DESCRIPTION OF CHAIRMAN'S MARK OF H.R. 831

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INTRODUCTION AND LEGISLATIVE BACKGROUND

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's Mark of H.R. 831.

H.R. 831 was passed by the House of Representatives on February 21, 1995, by a vote of 381 to 44. As passed, H.R. 831 would: (1) extend permanently the 25-percent deduction for health insurance costs for self-employed individuals; (2) repeal the provision (Code sec. 1071) permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission ("FCC"); (3) provide that the nonrecognition of gain on involuntary conversions is not to apply if replacement property is acquired from a related person (Code sec. 1033); and (4) deny the earned income tax credit ("EITC") to individuals who have more than $3,150 of taxable interest and dividend income and phase out the EITC for individuals with more than $2,500 of taxable interest and dividend income.[2]

On March 7, 1995, the Senate Committee on Finance held a public hearing on the application of Internal Revenue Code section 1071 under the FCC's tax certificate program.[3] The Senate Committee on Finance has scheduled a markup of the Chairman's Mark of H.R. 831 on March 15, 1995.

Part I of the document summarizes the modifications made to H.R. 831 by the Chairman's Mark. Part II of the document describes the Chairman's Mark. Section A discusses extension of the deduction for health insurance costs of self-employed individuals; Section B discusses rules applicable to FCC-certified sales of broadcast properties; Section C discusses nonrecognition of gain on involuntary conversions in certain related-party transactions and application of Code section 1033 to certain microwave relocation transactions; and Section D discusses an interest and dividend test for the EITC.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of H.R. 831* (JCX-12-95), March 15, 1995.

[2] For a description of H.R. 831, as reported by the House Committee on Ways and Means, see H. Rept. No. 104-32, 104th Cong., 1st Sess. (1995).

[3] See Joint Committee on Taxation, *Background and Issues Relating to:(1) the Application of Code Section 1071 Under the Federal Communications Commission's Tax Certificate Program; (2) Involuntary Conversions Under Code Section 1033; and (3) the Earned Income Tax Credit* (JCX-8-95), March 6, 1995.

I. SUMMARY OF THE CHAIRMAN'S MARK

The Chairman's Mark would adopt H.R. 831, with the following modifications:

1. The prohibition against purchases from related parties for purposes of Code section 1033 would apply only to subchapter C corporations. This provision would apply to involuntary conversions occurring on or after February 6, 1995.

2. The related party purchase prohibition would not apply if the related person acquired the replacement property or stock from an unrelated person within the period prescribed in Code section 1033.

3. Certain sales or exchanges made in connection with the relocation of taxpayers from the 1850-1990 MHz spectrum as a result of the FCC's reallocation of that spectrum for use by personal communications services ("PCS") would be treated as involuntary conversions for purposes of Code section 1033. This provision would apply to dispositions occurring before January 1, 2000.

4. A taxpayer would not be eligible for the EITC if the aggregate amount of interest and dividends includible in his or her income for the taxable year exceeds $2,500. The $2,500 amount would be indexed for inflation. This provision would be effective for taxable years beginning after December 31, 1995.

I. DESCRIPTION OF THE CHAIRMAN'S MARK

A. PERMANENTLY EXTEND DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

Present Law

Under present law, the tax treatment of health insurance expenses depends on whether the taxpayer is an employee and whether the taxpayer is covered under a health plan paid for by the employee's employer. An employer's contribution to a plan providing accident or health coverage for the employee and the employee's spouse and dependents is excludable from an employee's income. The exclusion is generally available in the case of owners of a business who are also employees.

In the case of self-employed individuals (i.e., sole proprietors or partners in a partnership) no equivalent exclusion applies. However, prior law provided a deduction for 25 percent of the amount paid for health insurance for a self-employed individual and the individual's spouse and dependents. The 25-percent deduction was not available for any month if the taxpayer was eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse. In addition, no deduction was available to the extent that the deduction exceeded the taxpayer's earned income. The amount of expenses paid for health insurance in excess of the deductible amount could be taken into account in determining whether the individual was entitled to an itemized deduction for medical expenses. The 25-percent deduction expired for taxable years beginning after December 31, 1993.

For purposes of these rules, more than 2-percent shareholders of S corporations are treated the same as self-employed individuals. Thus, they were entitled to the 25-percent deduction.

