

Public Law 87-858

AN ACT

October 23, 1962  
[H. R. 8952]

To amend the provisions of the Internal Revenue Code of 1954 relating to the conditions under which the special constructive sale price rule is to apply for purposes of certain manufacturers excise taxes and relating to the taxation of life insurance companies, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Manufacturers  
excise taxes.

72 Stat. 1279.  
26 USC 4216.

26 USC 4061,  
4191, 4211.

**SECTION 1. CONSTRUCTIVE SALE PRICE.**

(a) **APPLICATION OF SPECIAL RULE.**—Section 4216(b)(2)(C) of the Internal Revenue Code of 1954 (relating to special rule for determining constructive sale price) is amended by inserting before “the normal method” the following: “in the case of articles upon which tax is imposed under section 4061(a) (relating to automobiles, trucks, etc.), 4191 (relating to business machines), or 4211 (relating to matches),”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to articles sold by the manufacturer, producer, or importer on or after October 1, 1962.

Contributions.

**SEC. 2. CONTRIBUTIONS TO FOUNDATIONS FOR CERTAIN STATE COLLEGES AND UNIVERSITIES.**

68A Stat. 58.  
26 USC 170.

(a) **LIMITATION ON CONTRIBUTIONS ALLOWABLE AS DEDUCTION.**—Section 170(b)(1)(A) of the Internal Revenue Code of 1954 (relating to limitation on amount of deduction for charitable contributions by individuals) is amended by striking out “or” at the end of clause (ii), by inserting “or” at the end of clause (iii), and by inserting after clause (iii) the following new clause:

68A Stat. 166.  
26 USC 503.

“(iv) an organization referred to in section 503(b)(3) organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions.”.

(b) **TECHNICAL AMENDMENT.**—Section 170(b)(1)(B) of such Code is amended by striking out “any charitable contributions to the organizations described in clauses (i), (ii), and (iii)” and inserting in lieu thereof “any charitable contributions described in subparagraph (A)”.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1960.

Life insurance  
companies.

73 Stat. 112.  
26 USC 801.

**SEC. 3. LIFE INSURANCE COMPANIES.**

(a) **VARIABLE ANNUITIES AND OTHER SEGREGATED ASSET ACCOUNTS.**—Section 801(g) of the Internal Revenue Code of 1954 (relating to variable annuities) is amended to read as follows:

“(g) **CONTRACTS WITH RESERVES BASED ON SEGREGATED ASSET ACCOUNTS.**—

“(1) **DEFINITIONS.**—

“(A) **ANNUITY CONTRACTS INCLUDE VARIABLE ANNUITY CONTRACTS.**—For purposes of this part, an ‘annuity contract’ includes a contract which provides for the payment of a variable annuity computed on the basis of recognized mortality tables and the investment experience of the company issuing the contract.

“(B) **CONTRACTS WITH RESERVES BASED ON A SEGREGATED ASSET ACCOUNT.**—For purposes of this part, a ‘contract with reserves based on a segregated asset account’ is a contract—

“(i) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

“(ii) which provides for the payment of annuities, and

“(iii) under which the amounts paid in, or the amount paid as annuities, reflect the investment return and the market value of the segregated asset account.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting the requirements of clause (iii) after such cessation.

“(2) **LIFE INSURANCE RESERVES.**—For purposes of subsection (b) (1) (A) of this section, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

“(3) **SEPARATE ACCOUNTING.**—For purposes of this part, a life insurance company which issues contracts with reserves based on segregated asset accounts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such segregated asset accounts. For such items as are not accounted for directly, separate accounting shall be made—

“(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

“(B) in all other cases, in accordance with regulations prescribed by the Secretary or his delegate.

“(4) **INVESTMENT YIELD.**—

“(A) **IN GENERAL.**—For purposes of this part, the policy and other contract liability requirements, and the life insurance company’s share of investment yield, shall be separately computed—

“(i) with respect to the items separately accounted for in accordance with paragraph (3), and

“(ii) excluding the items taken into account under clause (i).

