cases, our comments will be directed primarily to that provision.

The SBA loan forgiveness provisions were first enacted by the Disaster Relief Act of 1969, 83 Stat. 127, which set a maximum grant of \$1,800. This amount was increased to \$2,500 by the Disaster Relief Act of 1970, 84 Stat. 1744, and to \$5,000 by Public Law 92-385, 86 Stat. 554. The Consolidated Farm and Rural Development Act loan forgiveness provisions were enacted with a \$5,000 limit in 1972 by

Public Law 92-385, supra. Under all of these acts, the Service has consistently ruled that the loan forgiveness is not to be treated as a tax-free grant but instead reduces a disaster victim's casualty loss deduction just like insurance proceeds or any other compensation he may receive for his loss. See Revenue Ruling 71-160, 1971-1 Cum. Bull. 75. In a recent decision the Tax Court reached the same conclusion, after an extensive examination of the legislative history of the loan forgiveness provisions. Shanahan v. Commissioner, 63 T.C. No. 4 (October 15, 1974).

During the 1972 election campaign, considerable attention was focused on the disaster relief program as a result of the tremendous damage caused by Hurricane Agnes and by a separate flood disaster in South Dakota. The Administration recommended a retroactive increase in the grant portion of disaster loans from \$2,500 to \$5,000, which recommendation was enacted by Public Law 92-385, supra, on August 16, 1972. Later in the same month, Public Law 92-418, 86 Stat. 656, liberalized the tax provisions providing an election to treat a disaster loss as occurring in the preceding year so that Hurricane Agnes victims could obtain a quick refund of all or part of the prior year's tax payments.

In administering the liberalized grant and refund provisions enacted in 1972, the Internal Revenue Service has consistently maintained the previously-published position that the loan forgiveness must be treated in the same way as insurance proceeds or any other compensation in calculating a disaster victim's casualty loss. Beginning in the fall of 1972, repeated efforts have been made to overturn that position by legislation. Our bill report opposing one of such bills (H. R. 4405) is enclosed.

We believe that section three of this bill is wrong in principle from a tax policy standpoint. It allows a casualty loss deduction where the taxpayer has not sustained any real out-of-pocket loss. This violates the general rule that taxpayers may not deduct personal expenditures and, unlike true casualty losses, is not justified as reflecting an impairment of the ability to pay taxes.

The provision must, thus, be examined as a disaster relief grant program to be effected through the tax system. But because of the progressive rate structure, the tax system is not a good mechanism for providing disaster relief. That is, the value of an income exclusion (or an increased casualty loss) is greater for high-income taxpayers than for low-income taxpayers (or persons with income too low to have tax liability). The bill attempts to overcome this difficulty through a



partial phase-out of benefits for higher-income taxpayers. But we believe it would have been better, if it is desired to afford additional relief for disaster losses, to increase the amount of disaster grants (as was done in 1972) and to limit such grants to low-income persons (as was done in the Disaster Relief Act of 1974).

We are also concerned that the bill would entail a substantial revenue loss--about \$130 million. (The Buffalo Creek provisions would have only a small revenue effect.) Moreover, the provision is wholly retroactive and is discriminatory, applying only to losses occurring in 1972 as a result of Presidentially declared major disasters. In cases such as this, we are always concerned about the creation of a precedent that may later be extended to other taxpayers who may appear to be similarly situated and, thus, to have an equitable claim to similar treatment.

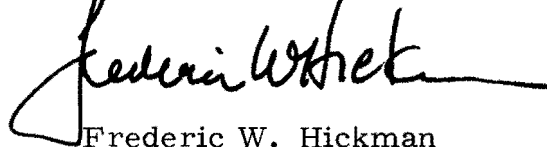
However, disaster relief is inherently very expensive and neither the cost of the bill nor its retroactive character should be a total bar to favorable action on the bill. For example, the retroactive increase from \$2,500 to \$5,000 in the forgiveness limit, which was enacted in 1972 at the Administration's request to assist the victims of Hurricane Agnes, was estimated at the time to cost \$150 million. The question of whether to incur this revenue loss is, thus, largely (i. e., apart from the fiscal impact) a question of disaster relief policy, on which the Treasury Department defers to the agencies concerned.

