

War Tax on Demurrage

Demurrage, for the purpose of war taxes, is not transportation, the treasury has ruled. Its ruling has been made public in Treasury Decision No. 3022, addressed to collectors of internal revenue and others concerned, dated May 26. The decision revises and amends articles 2 and 51 of Regulation 49, revised, by omitting therefrom the word "demurrage" from Article 2, which defines transportation and will make Article 51 read as follows:

Article 51, Storage and Demurrage Charges.—Amounts paid for storage, if a part of transportation, are subject to tax. Storage after delivery to owner is not a part of transportation. Storage by or in behalf of a carrier furnished to a shipper on receipt of his goods for shipment, or storage by or in behalf of a carrier at destination before delivery to owner, whether in outside warehouse or otherwise, is a part of transportation and subject to tax. However, where the consignee has been notified of the arrival of a shipment at destination and fails to remove it within a reasonable time after such notification, the transportation is considered as having ended after such reasonable time, and charges for storage thereafter are not subject to tax. Demurrage is a charge and a penalty imposed by a railroad company for the detention of its cars and the occupation of its tracks beyond a reasonable time after the arrival of the goods; it is not a part of the transportation and is not subject to tax. A "reasonable time," as used in this article, is held to mean the free time allowed by the carrier under its tariff.

The decision of the treasury that demurrage is not part of transportation can have no effect on the Interstate Commerce Commission. That body regulates demurrage on the the-

ory that it is part of transportation. The courts, also, have sustained the Commission whenever there has been a question. On no theory other than that demurrage is transportation or a service connected with transportation has the Commission power over storage or demurrage.

The effect of the revision of the regulation is to exempt from the transportation tax practically all those parts of freight bills caused by the imposition of penalties, because, in the last sentence, the words "reasonable time" for removal, are held to mean the free time allowed by the carrier, in its tariffs, for the removal of the goods. There may be storage in transit, before delivery or tender of delivery. On such storage, by implication, the tax would be imposed.

The Commission could not assent to the proposition that transportation has ended when the free time has expired. That would rob it of the control it has exercised over the rates, rules, regulations and practices of the railroads in the making and enforcement of demurrage and storage charges. The Treasury, however, is not bound by the views of the Commission or the courts in the matter of levying and collecting taxes. It can exempt some of the charges made by the common carriers if it thinks they are for services that are not transportation.

—*The Traffic World* Washington Bureau



Cars for Perishables

The following extract is from the *Traffic World* of June 14th:

In Supplement No. 1 to Circular CCS-20, Chairman Kendall of the A. R. A. commission on car service, says to carriers: