DESCRIPTION OF THE CHAIRMAN'S MODIFICATION TO H.R. 1562, THE "KATRINA HOUSING TAX RELIEF ACT OF 2007"

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on March 21, 2007

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

March 20, 2007
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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's modification to H.R. 1562, the "Katrina Housing Tax Relief Act of 2007," which is scheduled for mark up by the House Committee on Ways and Means on March 21, 2007.[2]

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[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Modification to H.R. 1562, the "Katrina Housing Tax Relief Act of 2007"* (JCX-14-07) March 20, 2007.

[2] The provisions of the Chairman's Mark are described in the Joint Committee on Taxation, *Description of the "Katrina Housing Tax Relief Act of 2007"* (JCX-12-07), March 19, 2007.

I. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES

Present Law

Levy is the IRS's administrative authority to seize a taxpayer's property to pay the taxpayer's tax liability. The IRS is entitled to seize a taxpayer's property by levy if a Federal tax lien has attached to such property. A Federal tax lien arises automatically when (1) a tax assessment has been made, (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment, and (3) the taxpayer has failed to pay the amount assessed within 10 days after the notice and demand.

In general, the IRS is required to notify taxpayers that they have a right to a fair and impartial collection due process ("CDP") hearing before levy may be made on any property or right to property.[3] Similar rules apply with respect to notices of tax liens, although the right to a hearing arises only on the filing of a notice.[4] The CDP hearing is held by an impartial officer from the IRS Office of Appeals, who is required to issue a determination with respect to the issues raised by the taxpayer at the hearing. The taxpayer is entitled to appeal that determination to a court. Under present law, taxpayers are not entitled to a pre-levy CDP hearing if a levy is issued to collect a Federal tax liability from a State tax refund or if collection of the Federal tax is in jeopardy. However, levies related to State tax refunds or jeopardy determinations are subject to post-levy review through the CDP hearing process.

Employment taxes generally consist of the taxes under the Federal Insurance Contributions Act ("FICA"), the tax under the Federal Unemployment Tax Act ("FUTA"), and the requirement that employers withhold income taxes from wages paid to employees ("income tax withholding").[5] Income tax withholding rates vary depending on the amount of wages paid, the length of the payroll period, and the number of withholding allowances claimed by the employee.

Description of Proposal

Under the provision, levies issued to collect Federal employment taxes are excepted from the pre-levy CDP hearing requirement. Thus, under the provision, taxpayers have no right to a CDP hearing before a levy is issued to collect employment taxes. However, the taxpayer is provided an opportunity for a hearing within a reasonable period of time after the levy. Collection by levy is permitted to continue during the CDP proceedings.

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[3] Sec. 6330(a).

[4] Sec. 6320.

[5] Secs. 3101-3128 (FICA), 3301-3311 (FUTA), and 3401-3404 (income tax withholding). FICA taxes consist of an employer share and an employee share, which the employer withholds from employees' wages.

Effective Date

The provision is effective for levies issued on or after the date that is 120 days after the date of enactment and before September 30, 2015.

II. MODIFICATION TO CORPORATE ESTIMATED TAX PAYMENTS

Present Law

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. Fiscal year taxpayers make quarterly payments on corresponding dates.

The Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA") provided that in the case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2012, (for fiscal and calendar year taxpayers, respectively) shall be increased to 106.25 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

Description of Proposal

The provision increases the 106.25 percent enacted in TIPRA to 106.45 percent.

Effective Date

The provision is effective on the date of enactment.