

COMPARATIVE DESCRIPTION OF H.R. 1869

AS PASSED BY THE HOUSE AND THE SENATE

(Relating to Requirement for Contemporaneous Recordkeeping for
Automobiles and Other Business-Related Expenses)

Prepared for the Use of the Conferees

By the Staff of the Joint Committee on Taxation

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CONTENTS

| | <u>Page</u> |
|---|-------------|
| Introduction..... | 1 |
| I. Comparative Description of H.R. 1869..... | 2 |
| A. Repeal of Requirement that Records be Contemporaneous..... | 2 |
| B. Repeal of Provisions Relating to Return Preparers..... | 3 |
| C. Repeal of Special Negligence Penalty..... | 3 |
| D. Exceptions From Recordkeeping and Exclusion From Income for Certain Vehicles..... | 4 |
| E. Withholding Election..... | 6 |
| F. Reduction in Limitations on Investment Tax Credit and Depreciation for Luxury Cars..... | 7 |
| G. New Regulations..... | 7 |
| II. Revenue Effects..... | 8 |
| III. Airplane Valuation..... | 9 |

INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a comparative description of the provisions of H.R. 1869 as passed by the House and the Senate. The bill relates to the Tax Reform Act of 1984 (P.L. 98-369) requirements for contemporaneous recordkeeping for automobiles and other business-related expenses.

H.R. 1869 was reported by the House Committee on Ways and Means on April 2, 1985 (H. Rep. No. 99-34), and passed by the House also on April 2, 1985. The Senate Committee on Finance reported a separate bill (S. 245; S. Rep. No. 99-23) on April 2, 1985. The substance of S. 245 as reported, with a further Senate floor amendment, was passed by the Senate on April 3, 1985.

¹ This document may be cited as follows: Joint Committee on Taxation, Comparative Description of H.R. 1869 As Passed by the House and the Senate (JCX-4-85), May 1, 1985.

I. COMPARATIVE DESCRIPTION OF H.R. 1869

2

| Item | Present Law | House Bill | Senate Amendment |
|--|---|--|--|
| <p>A. Repeal of Requirement that Records be Contemporaneous (secs. 1(a) and (c) and 2(a) of the House bill and secs. 1(a) and (c) of the Senate amendment)</p> <p>1. Repeal of "contemporaneous" requirement</p> <p>2. Alternate substantiation method</p> | <p>1. The Tax Reform Act of 1984 (the 1984 Act) requires that taxpayers maintain "adequate contemporaneous records" to substantiate deductions and credits for business use of automobiles (including local travel), computers, and other listed property.</p> <p>2. Under sec. 274 (as it read prior to the 1984 Act), taxpayers were required to substantiate deductions for travel away from home, business gifts, etc. by adequate records or by sufficient evidence corroborating their own statements. Prior to the 1984 Act, local travel was not subject to these substantiation standards.</p> | <p>1. Repeals the word "contemporaneous," effective as if never enacted.</p> <p>2. As an alternative to maintaining adequate records, taxpayers may substantiate deductions and credits under sec. 274(d) by sufficient written evidence corroborating their own statement.</p> <p>Committee report lists six specific questions concerning mileage and business use that must be asked on tax returns.</p> <p>Effective date.--January 1, 1986. For 1985, the substantiation rules in effect prior to the 1984 Act would apply.</p> | <p>1. Same as House bill.</p> <p>2. Same as House bill, except no requirement that the sufficient evidence be written or that specific questions be asked on tax returns.</p> <p>Effective date.--January 1, 1985.</p> |

