[JOINT COMMITTEE PRINT]

DESCRIPTION OF TAX BILLS

(H.R. 612 H.R. 1808, H.R. 2597, H.R. 2647, H.R. 2981, H.R. 3191, H.R. 4444, H.R. 4473, H.R. 4577, H.R. 4592, H.R. 4990, and H.R. 5630)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT REVENUE MEASURES

OF THE

COMMITTEE ON WAYS AND MEANS

ON MARCH 16, 1982

PREPARED FOR THE USE OF THE

COMMITTEE ON WAYS AND MEANS

BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The bills described in this pamphlet have been scheduled for a public hearing on March 16, 1982, before the House Ways and Means Subcommittee on Select Revenue Measures.

There are 12 bills scheduled for the hearing: H.R. 612 (relating to repeal of income tax withholding on certain gambling winnings), H.R. 1808 (tax-free transfers of imported beer from customs custody to a domestic brewery), H.R. 2597 (membership requirements for tax-exempt veterans organizations), H.R. 2647 (increase in threshold amount for income tax withholding on certain gambling winnings), H.R. 2981 (repeal of income tax withholding on certain gambling winnings), H.R. 3191 (tax treatment of expenses of attending conventions on domestic cruise ships), H.R. 4444 (exclusion of research expenses from capital expenditure limitation for small issue industrial development bonds), H.R. 4473 (rollovers of partial distributions under qualified plans and tax-sheltered annuities), H.R. 4577 (retroactive effective date for restricted property provision of the Economic Recovery Tax Act of 1981), H.R. 4592 (repeal of income tax withholding on certain gambling winnings, modification of information reporting requirements, and carryovers of net gambling losses), H.R. 4990 (tax-exempt status of athletic organizations providing facilities or equipment), and H.R. 5630 (deferred compensation plans for State judges).

The first part of the pamphlet is a summary of the bills. This is followed by a more detailed description of each bill, including present law, issues, explanation of the bill, effective date, and revenue effect.

I. SUMMARY

1. H.R. 612—Mr. Rousselot; and H.R. 2981—Mr. Chappell and others

Repeal of Income Tax Withholding on Certain Gambling Winnings

Under present law, proceeds from certain wagers are subject to income tax withholding at a 20-percent rate. Gambling winnings generally are subject to withholding if the amount of winnings both exceeds $1,000 and also is at least 300 times the amount wagered (Code sec. 3402(q)). In addition, all winnings of more than $1,000 from sweepstakes, wagering pools, or certain lotteries are subject to withholding, regardless of the amount wagered.

Each bill (H.R. 612 and H.R. 2981) would repeal these requirements for income tax withholding on gambling winnings, effective for payments of winnings made after the date of enactment.

2. H.R. 1808—Mr. Gephardt

Tax-free Transfers of Imported Beer from Customs Custody to a Domestic Brewery

An excise tax is imposed on domestically produced beer when the beer is removed from the brewery for consumption or sale, and on imported beer when the beer is removed from customs custody (Code secs. 5051, 5054). In certain cases, domestic beer may be transferred tax-free from one domestic brewery to another. Under present law, imported beer may not be transferred tax-free from customs custody to a domestic brewery.

The bill would permit certain bulk transfers of imported beer from customs custody to a domestic brewery without imposition of the excise tax at the time of removal from customs custody. Instead, imposition of the tax would be deferred until the beer is removed from the brewery, for consumption or sale. The provisions of the bill would be effective on enactment.

3. H.R. 2597—Messrs. Jones (of Okla.), Conable, Guarini, Bailey (of Pa.), Anthony, and Frenzel, and others

Membership Requirements for Tax-Exempt Veterans Organizations

Under present law, a post or organization of war veterans may qualify for exemption from income tax if at least 75 percent of its members are war veterans, and substantially all of the other members are veterans, cadets, or spouses (or widows or widowers) of war veterans, veterans, or cadets (Code sec. 501(c) (19)). For this purpose, a war veteran is any person, whether or not a present member of the Armed Forces, who served in the U.S. Armed Forces during a period of war (including the Korean and Vietnam conflicts).

The bill would broaden the income tax exemption for veterans organizations so that it applies to otherwise qualifying organizations if at least 75 percent of the organization's members are present or past members of the U.S. Armed Forces, and substantially all of its other members are cadets or spouses (or widows or widowers) of past or present members of the Armed Forces or of cadets. The provisions of the bill would apply to taxable years beginning after the date of enactment.

4. H.R. 2647—Mr. Schulze

Increase in Threshold Amount for Income Tax Withholding on Certain Gambling Winnings

Under present law, proceeds from certain wagers are subject to income tax withholding at a 20-percent rate. Gambling winnings generally are subject to withholding if the amount of winnings both exceeds $1,000 and also is at least 300 times the amount wagered (Code sec. 3402(q)). In addition, all winnings of more than $1,000 from sweepstakes, wagering pools, or certain lotteries are subject to withholding, regardless of the amount wagered.

The bill would increase to $5,000 the present $1,000 threshold amount for required income tax withholding on certain gambling winnings (if the amount of winnings is at least 300 times the amount wagered), and on winnings from sweepstakes, wagering pools, or certain lotteries. The bill would apply to payments of gambling winnings after the date of enactment.

5. H.R. 3191—Messrs. Guarini, Bafalis Gephardt, Matsui, and Heftel, and others

Tax Treatment of Expenses of Attending Conventions on Domestic Cruise Ships

Under present law, no deduction is allowed for expenses of attending a convention, seminar, or similar meeting on a cruise ship, whether the ship sails within or outside U.S. territorial waters (Code sec. 274(h)(2)).

The bill would provide that business expenses for attending a convention, seminar, or similar meeting on a cruise of a domestic cruise ship would be deductible to the same extent as other business expenses (rather than being subject to disallowance under sec. 274(h)) if all the ports of call of the cruise are within the "North American area" (the United States, its possessions, Canada, Mexico, or the Trust Territory of the Pacific Islands). The bill would apply to expenses of such cruise ship conventions beginning after 1981.

6. H.R. 4444—Mr. Shannon

Exclusion of Research Expenses From Capital Expenditure Limitation for Small Issue Industrial Development Bonds

Interest on certain State and local industrial development bonds is exempt from Federal income tax, pursuant to an exception under present law for "small issues," if the aggregate amount of outstanding exempt small issues plus capital expenditures (financed otherwise than out of small issue bond proceeds) made over a six-year period does not exceed $10 million (Code sec. 103(b)(6)). Because research and experimental expenditures are considered to be capital expenditures, such expenses are taken into account under present law in determining whether the $10 million limitation is exceeded, whether or not the taxpayer elects to deduct currently or amortize research expenses under Code section 174.

