[COMMITTEE PRINT]

TAX REFORM BILL OF 1974

Press Release Descriptions of Tentative Decisions
Corresponding to Sections of Draft Bill

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS CHANGES

PREPARED FOR THE USE OF

THE COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

BY

THE STAFF

OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

SEPTEMBER 19, 1974

U.S. GOVERNMENT PRINTING OFFICE
39-874 WASHINGTON : 1974 JCS-19-74

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS CHANGES

Part I—Administrative Changes

Sec. 511. Income tax return preparers.

The Committee agreed to a series of provisions dealing with tax return preparers which are designed to assist the Internal Revenue Service in its auditing practices by permitting it to retrieve and analyze by computer all returns prepared by the same preparer.

Tax return preparers who would be covered by these provisions are those persons who prepare, directly or through employees, a return or claim for refund for compensation. These rules would not apply to persons who render mere mechanical or processing assistance, regular employees who prepare returns of their employer as a usual incident of employment, fiduciaries who prepare returns for trusts or estates, or partners who prepare returns for partnerships.

The provisions agreed to by the committee which apply to the covered tax return preparers are as follows:

1. Each prepared return, statement or other document must contain the identification number of the return preparer and other data sufficient to identify the preparer. A $25 penalty is provided for each failure to comply, if without reasonable cause.

2. Each preparer must furnish to taxpayers a copy of the return or claim for refund prepared by the tax return preparer at the time the return is given for the taxpayer's signature. A $25 penalty is provided for failure to comply, if without reasonable cause.

3. Each return preparer or every person employing a tax return preparer must file an annual report listing the name, address, identification number, and place of work of each preparer they employ. This report is to be filed by July 31 for a 12-month period ending June 30. Failure to comply without reasonable cause would result in a $100 penalty for each failure to file an annual return and a $5 penalty for each failure to include a name, identification number and place of work on the annual report. These penalties are not to exceed $20,000 for a 12-month period.

4. Each return preparer or employer of return preparers must retain for three years either a list of taxpayers for whom returns were prepared or copies of their returns and claims for refunds. A $50 penalty is provided for each failure to retain a copy of a return or to list a taxpayer for whom a return was prepared, up to a maximum of $25,000 for all returns in a year.

5. Penalties are also provided for negligence or fraud on the part of the tax return preparer. A $100 penalty is provided for negligent or intentional disregard of Internal Revenue Service rules or regulations by a tax return preparer. A $500 penalty is provided for a willful attempt to evade, defeat or understate any tax by a tax return

preparer. A separate penalty may be imposed for each return or claim for refund. The penalties are flat amounts rather than a percentage of understatement of tax (as is the case under present law with respect to negligence or fraud on the part of a taxpayer) in order to avoid the necessity of determining a taxpayer's exact tax liability in a proceeding against the preparer. With respect to all the penalty provisions, the period of limitations for assessing penalties would be three years from the filing date of the return or claim for refund, except that penalties for a willful attempt to evade, defeat, or understate any tax could be imposed at any time.

6. In order to prohibit a tax return preparer from continuing to prepare returns when it is determined that he has engaged in improper conduct with respect to the preparation of tax returns, an injunctive proceeding could be brought against such a preparer. The grounds for such action may include (1) engaging in conduct subject to penalties, (2) misrepresenting qualifications (including eligibility to practice before the Internal Revenue Service), (3) guaranteeing the payment of a tax refund, or (4) engaging in other similar conduct that substantially interferes with the proper administration of internal revenue laws. A tax return preparer who files a bond of $50,000 to guarantee payment of further penalties would not be subject to an injunctive proceeding for penalty-type conduct.

7. The Internal Revenue Service would be authorized to provide the names, addresses, and taxpayer indentifying numbers of preparers to State authorities charged with enforcing State provisions regulating tax return preparers.

Sec. 512. Increase in interest charged and paid from 6 percent to 9 percent.

The committee agreed to increase the interest rate paid by taxpayers on tax deficiencies and by the Government on tax overpayments from 6 percent to 9 percent per year.

The committee agreed to increase the penalty for underpayment of estimated tax from 6 percent to 9 percent per year.

Sec. 513. Assessments in case of mathematical or clerical amendments.

The committee also agreed to clarify the definition of mathematical errors made on returns by taxpayers in the case where the Internal Revenue Service corrects the error and makes an immediate assessment if there is an underpayment or reduces the amount of a refund if there is an overpayment.

Sec. 514. Audit of Federal elective officers.

The committee tentatively decided to provide that the IRS would audit the Federal income tax returns of all elected officials of the Federal Government on an annual basis.