Moreover, this bill must be considered in relation to other tax measures, including both the recently enacted tax amendments to minor tariff bills and pending major tax bills, and in light of the sponsorship and strong support of this bill by Mr. Schneebeli, ranking minority member of the Ways and Means Committee, and by Senator Scott of Pennsylvania, the Minority Leader of the Senate. Mr. Schneebeli's continuing support of other tax measures desired by the Administration is particularly critical, especially during the current consideration of tax reform and anti-inflation tax proposals. Also, it is necessary to take into account the fact that this bill was one of a series in which tax amendments were added to tariff bills. One of those bills provided for an extension of percentage depletion on trona and was highly visible and objectionable on tax policy grounds. The bill was, however, signed.

Approval of that bill for the benefit of a few large mining companies combined with the veto of a bill providing hardship relief for a number of small taxpayers would put Treasury in a very difficult position in negotiating with the Committee on the other tax provisions before them. Logically, there is no connection between the two, but logic is not always controlling. The political reality is that the two will be viewed together and that a veto of this bill will considerably complicate the efforts of the Administration to secure the larger and more important tax legislation that we are seeking.

Accordingly, while we have reservations about the merits of the bill, both in terms of the tax policy and its fiscal impact, we recommend that the President approve it.

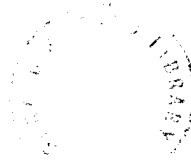
Sincerely yours,



Frederic W. Hickman
Assistant Secretary

Director, Office of Management and Budget
Attention: Assistant Director for
Legislative Reference, Legislative
Reference Division
Washington, D. C. 20503

Enclosure





THE DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

APR 23 1974

Dear Mr. Chairman:

This is in response to your request for the views and recommendations of the Treasury Department with respect to H.R. 4405 (93rd Cong. 1st Sess.), entitled "A BILL To amend the Internal Revenue Code of 1954 to provide that taxpayers shall not be required to reduce the amount of casualty loss deductions by the amount of reimbursement anticipated from the cancellation of certain Federal loans made in the case of certain disasters."

H.R. 4405 would amend Section 165 of the Internal Revenue Code of 1954 (relating to deduction for losses) to allow a casualty loss deduction without reduction by reason of any anticipated reimbursement resulting from the discharge of any part of a loan made to a taxpayer under Federal laws providing disaster relief loans. Similarly, a taxpayer would not be required to include in gross income the amount of any such anticipated reimbursement. This bill would be effective with respect to all returns including amended returns and claims for refund filed after the date of enactment.

We understand the purpose of this bill is to allow an increased deduction or an exclusion from income without regard to whether the disaster relief loans granted by the Small Business Administration and the Department of Agriculture are forgiven.

The Treasury Department is opposed to the enactment of H.R. 4405.

Under present law, Section 165(a) of the Internal Revenue Code of 1954 permits taxpayers a deduction for certain losses sustained during the taxable year and not compensated for by insurance or otherwise. In the case of disaster losses, Section 165(h) affords the taxpayer the option of taking the loss in the taxable year prior to that in which it occurred. The forgiveness portion of disaster relief loans is considered compensation for the disaster loss sustained (Rev. Rul. 71-160, 1971-1 Cum. Bull. 75) and, accordingly, such forgiveness must be offset against the amount of the loss in determining the allowable deduction under Section 165(a), whether or not such forgiveness has actually occurred by the time the deduction is claimed. If the forgiveness is not so offset, it must be included, under the tax benefit doctrine, in the taxpayer's gross income for the year of the forgiveness, subject to the provisions of Section 111 of the Code (relating to recovery of items previously deducted).

It should first be noted that the bill may fail to accomplish its purpose of making disaster loan forgiveness a tax-free item. The bill would allow the full casualty loss deduction or exclusion from gross income only for a return, amended return or claim for refund filed before the effective date of the loan forgiveness. If the forgiveness became effective before a return or claim for refund is filed, any claim for a casualty loss deduction would have to be reduced by the forgiveness. If the forgiveness occurred after the casualty loss deduction had been claimed, the bill as drafted would not bar application of the tax benefit doctrine to require inclusion of the amount of forgiveness in the return filed for the year of forgiveness. These are technical problems that could easily be cured.