Under the bill, research or experimental expenditures which the taxpayer elects to deduct currently under section 174(a) would not be taken into account for purposes of the $10 million capital expenditure limitation on small issue industrial development bonds. The bill would apply to obligations issued after the date of enactment.

7. H.R. 4473—Mr. Brodhead

Rollovers of Partial Distributions Under Qualified Plans and Tax-Sheltered Annuities

Under present law, an employee who receives a lump sum distribution from a qualified plan, or a complete distribution on account of plan termination, may defer tax on the distribution by completing a tax-free "rollover" within 60 days to another qualified plan or to an IRA (Code sec. 402).

The bill would permit partial distributions (other than payments under a life annuity) to be rolled over, tax-free, to an IRA, if paid to an employee who has separated from the service of the employer (or to the surviving spouse of a deceased employee). The bill would be effective for distributions made after December 31, 1981. In addition, the bill includes a transitional rule which would provide that the 60-day period within which a rollover contribution must be made would not expire before the date which is 180 days after enactment.

8. H.R. 4577—Mr. Coelho

Retroactive Effective Date for Restricted Property Provision (sec. 252) of the Economic Recovery Tax Act of 1981

Under present law rules (Code sec. 83), property transferred in connection with the performance of services (e.g., to an employee) is not taxed at the time of transfer if the property is subject to a substantial risk of forfeiture and is nontransferable. As amended by section 252 of the Economic Recovery Tax Act of 1981 (ERTA), section 83 provides that stock is treated as subject to a substantial risk of forfeiture and nontransferable (and hence is not taxable on receipt) if the stock is subject to the "insider trading" rule of section 16(b) of the Securities Exchange Act of 1934.

The amendments to section 83 made by section 252 of ERTA apply to taxable years ending after December 31, 1981. Under the bill, these amendments would apply to taxable years ending after June 30, 1969, i.e., all taxable years to which section 83 applies. The bill also provides that the amendments made by section 252 of ERTA would apply to taxable years beginning before January 1, 1984 only if the person to whom stock was transferred so elects.

9. H.R. 4592—Messrs. Holland, Nowak, and Shelby

Repeal of Income Tax Withholding on Certain Gambling Winnings; Modification of Information Reporting Requirements; and Carryovers of Net Gambling Losses

Withholding requirements

Under present law, proceeds from certain wagers are subject to income tax withholding at a 20-percent rate. Gambling winnings generally are subject to withholding if the amount of winnings both exceeds $1,000 and also is at least 300 times the amount wagered (Code sec. 3402(q)). In addition, all winnings of more than $1,000 from sweepstakes, wagering pools, or certain lotteries are subject to withholding, regardless of the amount wagered. Winnings from slot machines, keno, or bingo are not subject to withholding under present law.

The bill would repeal the present law requirements for income tax withholding on certain gambling winnings, effective for payments of winnings after the date of enactment.

Information reporting requirements

Under present law, the payor of gambling winnings which are subject to income tax withholding must report such payments to the Internal Revenue Service. Also, information reports must be filed with the Service for winnings of $1,500 or more from keno or $1,200 or more from bingo or slot machines.

The bill would require payors of gambling winnings to file information reports with the Internal Revenue Service only for winnings of $10,000 or more, effective for payments made in taxable years ending after enactment.

Carryover of gambling losses

Under present law, gambling losses can only be deducted against gambling winnings in the same year, and there is no carryover for unused gambling losses. The bill would permit a three-year carryback and three-year carryforward of unused net gambling losses, effective for taxable years beginning after 1981.

10. H.R. 4990—Messrs. Vander Jagt, Guarini, and Jacobs, and others

Tax-Exempt Status of Athletic Organizations Providing Facilities or Equipment

Under present law, an organization formed and operated to foster national or international amateur sports competition qualifies for exemption from income tax and to receive tax-deductible contributions, but only if no part of its activities involves the provision of athletic facilities or equipment (Code secs. 501(c)(3), 170(c)). The bill would repeal the restriction relating to the provision of athletic facilities or equipment, effective as of October 5, 1976 (the effective date for the 1976 amendment to sec. 501(c)(3) relating to athletic organizations).

Under the bill, deductions would not be allowed for contributions to such an athletic organization if, within 12 months before or 12 months after the date of the contribution, the donor uses any athletic facility or equipment provided by the organization. However, deductions for amounts otherwise qualifying as charitable contributions would not be disallowed under the new provision if the donor's total contributions to the organization for the year are not more than $500; if the contribution is to the U.S. Olympic Committee or a national governing body; or if the contribution consists of unreimbursed expenditures made incident to the rendition of services by a noncompetitor. These provisions would apply to contributions made after 1981.

11. H.R. 5630—Mr. Pickle

Deferred Compensation Plans for State Judges

Subject to certain limits, compensation deferred by an employee under an eligible State deferred compensation plan is excluded from the employee's income until paid to the employee under the plan. If the plan is not an eligible plan, benefits payable under the plan are included in gross income when there is no substantial risk that the benefits will be forfeited (Code sec. 457).

The bill provides that participants in a qualified State judicial plan would not be subject to the rule requiring participants in an ineligible plan to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited. The bill would apply to taxable years beginning after 1978.

II. DESCRIPTION OF BILLS

1. H.R. 612—Mr. Rousselot; and H.R. 2981—Mr. Chappell and others

Repeal of Income Tax Withholding on Certain Gambling Winnings

Present law

Withholding requirements

In certain circumstances, present law requires income tax to be withheld from gambling winnings at a rate of 20 percent (Code sec. 3402(q)). The general rule is that gambling winnings are subject to withholding if the amount of proceeds from a wager exceeds $1,000 and also is at least 300 times as large as the amount wagered.[1]

Special rules apply to certain types of wagers. First, all winnings of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a State-conducted lottery) are subject to withholding, regardless of the amount wagered. Second, winnings of more than $5,000 from a wager placed in a State-conducted lottery are subject to withholding, and winnings of $5,000 or less from such a lottery are not subject to withholding, regardless of the amount wagered. Third, winnings from a slot machine, keno, or bingo are exempt from withholding.

