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TAX REFORM BILL OF 1974

Press Release Descriptions of Tentative Decisions Corresponding to Sections of Draft Bill

TITLE I—CHANGES PRIMARILY AFFECTING INDIVIDUALS

PREPARED FOR THE USE OF

THE COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

BY

THE STAFF

OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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TITLE I—CHANGES PRIMARILY AFFECTING INDIVIDUALS

Part I—Changes in Deductions, Credits, and Exclusions

Sec. 101. Deductions for expenses attributable to business use of homes, rental of vacation homes, etc.

BUSINESS USE OF HOME

The committee agreed to provide definitive rules for permitting deductions of expenses attributable to the use of a taxpayer's home for business purposes. In general, a taxpayer will not be permitted to deduct any expenses attributable to the use of his home for business purposes. The committee provided for three situations in which such expenses attributable to the use of a portion of a taxpayer's residence for business use will be permitted. A deduction will be permitted if a portion of the home is used exclusively on a regular basis:

(1) by a self-employed individual for the production, sale, and service of goods or the rendition of services or as his principal executive office; or

(2) by an employee in connection with the performance of his duties but only if it is required as a condition of his employment; or

(3) as rental property (but deductions will be limited to gross income as under section 183).

A special rule will be provided to cover situations where self-employed individuals may use their home for trade or business purposes on a regular basis but do not use a specific portion of their home exclusively for such purposes. This rule would cover the situations where a trade or business is actively conducted by a taxpayer in his home and is not conducted at any other location and the taxpayer is not engaged in any other trade or business (including a trade or business as an employee). In this case, a deduction for the allocable expenses will be permitted but is not to exceed the income generated by the business activities of the taxpayer in his home.

VACATION HOME

Under present law, section 183 of the Internal Revenue Code provides that if an activity is not engaged in for profit, the amount of the allowable trade or business deduction (such as depreciation, maintenance, and utilities) cannot exceed the amount of the gross income derived from the activity less the personal deductions such as interest and taxes. The determination of whether an activity is engaged in for profit is made by reference to objective standards taking into account all the facts and circumstances of each case. There is a pre-

sumption that a taxpayer is engaged in an activity for profit if in two of the last five subsequent taxable years the activity actually produced a profit.

This provision was enacted as part of the Tax Reform Act of 1969 and among the activities it was intended to cover was the rental of vacation homes used for personal purposes. Since the rules and regulations do not appear to provide definitive rules in the case of vacation homes used for personal purposes, the committee agreed to provide more specific rules.

If a vacation home is used by a taxpayer for personal purposes for the greater of one week or 5 percent of the actual business use (that is, its actual rental time), then section 183 will be applicable whether or not the presumption under present law would otherwise apply. This means that the allocable deductions for trade or business or the production of income relating to the vacation home, which would be allowed if the activity were engaged in for profit, are not to exceed the gross income from the business use of the vacation home.

If the vacation home is used for less than one week or less than 5 percent of the actual business use, then section 183 will not be applicable and the allocable expenses will be allowed even if such expenses exceed the gross income from the business use.

These special rules will not apply if the vacation home results in a profit for the year or if there is no personal use of the vacation home during the year.

Where there is any personal use of a vacation home (regardless of whether section 183 applies), the deductions allowable for business use will be allocated as follows: the proportion of actual business use over the total actual use of the property (that is, the business use and personal use) times the total expenses attributable to the vacation home.

Sec. 102. Deductions for conventions, etc., outside the United States.

The committee agreed to limit deductions allowable for the expenses of taxpayers attending conventions, educational seminars or similar meetings outside the United States. The general rule agreed to by the committee is that no deduction is allowable for foreign travel expenses (including expenses for transportation, meals and lodging) for an individual with respect to a convention, seminar or similar meeting held outside the United States unless the location is consistent with the activities, purposes and functions of such convention, meeting or seminar.

This rule would not apply to a meeting conducted by an organization which draws from foreign members to the extent the number and location of its foreign meetings are reasonable in light of the number of foreign members and their geographical dispersion. Present law relating to the allocation of expenses would continue to apply in any case where foreign meetings may still be deductible.