More fundamentally, accomplishment of the objective underlying the bill would work violence to the basic purposes of the Section 165(a) loss deduction. In the case of individuals not engaged in a trade or business, the deduction is limited to losses arising from fire, storm, shipwreck, or other casualty, or from theft. Like the deduction for medical expenses, the loss deduction for such individuals is an exception to the general rule that deductions are not permitted for personal expenses and is designed to afford relief in the case of extraordinary depletion of personal resources impairing the ability to bear the burden of income taxes. To the extent a loss has been compensated for, by insurance or otherwise, no extraordinary depletion of personal resources has occurred; and, accordingly, no deduction should be allowed.

As applied to prior disaster loan programs that did not limit loan forgiveness to low-income recipients, the bill would be regressive in effect. Because of the progressive rate structure, the increased deduction (or exclusion from income) would produce a higher tax benefit for taxpayers in the upper income brackets.

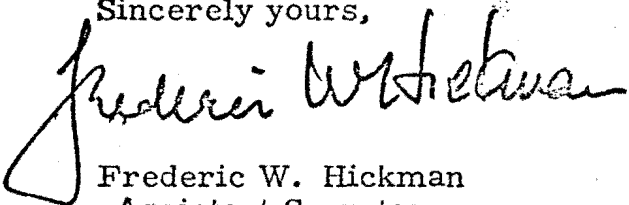
However, the provisions for loan forgiveness expired in 1973. On May 8, 1973, the Administration submitted to the Congress draft legislation entitled the "Disaster Preparedness and Assistance Act of 1973." This proposal comprehensively deals with protecting people and property against the effects of disasters. It would provide Federal grants to any State in a major disaster area for the purpose of indemnifying uninsured losses of needy families not in excess of

\$3,000 per family. In addition, loans would be made to restore or repair uninsured property damaged or lost in a disaster. As a pre-condition to any loan, property owners would be required to purchase adequate insurance protection, including flood insurance. We believe that enactment of this proposal would be a preferable solution to the piecemeal approach taken by H.R. 4405. In any event, action on legislation such as H.R. 4405 should await the development of a disaster assistance program so that the tax effects of disaster loans or grants can be considered in light of the program actually in force.

H.R. 4405 would apply with respect to increased deductions and exclusions from income for loans made for prior years not barred by the statute of limitations. The Treasury Department opposes such retroactive legislation. This objection has particular force in the present situation because the prior loan forgiveness programs have expired and have not yet been replaced. Thus, the retroactive effect of this legislation would be its only effect.

The Office of Management and Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,



Frederic W. Hickman
Assistant Secretary

The Honorable
Wilbur D. Mills
Chairman, Committee on Ways and Means
House of Representatives
Washington, D. C. 20515

H.R. 6191 - Duty Suspension on
certain forms of zinc

Mike Duval	Sign
Bill Timmons	(Comments) Sign without statement
Phil Areeda	(Comments attached.) Sign, but no statement.
Bill Seidman	Veto
NSC	No objection to 1 and 2, on rest they defer (Barnum)
Paul Theis	o.k. on veto statement



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 747

Date: ~~November 22, 1974~~ November 22, 1974

Time: 6:58 p.m.

FOR ACTION: Mike Duval ✓ cc (for information): Jerry Jones
 Bill Timmons ✓ Warren Hendriks
Comments Phil Areeda ✓ Paul Theis ✓
 Bill Seidman ✓
 NSC/S *Carrum* ✓

FROM THE STAFF SECRETARY

DUE: Date: November 23, 1974

Time: 11:00 a/m.

SUBJECT:

Enrolled Bill H.R. 6191 - Duty Suspension on certain forms of zinc

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

The last day of action on the attached bill is Friday, November 29, Unfortunately, the House of Representatives plans to begin its Thanksgiving recess at the close of business, Tuesday, November 26.

Therefore, to avoid the legal controversy over pocket vetoes, Bill Timmons recommends this package be presented to the President upon his return which is now scheduled for Sunday, afternoon.

To provide the President with the required 48 hour consideration time it is imperative that this package be submitted to the Staff Secretary by COB, Saturday, November 23 (tomorrow)

I would appreciate having your comments/recommendations by 11:00 a.m. tomorrow. Please call Judy Johnston on x6570 with your comments.

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 Hendriks
 Warren E. Hendriks, Jr.
 For the President



THE WHITE HOUSE

WASHINGTON

November 26, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: William E. Timmons *WET*

SUBJECT: Zinc Bill

Attached are the papers on the enrolled bill which suspends duty on some forms of Zinc. This legislation also has an objectionable rider changing the tax treatment for taxpayers who suffered losses during the Agnes disaster.