If these rules require withholding, the entire amount of winnings (not merely any excess over the $1,000 or $5,000 threshold amount) is subject to withholding. If multiple wagers are placed on a single event, the winnings on each such wager are aggregated to determine whether the $1,000 or $5,000 threshold is exceeded. For example, if one $100 and two $50 wagers are placed on a single horse in a race, amounts paid on the three tickets would be added together, and the price of all three tickets would be deducted, to determine whether the winnings were subject to withholding. On the other hand, if wagers are placed by one person on different horses or on different races, the bettor's winnings from the wagers would not be aggregated for purposes of the withholding requirements.

Required information reports

Any person who is to receive a payment of gambling winnings subject to withholding must furnish the payor with a statement containing his or her name, address, and taxpayer identification (social security) number (sec. 3402(q)(6)). A payor of gambling winnings must report payments subject to withholding to the Internal Revenue

[1] The statute expressly applies this general rule to such proceeds from a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai.

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Service. Where gambling winnings are less than the threshold amounts for withholding, proposed Treasury regulations would permit a payor to rely on a written statement from the recipient in determining whether multiple wagers must be aggregated and income tax withheld (Prop. Reg. § 1.6011-3).

In the case of winnings from a slot machine, keno, and bingo (which are not subject to withholding), Treasury regulations require the payor to report to the Internal Revenue Service on winnings of $1,500 or more from keno, or $1,200 or more from bingo or slot machines (Reg. § 7.6041-1).

IRS report

The Tax Reform Act of 1976, which added the withholding requirement on the ground that "many taxpayers did not report" certain gambling winnings on their tax returns,[2] also required the Internal Revenue Service to report to the tax-writing committees on the operation of the reporting system on winnings from keno, bingo, and slot machines, and to make recommendations as to whether those winnings also should be subject to withholding.[3] In a December 1980 report ("Compliance in Reporting Gambling Winnings"), the Service recommended that, "because of the significantly greater compliance demonstrated by individuals subject to withholding as compared to those subject only to information reporting," (1) withholding should be required on winnings of $1,500 or more from keno and $1,200 or more from bingo and slot machines, and (2) the withholding threshold should be lowered to $600 for horse racing, dog racing, and jai alai wagers, if the amount of proceeds from the wager is at least 300 times as large as the amount wagered, and for sweepstakes, wagering pools, and lotteries (including State-conducted lotteries).

Issue

The issue is whether the present law requirements for income tax withholding on gambling winnings should be repealed.

Explanation of the bills

Each bill (H.R. 612 and H.R. 2981) would repeal the provisions of present law which require income tax withholding on gambling winnings.

Effective date

Each bill (H.R. 612 and H.R. 2981) would apply to payments of gambling winnings made after the date of enactment.

Revenue effect

It is estimated that each bill would reduce fiscal year budget receipts by $17 million in 1982, $53 million in 1983, $18 million in 1984, $18 million in 1985, and $18 million in 1986.

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[2] House Rpt. 94-658, 94th Cong., 1st Sess. (1975), at p. 297; Sen. Rpt. 94-938, 94th Cong., 2d Sess. (1976), at p. 383.

[3] House Rpt. 94-1515, 94th Cong., 2d Sess. (1976), at p. 488.

2. H.R. 1808—Mr. Gephardt

Tax-Free Transfers of Imported Beer from Customs Custody to a Domestic Brewery

Present law

Under present law, an excise tax is imposed on domestically produced beer at the time the beer is removed from the brewery for consumption or sale, and on imported beer when removed from customs custody (Code secs. 5051, 5054). The tax, which is payable by the brewer or importer, generally is $9 for each barrel containing not more than 31 gallons. A special $7-per-barrel rate applies to the first 60,000 barrels of beer produced in the United States if the brewer does not produce more than 2 million barrels of beer during the calendar year (sec. 5051(a)(2)).

In certain cases, beer can be transferred tax-free between producers and bonded warehouses before removal of the beverage for consumption or sale. For example, domestically produced beer can be transferred from one brewery to another belonging to the same brewer, and commingled with beer produced in the second brewery, without payment of tax (sec. 5414). In the case of imported beer, the excise tax is imposed at the time the beer is removed from customs custody, even if the beer is then transferred to a domestic brewery.

Issue

The issue is whether, in the case of imported beer, imposition of the beer excise tax should in certain circumstances be deferred until the beer is removed from a domestic brewery for consumption or sale.

Explanation of the bill

The bill would permit tax-free transfers of imported beer from customs custody to domestic breweries, pursuant to Treasury regulations, provided that the beer was imported or brought into the United States in bulk containers and that the beer is transferred to the breweries in bulk containers or by pipeline. In the case of such transfers, imposition of the excise tax would be deferred until the beer is removed from the brewery for consumption or sale.

Effective date

The provisions of the bill would be effective on the date of enactment.

Revenue effect

It is estimated that the bill would reduce budget receipts by less than $1 million annually.

3. H.R. 2597—Messrs. Jones (of Okla.), Conable, Guarini, Bailey (of Pa.), Anthony, and Frenzel, and others

Membership Requirements for Tax-Exempt Veterans Organizations

Present law

Under present law, a post or organization of war veterans may qualify for exemption from income tax under Code section 501(c) (19). To qualify for this exemption, (1) the organization must be organized in the United States or any of its possessions; (2) at least 75 percent of its members must be war veterans, and substantially all of the other members must be veterans, cadets, or spouses (or widows or widowers) of war veterans, veterans, or cadets; and (3) no part of the net earnings of the organization can inure to the benefit of any private shareholder or individual. For this purpose, a war veteran is any person, whether or not a present member of the Armed Forces, who served in the United States Armed Forces during a period of war (including the Korean and Vietnam conflicts).

In addition, a special exemption from the tax on unrelated business income is provided to such organization with respect to amounts received in connection with payments of life, sick, accident, or health insurance for members or their dependents, so long as the income from such activity is set aside to provide such benefits or is set aside for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals (sec. 512(a)(4)).

Issue

The issue is whether the income tax exemption for veterans organizations should be expanded to include organizations of past or present members of the U.S. Armed Forces as well as organizations of war veterans.

Explanation of the bill

The bill would amend section 501(c) (19) to provide income tax exemption for an otherwise qualifying organization of past or present members of the Armed Forces of the United States. The organization would satisfy the membership test for exemption if at least 75 percent of its members are past or present members of the U.S. Armed Forces, and if substantially all of the other members are cadets or spouses (or widows or widowers) of past or present members of the U.S. Armed Forces or of cadets.