Other individuals who purchase their own health insurance (e.g., someone whose employer does not provide health insurance) can deduct their insurance premiums only to the extent that the premiums, when combined with other unreimbursed medical expenses, exceed 7.5 percent of adjusted gross income.

Description of H.R. 831

Section 1 of the bill retroactively reinstates for 1994 the deduction for 25-percent of health insurance costs of self-employed individuals and extends the deduction permanently.

Effective date.--The bill is effective for taxable years beginning after December 31, 1993.

Description of Chairman's Mark

Same as H.R. 831.

B. REPEAL SPECIAL RULES APPLICABLE TO FCC-CERTIFIED SALES OF BROADCAST PROPERTIES

Present Law and Background

Tax treatment of a seller of broadcast property

General tax rules

Under generally applicable Code provisions, the seller of a business, including a broadcast business, recognizes gain to the extent the sale price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is then subject to the current income tax unless the gain is deferred or not recognized under a special tax provision.

Special rules under Code section 1031

Under Code section 1031, no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged for property of a "like kind" that is to be held for productive use in a trade or business or for investment. The nonrecognition rules do not apply to an exchange of one class or kind of property for property of a different class or kind.[4] The different classes of property are: (1) depreciable tangible personal property; (2) intangible personal property; and (3) real property.[5]

If an exchange consists not only of like-kind property, but also of other property or money, then gain from the transaction is recognized to the extent of the money and the fair market value of the other property, and no loss from the transaction may be recognized. The basis of property received in a like-kind transaction generally is the same as the basis of any property exchanged, decreased by the amount of money received or loss recognized on the exchange and increased by the amount of gain recognized on the exchange. Special rules apply to exchanges between related persons, which generally require the parties to the transaction to hold the exchanged property for at least two years after the exchange.

Special rules under Code section 1033

Under Code section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property. The replacement property may be acquired directly or by acquiring control of a corporation (generally, 80 percent of the stock of the corporation) that owns replacement property. The taxpayer's basis in the replacement property

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[4] Treas. Reg. sec. 1.1031(a)-1(b).

[5] Treas. Reg. sec. 1.1031(a)-2.

generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion.

Only involuntary conversions that result from destruction, theft, seizure, or condemnation (or threat or imminence thereof) are eligible for deferral under Code section 1033. In addition, the term "condemnation" refers to the process by which private property is taken for public use without the consent of the property owner but upon the award and payment of just compensation, according to a ruling by the Internal Revenue Service (IRS).[6] Thus, for example, an order by a Federal court to a corporation to divest itself of ownership of certain stock because of anti-trust rules is not a condemnation (or a threat or imminence thereof), and the divestiture is not eligible for deferral under this provision.[7] Under another IRS ruling, the "threat or imminence of condemnation" test is satisfied if, prior to the execution of a binding contract to sell the property, "the property owner is informed, either orally or in writing by a representative of a governmental body or public official authorized to acquire property for public use, that such body or official has decided to acquire his property, and from the information conveyed to him has reasonable grounds to believe that his property will be condemned if a voluntary sale is not arranged."[8] However, under this ruling, the threatened taking also must constitute a condemnation, as defined above.

Special rules under Code section 1071

Under Code section 1071, if the FCC certifies that a sale or exchange of property is necessary or appropriate to effectuate a change in a policy of, or the adoption of a new policy by, the FCC with respect to the ownership and control of "radio broadcasting stations," a taxpayer may elect to treat the sale or exchange as an involuntary conversion. The FCC is not required to determine the tax consequences of certifying a sale or to consult with the IRS about the certification process.[9] No other provision of the Internal Revenue Code grants a Federal agency or any other party the type of complete discretion conveyed to the FCC by section 1071.

Under Code section 1071, the replacement requirement in the case of FCC-certified sales may be satisfied by purchasing stock of a corporation that owns broadcasting property, whether or not the stock represents control of the corporation. In addition, even if the taxpayer does not reinvest all the sales proceeds in similar or related replacement property, the taxpayer nonetheless

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[6] Rev. Rul. 58-11, 1958-1 C.B. 273.

[7] Id.

[8] Rev. Rul. 74-8, 1974-1 C.B. 200.