“(B) **CAPITAL GAINS AND LOSSES.**—If, without regard to subparagraph (A), the net short-term capital gain exceeds the net long-term capital loss, such excess shall be allocated between clauses (i) and (ii) of subparagraph (A) in proportion to the respective contributions to such excess of the items taken into account under each such clause.

“(5) **POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS.**—For purposes of this part—

“(A) with respect to life insurance reserves based on segregated asset accounts, the adjusted reserves rate and the current earnings rate for purposes of section 805(b), and the rate of interest assumed by the taxpayer for purposes of sections 805(c) and 809(a) (2), shall be a rate equal to the current earnings rate determined under section 805(b) (2) with respect to the items separately accounted for in accordance with paragraph (3) reduced by the percentage obtained by dividing—

“(i) any amount retained with respect to such reserves by the life insurance company from gross investment income (as defined in section 804(b)) on segregated

73 Stat. 118.  
26 USC 805.

26 USC 809.

26 USC 804.

73 Stat. 117.  
26 USC 804.

assets, to the extent such retained amount exceeds the deductions allowable under section 804(c) which are attributable to such reserves, by

“(ii) the means of such reserves; and

“(B) with respect to reserves based on segregated asset accounts other than life insurance reserves, an amount equal to the product of—

“(i) the rate of interest assumed as defined in subparagraph (A), and

“(ii) the means of such reserves,

shall be included as interest paid within the meaning of section 805(e)(1).

73 Stat. 120.  
26 USC 805.

“(6) INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 810, the sum of the items described in section 810(c) taken into account as of the close of the taxable year shall, under regulations prescribed by the Secretary or his delegate, be adjusted—

“(A) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with paragraph (3) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and

“(B) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

The deduction allowable for items described in paragraphs (1) and (7) of section 809(d) with respect to segregated asset accounts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

73 Stat. 122.  
26 USC 809.

“(7) BASIS OF ASSETS HELD FOR QUALIFIED PENSION PLAN CONTRACTS.—In the case of contracts described in subparagraph (A), (B), (C), or (D) of section 805(d)(1), the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

“(A) increased by the amount of any appreciation in value, and

“(B) decreased by the amount of any depreciation in value, to the extent that such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items in paragraph (6) with respect to such contracts.

“(8) ADDITIONAL SEPARATE COMPUTATIONS.—Under regulations prescribed by the Secretary or his delegate, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with paragraph (3), as may be necessary to carry out the purposes of this subsection and this part.”

(b) TAX IN CASE OF CAPITAL GAINS.—

(1) ALTERNATIVE TAX.—Paragraph (2) of section 802(a) of such Code (relating to tax in case of capital gains) is amended to read as follows:

“(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year beginning after December 31, 1961, the net long-term capital gain of any life insurance company exceeds the net short-term capital loss, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the

73 Stat. 115.  
26 USC 802.

tax imposed by such paragraph) which shall consist of the sum of—

“(A) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income determined by reducing the taxable investment income, and the gain from operations, by the amount of such excess, and

“(B) an amount equal to 25 percent of such excess.”

(2) **TAXABLE INVESTMENT INCOME.**—Paragraph (2) of section 804(a) of such Code (relating to definition of taxable investment income) is amended by striking out “equal to the sum” and inserting in lieu thereof “equal to the amount (if any) by which the net long-term capital gain exceeds the net short-term capital loss plus the sum”.

73 Stat. 115.  
26 USC 804.

(3) **GAIN AND LOSS FROM OPERATIONS.**—Paragraphs (1) and (2) of section 809(b) of such Code (relating to definitions of gain and loss from operations) are each amended by striking out “and” at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

73 Stat. 121.  
26 USC 809.

“(B) the amount (if any) by which the net long-term capital gain exceeds the net short-term capital loss; and”.

(4) **CONFORMING AMENDMENTS.**—Sections 815(c)(3)(B) and 6501(c)(6) of such Code are each amended by striking out “802(a)(1)” and inserting in lieu thereof “802(a)”.