This rule also is not intended to apply to the expenses incurred in attending a convention, etc., at a location that is uniquely suited to the purposes of the convention, provided that the attendance at the conference by an individual is related to his trade or business. Thus, a deduction will not be allowed in the case of an individual who attends a meeting conducted or sponsored by a domestic organization

in all respects (membership and organizational purpose) which meets outside the United States unless there is a compelling reason for meeting outside the United States.

Sec. 103. Tax credit for home garden tool expenses.

The committee agreed to provide a 7-percent investment tax credit to individuals for the purchase of home garden tools used in the production of home vegetable gardens. The credit is to be available on purchases of equipment up to $100 a year ($50 in the case of a husband or wife filing a separate return).

Sec. 104. Revision of retirement income credit.

The committee decided to restructure the present retirement income credit and convert it to a tax credit for the elderly, available to all taxpayers age 65 or over regardless of whether they have retirement income or earned income. The maximum amount on which the credit is computed is increased to $2,500 for single persons age 65 or over (or for married couples filing joint returns where only one spouse is age 65 or over) and to $3,750 for married couples filing joint returns where both spouses are age 65 or over. Under present law, the maximum amount on which a credit is computed in the case of a single person is $1,524; for a married couple, the maximum amount is $2,286 in the case of one "retirement income" recipient and $3,048 in the case of two recipients.

These maximum amounts for computing the credit are reduced, as under present law, by social security benefits and other exempt pension income. Present law also reduces the credit by one-half the earnings over $1,200 and under $1,700, and by all the earnings over $1,700. The committee decided to eliminate this earnings cut-back and provide an income phaseout based on adjusted gross income (rather than just earned income) above $7,500 for single persons and $10,000 for married couples to limit the benefits to low- and middle-income elderly taxpayers. Under this phaseout the maximum amount on which the credit is computed is reduced by $1 for each $2 of adjusted gross income (AGI) above the indicated AGI levels.

The committee also agreed to eliminate the provisions of present law that limit the credit based on the amount of a taxpayer's retirement income; thus, the credit will also be allowed for earned income.

In addition, the committee agreed to eliminate the requirement that to be eligible for the credit, the taxpayer must have met the test of earning $600 a year for 10 years. Further, the variation in treatment of married couples depending on whether they are separately eligible for the credit is eliminated.

The committee also ageed to simplify the credit somewhat in the case of individuals under age 65 receiving public retirement pensions. In this case the 10-year, $600 earning requirement and the variation in treatment of married couples depending on whether they are separately eligible for the credit are both eliminated.

Sec. 105. Changes in exclusions for sick pay and certain military, etc., disability pensions.

The temporary sick pay exclusion is to be repealed generally. The exclusion for disability income is to continue to be available to taxpayers under age 65 who are permanently and totally disabled

(after that age they will be eligible for the revised elderly credit). The maximum amount of income that may be excluded as disability income in the case as under present law is limited to $100 a week ($5,200 a year). The maximum amount excludable is reduced on a dollar-for-dollar basis by the taxpayer's income (including the disability income) in excess of $10,000 for married couples filing joint returns ($5,000 if separate returns are filed) and $7,500 for single persons. For this purpose, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. These limitations are applicable to both military and civilian disability payments.

Sec. 106. Child care deduction.

The child care deduction is to be revised to broaden the overall application of the provision and to simplify it. The deduction for child (or disabled dependent) care is extended to married couples where the husband or wife, or both, work part-time (presently both spouses are required to work full time). The deduction is limited to the amount of earnings of the spouse earning the smaller amount, or in the case of a single person, to his earnings. The deduction is also made available in the case of married couples where one is a full-time student and the other spouse works.

Additional child care changes agreed to eliminate the distinction between care in the home and care outside the home, making the deduction available to a divorced or separated parent who has custody of a child even though not entitled to a dependency exemption for the child, and making a deserted spouse eligible for the deduction where the deserting spouse is absent for more than 6 months rather than an entire year.

Several changes were also agreed to by the committee to simplify the tax return form by eliminating the need for a separate child care schedule. One such change replaces the present $400-a-month requirement with a maximum annual deduction of $4,800. This maximum amount is to be $2,400 for one dependent and $4,800 for two or more dependents. (This replaces the 3-step dependent limitation under present law.) Finally, the requirement that the deduction for the taxpayer is reduced by disability income received by his dependent is eliminated.

Sec. 107. Deduction for alimony allowed in determining adjusted gross income.

The deduction of alimony payments is to be moved from an itemized deduction to a deduction from gross income to arrive at adjusted gross income.