[9] The FCC allows sellers applying for FCC certificates in cable transactions to delete both the sales price and the number of subscribers from the transaction documents submitted with the request for the certificates.

may elect to defer recognition of gain if the basis of depreciable property that is owned by the taxpayer immediately after the sale or that is acquired during the same taxable year is reduced by the amount of deferred gain.

Tax treatment of a buyer of broadcast property

Under generally applicable Code provisions, the purchaser of a broadcast business, or any other business, acquires a basis equal to the purchase price paid. In an asset acquisition, a buyer must allocate the purchase price among the purchased assets to determine the buyer's basis in these assets. In a stock acquisition, the buyer takes a basis in the stock equal to the purchase price paid, and the business retains its basis in the assets. This treatment applies whether or not the seller of the broadcast property has received an FCC certificate exempting the sale transaction from the normal tax treatment.

FCC tax certificate program

Multiple ownership policy

The FCC originally adopted multiple ownership rules in the early 1940s.[10] These rules prohibited broadcast station owners from owning more than one station in the same service area, and, generally, more than six high frequency (radio) or three television stations. Owners wishing to acquire additional stations had to divest themselves of stations they already owned in order to remain in compliance with the FCC's rules.

In November 1943, the FCC adopted a rule that prohibited duopolies (ownership of more than one station in the same city).[11] After these rules were adopted, owners wishing to acquire additional stations in excess of the national ownership limit had to divest themselves of stations they already owned in order to remain in compliance with the FCC's rules. After Code section 1071 was adopted in 1943, in some cases, parties petitioned the FCC for tax certificates pursuant to Code section 1071 when divesting themselves of stations. These divestitures were labeled "voluntary divestitures" by the FCC. When the duopoly rule was adopted, 35 licensees that held more than one license in a particular city were required by the rule "involuntarily" to divest themselves of one of the licenses.[12]

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[10] 5 Fed. Reg. 2382 (June 26, 1940) (multiple ownership rules for high frequency broadcast stations); 5 Fed. Reg. 2284 (May 6, 1941) (multiple ownership rules for television stations).

[11] 8 Fed. Reg. 16065 (Nov. 23, 1943).

[12] FCC Announces New Policy Relating to Issuance of Tax Certificates, 14 FCC2d 827 (1956).

Minority ownership policy

In 1978, the FCC announced a policy of promoting minority ownership of broadcast facilities by offering an FCC tax certificate to those who voluntarily sell such facilities (either in the form of assets or stock) to minority individuals or minority-controlled entities.[13] The FCC's policy was based on the view that minority ownership of broadcast stations would provide a significant means of fostering the inclusion of minority views in programming, thereby serving the needs and interests of the minority community as well as enriching and educating the non-minority audience. The FCC subsequently expanded its policy to include the sale of cable television systems to minorities as well.[14]

"Minorities," within the meaning of the FCC's policy, include "Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders."[15] As a general rule, a minority-controlled corporation is one in which more than 50 percent of the voting stock is held by minorities. A minority-controlled limited partnership is one in which the general partner is a minority or minority-controlled, and minorities have at least a 20-percent interest in the partnership.[16] The FCC requires those who acquire broadcast properties with the help of the FCC tax certificate policy to hold those properties for at least one year.[17] An acquisition can qualify even if there is a pre-existing agreement (or option) to buy out the minority interests at the end of the one-year holding period, providing that the transaction is at arm's-length.

In 1982, the FCC further expanded its tax certificate policy for minority ownership. At that time, the FCC decided that, in addition to those who sell properties to minorities, investors who contribute to the stabilization of the capital base of a minority enterprise would be entitled to a tax certificate upon the subsequent sale of their interest in the minority entity.[18] To qualify for an FCC tax certificate in this circumstance, an investor must either (1) provide start-up financing that allows a minority to acquire either broadcast or cable properties, or (2) purchase shares in a

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[13] Minority Ownership of Broadcasting Facilities, 68 FCC2d 979 (1978).

[14] Minority Ownership of Cable Television Systems, 52 R.R.2d 1469 (1982).

[15] 52 R.R.2d at n. 1.

[16] Commission's Policy Regarding the Advancement of Minority Ownership in Broadcasting, Policy Statement, and Notice of Proposed Rulemaking, 92 FCC2d 853-855 (1982).

