

DESCRIPTION OF S. 2741

Relating to

EXTENSION OF TIME FOR DIVESTITURE OF  
EXCESS BUSINESS HOLDINGS BY THE  
AHMANSON FOUNDATION

Scheduled for a Hearing

on September 23, 1982

by the

Subcommittee on Taxation and Debt Management

of the

Senate Committee on Finance

Prepared by the Staff

of the

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## INTRODUCTION

This document provides a description of S. 2741, which is scheduled for a public hearing on September 23, 1982, by the Subcommittee on Taxation and Debt Management. S. 2741 (introduced by Senators Hayakawa and Cranston) would amend the Tax Reform Act of 1969 with respect to the application of excess business holdings provisions to certain private foundations. (The bill is intended to benefit the Ahmanson Foundation of California.)

The first part is a brief summary of the bill. This is followed in the second part by a more detailed description of present law and the bill.

(Description of a second bill, S. 232, also scheduled for the September 23 Subcommittee hearing, is provided in a separate staff pamphlet, JCS-35-82, distributed on September 21.)

## I. SUMMARY

### S. 2741--Senators Hayakawa and Cranston

#### Extension of Time for Divestiture of Excess Business Holdings by the Ahmanson Foundation

The bill would extend the time period by 10 years for the Ahmanson Foundation of California to meet the divestiture requirements for excess business holdings imposed on private foundations by the Tax Reform Act of 1969.



## II. DESCRIPTION OF BILL

### S. 2741--Senators Hayakawa and Cranston

#### Extension of Time for Divestiture of Excess Business Holdings by the Ahmanson Foundation

##### Present Law

The Tax Reform Act of 1969 imposed an excise tax upon the excess business holdings of a private foundation (Code sec. 4943). Generally, under the excess business holdings provisions, the combined ownership of a business by a private foundation and all disqualified persons cannot exceed 20 percent of the voting stock of the business (35 percent if other persons have effective control of the business).

The 1969 Act provided that, if a private foundation and disqualified persons together had holdings on May 26, 1969, in excess of the permitted amounts under the general rules, then those holdings could be retained if they consisted of not more than 50 percent of the business. If the combined holdings exceeded 50 percent of the business on that date, then over a transitional period the combined holdings have to be reduced to 50 percent (ultimately to 35 percent if the disqualified persons hold, in the aggregate, no more than 2 percent of the business; if they hold more than 2 percent, then the combined holdings may continue to be as much as 50 percent, of which the foundation itself may hold no more than 25 percent). Where the holdings of the private foundation alone were more than 95 percent, the transitional period is 20 years (i.e., until May 26, 1989). Where the combined holdings of the private foundation and disqualified persons were more than 75 percent, the transitional period is 15 years (i.e., until May 26, 1984). Where the combined holdings were more than 50 percent but not more than 75 percent, the transitional period is 10 years (i.e., May 26, 1979).

##### Issue

The issue is whether the Ahmanson Foundation of California should be allowed more time to divest itself of certain excess business holdings in accordance with the provisions of the Tax Reform Act of 1969.



### Explanation of the Bill

The bill would extend the period of time available for certain private foundations to divest themselves of excess business holdings in a savings and loan association (an insured institution as defined in sec. 408(a)(1)(A) of the National Housing Act) or a savings and loan holding company (as defined in sec. 408(a)(1)(D) of the National Housing Act).

The extended divestiture period would apply to private foundations where on May 26, 1969: (1) the private foundation and disqualified persons with respect to the private foundation together owned directly at least 80 percent of the voting stock of the savings and loan association if each savings and loan holding company had been dissolved on that date and its assets distributed to its shareholders; (2) at least 80 percent of the fair market value of the assets of the private foundation consisted of voting or nonvoting stock of such savings and loan association and one or more holding companies; and (3) the outstanding principal balance of residential loans held by the savings and loan association exceeded \$2 billion. In addition, the divestiture time period would be so extended only if and for so long as, after the end of the present statutory period of 15 years, the private foundation, its disqualified persons, and its related and subordinate parties (as defined in sec. 672(c)) have been divested irrevocably of the power to vote any stock in the savings and loan association or its holding companies that would constitute excess business holdings but for the new extension provision.

Under the bill, a private foundation which qualifies for the extended divestiture period for its qualified savings and loan business is generally permitted 10 additional years to meet the divestiture rule beyond the 15-year period provided by present law (i.e., until May 26, 1994), but must gradually divest itself of its excess business holdings over that 10-year period under a divestiture formula. Under that formula, the number of shares of voting stock (whether owned directly or indirectly by the private foundation) that are excess business holdings by the end of the 15-year period must be reduced by 10 percent of such number by the end of each year of the 10-year extension.

The intended beneficiary of the bill is the Ahmanson Foundation of California. However, any private foundation that meets the requirements would qualify for the extension of the divestiture time period.







Effective Date

The provisions of the bill would be effective as of May 26, 1969.

Revenue Effect

This provision is not expected to affect budget receipts through fiscal year 1987.

Other Congressional Action

A similar provision, for a 5-year extension to meet divestiture requirements, was approved as a Senate floor amendment to H.R. 4961 (Tax Equity and Fiscal Responsibility Act of 1982), but was not agreed to in conference.

