

SUMMARY DESCRIPTION OF CERTAIN  
TAX AND TRADE TECHNICAL CORRECTIONS  
AND OTHER PROVISIONS OF H.R. 5822  
(TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1990)

Scheduled for Markup Consideration

by the

HOUSE COMMITTEE ON WAYS AND MEANS

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## INTRODUCTION

This document,<sup>1</sup> prepared by the staffs of the Joint Committee on Taxation and the Committee on Ways and Means, provides a summary description of certain tax provisions of H.R. 5822 (Technical and Miscellaneous Revenue Act of 1990). H.R. 5822 was introduced by Chairman Rostenkowski on October 12, 1990. The Committee on Ways and Means is scheduled to mark up the bill on October 16, 1990.

H.R. 5822 includes the technical corrections provisions as introduced on August 3, 1990 by Chairman Rostenkowski and Mr. Archer, in H.R. 5454 (Technical Corrections Act of 1990),<sup>2</sup> as well as additional tax technical corrections. Part A of this document describes the additional tax technical corrections. H.R. 5454 provides tax technical corrections to the Revenue Reconciliation Act of 1989, the Technical and Miscellaneous Revenue Act of 1988, and other recent tax legislation.

H.R. 5822 also includes the provisions of H.R. 5415 (The Deadwood Act of 1990), as introduced on July 31, 1990, and certain refinements. Part B of this document describes the "deadwood" provisions. These provisions would remove from the Internal Revenue Code of 1986 numerous provisions that are no longer used in computing current taxes or are little used and are of minor importance. Further, these provisions revise the requirements for various Treasury studies which Congress has mandated in previous years.

In addition, H.R. 5822 would increase the threshold above which refunds must be submitted for review to the Joint Committee on Taxation from \$200,000 under present law to \$1,000,000. Part C of this document describes this provision of the bill.

H.R. 5822 also includes the technical customs and tariff provisions of H.R. 5778, introduced on October 3, 1990. The provisions correct technical errors in the Customs and Trade Act of 1990, and makes technical amendments to the Harmonized Tariff Schedule. Part D of this document provides a summary description of the trade and tariff technical corrections.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, Description of Certain Tax and Trade Technical Corrections and Other Provisions of H.R. 5822 (Technical and Miscellaneous Revenue Act of 1990) (JCX-39-90), October 15, 1990.

<sup>2</sup> For a description of the provisions of H.R. 5454 as introduced, see Joint Committee on Taxation, Description of the Technical Corrections Act of 1990 (JCX-25-90), August 3, 1990.

#### A. Additional Tax Technical Corrections Provisions

H.R. 5822 includes the provisions of the Technical Corrections Act of 1990 (H.R. 5454) as introduced by Chairman Rostenkowski and Mr. Archer on August 3, 1990,<sup>3</sup> with the following modifications.

##### 1. Tax-exempt bonds

H.R. 5822 includes the following modifications to the tax-exempt bond provisions of H.R. 5454:

(1) The date for electing to pay a one-time 3-percent penalty and terminate the 1.5-percent penalty on unspent proceeds is changed to allow that election to be made when construction, or a portion thereof, is substantially completed, but not later than the end of the applicable initial temporary period.

(2) The technical correction providing that refunding portions of an issue are not included within available construction proceeds is made effective for bonds issued after the date of H.R. 5454's introduction (August 3, 1990).

(3) Clarification is provided that no proceeds with respect to which the 1.5-percent penalty has been elected are to be subject to both rebate and the penalty.

(4) The present-law rule that, for purposes of the six-month exception to rebate, the payment of principal of bonds which are part of the issue is not to be treated as an expenditure for the governmental purpose of the issue is codified to conform to statutory provisions of the 2-year rule.

(5) Several additional clerical changes are made.

##### 2. Windfall profit tax

For purposes of the crude oil windfall profit tax, H.R. 5822 clarifies that a qualified charitable interest includes an economic interest in crude oil held by the Protestant Episcopal Church Foundation of the Diocese of Oklahoma, which was the intended beneficiary of the technical correction contained in the Tax Reform Act of 1986.

##### 3. Definition of wages for purposes of withholding

For purposes of withholding, the term "wages" is defined not to include any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement

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<sup>3</sup> For a description of H.R. 5454, see JCX-25-90, August 3, 1990.

plan (within the meaning of section 105(h)(6)).

**4. Exemption to prohibited transaction rules**

H.R. 5822 provides that transactions that are exempt from the prohibited transaction rules of the Employee Retirement Income Security Act (ERISA) under section 408(b)(12) of ERISA (relating to dispositions of certain employer securities) are also exempt from the prohibited transaction rules of the Code.

**5. Estate tax: qualified domestic trust**

H.R. 5822 is the same as H.R. 5454, except that the election to treat a trust as a qualified domestic trust could be made at any time within six months of the date of enactment of H.R. 5822.