[17] See Amendment of Section 73.3597 of the Commission's Rules (Applications for Voluntary Assignments or Transfers of Control), 57 R.R.2d 1149 (1985). Anti-trafficking rules require cable properties to be held for at least three years (unless the property is sold pursuant to a tax certificate).

[18] Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting, 92 FCC2d 849 (1982).

minority-controlled entity within the first year after the license necessary to operate the property is issued to the minority. An investor can qualify for a tax certificate even if the sale of the interest occurs after participation by a minority in the entity has ceased. In these situations, the status of the divesting investor and the purchaser of the divested interest is irrelevant, because the goal is to increase the financing opportunities available to minorities.

Personal communications services ownership policy

In 1993, Congress provided for the orderly transfer of frequencies, including frequencies that can be licensed pursuant to competitive bidding procedures.[19] The FCC has adopted rules to conduct auctions for the award of more than 2,000 licenses to provide personal communications services ("PCS"). PCS will be provided by means of a new generation of communication devices that will include small, lightweight, multi-function portable phones, portable facsimile and other imaging devices, new types of multi-channel cordless phones, and advanced paging devices with two-way data capabilities. The PCS auctions (which began last year) will constitute the largest auction of public assets in American history and are expected to generate billions of dollars for the United States Treasury.[20]

The FCC has designed procedures to ensure that small businesses, rural telephone companies and businesses owned by women and minorities have "the opportunity to participate in the provision" of PCS, as Congress directed in 1993.[21] To help minorities and women participate in the auction of the PCS licenses, the FCC took several steps including up to a 25-percent bidding credit, a reduced upfront payment requirement, a flexible installment payment schedule, and an extension of the tax certificate program for businesses owned by minorities and women.[22]

The FCC will employ the tax certificate program in three ways: (1) initial investors (who provide "start-up" financing or purchase interests within the first year after license issuance) in minority and woman-owned PCS businesses will be eligible for FCC tax certificates upon the sale of their investments; (2) holders of PCS licenses will be able to obtain FCC tax certificates upon the sale of the business to a company controlled by minorities and women; and (3) a cellular operator that sells its interest in an overlapping cellular system to a minority or a woman-owned business to come into compliance with the FCC PCS/cellular cross-ownership rule will be eligible for a tax certificate.

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[19] Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, Title VI.

[20] Fifth Report and Order, 9 FCC Rcd 5532 (1994).

[21] Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, section 6002(a).

[22] Installment payments are available to small businesses and rural telephone companies.

Microwave relocation policy

PCS can operate only on frequencies below 3GHz. However, because that frequency range is currently occupied by various private fixed microwave communications systems (such as railroads, oil pipelines, and electric utilities), there are no large blocks of unallocated spectrum available to PCS. To accommodate PCS, the FCC has reallocated the spectrum; a portion of the 2GHz spectrum will be used exclusively for PCS, and the microwave systems will be required to move to higher frequencies. Current occupants of the 2GHz spectrum allocated to PCS must relocate to higher frequencies not later than three years after the close of the bidding process (anticipated to end in March or April, 1995).[23] In accordance with FCC rules, these current occupants have the right to be compensated for the cost of replacing their old equipment, which can operate only on the 2GHz spectrum, with equipment that will operate at the new, higher frequency. At a minimum, the winners of the new PCS licenses must pay for and install new facilities to enable the incumbent microwave operators to relocate. The amount of these payments and characteristics of the new equipment will be the subject of negotiation between the incumbent microwave operators and the PCS licensees; thus, the nature of the compensation (i.e., solely replacement equipment, or a combination of replacement equipment plus a cash payment) is unknown at present. If no agreement is reached within the 3-year voluntary negotiation period, the microwave operators will be required by the FCC to vacate the spectrum; however, the timing of such relocation is uncertain because the relocation would take place only after completion of a formal negotiation process in which the FCC would be a participant.

The FCC will employ the tax certificate program for PCS to encourage fixed microwave operators voluntarily to relocate from the 2GHz band to clear the band for PCS technologies.[24] Tax certificates will be available to incumbent microwave operators that relocate voluntarily within three years following the close of the bidding process. Thus, the certificates are intended to encourage such occupants to relocate more quickly that they otherwise would and to clarify the tax treatment of such transactions.[25]

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[23] The PCS auctions for portions of the 2GHz spectrum commenced in December, 1994.