Sec. 515. Voluntary withholding of State income taxes in the case of certain legislative officers and employees.

Sec. 516. Forfeiture in case of certain drug offenses.

The committee agreed to amend section 881(a) of title 21 of the United States Code to provide specifically for forfeiture of cash or other personal property found in the possession of a narcotics' trafficker.

Part II—Political Organizations --

Sec. 521. Tax on certain income of political organizations.

Political parties or committees (and separate campaign funds) are generally to be treated as exempt organizations for tax purposes. As a result, contributions received by these committees or parties will not be considered as income, and expenditures for campaign purposes shall not be allowed as deductions. Political parties or committees, however, will be subject to tax on investment income, unrelated business income, and capital gains. A $100 minimum is provided with respect to investment income. As a result, a political party or committee will not be subject to tax on investment income unless this income is in excess of $100. A tax return will only be required to be filed for those parties or committees that have taxable income (after deducting the $100 minimum for investment income). Deductions will be allowed to the extent they relate to the earning of the taxable income. Political parties and communities will be taxed generally as corporations and the surtax exemption is not to be allowed. In addition, with respect to any dividends received as investment income, the dividends received deduction is not to be available.

Sec. 522. Extension of existing credit and deduction provisions for political contributions to contributions for newsletters; two-year rule for announcing candidacy.

Under present law, a limited credit or deduction is allowed for campaign contributions to individual candidates (and political parties and committees) but only if the person "is" a candidate for nomination or election to an elective public office in the year of the contribution. A person is considered to be a candidate only if he has "publicly announced" that he is a candidate, and meets the qualifications prescribed for holding office. The committee has agreed to extend this treatment by allowing the credit or deduction for campaign contributions in the year before a person announces his candidacy.

Generally, newsletter committees (and separate funds) are to be treated for tax purposes in the same way as campaign committees. That is, contributions received by the newsletter committee will not be taxable to the individual or committee. In addition, funds spent by the newsletter committee in the course of publishing a newsletter are not to be deductible by the committee or individual. However, the committee will be subject to tax to the extent it has investment income over $100, has net unrelated trade or business income, or net capital gains.

In addition, the tax law will be changed to conform to the law governing the franking privilege. Consequently, the credit or deduction for campaign contributions will be allowed if the funds contributed are used for newsletters.

Sec. 523. Transfer of appreciated property to political organizations.

Appreciated property transferred by a taxpayer to a political party or committee will be taxed to the donor at the time of the transfer. That is, the donor will be subject to tax on the difference between the value of the property at the time of the contribution and his cost or other basis. The political party or committee will be subject to tax

on any appreciation in the value of property from the time it is received until sale or exchange.

Sec. 524. Gift tax not to apply to contributions to political organizations.

The gift tax will not apply to contributions to political parties or committees.

Part III—Certain Tax Exempt Organizations

Sec. 531. Declaratory judgments with respect to section 501 (c)(3) status and classification.

Because of the present usual long delay in getting a court test of any adverse determination by the IRS, and the almost certain loss of contributions during this period of delay, the committee has agreed to provide a procedure whereby the organization may ask the Tax Court for a declaratory judgment as to its status and classification under section 501(c)(3) of the Internal Revenue Code.

Under the declaratory judgment procedure agreed to by the committee, if the IRS fails to issue a favorable exemption ruling (or fails to rule that the organization is a "public charity", rather than a private foundation), an organization seeking exemption under section 501(c)(3) of the Code may petition the Tax Court for a declaratory judgment as to its exempt status or its classification as a private foundation. A similar procedure will be available from a final adverse determination by the IRS as to an organization's existing classification under section 501(c)(3) or as to the revocation or modification of the organization's previously recognized exempt status.

Sec. 532. Expenditures by public charities to influence legislation.

Under present law, in order for an organization to qualify for exemption from the Federal income tax under section 501(c)(3), no "substantial part" of the activities of the organization can be to carry on propaganda or otherwise attempt to influence legislation.

The committee tentatively decided to provide that certain organizations could elect to have an expenditures test apply in place of the current activities test as to some types of lobbying activities. Under this election, the test for lobbying expenditures (other than grassroots lobbying and direct lobbying involving entertainment) would be made against a specified sliding scale of permissible percentages with the percentage being reduced as the organization's total expenditures increase (varying from 15 percent to 10 percent, to 5 percent to one percent, with an overall limitation of $500,000). Grassroots lobbying and direct lobbying expenditures for entertainment would be tested under an activities test similar to that of present law.

