Description of H.R. 2557
Relating to
Tax Treatment of Professional Sports Franchise Transfers

Scheduled for a Hearing

By The

Subcommittee on Select Revenue Measures

Committee on Ways and Means

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Prepared By The Staff

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Tax Treatment of Professional Sports Franchise Transfers

H.R. 2557 - Mr. Stark

Present law

Under present law, the cost of tangible property used in a taxpayer's trade or business may be depreciated over the property's useful life. The cost of tangible assets, such as players contracts, with a useful life of more than one year must be capitalized and depreciated over the life of the asset, e.g., over the length of a player's contract. In the case of a sale or exchange of a sport franchise (including the creation of a new franchise), the amount allocated to a player contract by the transferee may not exceed the sum of the tansferor's adjusted basis for the contract and any gain recognized by the transferor on the transfer of the contract. Generally, present law presumes that no more than 50 percent of the consideration for a sale or exchange of a sports franchise is allocable to player contracts unless the taxpayer establishes, to the satisfaction of the Secretary, that more than 50 percent constitutes a proper allocation. The only exceptions to these rules are testamentary transfers and specified like kind exchanges.

Present law also provides, upon a sale, exchange, or other disposition of an entire sports franchise, for the recapture of depreciation and loss deductions taken with respect to player contracts. In addition, these recapture rules generally apply, on a contract-by-contract basis, to transfers of individual player contracts. Subject to specified limitations, these recapture rules treat gain attributable to player contracts as ordinary income, rather than as capital gain. The only exceptions to these recapture rules are testamentary and gift transfers.

These rules generally apply to transfers after 1975, and without regard to physical relocation of a sports franchise.

Explanation of the bill

The bill would treat certain relocations of sports franchises as 'prohibited moves' which constitute a sale of the franchise for an amount equal to its fair market value at the time of the relocation. The difference between the taxpayer's adjusted basis and the imputed sales price would be required to be recognized for the taxable year of the move. However, the bill would be inapplicable if its application would result in a loss.

Under the bill, a 'prohibited move' generally would be any change in the home stadium of a sports franchise if the

new home stadium is more than 50 miles from the former home stadium. Such a move would be treated as occurring as of the time the sports franchise begins operations at the new home stadium. For purposes of the bill, the term 'home stadium' would mean the physical facility in which the sports franchise performs more than 1/3 of its regular season sporting events.

The bill would provide three exceptions to the definition of the term 'prohibited move.' However, no exception would be available unless the taxpayer establishes to the satisfaction of the Secretary that the requirements of the bill are met. Under the first exception, the term 'prohibited move' would not include any change if one or more parties to the lease agreement on the former home stadium failed to comply with a provision of material significance to the agreement and if this noncompliance could not have been remedied within a reasonable period of time. The second exception would apply if the taxpayer establishes that the former home stadium is inadequate for purposes of properly and competitively operating the franchise, and that the stadium authority demonstrates no intent to remedy such inadequacies. Finally, the term 'prohibited move' would not include a change if the sports franchise has incurred a net operating loss for each of the three taxable years preceding the taxable year in which the move occurs.

To the extent prescribed in Treasury regulations, basis adjustments could be made to reflect gain recognized under the provisions of the bill.

Effective date

The provisions of the bill would apply to prohibited moves occurring after March 17, 1981, in taxable years ending after that date.

Revenue effect

The bill's revenue effect would depend upon the number of moves by sports franchises and the extent to which those franchises had appreciated.