

## OFFICE OF COMMISSIONER OF INTERNAL REVENUE

## TREASURY DEPARTMENT

WASHINGTON, June 21, 1918.

Hon. M. C. Elliott,  
Federal Reserve Board,  
Washington, D. C.

My dear Mr. Elliott:

Referring to your letter of June 5 and my acknowledgment of June 10, it seems from Mr. Curtis' letter that under credit agreements conforming with the regulations of the Federal Reserve Board packers may draw bills of exchange on domestic banks against sales of goods to the Allied Purchasing Commission, such bills running for a period of time covering approximately the transit of the shipment from the interior point to the seaboard, where the goods are taken on board ship for the ocean voyage at the convenience of the Allied Purchasing Commission.

In *Wm. E. Peck & Co. (Inc.) v. Lowe*, decided in the United States Supreme Court May 20, 1918, which held that the income tax of 1913 was valid as applied to net income derived from sales in foreign commerce, the court had occasion to discuss the effect of the constitutional prohibition against taxing articles exported, and it referred to and distinguished certain of its former decisions on the subject. It concluded that when the tax is not laid on the articles themselves while in course of exportation, the true test of its validity is whether it so directly and closely bears on the process of exporting as to be in substance a tax on the exportation. In the present circumstances it can probably fairly be said that the tax on the drafts, although they are to be paid before the actual ocean voyage begins, bears so directly and closely on the process of exporting as to be in substance a tax on it. The goods are doubtless "in course of exportation" from the time the first carrier receives them.

The same principle would seem to apply as in the case of the transportation tax. In Article 31 of Regulations No. 42, rules for determining when property may be deemed to be in the course of exportation are laid down, and apparently the present situation is within their scope.

It is accordingly held that the stamp tax imposed by subdivision 6 of Schedule A of Title VIII of the Act of October 3, 1917, does not attach to drafts on domestic banks in connection with the shipment of articles from the interior to the seaboard, where such articles have been sold to the United States agent of a foreign purchaser for export under circumstances entitling the transportation within the United States to exemption from the transportation tax.

Yours sincerely,

(Signed) Daniel C. Roper,  
Commissioner.

CWJ