Any organization exempt under section 501(c)(3) other than a private foundation or certain church-related organizations could elect to come under the new rules. This new provision would apply for a 5-year period.

Sec. 533. Electioneering by civic leagues, et cetera.

Under present law, an organization exempt from Federal income tax under section 501(c)(4) can engage in some political campaign activities without risking the loss of exemption. The committee tenta-

tively decided to provide that an organization exempt from Federal income tax under this provision cannot in any manner participate in or intervene in any political campaign on behalf of any candidate for public office.

Sec. 534. Tax treatment of certain mutual cooperative telephone companies.

Under present law a mutual or cooperative telephone company is exempt from tax under section 501(c)(12) of the Code, if 85 percent of his income consists of amounts collected from members for purposes of meeting the cooperative's expenses and losses. The IRS has taken the position that when the cooperative telephone company completes or terminates calls to their subscribers which are made by individuals who are subscribers of another company, the cooperative constructively receives income for this service from the other company (although in most cases payment is not made but the other company performs similar services for the cooperative). This treatment of income of this type may cause a telephone cooperative to fail to qualify as a tax exempt because, on this basis, it does not receive 85 percent or more of its income from its members. The committee agreed to provide that income received by a cooperative from a nonmember telephone company for the performance of such service would not be considered in applying the 85-percent income test.

Sec. 535. Additional period for qualifying certain charitable remainder trusts.

As a result of the Tax Reform Act of 1969, charitable remainder trusts must meet certain requirements in order for an estate tax deduction to be allowed for the transfer of a remainder interest to charity. In general, these requirements must be met in the case of a decedent dying after December 31, 1969. The present transitional rules have been provided to allow a trust created after July 31, 1969, to qualify if the governing instrument of the trust is amended to meet these new requirements by December 31, 1972. The committee has agreed to extend these transitional rules to December 31, 1975.

Part IV—Excise Tax Changes

Sec. 541. Reduction of excise tax on beer for certain brewers.

Present law imposes a $9 excise tax on each barrel of beer produced for consumption for sale in the United States or imported into the country. The committee agreed to reduce this tax by $2 (from $9 to $7) for the first 60,000 barrels produced in a year but only for those brewers who produce no more than 2 million barrels a year.

Sec. 542. Home production of wine and beer.

Under present law the head of any family may produce up to 200 gallons of wine a year for family use without payment of tax. The committee has agreed to extend this provision to individuals who are not heads of a family. Under the committee provision, any individual 18 years of age or older may produce wine for personal consumption without payment of tax. The amount of wine that could be produced without payment of tax in any household is to be limited to 100 gallons of wine a year where there is only one individual 18

years of age or older and to 200 gallons of wine a year if there are two or more individuals 18 years of age or older in the household.

The committee also agreed to apply similar provisions to the home production of beer.

Sec. 543. Excise tax on cigars.

The committee agreed to change the present bracket system of taxing cigars on the basis of their intended retail price to a single ad valorem tax of 8½ percent of the intended wholesale price. The present limit of $20 per 1,000 cigars is retained.

Sec. 544. Computation of excise tax on communications services.

The committee tentatively agreed to remove from the base of the Federal excise tax on communications (telephone and telegraph) the amount representing State or local sales (excise) taxes. The base for the Federal tax would, therefore, be the pre-tax amount actually billed to the customer.

Sec. 545. Helicopters used in timber harvesting or forest management.

The committee tentatively decided to exempt from the aviation excise taxes on both special fuels (sec. 4041) and the transportation of property for hire (sec. 4272), helicopter operations in timber harvesting and forest management.

Sec. 546. State conducted lotteries.

Present law exempts from the 10-percent wagering tax and occupational taxes State lotteries where the ultimate winners are determined by the results of a horse race.

The committee tentatively agreed to remove the requirement that the ultimate winners of State lotteries must be determined on the basis of the results of a horse race. The committee also agreed to exempt the State lotteries from occupational taxes. In addition, the committee agreed to impose a 20-percent withholding tax on lottery winnings of $100 or more.

Sec. 547. Withholding tax on certain gambling winnings.

The committee agreed to replace the present information reporting rules covering race track, keno, and bingo winnings by requiring withholding of 20 percent of the winnings at the time of payment. In the case of race track payoffs, this would apply to winners of the daily double, exacta, perfecta, and similar type pools if the payout is based on betting odds of 300 to one or higher. This rule would apply in the case of gambling casinos on large winnings from keno and bingo on a sliding scale formula based on the price of the ticket played as well as on the amount won.

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