| Item | Present Law | House Bill | Senate Amendment |
|---|--|--|---|
| 2. Exclusion from income and employment taxes | 2. Gross income includes the value of various employee benefits, including commuting or other personal use by an employee of an employer-provided automobile; also, the value of fringe benefits is included in the employee's wages for purposes of income tax withholding and FICA and FUTA taxes. | <p>g. bucket trucks ("cherry pickers");</p> <p>h. cranes or derricks;</p> <p>i. forklifts;</p> <p>j. cement mixers;</p> <p>k. dump trucks (including garbage trucks);</p> <p>l. refrigerated trucks;</p> <p>m. tractors; and</p> <p>n. combines.</p> <p>Effective date.--January 1, 1986 (the same as for the bill's substantiation rules under item A.2., above).</p> <p>2. Committee report states that it is appropriate for Treasury to provide that under certain conditions all use (including commuting or other personal use) of vehicles described in item D.1. above is excluded, as a working condition fringe benefit, from income and employment taxes.</p> <p><u>Effective date</u>.--January 1, 1985.</p> | <p>c. Vehicles used by a governmental unit for police or other law enforcement purposes and vehicles used as an ambulance.</p> <p>Effective date.--January 1, 1985. (Floor amendment by Sen. Wallop, adopted by a vote of 51 to 42.)</p> <p>2. Any commuting or other personal use of automobiles or other vehicles described in item D.1. above is excluded from income and employment taxes as a de minimis fringe benefit.</p> <p>Effective date.--January 1, 1985. (Floor amendment by Sen. Wallop, adopted by a vote of 51 to 42.)</p> |

| Item | Present Law | House Bill | Senate Amendment |
|---|---|--|-------------------------|
| <p>F. Reduction in Limits on Investment Credit and Depreciation for Luxury Automobiles (sec. 4 of the House bill)</p> | <p>F. The maximum investment tax credit for an automobile is \$1,000 and the maximum depreciation is \$4,000 for the first taxable year the property is in service and \$6,000 for each succeeding taxable year. These amounts are indexed for automobile price inflation, beginning in 1985.</p> | <p>F. Limits reduced to \$675 of investment tax credit; \$3,600 of depreciation in first year; and \$5,400 of depreciation in each succeeding year. Reduced limits are indexed for automobile price inflation in 1986 and succeeding years.</p> <p>Effective date.--Property placed in service or leased after April 2, 1985, with a binding contract exception.</p> | <p>F. No provision.</p> |
| <p>G. New Regulations (sec. 5 of the House bill)</p> | <p>G. The Internal Revenue Service has authority to issue regulations under the Internal Revenue Code.</p> | <p>G. Requires that the Internal Revenue Service issue regulations to carry out the provisions of the House bill by October 1, 1985.</p> | <p>G. No provision.</p> |

II. REVENUE EFFECTS OF AUTO RECORDKEEPING AND RELATED PROVISIONS

(Millions of Dollars)

| | <u>1985</u> | <u>1986</u> | <u>1987</u> | <u>1988</u> | <u>1989</u> | <u>1990</u> | <u>1985-88</u> | <u>1985-90</u> |
|---|-------------|-------------|-------------|-------------|-------------|-------------|----------------|----------------|
| A. <u>H.R. 1869 as passed by the House</u> | | | | | | | | |
| Caps | 20 | 110 | 152 | 162 | 169 | 177 | 444 | 790 |
| Recordkeeping | -13 | -53 | -88 | -98 | -101 | -104 | -252 | -457 |
| Withholding | -74 | -61 | -60 | -18 | -16 | -16 | -213 | -245 |
| Total | -67 | -4 | +4 | +46 | +52 | +57 | -21 | +88 |
| B. <u>H.R. 1869 as amended and passed by the Senate</u> | | | | | | | | |
| Recordkeeping | -40 | -137 | -211 | -232 | -243 | -253 | -620 | -1,116 |
| Wallop amendment | -461 | -969 | -1,139 | -1,264 | -1,323 | -1,368 | -3,833 | -6,524 |
| Total | -501 | -1,106 | -1,350 | -1,496 | -1,566 | -1,621 | -4,453 | -7,640 |