Effective date

The provisions of the bill would be effective for taxable years beginning after the date of enactment.

Revenue effect

It is estimated that the bill would reduce budget receipts by less than $5 million annually.

4. H.R. 2647—Mr. Schulze

Increase in Threshold Amount for Income Tax Withholding on Certain Gambling Winnings

Present law

Withholding requirements

In certain circumstances, present law requires income tax to be withheld from gambling winnings at a rate of 20 percent (Code sec. 3402(q)). The general rule is that gambling winnings are subject to withholding if the amount of proceeds from a wager exceeds $1,000 and also is at least 300 times as large as the amount wagered.[1]

Special rules apply to certain types of wagers. First, all winnings of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a State-conducted lottery) are subject to withholding, regardless of the amount wagered. Second, winnings of more than $5,000 from a wager placed in a State-conducted lottery are subject to withholding, and winnings of $5,000 or less from such a lottery are not subject to withholding, regardless of the amount wagered. Third, winnings from a slot machine, keno, or bingo are exempt from withholding.

If these rules require withholding, the entire amount of winnings (not merely any excess over the $1,000 or $5,000 threshold amount) is subject to withholding. If multiple wagers are placed on a single event, the winnings on each such wager are aggregated to determine whether the $1,000 or $5,000 threshold is exceeded. For example, if one $100 and two $50 wagers are placed on a single horse in a race, amounts paid on the three tickets would be added together, and the price of all three tickets would be deducted, to determine whether the winnings were subject to withholding. On the other hand, if wagers are placed by one person on different horses or on different races, the bettor's winnings from the wagers would not be aggregated for purposes of the withholding requirements.

Required information reports

Any person who is to receive a payment of gambling winnings subject to withholding must furnish the payor with a statement containing his or her name, address, and taxpayer identification (social security) number (sec. 3402(q)(6)). A payor of gambling winnings must report payments subject to withholding to the Internal Revenue Service. Where gambling winnings are less than the threshold amounts for withholding, proposed Treasury regulations would permit a payor to rely on a written statement from the recipient in determining whether multiple wagers must be aggregated and income tax withheld (Prop. Reg. § 1.6011-3).

[1] The statute expressly applies this general rule to such proceeds from a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai.

In the case of winnings from a slot machine, keno, and bingo (which are not subject to withholding), Treasury regulations require the payor to report to the Internal Revenue Service on winnings of $1,500 or more from keno, or $1,200 or more from bingo or slot machines (Reg. § 7.6041–1).

IRS report

The Tax Reform Act of 1976, which added the withholding requirement on the ground that "many taxpayers did not report" certain gambling winnings on their tax returns,[2] also required the Internal Revenue Service to report to the tax-writing committees on the operation of the reporting system on winnings from keno, bingo, and slot machines, and to make recommendations as to whether those winnings also should be subject to withholding.[3] In a December 1980 report ("Compliance in Reporting Gambling Winnings"), the Service recommended that, "because of the significantly greater compliance demonstrated by individuals subject to withholding as compared to those subject only to information reporting," (1) withholding should be required on winnings of $1,500 or more from keno and $1,200 or more from bingo and slot machines, and (2) the withholding threshold should be lowered to $600 for horse racing, dog racing, and jai alai wagers, if the amount of proceeds from the wager is at least 300 times as large as the amount wagered, and for sweepstakes, wagering pools, and lotteries (including State-conducted lotteries).

Issue

The issue is whether the present $1,000 threshold for income tax withholding on certain gambling winnings should be increased to $5,000.

Explanation of the bill

The bill would increase to $5,000 the present $1,000 threshold amount for required income tax withholding on certain gambling winnings. As a result, income tax withholding would be required in the case of (1) proceeds exceeding $5,000 from a wagering transaction (including a wager in a parimutuel pool with respect to horse races, dog races, or jai alai) if the amount of proceeds is at least 300 times as large as the amount wagered, and (2) proceeds exceeding $5,000 from a wager placed in a sweepstakes, wagering pool, or lottery (including State-conducted lotteries), regardless of the amount wagered. As under present law, no withholding would be required for winnings from slot machines, keno, or bingo.

Effective date

The provisions of the bill would apply to payments of gambling winnings after the date of enactment.

Revenue effect

It is estimated that the bill would reduce fiscal year budget receipts by $11 million in 1982, $37 million in 1983, $11 million in 1984, $11 million in 1985, and $12 million in 1986.

[2] House Rpt. No. 94–658, 94th Cong., 1st Sess. (1975), at 297; Senate Rpt. No. 94–938, 94th Cong., 2d Sess. (1976), at 383.

[3] House Rpt. No. 94–1515, 94th Cong., 2d Sess. (1976), at 488.

5. H.R. 3191—Messrs. Guarini, Bafalis, Gephardt, Matsui, and Heftel, and others

Tax Treatment of Expenses of Attending Conventions on Domestic Cruise Ships

Present law

In general

Under present law, a deduction is allowed for the ordinary and necessary expenses of carrying on a trade or business or income-producing activity (Code secs. 162, 212), including transportation expenses and amounts for meals and lodging while away from home in pursuit of a trade or business or income-producing activity. Transportation expenses are deductible if the principal purpose of the trip is for business purposes. Meals and lodging expenses (other than lavish and extravagant expenditures) are deductible if they are allocable to a business purpose. Generally, therefore, a deduction is allowed for the cost of attending a convention or seminar in pursuit of a trade or business or income-producing activity.

Special rules (sec. 274(h)) are provided for travel expenses for attendance at conventions, seminars, or similar meetings if held outside the United States, its possessions, Canada, Mexico, or the Trust Territory of the Pacific Islands (the "North American area") [1] or if held on a cruise ship. (Conventions, etc. held outside the North American area are commonly referred to as "foreign conventions".) The section 274(h) rules apply both to expenses paid by individuals attending such conventions and also to expenses paid by employers of such individuals.

Under section 274(h)(1), no deduction is allowed for the expenses of attending a foreign convention unless, taking certain factors into account, it is as reasonable to hold the meeting outside the North American area as within it. Under section 274(h)(2), no deduction is allowed for the expenses of attending any convention, etc. held on a cruise ship, even if the ship is sailing entirely within U.S. territorial waters.

