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FEDERAL RESERVE BANK
OF NEW YORK

Investment Department

[Circular No. 338
January 28, 1921]

Revenue Stamps on Time Drafts

*To All Banks, Trust Companies and Acceptance Dealers
in the Second Federal Reserve District :*

In view of the misunderstanding which appears to exist with regard to the rulings of the Commissioner of Internal Revenue at Washington concerning the necessity for affixing revenue stamps to bankers acceptances drawn in the many kinds of transactions involving the exportation of goods from this country, we quote below for your information pertinent provisions of the Revenue Act of 1918, and also certain articles of Internal Revenue Regulations 55, which bear particularly on the subject in question.

The Revenue Act of 1918, Title XI, provides in Schedule A-6 for a tax as follows:

Drafts or checks (payable otherwise than at sight or on demand) upon their acceptance or delivery within the United States, whichever is prior, *** and for each renewal of the same, for a sum not exceeding \$100, 2 cents; and for each additional \$100, or fractional part thereof, 2 cents.

The following are pertinent articles of the Regulations 55:

Article 33. Drafts and checks payable otherwise than at sight or on demand.—Drafts and checks payable otherwise than at sight or on demand become subject to stamp tax if delivered or accepted within the United States.

Article 41. Time draft covering exports to foreign country.—A time draft directly covering exports to a foreign country and which constitutes an inherent, necessary, and bona fide part of the actual process of exportation is exempt from stamp tax. This exemption does not depend on whether or not the time which the draft has to run will expire before or after the ocean shipment. *Time drafts drawn against the proceeds of the foregoing draft are subject to stamp tax.*

Article 42. Time draft to secure purchase money.—A time draft drawn on a domestic bank for the purpose of securing money to purchase goods to be exported is subject to tax regardless of the fact that a contract for the sale of the goods existed at the time the draft is drawn.

Article 43. Time drafts on domestic banks covering exports.*—A time draft directly covering a sale for export to a foreign buyer and drawn on a domestic bank as the authorized acceptor of the foreign buyer is exempt from stamp tax. A time draft drawn by or on an exporter or on his bank in payment for export shipments made by the manufacturer on the exporter's order is subject to stamp tax.

Article 45. Time drafts covering shipments to Canal Zone.—Stamp tax attaches to time drafts covering articles shipped from the United States, Hawaii, and Alaska to Canal Zone, if the drafts are delivered within the United States, Hawaii, or Alaska.

Article 46. Time drafts covering shipments to Virgin Islands, Philippines, and Porto Rico.—Stamp tax does not attach to time drafts covering shipments to the Virgin Islands, Philippines, and Porto Rico, because of express legislation exempting shipments to these dependencies.

* As superseded and amended by T. D. 3100, approved December 11, 1920.

For your information, we quote below further rulings in this connection which we have received from the Commissioner of Internal Revenue. With particular reference to Article 41, quoted above, the Commissioner has similarly ruled under date of September 9, 1920, that

"a time draft drawn against the proceeds of a sight draft directly covering exports to a foreign country is subject to stamp tax. The exemption extended by Article 41 of Regulations 55 applies only to time drafts *directly* covering exports to a foreign country and which constitute an inherent, necessary and bona fide part of the actual process of exportation. This exemption does not apply to time drafts drawn against the proceeds of other drafts which are exempted."

We submitted the following question to the Commissioner:

"An American exporter makes a shipment of goods to a buyer in a foreign country. Upon obtaining the ocean bills of lading covering the goods, the American exporter lodges them with a bank in this country with instructions that they be forwarded to its agent abroad to be delivered, against payment or otherwise, to the American exporter's nominee. The exporter does not draw a draft on the foreign buyer. He does, however, obtain a credit from and draws his draft upon the bank in this country, with which he has lodged his bills of lading, for the purpose of financing himself during the period intervening between the time the shipment is made and such time as he receives payment from abroad for the goods sold. This is the only draft which is drawn in connection with the transaction.

"May a draft drawn under these circumstances and for the above mentioned purpose be properly considered as 'directly covering exports to a foreign country and which constitutes an inherent, necessary, bona fide part of the actual process of exportation,' and consequently exempt from stamp tax."

to which the Commissioner replied under date of September 8, 1920:

"Such a draft is merely a domestic means of utilizing domestic credit allowed on account of the collections to be made by the bank, when foreign bills of lading are delivered to it, for payment by the foreign buyer. As a draft under these circumstances cannot be considered as strictly covering exports to a foreign country and does not constitute an inherent, necessary, bona fide part of the actual process of exportation, this office holds that the draft is subject to the stamp tax."

The Commissioner further ruled under date of October 12, 1920, as follows:

"The typical draft which is exempt from tax as a part of the process of exportation is the one attached to the bill of lading and *drawn upon the foreign buyer*, which may be discounted and negotiated in this country. The exemption from tax has been held to extend to *equivalent* drafts drawn upon funds or agencies established in this country by foreign governments or buyers to facilitate exchange.

"This exemption does not extend to drafts which represent processes of domestic financing or to drafts which represent the preliminary or subsequent adjustment or use of accounts or funds involved in exportation, and does not apply to drafts given by the domestic buyer to the domestic seller or drawn on the former as a means of payment for goods purchased to be exported.

We will, of course, be guided by the above mentioned rulings in connection with all acceptances which we may rediscount or purchase.

Very truly yours,

BENJ. STRONG,

Governor