Sec. 108. Revision of deduction for medical, dental, etc., expenses.

The deduction for one-half (but not in excess of $150) of medical insurance premiums which is allowable without regard to the 3-percent floor applicable to other medical expenses is to be repealed.

The 3-percent floor applicable to the medical expense deduction is to be increased to 5 percent and the 1-percent floor with respect to drugs is to be eliminated with the expenses for drugs covered under the 5-percent floor to apply only to prescription drugs.

Sec. 109. Limitations on casualty losses.

The casualty loss deduction is to be subject to a 3-percent floor but casualty losses in excess of $50 per loss (instead of $100) are to be taken into account for the floor.

Sec. 110. Treatment of losses from certain nonbusiness guaranties.

The committee agreed to provide the same treatment for a noncorporate guarantor (or endorser or indemnitor) of certain noncorporate obligations as is presently provided for in the case of a person who makes a direct loan to a principal debtor who uses the loan in a trade or business. Under present law, a noncorporate guarantor of certain noncorporate obligations is allowed business bad debt treatment on any payment made by him in discharge of all or part of his obligation as guarantor. Business bad debt treatment allows the guarantor to claim an ordinary loss deduction rather than a short-term capital loss deduction, which would be the case if the guarantor had made a direct loan which was defaulted instead of guaranteeing the loan.

The committee agreed to eliminate the provision that allows noncorporate guarantors to treat as business bad debts the losses from a guarantee of certain noncorporate obligations. This would mean that the losses of noncorporate guarantors would be considered nonbusiness bad debts and treated as short-term capital losses. In addition, the committee decided to make it clear that in all respects where a taxpayer has a loss arising from a guarantee of a loan, he is to receive the same treatment as where he has a loss from a loan which he makes directly.

Sec. 111. $200 deductible in case of trade or business expenses of employee or expenses of activity engaged in for profit.

The deduction for miscellaneous expenses (which includes employee business expenses and expenses for the production of income) is to be continued but a $200 floor is provided so that only the total miscellaneous expenses above $200 are to be deducted.

Sec. 112. Repeal of dividends received exclusion

The dividend exclusion is to be repealed.

Sec. 113. Repeal of deduction for State and local taxes on gasoline and other motor fuels.

The deduction for State gasoline taxes is to be repealed.

Sec. 114. Elimination of deduction for certain property transfer taxes.

The deduction for State or local stock transfer taxes is to be repealed.

Sec. 115. Elimination of deduction for certain disability, etc., taxes.

The deduction to State disability taxes is to be repealed.

Sec. 116, Revision of tax tables for individuals.

The committee agreed to revise the tax tables published by the Internal Revenue Service. Under present law, taxpayers having

adjusted gross income of less than $10,000 and not itemizing deductions must use the optional tax tables provided by the IRS. (Individuals who itemize deductions or have adjusted gross income in excess of $10,000 must use the rate schedules.) These tax tables, of which there are 12, take up 6 pages of instructions and are a major source of taxpayer error (using the wrong table). For simplification, the committee agreed to base the tax tables on taxable income rather than adjusted gross income and to extend their applicability to taxable incomes up to $20,000. Thus, all taxpayers with taxable incomes of less than $20,000 will compute their taxable income by substracting the amount of their personal exemptions and deductions from their income and then by looking up their tax in the tables. These tables will be much simpler to use and be more generally applicable than the present tax tables.

Sec. 117. Cost of living adjustment for certain section 162 amounts.

The committee tentatively agreed to update the $3,000 limitation which was imposed in 1952 upon deductible away-from-home living expenses for a Member of Congress. (The tax home of a Member of Congress is considered to be his place of residence within the State or congressional district which he represents). The committee agreed to increase the amount of the limitation, effective January 1, 1975, on the basis of changes in the most recent Consumer Price Index for the District of Columbia at the beginning of each new Congress. This adjustment is to reflect the cost-of-living increases that have transpired since 1952, when the present dollar amount was established.

Part II—Simplification Deduction and Other Decreases in Tax Attributable to Simplification

Sec. 121. Simplification deduction.

To replace itemized deductions eliminated by the previous committee decisions concerning simplification, a "simplification deduction" is provided to taxpayers who itemize their deductions. This special simplification deduction would be taken in addition to a taxpayer's other itemized deductions and is equal to $350 plus 2 percent of adjusted gross income, up to a maximum of $650.