Background

Special rules for foreign conventions were first enacted in 1976 because of the proliferation of foreign conventions, seminars, and cruises that were ostensibly held for business or educational purposes, but which appeared to the Congress to be vacations in disguise. Under pre-1976 law, the allowance of deductions for such trips depended on a subjective determination of the taxpayer's principal

[1] Under the United States-Jamaica income tax treaty, deductions are permitted for expenses of attending a convention in Jamaica (Art. 25(7)). Thus, Jamaica is, in effect, treated for this purpose as within the North American area.

purpose in making the trip. This had proved to be a difficult standard for the Internal Revenue Service to apply, particularly in the case of overseas trips.

Under the rules as initially adopted in 1976, deductions could be taken for no more than two foreign conventions per year, and were limited to certain transportation and subsistence expenses. However, the 1976 rules proved to be unsatisfactory because, in addition to imposing burdensome reporting requirements, those rules in some cases operated to disallow legitimate business travel expenses while in other cases failed to disallow deductions for trips which actually were foreign vacations.[2]

Accordingly, the rules were revised by the Congress in 1980 (P.L. 96–608). The present "as reasonable" rule was intended to focus on the reason why a foreign site was selected for the convention or meeting. The disallowance of deductions for expenses of attending conventions, etc. on cruise ships was justified on the ground that the personal benefits of going on a cruise often predominate over business purposes. Therefore, it was argued, disallowing deductions for such expenses avoids disputes on audit and prevents taxpayers from claiming deductions that would not be upheld by a court. On the other hand, it was argued that denying deductions for conventions held on all cruise ships would disadvantage the U.S. cruise ship industry.

Issue

The issue is whether the expenses of attending a convention, seminar, or similar meeting held on a cruise of a U.S. cruise ship should be deductible if all the ports of call of the cruise are within the North American area.

Explanation of the bill

Under the bill, a convention, seminar, or similar meeting held on a cruise of a domestic cruise ship would be treated as held in the North American area if all the ports of call of the cruise are within the North American area. Thus, business expenses for attending such a meeting would be treated the same as other business expenses. For example, transportation expenses would be deductible if the principal purpose of the trip is for business, and meals and lodging expenses would be deductible to the extent they are allocable to a business purpose and are not lavish or extravagant. A domestic cruise ship would be defined as a cruise ship documented under the laws of the United States.

Under the bill, no deduction would be allowed for expenses of attending a convention, seminar, or other meeting held on a cruise ship which is not a domestic cruise ship.

Effective date

The amendments made by the bill would apply to expenses allocable to conventions, seminars, and meetings beginning after December 31, 1981.

Revenue effect

It is estimated that the bill would have a negligible effect on budget receipts.

[2] Sen. Rept. No. 96–1031, 96th Cong., 2d Sess. (1980), at p. 12.

6. H.R. 4444—Mr. Shannon

Exclusion of Research Expenses from Capital Expenditure Limitation for Small Issue Industrial Development Bonds

Present law

In general

Interest on State and local government obligations generally is exempt from Federal income tax (Code sec. 103(a)). However, subject to certain exceptions, interest on State and local issues of industrial development bonds is taxable (sec. 103 (b)). An obligation constitutes an industrial development bond if (1) all or a major portion of the proceeds of the issue are to be used in any trade or business of a person other than a governmental unit or tax-exempt organization and (2) payment of principal or interest is secured by an interest in, or derived from payments with respect to, property or borrowed money used in a trade or business.

Present law provides an exception for certain "small issues" to the general rule of taxability of interest paid on industrial development bonds (sec. 103(b)(6)). This exception applies to issues of $1 million or less if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property.

At the election of the issuer, the $1 million limitation may be increased to $10 million. If this election is made, the exception is restricted to projects for which the aggregate amount of outstanding exempt small issues and capital expenditures (financed otherwise than out of the proceeds of an exempt small issue) made over a six-year period[1] does not exceed $10 million. (The combined issue amount and capital expenditure limitation of $10 million has the effect of precluding availability of an interest exemption where industrial development bonds would have a face amount not exceeding the $10 million limitation, but would be used in connection with large scale, high cost projects.) Both the $1 million and $10 million limitations are determined by aggregating the face amount of all outstanding related issues, plus, in the case of the $10 million limitation, certain capital expenditures for all facilities used by the same or related principal users which are located within the same county or same incorporated municipality.

Under Treasury regulations, expenditures are treated as capital expenditures for purposes of the $10 million limitation if they are properly chargeable to the capital account of any person or State or local governmental unit. This determination is to be made without regard to any rule of the Code that permits expenditures properly chargeable

[1] The relevant six-year period is the period beginning three years before the date of the issue and ending three years after that date.

to capital account to be treated as current expenses (Reg. § 1.103–10(b)(2)(ii)(e)).

Treatment of research expenditures

As a general rule, business expenditures to develop or create an asset which has a useful life that extends substantially beyond the taxable year must be capitalized and cannot be fully deducted in the year paid or incurred. For example, research expenditures to develop a new consumer product must be capitalized, because such expenditures relate to an asset which will have a useful life exceeding one year. Such capital costs usually may be recovered on a disposition or abandonment of the asset, or through depreciation or amortization deductions over the useful life of the asset.

However, present law permits a taxpayer to elect to deduct currently the amount of research or experimental expenditures incurred in connection with the taxpayer's trade or business, even if such expenses are treated as capital account charges or deferred expenses on the taxpayer's books or financial statements (sec. 174(a); Rev. Rul. 58–78, 1958–1 C.B. 148). In the case of research expenditures resulting in property which does not have a determinable useful life (such as secret processes or formulae), the taxpayer alternatively may elect to deduct the costs ratably over a period of not less than 60 months (sec. 174(b)).[2]

Because research or experimental expenditures constitute capital expenditures, such expenses are taken into account under present law for purposes of determining if the exempt small issue limitation of $10 million is exceeded, whether or not the taxpayer elects to deduct research expenses currently (Rev. Rul. 77–27, 1977–1 C.B. 23).

In addition to the favorable treatment provided under Code section 174 for deduction of research expenditures, the Economic Recovery Tax Act of 1981 provides a 25-percent tax credit for certain research and experimental expenditures paid in carrying on a trade or business of the taxpayer to the extent exceeding the amount of such expenditures during a base period (Code sec. 44F).