## B. "Deadwood" Provisions

### 1. Repeal and Revision of Obsolete Provisions of the Internal Revenue Code

#### Present Law

The Internal Revenue Code of 1986 currently contains numerous provisions which are no longer used in computing current taxes or are little used and are of minor importance. These types of provisions are popularly referred to as "deadwood" provisions.

#### Explanation of Provision

H.R. 5415, introduced by Chairman Rostenkowski on July 31, 1990, would repeal and amend numerous sections of the Code. That bill would delete sections, subsections, and other provisions which dealt with past years, situations which were narrowly defined and unlikely to recur, as well as provisions which have outlived their usefulness. These provisions are an attempt to simplify the Code by deleting "deadwood", without making substantive changes in the tax law.

H.R. 5822, introduced by Chairman Rostenkowski on October 12, 1990, generally includes the provisions contained in H.R. 5415. In addition, H.R. 5822 would clarify that the "deadwood" provisions do not affect certain transactions that otherwise may have inadvertently been affected by H.R. 5415.

#### Effective Date

The provisions are effective generally on the date of enactment. However, the tax treatment of any transaction occurring before that date, of any property acquired before that date, or of any item taken into account before that date would not be affected by the bill.

## 2. Revision of Requirements for Certain Treasury Studies

### Present Law

In previous years, the Congress has mandated the Treasury Department to make studies on various tax issues and to make reports of those studies to the Congress.

Many mandated Treasury studies are now past due. Some of those studies are no longer relevant, have proven infeasible, or else are deemed no longer to merit the necessary commitment of limited Treasury resources.

### Explanation of Provisions

As detailed below, the effective dates of certain overdue Treasury studies would be extended for a reasonable period. The Treasury Department would be exhorted to meet these new deadlines. One study would be modified. With respect to the remainder of the overdue Treasury studies, the mandates for the studies would be repealed.

#### a. Mandated Treasury studies for which due dates would be extended

The due dates for each of the following Treasury studies would be extended as indicated below:

	<u>Study</u>	<u>Original Due Date</u>	<u>Extended Due Date</u>
(1)	Source Rule on Sales of Personal Property (Sec. 1211(d) of the Tax Reform Act of 1986 (P.L. 99-514))	9/30/87	1/1/92
(2)	Tax Provisions of Micronesia Compact of Free Association (Sec. 407, The Compact of Free Association Act of 1985 (P.L. 99-239, 48 U.S.C. 1681))	1/1/87	1/1/91
(3)	Reform of Subchapter C (Sec. 634 of the Tax Reform Act of 1986 (P.L. 99-514))	1/1/88	1/1/92
(4)	Worthlessness of Bad Debts Tax Reform Act of 1986 ((P.L. 99-514), Conf. Report (99-814), pg. II-316))	1/1/88	7/1/91

	<u>Study</u>	<u>Original Due Date</u>	<u>Extended Due Date</u>
(5)	Pension Plans Full Funding Limitation (Sec. 9301(c)(3) of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203))	8/15/88	4/15/91
(6)	Minimum Participation Rules (Sec. 6056 of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	9/1/89	2/15/91
(7)	Treatment of Certain Technical Personnel (Sec. 6072 of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	9/1/89	2/15/91
(8)	Treatment of Certain Family Services Providers (Sec. 6305(e) of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	12/31/89	1/1/92
(9)	Deferred Compensation under Sec. 457 (Sec. 6064(d)(4) of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	1/1/90	1/1/92
(10)	Spin-off of Defined Benefit Plan Assets to Bridge Banks (Sec. 6067(b) of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	1/1/90	1/1/92
(11)	Study of Depreciation Treatment of Certain Vehicles (Sec. 7612(f) of the Omnibus Reconciliation Act of 1989 (P.L. 101-239))	12/19/90	4/15/91
(12)	Study of Certain Fraternal Beneficiary Societies (Sec. 1012(c)(2) of the Tax Reform Act of 1986 (P.L. 99-514))	1/1/88	7/1/92
(13)	Study Relating to Treatment of Property and Casualty Insurance Companies (Sec. 1025 of the Tax Reform Act of 1986 (P.L. 99-514))	1/1/89	1/1/92

**b. Mandated periodic Treasury study which would be modified**

- (1) Americans Working Abroad (Code Sec. 912)  
 (Sec. 208 of the Foreign Earned  
 Income Act of 1978 (P.L. 95-615),  
 as amended by Sec. 114 of the Economic  
 Recovery Tax Act of 1981 (P.L. 97-34))

This study is currently due every four years. The bill would require the study only every five years. In addition, the provision would require the Federal agencies that are currently required to submit the necessary information to the Secretary of the Treasury to also keep records with respect to the required information.

