

Joint Committee on Taxation
July 16, 1990
JCX-20-90

**TAX-RELATED PROVISIONS OF ADMINISTRATION'S PROPOSED
NATIONAL DRUG CONTROL STRATEGY IMPLEMENTATION ACT
(Scheduled for Markup Consideration by the
Committee on Ways and Means on July 18, 1990)**

As part of its proposed National Drug Control Strategy Implementation Act of 1990, the Administration has proposed modifications to three tax-related provisions: (1) IRS undercover operations; (2) disclosure of returns relating to \$10,000 cash transactions; and (3) criminal penalties with respect to \$10,000 cash reporting.

1. IRS Undercover Operations

Present Law

The Anti-Drug Abuse Act of 1988 provided special rules for certain IRS undercover operations. These special rules provide exemption for these IRS undercover operations from the otherwise applicable statutory restrictions on undercover operations, which generally provide that all receipts be deposited in the general fund and all expenses be paid out of appropriated funds. In general, these special rules permit the IRS to "churn" the income generated by an undercover operation to pay additional expenses incurred in the undercover operation. The IRS is required to conduct a detailed financial audit of each operation subject to these special rules (but no outside audit is required), and is required to provide an annual report to the Congress on these undercover operations.

This provision expired after December 31, 1989.

Administration Proposal

The Administration has proposed that this provision be reinstated and be effective through December 31, 1991.

2. Disclosure of Returns Relating to \$10,000 Cash Transactions

Present Law

Tax returns and return information are confidential, and may not be disclosed without statutory authorization. Unauthorized disclosure is punishable by a fine, prison sentence, or private lawsuit for damages.

The Deficit Reduction Act of 1984 required that any person who receives more than \$10,000 in cash in one transaction (or two or more related transactions) in the course of a trade or business generally must file an information return with the IRS specifying the name, address, and taxpayer identification number of the person from whom the cash was received and the amount of cash received.

The Anti-Drug Abuse Act of 1988 provided a special rule permitting the IRS to disclose these information returns to other Federal agencies, for the purpose of the administration of Federal criminal statutes. There is no statutory requirement that these other Federal agencies show that they have reasonable cause to obtain access to this confidential information. This special rule is scheduled to expire after November 10, 1990.

Administration Proposal

The Administration has proposed that this provision be extended through November 10, 1992.

3. Criminal Penalties With Respect to \$10,000 Cash Reporting

Present Law

The Anti-Drug Abuse Act of 1988 provided that any willful violation related to the filing of returns relating to cash receipts of more than \$10,000 received in the course of conducting a trade or business is, upon conviction, a misdemeanor punishable by a fine or imprisonment not to exceed 5 years, or both. (Prior to this Act, the maximum prison term was one year.)

Administration Proposal

The Administration has proposed that these violations be felonies instead of misdemeanors, effective on the date of enactment. The Administration does not propose to change the fines or prison terms.