Issue

The issue is whether research or experimental expenditures should be counted toward the $10 million limitation for exemption of interest on small issue industrial development bonds.

Explanation of the bill

Under the bill, research or experimental expenditures which the taxpayer elects to deduct currently under section 174(a) would not be taken into account for purposes of the $10 million limitation on small issue industrial development bonds.

[2] If expenditures relating to development of a product are not eligible for these elections, or if the taxpayer chooses not to elect either current deductions or amortization for qualifying research costs, such expenditures must be capitalized. If the capitalized expenses relate to depreciable property, deductions may be taken in the form of depreciation allowances spread over the property's useful life. If the capitalized expenses relate to nondepreciable property, those costs cannot be recovered until disposition or abandonment of the property.

Effective date

The provisions of the bill would apply to obligations issued after the date of enactment.

Revenue effect

It is estimated that the bill would reduce fiscal year budget receipts by $2 million in 1983, $8 million in 1984, $14 million in 1985, $20 million in 1986, and $27 million in 1987.

7. H.R. 4473—Mr. Brodhead

Rollovers of Partial Distributions Under Qualified Plans and Tax-Sheltered Annuities

Present law

In general

If a lump sum distribution is paid to an employee (or the spouse of a deceased employee) under a qualified pension, profit-sharing, or stock bonus plan, tax is deferred on the portion of the distribution rolled over to another qualified plan or to an IRA (an individual retirement account, individual retirement annuity, or retirement bond). Tax-free rollovers are also provided for certain distributions from terminated qualified pension, etc. plans. In addition, certain total distributions under a tax-sheltered annuity contract may be rolled over, tax-free, to another such contract or to an IRA. Tax-sheltered annuity contracts (including custodial accounts investing in shares of a regulated investment company) may be purchased for employees by certain tax-exempt organizations or by public educational organizations.

The tax deferral provided for distributions from qualified plans and tax-sheltered annuity programs (Code secs. 402 and 403) applies only if rollover contribution to an IRA, etc. is made within 60 days after the distribution is received.

Lump sum distributions

A distribution from a qualified plan is a lump sum distribution only if it consists of the balance to the credit of the employee under the plan, is made within one taxable year of the recipient, and is made on account of the employee's separation from service [1] or death, or after the employee attains age 59½.[2]

If an employer maintains more than one qualified plan of the same type, the plans generally are aggregated for the purpose of determining whether the balance to the credit of the employee has been distributed. For example, all profit-sharing plans maintained by the employer are treated as a single plan.

In the case of tax-sheltered annuities, the aggregation rules provide that all annuity contracts purchased for an employee by one employer are treated as a single contract.

[1] In the case of a self-employed individual. the separation-from-service test does not apply. A distribution to a self-employed individual who has become disabled may. however, qualify as a lump sum distribution.

[2] In addition to qualifying for rollover treatment, a lump sum distribution under a qualified plan is accorded special income tax treatment under which all or a portion of the distribution may be taxable to the recipient as long-term capital gain or under a 10-year forward income averaging formula. Also, under the qualified plan rules, all or a portion of the unrealized appreciation in employer securities included in a distribution is excluded from gross income for the taxable year of the distribution.

Plan termination distributions

A distribution from a qualified plan is also eligible for rollover treatment if it constitutes the balance to the credit of the employee under the plan and is paid to the recipient within one taxable year on account of termination of the plan, or, in the case of a profit-sharing or stock bonus plan, on account of a complete discontinuance of contributions under the plan.

Issues

The issue is whether a distribution which is not a lump sum distribution or a termination distribution should be eligible for tax-free rollover treatment.

Explanation of the bill

Under the bill, a partial distribution under a qualified plan or a tax-sheltered annuity could be rolled over, tax-free, to an IRA if paid to an employee who has separated from the service of the employer or to the surviving spouse of a deceased employee. A partial distribution is any distribution, other than a payment under a life annuity, which is neither a lump sum distribution nor a total distribution on account of termination of a qualified plan.

Only the portion of a partial distribution otherwise includible in the recipient's gross income could be included in the rollover contribution under the bill. Accordingly, amounts included in a partial distribution which are excluded from the recipient's income as a return of the employee's nondeductible contributions under the distributing plan could not be transferred to an IRA.

Under the bill, in the case of a partial distribution, the income exclusion for rollover contributions would apply only if the taxpayer so elects. If the income exclusion were elected, subsequent distributions made with respect to the employee under the plan (or a plan of the same type maintained by the employer) could qualify for tax-free rollover treatment to an IRA, but would not otherwise be accorded the special tax treatment provided for lump sum distributions. In addition, if a partial distribution is the subject of a rollover, the income exclusion for unrealized appreciation in employer securities would not apply to such securities included in the distribution.

Under the bill, a partial distribution paid to an employee would not be eligible for tax-free rollover treatment if any portion of the distribution were attributable to contributions made on behalf of the employee while the employee was a self-employed individual.

Effective date

The provisions of the bill generally would apply to distributions made after December 31, 1981, in taxable years ending after such date. Under a transitional rule, the 60-day period within which a rollover contribution must be made would not expire until 180 days after enactment.

Revenue effect

It is estimated that the bill would have a negligible effect on budget receipts.

8. H.R. 4577—Mr. Coelho

Retroactive Effective Date for Restricted Property Provision (sec. 252) of the Economic Recovery Tax Act of 1981

Present law

In general

Under the present law rules relating to transfers of property in connection with the performance of services (Code sec. 83), an employee generally includes in income the fair market value of transferred property, less any amount paid for the property, when the property first becomes either transferable or not subject to a substantial risk of forfeiture.[1] Thus, if an employee receives property that is both subject to a substantial risk of forfeiture and is not transferable, the employee generally is not taxed until the property becomes either transferable or not subject to a substantial risk of forfeiture. The amount the employee includes in income is equal to the fair market value of the transferred property (as of the time of taxation), less any amount the employee paid for the property.

However, an employee may elect (under sec. 83(b)) to be taxed when the property is received.[2] In that case, the employee includes an amount in income equal to the fair market value of the property when received less any amount paid for the property.

Effect of restrictions

Generally, under section 83, restrictions on property are not taken into account in determining the fair market value of the property. Also, property is considered transferable for purposes of section 83 when the property would not be subject to a substantial risk of forfeiture in the hands of a subsequent transferee.