**c. Mandated Treasury studies which would be repealed**

The following previously mandated Treasury studies would be repealed:

<u>Study</u>	<u>Original Due Date</u>
(1) Long Term Contracts (Sec. 5041(f) of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	May 10, 1989
(2) Employee Welfare Benefit Plans (Sec. 560(b) of the Deficit Reduction Act of 1984 (P.L. 98-369), as amended by Sec. 1167 of the Tax Reform Act of 1986 (P.L. 99-514))	October 22, 1987
(3) Built-in Gains and Losses (Sec. 621(d)(2) of the Tax Reform Act of 1986 (P.L. 99-514))	January 1, 1989
(4) Business Untaxed Reported Profits (Sec. 702 of the Tax Reform Act of 1986 (P.L. 99-514))	January 1, 1989
(5) Definition of United States Resident (Sec. 6138 of the Technical and Misc. Revenue Act of 1988 (P.L. 100-647))	May 1, 1989

(6) Impact of REMIC Provisions on  
the Thrift Industry  
(Sec. 675 of the Tax Reform  
Act of 1986, (P.L. 99-514),  
pg. II-239, as amended by  
Sec. 1006(w) of the Technical  
and Misc. Revenue Act of 1988  
(P.L. 100-647)) January 1, 1990

C. Increase in Refund Review Threshold for Reports Submitted to the Joint Committee on Taxation

Present Law

No refund or credit in excess of \$200,000 of any income tax, estate or gift tax, or certain other specified taxes, may be made until 30 days after the date a report on the refund is provided to the Joint Committee on Taxation (Code sec. 6405). A report is also required in the case of certain tentative refunds. Additionally, the staff of the Joint Committee on Taxation conducts post-audit reviews of large deficiency cases and other select issues.

The refund review threshold has been set at \$200,000 since 1976. Increasing it will accelerate the issuance of refunds between \$200,000 and \$1,000,000 to the taxpayers involved. In addition, this increase will free up significant resources of both the Internal Revenue Service and the staff of the Joint Committee on Taxation, without materially impairing the ability to monitor problems in the administration of the tax laws.

Explanation of Provision

The bill increases the threshold above which refunds must be submitted to the Joint Committee on Taxation for review from \$200,000 to \$1,000,000. The staff of the Joint Committee on Taxation would continue to exercise its existing statutory authority to conduct a program of expanded post-audit reviews of large deficiency cases and other select issues, and the IRS is expected to fully cooperate in this expanded program.

Effective Date

The provision is effective on the date enactment, except that the higher threshold would not apply to a refund or credit with respect to which a report was made before the date of enactment.

## D. Customs and Tariff Technical Corrections

The Customs and Trade Act of 1990, was enacted on August 20, 1990, contained a number of technical errors, which would be corrected by the provisions of Title III of H.R. 5822, as enumerated below.

### 1. Technical amendments to the Harmonized Tariff Schedule

#### a. Redesignations

Certain HTS subheading numbers, the contents of which were changed, are redesignated to more appropriate numbers.

#### b. Miscellaneous amendments

##### (1) Gloves, mittens, and mitts

Several HTS subheadings are expanded to include "sports" gloves, effectively reducing the column 1 rate of duty for these articles from 14 to 5.5 percent ad valorem. This was clearly the provisions, which were identical.

##### (2) Bicycles having 26-inch wheels

The classification of bicycles with 26-inch wheels is corrected with the proper metric conversions.

##### (3) 1,5-Naphthalene diisocyanate

The reference to the permanent HTS subheading for this article is corrected.

##### (4) 2,3,6-Trimethylphenol

The reference to the permanent HTS subheading for this article is corrected.

##### (5) D Salt

The chemical classification (CAS) number defining this article is corrected.

##### (6) ADC-6

The spelling of the chemical name describing this article is corrected.

##### (7) BPIP

The spelling of the chemical name describing this article is corrected and a unique HTS subheading is established.

(8) Certain glass fibers

A new HTS heading is established to provide a temporary duty suspension for a type of glass fiber included in the conference agreement.

(9) Motor vehicle parts

An explicit specification is made to signify that no change to the tariff treatment of these articles is imposed with respect to the U.S.-Canada FTA.

(10) Cantilever brakes and brake parts for bicycles

The provision eliminates repetitive usage of the term "brakes".

## c. Effective dates

These technical corrections will pertain to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990, or will apply retroactively according to corresponding provisions in Title III of the Customs and Trade Act of 1990.

## 2. Technical amendments to certain customs laws

## a. Customs Forfeiture Fund

Reinstates two provisions of existing law that were inadvertently deleted during drafting of amendments to the Customs Forfeiture Fund. Corrects Forfeiture Fund authorization section to reinstate permanent budgetary authority for non-discretionary uses of the Fund and to provide that any unobligated amounts above \$15 million in the Fund at the end of the fiscal year be deposited into the General Fund.

## b. Certain entries

The citation is corrected for a certain customs protest number that is considered to have been filed within the required time period.

## c. Manual entries and releases

The provision clarifies the application of the newly created "automated" versus "manual" distinction for purposes of assessing the customs user's fee on imported merchandise. It more precisely defines what is meant by the term "manual entry" to eliminate an ambiguity which had caused confusion between importers and the U.S. Customs Service, particularly along the Northern border.

**d. Effective date**

Amendments made by this section take effect August 21,  
1990.