

PROCUREMENT OF ORDNANCE AND AMMUNITION

For an additional amount for "Procurement of ordnance and ammunition", \$31,800,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", \$22,200,000, to remain available until expended.

TITLE V

DEPARTMENT OF THE AIR FORCE

PROCUREMENT OTHER THAN AIRCRAFT

For an additional amount for "Procurement other than aircraft", \$360,000,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", \$30,000,000, to remain available until expended.

MILITARY CONSTRUCTION

For an additional amount for "Military construction", including such construction as may be authorized by law during the second session of the Eighty-fifth Congress, \$520,000,000, to remain available until expended.

TITLE VI

GENERAL PROVISIONS

SEC. 601. In order to more effectively administer the programs relating to advanced research activities, the Secretary of Defense may authorize the creation of fifteen positions in the professional and scientific service in accordance with the provisions of Public Law 313, Eightieth Congress, as amended, and to place ten positions in grades 16, 17, or 18 of the General Schedule, in accordance with the procedures prescribed in the Classification Act of 1949, as amended. These positions shall be in addition to those now authorized by law.

SEC. 602. This Act may be cited as the "Supplemental Defense Appropriation Act, 1958".

Approved February 11, 1958.

Public Law 85-323

AN ACT

To amend the Internal Revenue Code of 1954 to prevent unjust enrichment by precluding refunds of alcohol and tobacco taxes to persons who have not borne the ultimate burden of the tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

63 Stat. 410.
5 USC 171p note.

63 Stat. 954.
5 USC 1071 note.

Short title.

February 11, 1958
[H. R. 8216]

Alcohol and tobacco tax refund.
68A Stat. 795.
26 USC 6411-6422.

“SEC. 6423. CONDITIONS TO ALLOWANCE IN THE CASE OF ALCOHOL AND TOBACCO TAXES.

“(a) **CONDITIONS.**—No credit or refund shall be allowed or made, in pursuance of a court decision or otherwise, of any amount paid or collected as an alcohol or tobacco tax unless the claimant establishes (under regulations prescribed by the Secretary or his delegate)—

“(1) that he bore the ultimate burden of the amount claimed; or

“(2) that he has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount; or

“(3) that (A) the owner of the commodity furnished him the amount claimed for payment of the tax, (B) he has filed with the Secretary or his delegate the written consent of such owner to the allowance to the claimant of the credit or refund, and (C) such owner satisfies the requirements of paragraph (1) or (2).

“(b) **FILING OF CLAIMS.**—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and, except as hereinafter provided in this subsection, unless such claim is filed after April 30, 1958, and within the time prescribed by law, and in accordance with regulations prescribed by the Secretary or his delegate. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim. Any claimant who has on or before April 30, 1958, filed a claim for any amount to which subsection (a) applies may, if such claim was not barred from allowance on April 30, 1958, file a superseding claim after April 30, 1958, and on or before April 30, 1959, conforming to the requirements of this section and covering the amount (or any part thereof) claimed in such prior claim. No claim filed before May 1, 1958, for the credit or refund of any amount to which subsection (a) applies shall be held to constitute a claim for refund or credit within the meaning of, or for purposes of, section 7422 (a); except that any claimant who instituted a suit before June 15, 1957, for recovery of any amount to which subsection (a) applies shall not be barred by this subsection from the maintenance of such suit as to any amount claimed in such suit on such date if in such suit he establishes the conditions to allowance required under subsection (a) with respect to such amount.

68A Stat. 876.
26 USC 7422.

“(c) **PERIOD NOT EXTENDED.**—Any suit or proceeding, with respect to any amount to which subsection (a) applies, which is barred on April 30, 1958, shall remain barred. No claim for credit or refund of any such amount which is barred from allowance on April 30, 1958, shall be allowed after such date in any amount.

“(d) **APPLICATION OF SECTION.**—This section shall apply only if the credit or refund is claimed on the grounds that an amount of alcohol or tobacco tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This section shall not apply to—

“(1) any claim for drawback,

“(2) any claim made in accordance with any law expressly providing for credit or refund where a commodity is withdrawn from the market, returned to bond, or lost or destroyed, and

“(3) any amount claimed with respect to a commodity which has been lost, where a suit or proceeding was instituted before June 15, 1957.

“(e) **MEANING OF TERMS.**—For purposes of this section—

“(1) **ALCOHOL OR TOBACCO TAX.**—The term ‘alcohol or tobacco tax’ means—

“(A) any tax imposed by chapter 51 (other than part II of subchapter A, relating to occupational taxes) or by chapter

68A Stat. 595.
26 USC ch. 51.

68A Stat. 705.
26 USC ch. 52.

52 or by any corresponding provision of prior internal revenue laws, and

“(B) in the case of any commodity of a kind subject to a tax described in subparagraph (A), any tax equal to any such tax, any additional tax, or any floor stocks tax.

“(2) TAX.—The term ‘tax’ includes a tax and an exaction denominated a ‘tax’, and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

“(3) ULTIMATE BURDEN.—The claimant shall be treated as having borne the ultimate burden of an amount of an alcohol or tobacco tax for purposes of subsection (a) (1), and the owner referred to in subsection (a) (3) shall be treated as having borne such burden for purposes of such subsection, only if—

“(A) he has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,

“(B) no understanding or agreement exists for any such relief or shifting, and

“(C) if he has neither sold nor contracted to sell the commodities involved in such claim, he agrees that there will be no such relief or shifting, and furnishes such bond as the Secretary or his delegate may require to insure faithful compliance with his agreement.”

SEC. 2. The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end thereof the following:

“Sec. 6423. Conditions to allowance in the case of alcohol and tobacco taxes.”

SEC. 3. The amendments made by this Act shall not apply to any credit or refund allowed or made before May 1, 1958.

Approved February 11, 1958.

Public Law 85-324

JOINT RESOLUTION

February 12, 1958
[H. J. Res. 533]

Making supplemental appropriations for the Department of Labor for the fiscal year 1958, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Labor for the fiscal year ending June 30, 1958, namely:

DEPARTMENT OF LABOR

BUREAU OF EMPLOYMENT SECURITY

UNEMPLOYMENT COMPENSATION FOR VETERANS

For an additional amount for “Unemployment compensation for veterans”, \$25,000,000.

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

For an additional amount for “Unemployment compensation for Federal employees”, \$18,400,000.

Approved February 12, 1958.