26 USC 815.  
26 USC 6501.

(c) **LIMITATION ON CERTAIN DEDUCTIONS.**—Section 809(f)(2) of such Code (relating to the application of limitation on certain deductions) is amended to read as follows:

26 USC 809.

“(2) **APPLICATION OF LIMITATION.**—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the deduction under subsection (d)(6), and finally to the amount of the deduction under subsection (d)(5).”

(d) **NEW COMPANIES QUALIFYING FOR 8-YEAR LOSS CARRYOVER.**—

(1) **IN GENERAL.**—Section 812(e)(2)(B) of such Code (relating to nonqualified corporation) is amended by adding immediately after the words “with any other corporation” in the first sentence, the following: “(except a corporation taxable under part II or part III of this subchapter)”.

26 USC 812.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply with respect to all taxable years beginning after December 31, 1954, except that in the case of a nonqualified corporation, as defined in section 812(e)(2)(B) of the Internal Revenue Code of 1954 as in effect prior to the amendment made by paragraph (1), a loss from operations for a taxable year beginning in 1955 shall not be an operations loss carryover to the year 1961, and there shall be no reduction in the portion of such loss from operations which may be carried to 1962 or 1963 by reason of an offset with respect to the year 1961.

(e) **CERTAIN DISTRIBUTIONS OF STOCK OF SUBSIDIARIES.**—Section 815(a) of such Code (relating to distributions to shareholders) is amended by adding at the end thereof the following: “Further, for purposes of this section, the term ‘distribution’ does not include any distribution before January 1, 1964, of the stock of a controlled corporation to which section 355 applies, if such controlled corporation is an insurance company subject to the tax imposed by section 831 and

26 USC 815.

26 USC 355.  
26 USC 831.

control has been acquired prior to January 1, 1963, in a transaction qualifying as a reorganization under section 368(a)(1)(B)."

68A Stat. 120.  
26 USC 368.

(f) EFFECTIVE DATE.—Except as provided in subsection (d)(2), the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1961.

Approved October 23, 1962.

Public Law 87-859

AN ACT

October 23, 1962  
[H. R. 5260]

To continue for an additional three-year period the existing suspensions of the tax on the first domestic processing of coconut oil, palm oil, palm-kernel oil, and fatty acids, salts, combinations, or mixtures thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

Coconut and palm oil.  
Tax suspension, extension.  
74 Stat. 73,  
26 USC 4511  
note.

(1) Section 3 of Public Law 85-235, as amended (71 Stat. 516), approved August 30, 1957 (relating to the temporary suspension of the tax on the first domestic processing of coconut oil); and

(2) Public Law 86-37, as amended (73 Stat. 64), approved May 29, 1959 (relating to the temporary suspension of the tax on the first domestic processing of palm oil, palm-kernel oil, etc.), are each amended by striking out "June 30, 1963" and inserting in lieu thereof "June 30, 1966".

Approved October 23, 1962.

Public Law 87-860

AN ACT

October 23, 1962  
[H. R. 7932]

To amend the Act of July 2, 1948, so as to repeal portions thereof relating to residual rights in certain land on Santa Rosa Island, Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence in the first section of the Act entitled "An Act to authorize the Secretary of the Army to sell and convey to Okaloosa County, State of Florida, all the right, title, and interest of the United States, including any restriction on use thereof, in and to a portion of Santa Rosa Island, Florida, and for other purposes", approved July 2, 1948 (62 Stat. 1229), is hereby amended by striking the words "for recreational purposes". Subparagraphs a, e, and g of the first section, and all of sections 2 and 3 of the Act are hereby repealed.

Santa Rosa Island, Okaloosa County, Fla.  
Residual rights, release.

63 Stat. 921.

Repeals.

(b) The Secretary of the Army shall issue such written instruments as may be necessary to bring the conveyance made to Okaloosa County, Florida, on May 22, 1950, under authority of the Act of July 2, 1948, into conformity with the amendment made by subsection (a) of this section.

Effective date.

SEC. 2. The first section of this Act shall take effect on the date the county of Okaloosa, Florida, shall pay to the Secretary of the Army the current fair market value (as determined by the Secretary), of the property interest authorized to be conveyed to such county under the first section of this Act.

Approved October 23, 1962.