Sec. 122. Increase in percentage standard deduction.

The standard deduction under present law of 15 percent of adjusted gross income with a maximum of $2,000 is increased to 17 percent with a maximum of $2,500.

Sec. 123. Increase in low-income allowance.

The present low income allowance of $1,300 is increased to $1,400 for single taxpayers and $1,500 for married couples filing joint returns.

Sec. 124. Change in maximum rate provision.

The 50-percent maximum rate applicable to earned income under present law is expanded to apply to unearned income in an amount equal to the amount of the taxpayer's earned income. Thus, if an individual has $50,000 of earned income, $50,000 of income defined as unearned income is eligible for the 50-percent maximum rate limitation. In addition, the present offset of income eligible for the 50-percent maximum rate by "tax preference income" is modified.

Sec. 125. Changes in withholding tables to reflect increase in percentage standard deduction and increase in low-income allowance.

The changes in the standard deduction and low income allowance are to be reflected in income tax withholding beginning in January 1975.

Part III—Minimum Tax; Limitation on Artificial Losses; Related Amendments

Sec. 131. Minimum tax for individuals.

The committee tentatively decided to replace the existing minimum tax applicable to individuals with a new minimum tax. The existing minimum tax is an addition to the regular income tax. The new provision for individuals is an alternative to the regular income tax, and individuals would pay this tax only if it exceeds their regular tax.

The base of the minimum tax would be "economic income" less an exemption and certain deductions. "Economic income" is adjusted gross income as defined under present law, plus the existing items of tax preference and plus interest and taxes paid on a building during the construction period to the extent that they exceed related income, consolidating residential and commercial properties. (For a 3-year period, however, construction period interest and taxes and related income would not include that pertaining to low-income housing which is subsidized in connection with Federal, State, or local programs.) Deductions allowed against economic income would be investment interest and expense to the extent of investment income, extraordinary medical expenses and casualty losses, cash contributions to charity and the basis of charitable contributions of appreciated property. The basic exemption would be $25,000, but it would be reduced dollar for dollar as economic income less deductions rises above $25,000, so that the exemption would be phased out entirely when the excess of economic income over deductions equals $50,000.

The minimum tax rate would be 14 percent on the first $50,000 of the income included in the base; 17 percent on this income between $50,000 and $100,000; and 20 percent on this income above $100,000.

Sec. 132. Limitation on artificial losses.

A. Farm losses

The committee decided to impose a limitation on the extent to which artificial accounting losses (LAL) from farm operations can be used to offset income from nonfarm sources. Under the tentative agreement the limitation is to apply in the case of the deductions for: (a) prepaid supplies consumed in a later period (such as feed or fertilizer); (b) preproductive expenditures not treated as capital items which are incurred during the development period in the case of orchards, vineyards, and similar farming operations (but not including expenses incurred in connection with the breeding of livestock before reaching the productive stage); and (c) prepaid interest. These deductions may in any event be offset against farm income. In addition, they may also be offset against nonfarm income where the taxpayer has $20,000 or less of this nonfarm income. If a taxpayer has nonfarm in-

come over $20,000, artificial deductions of the type referred to above in excess of farm income which may be deducted currently against other income are to be reduced from the level of $20,000, on a dollar for dollar basis for each dollar of nonfarm income of the taxpayer in excess of $20,000. This means that no artificial deductions in excess of farm income can be taken as deductions currently in the case of taxpayers with nonfarm income over $40,000. To the extent deductions may not be taken currently under this provision, they may be taken in subsequent years to the extent of farm income.

B. Production of movies

The committee decided to apply the LAL provision to deductions for depreciation with respect to investments by individuals in motion pictures and similar productions. Under the provision tentatively adopted by the Committee, a taxpayer could not take a current tax deduction for these deductions for depreciation to the extent they exceed his income from investments in motion pictures and similar productions. Deductions which cannot be taken currently are set aside in a deferred loss account and are deductible in later years when the taxpayer receives income from these investments.

Sec. 133. Method of accounting for corporations engaged in farming.

The committee decided that corporations carrying on farming operations, other than subchapter S corporations, are for tax purposes to be required to use accrual and inventory accounting methods.

Sec. 134. Repeal of farm excess deductions account.

