Sen. Wants Cruise Lines To Pay 'Fair Share' Of US Tax

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By **Nathan Hale**

Law360, Miami (August 2, 2013, 6:35 PM EDT) -- Sen. Jay Rockefeller, D-W.Va., has introduced legislation that would increase federal taxes imposed on cruise lines, noting many are registered as foreign companies despite having headquarters and executives located in the United States and deriving substantial revenue here.

The cruise industry has previously come under fire this year from Rockefeller, who as chairman of the Senate Commerce, Science and Transportation Committee also targeted it over concerns about safety and passenger rights in the wake recent incidents such as the February engine fire that stranded the Carnival Triumph in the Gulf of Mexico. On Thursday, he filed two bills that would close a loophole in federal tax law exempting cruise lines from paying U.S. income tax and would apply an excise tax on the industry that most other transportation industries already pay, according to a Commerce Committee statement.

"The cruise industry can't operate for free here in the U.S.," Rockefeller said in a statement. "It costs money to send the Coast Guard to tow their drifting ships and it costs money to maintain the ports they use. Cruise lines need to start paying their fair share of taxes and stop expecting everyone else to foot the bill."

In the past seven years, Carnival Corp. & PLC and Royal Caribbean Cruises Ltd., which represent 71 percent of the global cruise industry, have paid an effective worldwide tax rate of just 1.3 percent on more than $17 billion in profits, with only a fraction being U.S. taxes, Rockefeller said.

"Carnival Corporation pays the taxes it is legally required to pay in every country in which we do business," the cruise line said in a statement in response to Rockefeller's bills. "In the last five years alone, we have paid nearly $1.2 billion to U.S. federal, state and local agencies, including port authority payments, government fees, dockage fees and payroll taxes.

"In addition, virtually all jurisdictions where our ships call impose taxes and/or fees based on the guest counts, ship tonnage, ship capacity or some other measurement. These taxes are included in our cost of operation," Carnival added.

The company — which has headquarters in Miami, Fla., and London, and also operates Holland America Line, Princess Cruises, Cunard Line, Costa Cruises, and P&O lines in the United Kingdom and Australia, among others — also stated that the majority of its income is earned outside of the United States.

Royal Caribbean, which also has its corporate headquarters in Miami, did not respond to a request for comment Friday. Its brands also include Celebrity Cruises, Azamara Club Cruises, Pullmantur and CDF Croisieres de France.

One of Rockefeller's bills proposes to close a loophole in Section 883 of the Internal Revenue Code that exempts certain foreign companies from U.S. taxes on income derived from their international operation of ships, even if the source of the income is from the United States, according to a Commerce Committee statement.

A review of the exemption's history found that it was enacted on the premise that these companies would be taxed by their home countries and the U.S. would be applying an unfair duplicative tax; however, cruise lines' filings with the U.S. Securities and Exchange Commission revealed that they are actually paying little to no corporate income tax in their home countries, the statement said.

"Given that these companies — whose headquarters and CEOs are located in the United States — are largely transporting U.S. passengers to and from locations in the U.S., with the assistance and oversight of U.S. agencies, this special tax treatment is clearly unjustified," the Commerce Committee said.

Under Rockefeller's bill, S. 1449, the Section 883 exemption would be eliminated and income from passenger voyages that embark or disembark passengers in the United States would be treated as income sourced in the U.S. and connected to a U.S. trade or business, and taxed the same as other income.

Rockefeller's other bill, S. 1450, would impose a 5 percent excise tax on gross income from cruises where passengers embark or disembark in the United States. The tax, which would be used to fund transportation infrastructure projects, would apply to 100 percent of the gross income of cruises where the majority of passengers embark or disembark in the U.S., and to 50 percent of gross income for cruise ships that stop in U.S. ports but do not embark or disembark the majority of their passengers.

"While the cruise industry pays local port fees and taxes, it remains unique in that it pays very little or no corporate income tax in the United States, and thus contributes comparatively little to the building and maintenance of our national infrastructure," the Commerce Committee said in a separate statement.

The Cruise Lines International Association, which said Friday through a spokeman that it was still reviewing Rockefeller's bills, on July 16 released the results of an independent study it commissioned that said the cruise line industry continued to rebound in 2012 from the negative impacts of the Great Recession and contributed $42 billion to the U.S. economy.

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A record 10 million passengers embarked on cruises at U.S. ports last year, including 6.1 million from Florida's ports, and the cruise industry generated 356,311 jobs, paying $17.4 billion in wages, to American workers, according to the study.

--Editing by Stephen Berg.

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- S. 1449
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