At your instruction I asked Paul O'Neill and Wally Scott of OMB to contact Rep. Herman Schneebeli (R-Pa) to ~~make~~ make certain that he fully understood the Administration's objectives and at the same time try to reconcile the apparent erroneous information he had.

Wally Scott was unable to reach Mr. Schneebeli who had departed for Pennsylvania. Also, he had no luck in reaching a competent staffer in Herm's office who understood the provision. However, Wally Scott did talk in some detail to John Meagher, Assistant Minority Counsel of the Committee on Ways & Means who had advised Schneebeli on this bill. After some explanation, Wally convinced John of the merits from the Administration's position. This is not to say that Schneebeli will be satisfied, but we do have reason to believe that he did not fully understand the technicalities of the enrolled bill.

If you feel this measure warrants a veto, we recommend it be transmitted to the House today while Congress is still in session.

Attachments



THE WHITE HOUSE

WASHINGTON

November 23, 1974

MEMORANDUM FOR: WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Log No. 747 - Enrolled Bill H. R. 6191 -
Duty Suspension on certain forms of
zinc

I recommend the President sign the bill without a statement.

While the disaster relief section is probably unnecessary and cannot stand on its merits, I believe the issue is of insufficient consequence to warrant a veto.

Also the President should know that Rep. Herman Schneebeli and GOP Leader Hugh Scott are active supporters of the disaster rider. We need the help of the Ways and Means Committee Members in the closing days of this session for tax legislation, trade reform, etc. The prospect of other vetoes argues against disapproval of H. R. 6191.



Date: November 22, 1974

Time: 3:33 p.m.

FOR ACTION: Mike Duval
Bill Timmons
Phil Areeda Paul Theis ✓
Bill Seidman
NSC/S

cc (for information): Jerry Jones
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: November 23, 1974

Time: 11:00 a.m.

SUBJECT

Enrolled Bill H.R. 6191 - Duty Suspension on certain forms of zinc

- ① Hard to justify veto of this "humanitarian" bill when Pres signed the iron depletion bill which was even less justifiable.
- ② This is a bad bill which deserves to be vetoed on its merits.

ACTION REQUESTED:

- For Necessary Action
 - For Your Recommendations
 - Prepare Agenda and Brief
 - Draft Reply
 - For Your Comments
 - Draft Remarks
- ④ If signed, there should be no statement; it would be futile and would not help resistance to future Unbound Bills.

REMARKS:

P. Areeda

The last day of action on the attached bill is Friday, November 29. Unfortunately, the House of Representatives plans to begin its Thanksgiving recess at the close of business, Tuesday, November 26. Therefore, to avoid the legal controversy over pocket vetoes, Bill Timmons recommends this package be presented to the President upon his return which is now scheduled for Sunday, afternoon.

To provide the President with the required 48 hour consideration time it is imperative that this package be submitted to the Staff Secretary by COB, Saturday, November 23 (tomorrow)

I would appreciate having your comments/recommendations by 11:00 a.m. tomorrow. Please call Judy Johnston on x6570 with your comments.

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 Hendriks

WARREN HENDRIKS, Jr.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 747

Date: November 22, 1974

Time: 6:58 p.m.

FOR ACTION: Mike Duval
Bill Timmons
Phil Areeda
Bill Seidman - veto
NSC/S

cc (for information): Jerry Jones
Warren Hendriks

*Ash - Seidman
Seidman
HWD*

FROM THE STAFF SECRETARY

DUE: Date: November 23, 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill H.R. 6191 - Duty suspension on certain forms of zinc

*Franklin
Cole
Timmons
Interior
State*

ACTION REQUESTED:

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



REMARKS:

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PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

Warren Hendriks, Jr.

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, Jr.
For the President

Date: November 22, 1974

Time: 6:58 p.m.

FOR ACTION: Mike Duval
Bill Timmons
Phil Areeda Paul Theis
Bill Seidman ✓
NSC/S

cc (for information): Jerry Jones
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: ~~Date: November 23, 1974~~

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill H.R. 6191 - Duty Suspension on certain forms of zinc

I agree with OMB as stated in their veto message a very bad precedent & costly can not sign while trying

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

*to get budget under 300 billion
Loss of credibility & determination to win budget fight*

The last day of action on the attached bill is Friday, November 29. Unfortunately, the House of Representatives plans to begin its Thanksgiving recess at the close of business, Tuesday, November 26.

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Warren Hendriks

Warren K. Hendriks, Jr.
For the President



Date: November 22, 1974

Time: 6:58 p.m.

FOR ACTION: Mike Duval
Bill Timmons
Phil Areeda
Bill Seidman
NSC/S

cc (for information): Jerry Jones
Warren Hendriks

Paul Theis

TOK

11-23-74 8:50 a.m.

FROM THE STAFF SECRETARY

DUE: Date: November 23, 1974

Time: 11:00 a.m.

SUBJECT:

Enrolled Bill H.R. 6191 - Duty Suspension on certain forms of zinc

ACTION REQUESTED:

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



REMARKS:

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

Warren Hendriks

Warren K. Hendriks, Jr.
For the President

cc'd 11/22/74 8:50p

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

NOV 22 1974



10-
James Hardin
11-22-74
6:35 p.m.

*Corrected page 7, rec'd 10:15 a.m., 11/25/74 -
Distributed to other Lansing Copies of
the bill report immediately
upon receipt.*

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6191 - Duty suspension on certain forms of zinc
Sponsors - Rep. Ullman (D) Oregon and 16 others

Last Day for Action

November 29, 1974 - Friday

Purpose

Suspends until June 30, 1977 the duty on certain forms of zinc; and contains a tax rider regarding the treatment of compensation received for certain disaster losses.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message attached)
Department of Housing and Urban Development	Concurs in veto recommendation (Informally)
Council of Economic Advisers	Disapproval
Department of the Treasury	Approval
Department of Commerce	Approval (sections 1 and 2)
Department of the Interior	Approval (sections 1 and 2)
Office of the Special Representative for Trade Negotiations	No objection (sections 1 and 2)
Department of Labor	No objection (sections 1 and 2)
Department of State	No objection (sections 1 and 2)
Small Business Administration	Defers to Treasury
Department of Agriculture	Defers to other agencies



- (5) they would be of limited benefit to taxpayers in the lower income brackets where the need might be greatest
- (6) they inappropriately use the tax system to provide indirectly benefits which, if warranted, should be provided through direct grants
- (7) they reinstate on a piece-meal basis the undesirable "forgiveness" provisions of previous law, which Congress first repealed and then tried to restore but were unsuccessful when President Nixon vetoed the bill (the Senate sustained his veto)
- (8) they would result in the loss of \$130 million in revenues, a loss which we can ill afford in this period of budgetary stringency.

If you were to veto H.R. 6191, the remaining provisions regarding the duty suspension on zinc could be reenacted by the Congress before the end of this session.

We have prepared the attached draft of a veto message for your consideration.

for [unclear]

Director

Enclosures

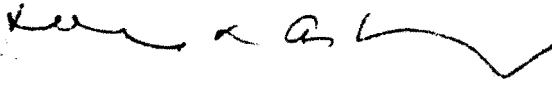


*Corrected page -
 rec'd 12:15 P.M. - 11/25/74*

- (5) they would be of limited benefit to taxpayers in the lower income brackets where the need might be greatest
- (6) they inappropriately use the tax system to provide indirectly benefits which, if warranted, should be provided through direct grants
- (7) they reinstate on a piece-meal basis the undesirable "forgiveness" provisions of previous law, which Congress first repealed and then tried to restore but were unsuccessful when President Nixon vetoed the bill (the Senate sustained his veto)
- (8) they fly in the face of efforts to restrain budget outlays--costing \$130 million in additional outlays; and approval of this bill, if given, would be almost concurrent with your submission to Congress of proposed outlay reductions.

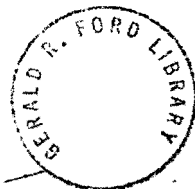
If you were to veto H.R. 6191, the remaining provisions regarding the duty suspension on zinc could be reenacted by the Congress before the end of this session.

We have prepared the attached draft of a veto message for your consideration.



Director

Enclosures



See corrected page

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval H.R. 6191, "To amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes."

This bill would suspend until June 30, 1977, the present duties on zinc ores and concentrates and zinc-bearing materials.

