

DESCRIPTION OF S. 1919  
(THE ENERGY COMMUNITY SELF-HELP ACT)

SCHEDULED FOR A HEARING  
BEFORE THE  
SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION  
OF THE  
SENATE COMMITTEE ON FINANCE  
ON  
APRIL 16 AND 17, 1982

PREPARED BY THE STAFF  
OF THE  
JOINT COMMITTEE ON TAXATION  
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## INTRODUCTION

The Subcommittee on Energy and Agricultural Taxation of the Senate Finance Committee has scheduled hearings on S. 1919 on April 16, 1982, in Grand Junction, Colorado, and on April 17, 1982, in Evanston, Wyoming. The bill (introduced by Senators Armstrong and Wallop) would permit taxpayers to deduct currently the prepayment of qualified energy impact assistance expenditures and to deduct energy impact assistance contributions.

This document, prepared in connection with the April 16 and 17 Subcommittee hearings, provides a summary of S. 1919, a more detailed description of the bill, including present law, issues, and effective date, and the revenue effect of the bill.

### I. SUMMARY

#### Present law

State and local taxes paid in connection with a taxpayer's trade or business are deductible in computing Federal income taxes in the year paid or incurred. Taxpayers who voluntarily prepay deductible State or local taxes before the year for which such taxes relate generally may not deduct them before the year in which they accrue.

Taxpayers are allowed deductions for contributions made to or for the use of a State, a possession of the United States, or any political subdivision of a State, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes. Contributions to a governmental entity which inure to the benefit of the donor are not considered to be made for exclusively public purposes and do not qualify as deductible charitable contributions.

#### S. 1919

The bill would allow taxpayers to elect to deduct prepayments of State and local taxes in the year of the prepayment, if the proceeds of such tax prepayments are to be used by the State or local government to meet needs incidental to population growth arising out of the operation of major energy and resource development activities.

The bill also would allow taxpayers to deduct energy impact assistance contributions of cash or property to a State or local government to be used to provide certain public facilities and services as a result of population growth arising out of the operation of major energy and resource development activities.





## II. DESCRIPTION OF S. 1919

### Energy Community Self-Help Act

#### A. Present law

Under present law, taxpayers may deduct, in computing their Federal income tax, State and local taxes paid or incurred in connection with the taxpayer's trade or business. Generally, a taxpayer who uses the cash method of accounting may deduct such taxes in the year in which payment of the deductible amount is made. An accrual-method taxpayer may deduct such taxes when all the events which determine the fact of the liability have occurred and the amount of the deduction can be determined with reasonable accuracy.

Even though some State and local jurisdictions authorize the prepayment of State and local taxes, taxpayers who voluntarily prepay these taxes before the year for which such taxes are imposed generally may not take a deduction in the prior year. This treatment is consistent with the treatment of prepaid expenses generally. Furthermore, if a taxing jurisdiction changes the time for imposing a deductible tax so that the tax would be deductible in an earlier period under the accrual method, an accrual basis taxpayer may not deduct the tax in an earlier period. Instead, the taxpayer may deduct the tax in the period that the tax otherwise would have been deductible if the taxing jurisdiction had not changed the time for imposing the tax.

Under present law, taxpayers may deduct contributions made to or for the use of a State, a possession of the United States, any political subdivision of a State, the United States, or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes. Thus, for example, if a taxpayer contributes property to a local government to enable that government to make improvements that directly benefit the taxpayer's business, the contribution is not a charitable contribution because it is not made exclusively for public purposes. In addition, the expenditure may be treated as a capital expenditure to be recovered through amortization or depreciation or to be added to the taxpayer's basis in land or other non-depreciable assets.

#### B. Issues

(1) Should taxpayers be allowed to deduct prepayments of State and local taxes in the year paid, rather than in the year to which such taxes relate, if the prepaid amounts are used by the State or local government to meet needs incidental to population growth in the area arising out of the operation by the taxpayer of major energy and resource development activities?





(2) Should taxpayers be allowed to deduct energy impact assistance contributions to a State or local government to be used for certain public facilities and services, even though such taxpayer receives direct or indirect benefits from such contributions?

C. Explanation of the bill

S. 1919 would allow taxpayers to currently deduct, in computing their Federal income taxes, prepayments of certain State and local taxes, and would also allow a deduction for certain energy impact assistance contributions.

Prepaid Energy Impact Assistance Expenses

Under the bill, taxpayers would be allowed to elect to deduct prepayments of certain State or local taxes in the year payment is made, if such payment constitutes a "qualified energy impact assistance expenditure." Prepayments of such State or local taxes would normally only be deductible in the later taxable years to which these taxes were properly allocable.

A "qualified energy impact assistance expenditure" would be any expenditure or contribution which (1) represents a State or local tax, fee, rent or royalty, (2) is required or permitted under State or local law to be prepaid in a year prior to the taxable year to which it is allocable, and (3) is to be used by the State or local government to meet needs incidental to population growth arising out of the operation of major energy and resource development activities.

To qualify as an energy impact assistance expenditure, prepayments of State or local taxes must be made in connection with the operation of major energy and resource development activities. These activities are defined as the development, operation, and construction of certain types of facilities the capital cost of which exceeds \$50,000,000, or the gross income from which will exceed \$50,000,000 over the life of the facility. The bill does not explicitly restrict the availability of these deductions for prepaid taxes to the particular taxpayer who is developing, operating, or constructing the facility.

The operation of major energy and resource development activities means the development, operation, and construction of (1) any mineral mining or processing facility including, but not limited to, any mine, powerplant, mill, retort, or related





facility, (2) any facility operated in connection with a synthetic fuel project, or (3) an electric generation facility designed to consume coal produced in the immediate area of such facility.

#### Energy Impact Assistance Contributions

Under the bill, taxpayers would be allowed a deduction for contributions or payments of cash or property to a State or local government to be used to provide certain public facilities and services as a result of population growth arising out of the operation of major energy and resource development activities, as defined above.

A deduction would be allowed for any amount paid or contributed to a State or local government to be used to provide qualified public facilities and services, or for any amount paid, contributed, or incurred directly for qualified public facilities and services provided to the State or local government, with respect to which a deduction or credit is not otherwise allowable under Federal income tax laws.

Qualified public facilities and services include, but are not limited to, facilities and services provided in connection with roads, schools and education, parks and recreation, housing, governmental administration, fire and police protection, water supply, waste water collection and treatment (including drainage), and hospital and health care.

Under the bill, an amount paid for qualified public facilities or services would include (1) any loss recognized by the taxpayer on State or local government obligations which the taxpayer had purchased if the proceeds of the obligations are to be used to provide qualified public facilities or services, or (2) any amount the taxpayer pays as a guarantor of State or local government obligations used to provide qualified public facilities or services.

#### D. Effective date

The provisions of the bill would apply to taxable years beginning after June 30, 1980.

### III. REVENUE EFFECT

This bill is estimated to reduce fiscal year receipts by less than \$25 million annually.