Sec. 135. Limitation of loss with respect to motion picture films and livestock enterprises to the amount for which the taxpayer is at risk.

In the case of investments in motion pictures and similar productions, the committee decided to limit the investment with respect to which deductions can be taken to the investments "at risk" excluding all nonrecourse loans.

In the case of livestock used for breeding, dairy, or sporting purposes, deductions for losses are not to be allowed in excess of the amount of capital of the individual which is "at risk" in the venture. For this purpose, a taxpayer will not be considered "at risk" in the case of a nonrecourse loan or to the extent the taxpayer will be reimbursed for any loss on the investment where he has a "stop loss" order, a guaranteed repurchase agreement, insurance or other similar arrangement.

Sec. 136. Treatment of prepaid interest.

(Transferred from LAL provision.)

Sec. 137. Clarification of treatment of partnership syndication fees, etc.

In the case of real estate and personal property leasing, the committee decided to make it clear that management and syndication fees are to be capitalized.

Sec. 138. Recapture of depreciation on real property.

In the case of real estate, the committee tentatively decided to provide for the complete recapture of all depreciation in excess of straight-line depreciation to the extent of any gain involved at the time of the sale of the property. (This rule already applies in the case of commercial property.)

Sec. 139. Application of class life system to real property.

Present law makes provision, after 1973, for the application of the class life system (sometimes referred to as the asset depreciation range or ADR provision) to real estate. The committee deleted this provision.

Part IV—Capital Gains and Loses

Sec. 141. Increase in amount of ordinary income against which capital losses may be offset from $1,000 to $3,000.

The committee tentatively agreed to increase the amount of ordinary income against which net capital losses can be deducted from $1,000 to $3,000. This will apply both to capital losses incurred in 1974 and in future years and to existing carryovers from prior years. The carryforward of losses from pre-1969 years would under this change be treated in the same manner as those from later years.

Sec. 142. Individuals may elect 3-year carryback of capital losses.

The committee also tentatively decided to give individuals with losses in excess of $30,000 in any year the option of treating their net losses as corporations currently do. Thus, such individuals could elect a three-year carryback of capital losses against capital gains (but without a deduction for losses against ordinary income) and a carryforward limited to five years of capital losses against capital gains (again with no offset against ordinary income). Individuals who use the carryback option would have to recompute their tax for the prior years to which the losses are carried back.

Sec. 143. Increase in wash sale period from 30 to 60 days.

In connection with the carryback option tentatively agreed upon, the committee decided to extend to 60 days the period in which purchases and sales of the same asset would be considered wash sales.

Sec. 144. Increase in holding period required for capital gain or loss to be long-term.

The committee tentatively decided to increase the holding period that defines short-term capital gains from six months to one year. The increase would be phased in over a three-year period starting January 1, 1975, so that the holding period would be eight months in 1975, ten months in 1976, and one year thereafter.

Sec. 145. Increase in amount of capital gain deduction for certain assets held for long periods.

The committee tentatively decided to provide, in addition to the present 50-percent exclusion for long-term capital gains, a second exclusion equal in absolute terms to one percent of the taxpayer's adjusted basis for each asset for each year the asset is held. However, the total capital gains exclusion would be limited to not more than 75 percent of the taxpayer's capital gain. The additional exclusion would apply only in the case of sales or exchanges of securities, businesses and real estate. It would be effective for all such sales on and after July 1, 1974. It is estimated that ultimately this will involve an annual

revenue loss of $850 million, but that in the next few years it will lead to an increase in realizations of locked-in capital gains and hence not result in any loss during much of this period.

Sec. 146. Repeal of alternative tax for individuals.

The committee tentatively decided to eliminate the 25 percent alternative tax rate for the first $50,000 of capital gains.

Sec. 147. Section 1245 property excluded from section 1231.

The committee tentatively decided to require that gains on depreciable personal property which are currently treated as long-term capital gains under section 1231 (not including gains referred to in section 1231(b) (2) and (3)), and to which the recapture rules of section 1245 apply, be treated as ordinary income. It is expected that this provision will not result in a significant revenue gain because most of these gains are currently recaptured as ordinary income. However, this change should significantly simplify tax law for many businesses.

Sec. 148. Exclusion from gross income of gain from sale of residence.