| Item | Present Law | House Bill | Senate Amendment | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|---|--|--------------------|--|--------------------------------------|-------------------------|------------------|---|--|------------|---|----------------------|----------------|---|---|--|-----------|----|-----------|-----|-----------|-----|-----------|-----|-----------|-----|-----------|-----|-----------------------|-----|
| III. Airplane Valuation | <p>The value of personal use by an employee of noncommercial aircraft owned by the employer is included in the employee's gross income and in wages for FICA and other employment tax purposes.</p> <p>Temporary Treasury regulations provide the following valuation rules for such flight benefits:</p> <p>1. Key employee (5% owner, officer, etc.)</p> <p>(a) trip with primary business purpose - 100% of coach fare</p> <p>(b) trip with some business purpose -- 3 times first class fare</p> <p>(c) trip with no business purpose -- charter rates for similar plane or similar trip</p> <p>2. Non-key employee "hitchhiker" -- 100% of coach fare.</p> <p>Treasury regulations provide that the value of a free flight on a commercial airplane for a parent of an airline employee is 50% of the highest unrestricted coach fare.</p> | No provision. | <p>The Committee Report to accompany S. 245 states the Committee's intent that Treasury substitute the following safe-harbor valuation rules with respect to employee flights on employer-provided noncommercial aircraft that constitute taxable fringe benefits, for the valuation rules with respect to such benefits that are currently set forth in temporary regulations:</p> <table><tr><th>Weight of aircraft</th><th>Includable value for certain employees</th><th>Includable value for other employees</th></tr><tr><td>More than 10,000 pounds</td><td>First class fare</td><td>Value imputed to parent of airline employee</td></tr><tr><td>More than 6,000 pounds but not more than 10,000 pounds</td><td>Coach fare</td><td>1/2 value imputed to parent of airline employee</td></tr><tr><td>6,000 pounds or less</td><td>1/2 coach fare</td><td>1/2 value imputed to parent of airline employee</td></tr></table> <p>(The Senate rejected by a vote of 46 to 47 a floor amendment offered by Sen. Metzenbaum providing that it is the sense of the Congress that existing Treasury regulations that impute income to corporate executives ("key employees") for use of non-commercial aircraft shall not be amended or altered to reduce the income imputed to these employees.)</p> <table><tr><th colspan="2">Revenue Effect--Fiscal Years (Millions of Dollars)</th></tr><tr><td>1985.....</td><td>-8</td></tr><tr><td>1986.....</td><td>-13</td></tr><tr><td>1987.....</td><td>-14</td></tr><tr><td>1988.....</td><td>-15</td></tr><tr><td>1989.....</td><td>-16</td></tr><tr><td>1990.....</td><td>-17</td></tr><tr><td>Sum of 1985-1988.....</td><td>-50</td></tr></table> | Weight of aircraft | Includable value for certain employees | Includable value for other employees | More than 10,000 pounds | First class fare | Value imputed to parent of airline employee | More than 6,000 pounds but not more than 10,000 pounds | Coach fare | 1/2 value imputed to parent of airline employee | 6,000 pounds or less | 1/2 coach fare | 1/2 value imputed to parent of airline employee | Revenue Effect--Fiscal Years (Millions of Dollars) | | 1985..... | -8 | 1986..... | -13 | 1987..... | -14 | 1988..... | -15 | 1989..... | -16 | 1990..... | -17 | Sum of 1985-1988..... | -50 |
| Weight of aircraft | Includable value for certain employees | Includable value for other employees | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| More than 10,000 pounds | First class fare | Value imputed to parent of airline employee | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| More than 6,000 pounds but not more than 10,000 pounds | Coach fare | 1/2 value imputed to parent of airline employee | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6,000 pounds or less | 1/2 coach fare | 1/2 value imputed to parent of airline employee | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Revenue Effect--Fiscal Years (Millions of Dollars) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1985..... | -8 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1986..... | -13 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1987..... | -14 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1988..... | -15 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1989..... | -16 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1990..... | -17 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sum of 1985-1988..... | -50 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