[24] See, Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd 6589 (1993).

[25] The transaction between the PCS licensee and the incumbent microwave operator might qualify for tax-free treatment as a like kind exchange under Code section 1031 or as an involuntary conversion under Code section 1033. However, the availability of these Code provisions may be limited by certain technical requirements, including the treatment of cash in a like-kind exchange, and whether the transaction would qualify as an involuntary conversion under currently applicable IRS standards.

Congressional appropriations rider

Since fiscal year 1988, in appropriations legislation, the Congress has prohibited the FCC from using any of its appropriated funds to repeal, to retroactively apply changes in, or to continue a reexamination of its comparative licensing, distress sale and tax certificate policies.[26] This limitation has not prevented an expansion of the existing program.[27] The rider will expire at the end of the 1995 fiscal year, September 30, 1995.

Description of H.R. 831

Section 2 of H.R. 831 repeals Code section 1071. Thus, a sale or exchange of broadcast properties would be subject to the same tax rules applicable to all other taxpayers engaged in the sale or exchange of a business.

Effective Date--The repeal of section 1071 is effective for (1) sales or exchanges on or after January 17, 1995,[28] and (2) sales or exchanges before that date if the FCC tax certificate with respect to the sale or exchange is issued on or after that date. The provision does not apply to taxpayers who have entered into a binding written contract (or have completed a sale or exchange pursuant to a binding written contract) before January 17, 1995, and who have applied for an FCC tax certificate by that date. A contract is treated as not binding for this purpose if the sale or exchange pursuant to the contract (or the material terms of the contract) were contingent on January 16, 1995, on issuance of an FCC tax certificate. A sale or exchange would not be contingent on January 16, 1995, on issuance of an FCC tax certificate if the tax certificate had been issued by the FCC by that date.

Description of Chairman's Mark

Same as H.R. 831 (See pages 10 and 11 for the treatment of sales or exchanges pursuant to the FCC's microwave relocation policy).

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[26] Pub. L. No. 100-202 (1987).

[27] The appropriations restriction "does not prohibit the agency from taking steps to create greater opportunity for minority ownership." H. Rept. No. 103-708 (Conf. Rept.), 103d Cong. 2d Sess. 40 (1994).

[28] On January 17, 1995, House Committee on Ways and Means Chairman Archer issued a press release announcing that the Committee on Ways and Means would immediately review the operation of section 1071 to explore possible legislative changes to section 1071, including the possibility of repeal. The press release stated that any changes to section 1071 may apply to transactions completed, or certificates issued by the FCC, on or after the date of the announcement.

C. PROHIBIT NONRECOGNITION OF GAIN ON INVOLUNTARY CONVERSIONS IN CERTAIN RELATED-PARTY TRANSACTIONS; APPLICATION OF SECTION 1033 TO CERTAIN MICROWAVE RELOCATION TRANSACTIONS

Present Law

As described in Part I.B., under Code section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within a specified period.

Under rulings issued by the IRS to taxpayers, property (stock or assets) purchased from a related person may, in some cases, qualify as property similar or related in service or use to the converted property.[29] Thus, in certain circumstances, related taxpayers may obtain significant (and possibly indefinite or permanent) tax deferral without any additional cash outlay to acquire new properties. In cases in which a taxpayer purchases stock as replacement property, section 1033 permits the taxpayer to reduce basis of stock, but does not require any reduction in the basis of the underlying assets. Thus, the reduction in basis of stock does not result in reduced depreciation deductions.

Description of H.R. 831

Under section 3 of H.R. 831, a taxpayer may not defer gain under Code section 1033 when the replacement property or stock is purchased from a related person. For purposes of the bill, a person is treated as related to another person if the relationship between the persons would result in a disallowance of losses under the rules of Code section 267 or 707(b). This provision is intended to apply to all cases involving relationships to the taxpayer described in Code sections 267(b) or 707(b)(1), including members of controlled groups under Code section 267(f).

Effective date.--The prohibition against nonrecognition of gain in certain related-party transactions applies to replacement property or stock acquired on or after February 6, 1995 (the date of introduction of H.R. 831).