Prior to enactment of section 252 of the Economic Recovery Tax Act of 1981 (ERTA), the U.S. Tax Court had ruled[3] that stock subject to the "insider trading" rules of section 16(b) of the Securities Exchange Act of 1934[4] was transferable within the meaning of section 83. Thus, although the taxpayer's profit on a sale of the stock within six months of receipt could be recovered by the corporation, the taxpayer was taxable on the fair market value of the stock when received.

As amended by section 252 of ERTA, section 83 provides that stock subject to the restrictions of section 16(b) of the Securities Exchange Act of 1934 is treated as being subject to a substantial risk of forfeiture and nontransferable for the six-month period following re-

[1] An employer generally is allowed a business expense deduction when the employee is taxed, equal to the amount includible in the employee's income (sec. 83(h)).
[2] See note 1.
[3] *Horwith* v. *Comm'r*, 71 T.C. 932 (1979).
[4] 15 U.S.C. § 78p(b).

ceipt of the stock during which that section applies. Thus, unless the taxpayer elects (under sec. 83(b)) to be taxed when the stock is received, the taxpayer must include in income (and the employer may deduct) at the expiration of the period during which section 16(b) is applicable, the value of the stock at such time, less any amount the taxpayer paid for the stock. A similar rule is provided for stock subject to restrictions on transfer by reason of complying with the "pooling-of-interests" accounting rules of Accounting Series Releases Numbered 130 ((10/5/72) 37 FR 20937; 17 CFR 211.130)) and 135 ((1/18/73) 38 FR 1734; CFR 211.135)).

The amendments made to section 83 by section 252 of ERTA apply to taxable years (of the transferee) ending after December 31, 1981.

Issue

The principal issue is whether taxpayers should be allowed to elect to have the amendments made by section 252 of ERTA apply retroactively.

Explanation of the bill

Under the bill, the amendments to section 83 made by section 252 of ERTA would apply to taxable years ending after June 30, 1969, i.e., to all taxable years to which section 83 applies. However, in the case of any taxable year beginning before January 1, 1984, the amendments made by section 252 of ERTA would not apply unless the taxpayer to whom the stock was transferred makes an election to have such amendments apply to such taxable year. The election would have to be made in the manner prescribed by the Treasury Department.

Effective date

The bill would be effective on enactment. The amendments made by the bill would apply to taxable years ending after June 30, 1969.

Revenue effect

It is estimated that the bill would reduce receipts by less than $5 million annually.

9. H.R. 4592—Messrs. Holland, Nowak, and Shelby

Repeal of Income Tax Withholding on Certain Gambling Winnings; Modification of Information Reporting Requirements; and Carryovers of Net Gambling Losses

Present law

Withholding requirements

In certain circumstances, present law requires income tax to be withheld from gambling winnings at a rate of 20 percent (Code sec. 3402(q)). The general rule is that gambling winnings are subject to withholding if the amount of proceeds from a wager exceeds $1,000 and also is at least 300 times as large as the amount wagered.[1]

Special rules apply to certain types of wagers. First, all winnings of more than $1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a State-conducted lottery) are subject to withholding, regardless of the amount wagered. Second, winnings of more than $5,000 from a wager placed in a State-conducted lottery are subject to withholding, and winnings of $5,000 or less from such a lottery are not subject to withholding, regardless of the amount wagered. Third, winnings from a slot machine, keno, or bingo are exempt from withholding.

If these rules require withholding, the entire amount of winnings (not merely any excess over the $1,000 or $5,000 threshold amount) is subject to withholding. If multiple wagers are placed on a single event, the winnings on each such wager are aggregated to determine whether the $1,000 or $5,000 threshold is exceeded. For example, if one $100 and two $50 wagers are placed on a single horse in a race, amounts paid on the three tickets would be added together, and the price of all three tickets would be deducted, to determine whether the winnings were subject to withholding. On the other hand, if wagers are placed by one person on different horses or on different races, the bettor's winnings from the wagers would not be aggregated for purposes of the withholding requirements.

Required information reports

Any person who is to receive a payment of gambling winnings subject to withholding must furnish the payor with a statement containing his or her name, address, and taxpayer identification (social security) number (sec. 3402(q)(6)). A payor of gambling winnings must report payments subject to withholding to the Internal Revenue Service. Where gambling winnings are less than the threshold amounts for withholding, proposed Treasury regulations would permit a payor to

[1] The statute expressly applies this general rule to such proceeds from a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai.

rely on a written statement from the recipient in determining whether multiple wagers must be aggregated and income tax withheld (Prop. Treas. Reg. § 1.6011-3).

In the case of winnings from a slot machine, keno, and bingo (which are not subject to withholding), Treasury regulations require the payor to report to the Internal Revenue Service on winnings of $1,500 or more from keno, or $1,200 or more from bingo or slot machines (Reg. § 7.6041-1).

IRS report

The Tax Reform Act of 1976, which added the withholding requirement on the ground that "many taxpayers did not report" certain gambling winnings on their tax returns,[2] also required the Internal Revenue Service to report to the tax-writing committees on the operation of the reporting system on winnings from keno, bingo, and slot machines, and to make recommendations as to whether those winnings also should be subject to withholding.[3] In a December 1980 report ("Compliance in Reporting Gambling Winnings"), the Service recommended that, "because of the significantly greater compliance demonstrated by individuals subject to withholding as compared to those subject only to information reporting," (1) withholding should be required on winnings of $1,500 or more from keno and $1,200 or more from bingo and slot machines, and (2) the withholding threshold should be lowered to $600 for horse racing, dog racing, and jai alai wagers, if the amount of proceeds from the wager is at least 300 times as large as the amount wagered, and for sweepstakes, wagering pools, and lotteries (including State-conducted lotteries).

Income tax deduction of net gambling losses

Present law permits a limited deduction for income tax purposes of an individual's gambling losses (sec. 165). The deduction is allowable only in the taxable year in which the loss is incurred and is allowable only to the extent of gambling winnings in that year.

Issues

The issues are (1) whether present law requirements for income tax withholding on gambling winnings should be repealed; (2) whether payors of gambling winnings should be required to report to the Internal Revenue Service only winnings of $10,000 or more; and (3) whether individual taxpayers should be able to carry over excess net gambling losses to offset gambling winnings in the three preceding and three following years.

Explanation of the bill

The bill would repeal the provisions of present law requiring income tax withholding on certain gambling winnings. Also, the bill would provide, in place of the present law withholding and information reporting requirements, that a payor of any gambling winnings of $10,000 or more must report such winnings to the Internal Revenue Service pursuant to section 6041.