Unfortunately, the Congress attached to this desirable provision unacceptable tax riders which would grant windfall benefits to individuals already compensated for property losses resulting from certain disasters in 1972. Moreover, the most costly of these riders was added by the conference committee; and the significance of this rider was not explored during adoption of the conference report by the two houses.

Under current tax law, individuals are generally permitted to deduct casualty losses not otherwise compensated for by insurance, tort compensation, loan forgiveness, or other means. If individuals choose to deduct these losses, however, and are subsequently reimbursed, the reimbursement must be included as income in subsequent tax returns. Otherwise, the individual could receive a tax break for a loss that had not cost him anything.

H.R. 6191 would provide unwarranted and costly exceptions to the present law by allowing certain taxpayers who have already deducted their casualty losses to also exclude from taxable income any amounts received from tort compensation or Federal loan cancellations based on those losses. The cost of these benefits to the Government in terms of revenue loss would be about \$130 million.



This would result in favored treatment for a select group of taxpayers relative to others with identical or even larger casualty losses. The individuals benefiting from this bill have already been treated more generously by the Federal Government than the present, more equitable law would allow. Finally, this special tax consideration resulting in a windfall to a limited group of taxpayers would be a very undesirable precedent.

If the Congress were to reenact this bill without the undesirable tax riders, I would be glad to approve it.

THE WHITE HOUSE

November , 1974



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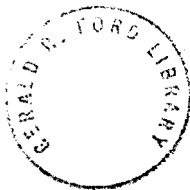


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If the Congress were to reenact this bill without the undesirable tax riders, I would be glad to approve it.

THE WHITE HOUSE

November 1, 1974



Ninety-third Congress of the United States of America

HR 6191

AT THE SECOND SESSION

Began 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 amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 907.80 the following new items:

911.00	Zinc-bearing ores (provided for in item 602.20, part 1, schedule 6)	Free on zinc content	No change	On or before 6/30/77
911.01	Zinc dross and zinc skimmings (provided for in item 603.30, part 1, schedule 6)	Free	No change	On or before 6/30/77
911.02	Zinc-bearing materials (provided for in items 603.49, 603.50, 603.54 and 603.55, part 1, schedule 6)	Free on zinc content	No change	On or before 6/30/77
911.03	Zinc waste and scrap (provided for in item 626.10, part 2, schedule 6)	Free	No change	On or before 6/30/77

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

SEC. 3. (a) Notwithstanding the provisions of section 61 (relating to gross income), section 165 (relating to losses), or any other provision of the Internal Revenue Code of 1954, any taxpayer who was allowed a deduction under section 165 of such Code for a loss attributable to a disaster described in section 165(h) occurring during calendar year 1972, and who received compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, may elect, at such time and in such manner as the Secretary of the Treasury may prescribe, to exclude from gross income the amount of such compensation if the taxpayer enters into an agreement with the Secretary or his delegate under which—

(1) the basis of any property of the taxpayer which was damaged in such disaster, or which is replacement property of like kind for property destroyed in such disaster (acquired within 36 months after such destruction), is reduced (but not below zero) by the amount of any part of such compensation, the exclusion of which does not result in an excessive tax benefit, allocable to such damage or destruction, and

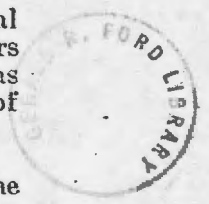
(2) the taxpayer will include in his gross income, in equal installments over not more than 5 consecutive taxable years (beginning with the taxable year in which such compensation was received), any amount of such compensation the exclusion of which would result in an excessive tax benefit.

(b) For purposes of this section, the term—

(1) "tax benefit" means an amount equal to the amount of the difference between—

(A) the liability of a taxpayer under chapter 1 of the Internal Revenue Code of 1954 for tax for the taxable year in which the compensation was received, computed without regard to the provisions of this section, and

(B) the liability of that taxpayer for such tax for that taxable year computed after the application of the provisions of this section (without regard to the requirements of paragraphs (1) and (2) of subsection (a));



(2) "excessive tax benefit" means—

(A) a tax benefit of more than \$5,000 in the case of—

(i) an individual whose adjusted gross income for the taxable year in which the compensation is received does not exceed \$15,000 (\$7,500 in the case of a married individual filing a separate return) determined without regard to any deduction allowable for the casualty loss described in subsection (a) and without regard to the compensation described in that subsection; or