Description of Chairman's Mark

Related-party transactions

Under the Chairman's Mark, subchapter C corporations would not be entitled to defer gain under Code section 1033 if the replacement property or stock is purchased from a related person.

[29] See, e.g., PLR 8132072, PLR 8020069. Private letter rulings do not have precedential authority and may not be relied upon by any taxpayer other than the taxpayer receiving the ruling but are some indication of IRS administrative practice.

A person would be treated as related to another person if the person bears a relationship to the other person described in Code section 267(b) or 707(b)(1). An exception to the general rule would provide that a taxpayer could purchase replacement property or stock from a related person and defer gain under Code section 1033 to the extent the related person acquired the replacement property or stock from an unrelated person within the period prescribed under Code section 1033.

Microwave relocation transactions

The Chairman's Mark would provide that sales or exchanges that are certified by the FCC as having been made by a taxpayer in connection with the relocation of the taxpayer from the 1850-1990 MHz spectrum by reason of the FCC's reallocation of that spectrum for use for PCS would be treated as involuntary conversions to which Code section 1033 applies.

Effective Date

The provision prohibiting purchases of replacement property from related parties would apply to involuntary conversions occurring on or after February 6, 1995.

The provision treating certain microwave relocation transactions as involuntary conversions would apply to sales or exchanges occurring before January 1, 2000.

D. INTEREST AND DIVIDEND TEST FOR EARNED INCOME TAX CREDIT

Present Law

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC). The amount of the credit an eligible taxpayer may claim depends upon whether the taxpayer has one, more than one, or no qualifying children and is determined by multiplying the credit rate by the taxpayer's earned income up to an earned income threshold. The maximum amount of the credit is the product of the credit rate and the earned income threshold. For taxpayers with earned income (or adjusted gross income, if greater) in excess of the phaseout threshold, the credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or adjusted gross income, if greater) in excess of the phaseout threshold. The credit is not allowed if earned income (or adjusted gross income, if greater) exceeds the phaseout limit. There is no additional limitation on the amount of unearned income that the taxpayer may receive.

The parameters for the EITC depend upon the number of qualifying children the taxpayer claims. For 1995, the parameters are as follows:

	Two or more qualifying children--	**One qualifying child--**	**No qualifying children--**
Credit rate	36.00%	34.00%	7.65%
Phaseout rate	20.22%	15.98%	7.65%
Earned income threshold	$8,640	$6,160	$4,100
Maximum credit	$3,110	$2,094	$314
Phaseout threshold	$11,290	$11,290	$5,130
Phaseout limit	$26,673	$24,396	$9,230

The earned income threshold and the phaseout threshold are indexed for inflation; because the phaseout limit depends on those amounts, the phaseout rate, and the credit rate, the phaseout limit will also increase if there is inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates and phaseout rates for the EITC change over time under present law. For 1996 and after, the credit rate will be 40.00 percent and the phaseout rate will be 21.06 percent for taxpayers with two or more qualifying children. The credit rate and the phaseout rate for taxpayers with one qualifying child or no qualifying children will be the same as those listed in the table above.

In order to claim the EITC, a taxpayer must either have a qualifying child or must meet other requirements. A qualifying child must meet a relationship test, an age test, and a residence test. In order to claim the EITC without a qualifying child, a taxpayer must not be a dependent and must be over age 24 and under age 65.

Description of H.R. 831

Under section 4 of H.R. 831, a taxpayer is not eligible for the EITC if the aggregate amount of interest and dividends includible in his or her income for the taxable year exceeds $3,150. The otherwise allowable EITC amount is phased out ratably for taxpayers with aggregate taxable interest and dividend income between $2,500 and $3,150. For taxable years beginning after 1996, the $2,500 threshold and the $650 size of the phaseout will be indexed for inflation with rounding to the nearest multiple of $10.

Effective date.--The provision is effective for taxable years beginning after December 31, 1995.

Description of Chairman's Mark

Under the Chairman's Mark, a taxpayer would not be eligible for the EITC if the aggregate amount of interest and dividends includible in his or her income for the taxable year exceeds $2,500. For taxable years beginning after 1996, the $2,500 limit would be indexed for inflation with rounding to the nearest multiple of $50.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1995.