Under existing law, an individual over 65 who sells a property that he had used as his principal residence for five or more years out of the past eight years can exclude his whole capital gain if the sales price is less than $20,000. When the sales price exceeds $20,000, he can exclude a fraction of the gain equal to the ratio of $20,000 to the sales price. The Committee tentatively decided to extend this exclusion to all individuals regardless of age and to increase the $20,000 figure to $35,000. Under the tentative decision, when the sales price of a principal residence exceeds $35,000, the seller can exclude a fraction of the gain equal to $35,000 divided by the sales price.

Sec. 149. Extension of period for replacing old residence for purposes of nonrecognition of gain under section 1034.

Under existing law, an individual who sells his principal residence and reinvests the proceeds in a second principal residence within one year (before or after the sale) can defer tax on his capital gain until he sells the second residence. In the case of a new residence, the period in which the purchase can be made without gain being recognized is one year before and 18 months after the sale of the former principal residence. The committee tentatively decided to increase the one-year period to 18 months and the 18-month period to 2 years. This is expected to have no appreciable revenue effect, but it will provide relief in cases where an individual is prevented from moving into his new residence for some reason beyond his control.

Sec. 150. Change in tax treatment of qualified stock options.

The committee agreed to modify the tax treatment with respect to qualified stock options. Under present law, a qualified stock option is not treated as income when it is granted or when it is exercised. In addition, when the stock acquired under the option is sold or exchanged by the employee, the difference between the option price and the price received by the employee is generally treated as long-term capital gain or loss.

The committee revised this treatment, so that in the future, qualified stock options will be subject to the rules of section 83 of the Internal Revenue Code (which applies today in the case of most nonqualified options granted after June 1969). Generally, the value of the option would constitute ordinary income to the employee if it had a readily ascertainable fair market value at the time it was granted (and was not nontransferable and subject to a substantial risk of forfeiture). If the option did not have a readily ascertainable value, it would not constitute ordinary income at the time it was granted, but when the option was exercised the spread between the option price and the value of the stock would constitute ordinary income to the employee.

In general, the new rules are to apply to options granted after May 8, 1974, but are not to apply to options granted on or before this date. This is true even though the option is exercised in the future (so long as it meets the terms of the present rules of a qualified option). In addition, the committee agreed to include a transition rule for options granted after May 8, 1974, pursuant to a binding written contract entered into on or before that date and for options issued pursuant to a written plan adopted and approved on or before May 8, 1974. It is intended to make it clear that the transition rule is to cover these options under a binding contract or under a written plan existing on May 8, 1974, so long as they are exercised before May 8, 1979 (no matter when the option is granted in accordance with such contract or plan).

The committee did not revise the rules with respect to employee stock purchase plans which provide that stock under the plan must be made available to all the employees of a corporation on a nondiscriminatory basis.

Sec. 151. Gain from condemnation of certain forest lands held in trust for the Klamath Indian Tribe excluded from gross income.

The committee tentatively decided to allow members of the Klamath Indian Tribe to exclude from gross income their capital gain on the sale of their tribal land under condemnation proceedings.

Part V—Accumulation Trusts

Sec. 156. Accumulation trusts.

For the two alternative methods used in computing the throwback rule for accumulation distributions, the committee agreed to substitute a single method, a revision of the present "short cut method." This method will throw back the average accumulation distributions (as determined under present law) to the 5 preceding years of the beneficiary (rather than the 3 preceeding years under present law). This average amount will be added to the beneficiary's taxable income for these years (rather than requiring the recomputation of his tax returns as under present law). Of these 5 preceding years, the year with the highest expanded taxable income and the year with the lowest will not be considered; in effect, then, the computation of the additional tax on the accumulation distribution under this short cut method will continue to be based on a 3-year average basis. In other respects generally, the present rules under the short cut method will continue to be applicable, except that no refunds will be available.

Income accumulated by a trust prior to the beneficiary's attaining the age of 21 and the years a beneficiary was not in existence will not be subject to the throwback rule (except in the case of distributions from multiple trusts, as described below).

A special rule is to be provided for 3 or more trusts which accumulate income in the same year for a beneficiary.

The capital gains throwback rule is to be repealed. A special rule is to be considered to cover the possible tax abuse where the grantor places in trust property which has substantial unrealized appreciation in order to shift the payment of any capital gains tax to the trust at its lower progressive rate structure.

These changes are to apply to accumulation distributions made in taxable years beginning after December 31, 1973.

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