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[2] House Rpt. 94-658, 94th Cong., 1st Sess. (1975), at p. 297; Sen. Rpt. 94-938, 94th Cong., 2d Sess. (1976), at p. 383.

[3] House Rpt. 94-1515, 94th Cong., 2d Sess. (1976), at p. 488.

Also, the bill would permit a three-year carryback and a three-year carryforward of net gambling losses. The bill would not, however, change the present rule that gambling losses may be deducted in any taxable year only to the extent of gambling winnings. Under the bill, losses would first be carried back to the earliest of the three preceding taxable years in which gambling winnings exceeded such losses. Any unused loss in that year would then be applied sequentially against net gambling winnings in each of the succeeding five taxable years.

Effective date

The repeal of present law income tax withholding requirements would apply to payments of gambling winnings after the date of enactment. The modifications to present law information reporting requirements would apply to payments made in taxable years ending after enactment. The allowance of carryovers of unused gambling losses would apply to taxable years beginning after December 31, 1981.

Revenue effect

It is estimated that the bill would reduce fiscal year budget receipts by $20 million in 1982, $87 million in 1983, $52 million in 1984, $55 million in 1985, and $57 million in 1986.

10. H.R. 4990—Messrs. Vander Jagt, Guarini, and Jacobs, and others

Tax-Exempt Status of Athletic Organizations Providing Facilities or Equipment

Present law

Under amendments to Code sections 501(c)(3) and 170 made by the Tax Reform Act of 1976, an organization formed and operated to foster national or international amateur sports competition qualifies for exemption from income tax and to receive tax-deductible contributions, but only if no part of its activities involves the provision of athletic facilities or equipment. The purpose of this restriction was "to prevent the allowance" of tax benefits for "organizations which, like social clubs, provide facilities and equipment for their members." [1]

Apart from the 1976 provision, athletic organizations that teach youth or that are affiliated with charitable organizations may qualify for exemption and for eligibility to receive tax-deductible contributions under the general Code provisions concerning educational or charitable organizations.[2]

Issues

The issues are (1) whether an organization that fosters national or international amateur sports competition and which provides athletic facilities and equipment should qualify for exemption from income tax and to receive tax-deductible contributions; and (2) if so, whether contributions to the organization by a person who uses such facilities or equipment should be deductible for tax purposes.

Explanation of the bill

Under the bill, an organization formed and operated exclusively to foster national or international amateur sports competition would qualify for income tax exemption under section 501(c)(3) and to receive tax-deductible contributions, whether or not the organization provides athletic facilities or equipment.

Under the bill, deductions would not be allowed for contributions or bequests to such an athletic organization made by an individual, or by a member of the individual's family, if the individual uses any athletic facility or equipment provided by the organization, and if such use occurs within 12 months before or 12 months after the date of the contribution. However, deductions for amounts otherwise qualifying as charitable contributions would not be disallowed under the new provision, notwithstanding such use of the organization's facili-

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[1] House Rpt. No. 94–1515, 94th Cong., 2d Sess. (1976), at p. 542.

[2] See, e.g., Rev. Rul. 65–2, 1965–1 C.B. 227, and Rev. Rul. 64–275, 1964–2 C.B. 142.

ties or equipment within the 12-month periods, (1) if the total contributions made to the organization by the donor and members of the donor's family for the year do not exceed $500; (2) if the contribution is to the United States Olympic Committee or a national governing body as defined in the Amateur Sports Act of 1978 (36 U.S.C. 371); or (3) if the contribution consists of unreimbursed expenditures made incident to the rendition of services by a noncompetitor to an organization qualified for tax-deductible contributions.

Effective date

The provisions of the bill regarding tax exemption and eligibility for tax-deductible contributions would be retroactively effective as of October 5, 1976 (the effective date for the 1976 amendment to sec. 501(c)(3) relating to athletic organizations). The provisions regarding the disallowance of deductions for certain contributions would apply to contributions made after 1981.

Revenue effect

It is estimated that the bill would reduce budget receipts by less than $5 million annually.

11. H.R. 5630—Mr. Pickle

Deferred Compensation Plans for State Judges

Present law

Eligible State deferred compensation plan

Under present law (Code sec. 457(a)), employees of a State or local government are permitted to defer compensation under an eligible State deferred compensation plan if the deferral does not exceed prescribed annual limits (generally, the lesser of $7,500 or 33⅓ percent of includible compensation). Eligible plans are unfunded. Amounts of compensation deferred by a participant in any eligible plan, plus any income attributable to the investment of such deferred amounts, are includible in the income of the participant or the participant's beneficiary only when paid or otherwise made available under the plan.

Treatment of participants in an ineligible plan

If an unfunded deferred compensation plan fails to meet the requirements of an eligible plan, then all compensation deferred under the plan is includible currently in income by the participants unless the amounts deferred are subject to a substantial risk of forfeiture (sec. 457(e)). If amounts so deferred are subject to a substantial risk of forfeiture, then they are includible in the gross income of participants or beneficiaries in the first taxable year in which there is no substantial risk of forfeiture.

This rule for the tax treatment of participants in an ineligible plan does not apply, however, if the plan is a qualified plan, a tax-sheltered annuity program, or other funded arrangement.

Issue

The issue is whether participants in certain State judicial retirement plans should be excluded from the rule requiring participants in ineligible plans to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited.

Explanation of the bill

Under the bill, participants in an unfunded qualified State judicial plan would not be subject to the rule requiring participants in an ineligible plan to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited.

A State's unfunded retirement plan for the exclusive benefit of judges or their beneficiaries would be a qualified State judicial plan under the bill if (1) the plan has been continuously in existence since December 31, 1978; (2) all judges eligible to benefit under the plan are required to participate and to contribute the same fixed percentage of their basic or regular rate of compensation; and (3) a judge's retirement benefit under the plan is a percentage of the compensation of judges of the State holding similar positions.

In addition, the plan could not pay benefits with respect to a participant which exceed the limitations on benefits permitted under tax-qualified plans, and could not provide an option to plan participants as to contributions or benefits the exercise of which would affect the amount of the participant's currently includible compensation.

Effective date

The provisions of the bill would apply to taxable years beginning after December 31, 1978.

Revenue effect

It is estimated that the bill would reduce budget receipts by less than $5 million annually.