(ii) any other taxpayer (not an individual) the taxable income of which for the taxable year in which the compensation is received does not exceed \$15,000 (determined without regard to any deduction allowable for such casualty loss and without regard to such compensation); and

(B) in the case of any taxpayer not described in subparagraph (A), a tax benefit of more than an amount which bears the same ratio to \$5,000 as \$15,000 (\$7,500 in the case of a married individual filing a separate return) bears to—

(i) the adjusted gross income of that taxpayer (in the case of an individual) for that taxable year (determined without regard to the deduction allowable for such casualty loss and without regard to such compensation), or

(ii) in the case of any other taxpayer, the taxable income of that taxpayer for that taxable year (determined without regard to the deduction allowable for such casualty loss and without regard to such compensation);

(3) "gross income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(4) "adjusted gross income" means adjusted gross income as defined in section 62 of such Code;

(5) "taxable income" means taxable income as defined in section 63 of such Code; and

(6) "basis" means the basis of property determined in accordance with the provisions of part II of subchapter O of chapter 1 of such Code (relating to basis rules of general application).

(c) In applying the provisions of paragraph (1) of subsection (a) to his property, a taxpayer shall reduce the basis of any depreciable property to which that paragraph applies before he reduces the basis of any of his other property, then he shall reduce the basis of any trade or business property (other than depreciable property) to which that paragraph applies, and finally he shall reduce the basis of any other property to which that paragraph applies. For purposes of this subsection, the term "trade or business property" means property which is described in paragraphs (1) and (2) of section 1221 of the Internal Revenue Code of 1954 (relating to the definition of capital assets), and the term "depreciable property" means property of the taxpayer with respect to which a deduction is allowable under section 167 of such Code (relating to depreciation). No taxpayer who enters into an agreement with the Secretary of the Treasury under subsection (a) shall be liable for the repayment of any interest received under section 6611 of such Code on a credit or refund of tax resulting from an election under section 165(h) of such Code with respect to a loss attributable to a disaster described in this section, nor shall he be liable for the payment of any interest with respect to any deficiency (as defined in section 6211(a) of such Code) arising out of the revocation of such election.



(d) (1) In the case of an individual—

(A) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal government, and

(B) who received a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act.

for purposes of determining the amount of the deduction allowable under such section 165 of the Code with respect to such loss, and for purposes of determining gross income under section 61 of such Code, such an individual is not required to take into account any part of any such loan which was cancelled under the provisions of section 7 of the Small Business Act or section 328 of the Consolidated Farm and Rural Development Act, except to the extent required under paragraph (2).

(2) In the case of an individual described in paragraph (1) whose adjusted gross income for the year in which the loss occurred exceeded \$15,000, the provisions of such paragraph apply only to so much of any loan cancelled under the provisions of section 7 of the Small Business Act or section 328 of the Consolidated Farm and Rural Development Act as bears the same ratio to the amount so cancelled as \$15,000 bears to such individual's adjusted gross income for such taxable year.

Speaker of the House of Representatives.

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



VETOED
11/26/74
returned to
the House 4:15 P.M.



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

NOV 22 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6191 - Duty suspension on certain forms of zinc
Sponsors - Rep. Ullman (D) Oregon and 16 others

Last Day for Action

November 29, 1974 - Friday

Purpose

Suspends until June 30, 1977 the duty on certain forms of zinc; and contains a tax rider regarding the treatment of compensation received for certain disaster losses.

Agency Recommendations

- | | |
|---|---|
| Office of Management and Budget | Disapproval (Veto Message attached) |
| Department of Housing and Urban Development | Concurs in veto recommendation (Informally) |
| Council of Economic Advisers | Disapproval |
| Department of the Treasury | Approval |
| Department of Commerce | Approval (sections 1 and 2) |
| Department of the Interior | Approval (sections 1 and 2) |
| Office of the Special Representative for Trade Negotiations | No objection (sections 1 and 2) |
| Department of Labor | No objection (sections 1 and 2) |
| Department of State | No objection (sections 1 and 2) |
| Small Business Administration | Defers to Treasury |
| Department of Agriculture | Defers to other agencies |



November 18, 1974

Dear Mr. Director:

The following bills were received at the White House on November 18th:

H.R. 6191
H.R. 12628

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.

