[COMMITTEE PRINT]

SUPPLEMENT TO DESCRIPTION OF TECHNICAL AND MINOR BILLS HEARD BY THE COMMITTEE ON WAYS AND MEANS ON DECEMBER 10, 1975

PREPARED FOR THE USE OF THE

COMMITTEE ON WAYS AND MEANS

BY THE STAFF OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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I. INTRODUCTION

This pamphlet supplements the December 9, 1975, pamphlet which describes the technical and minor bills heard by the Committee on Ways and Means on December 10, 1975.

The testimony presented to the committee is summarized bill-by-bill in bill number order. Each summary notes the pages in the printed hearing record containing material relating to that bill. Where appropriate the summaries also present additional material (e.g., departmental reports) which were not available in time for inclusion in the December 9, 1975, pamphlet.

In accordance with the decision of the committee (see pp. 157–161 of the printed hearing record), this pamphlet also includes a summary of H.R. 7929, relating to deductibility of interest on corporate debt to acquire another corporation.

II. SUMMARIES OF TESTIMONY, ETC.

1. H.R. 1142—Mr. Waggonner

Tax Treatment of Cemetery Perpetual Care Fund Trusts

Summary of testimony

R. L. McNitt, Jr., representing the American Cemetery Association, National Association of Cemeteries, Southern Cemetery Association, and Western Cemetery Alliance (pp. 12–25): Supports the bill. Notes that 43 States have laws which require cemetery companies to place a portion of the sale price of every grave space in an irrevocable trust, the income of such trust to be used solely for the upkeep of the cemetery; that the sole legislative purpose of these laws is to assure that resources will be available in perpetuity for the care, maintenance, and upkeep of the cemeteries within the State, thus relieving the States and municipalities of this burden.

States that in the mid-1950's the Internal Revenue Service terminated its long-standing practice of "freely" granting tax exemption to perpetual care funds. Since that time, the Service has distinguished between perpetual care funds associated with nonprofit cemeteries and those associated with profit cemeteries, holding that the latter perpetual care funds were taxable on their income. Points out that the State laws requiring the establishment of perpetual care funds make no distinction between nonprofit and profit cemetery companies.

States that the investments and expenditures of perpetual care funds are regulated and their financial statements examined regularly "with the same careful scrutiny that one associates with a bank examiner."

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 149): States that the deduction sought for perpetual care funds has some merit, but questions whether payments for maintenance could

really be made at arms-length since they were being made from a trust fund into a cemetery, both of which were under the control of the same parties. Suggests that stringent standards be applied in determining the amount of deduction allowed for actual expenses paid for the care of gravesites (or $5.00, if less than the actual expense).

Additional information

The Treasury Department (in its report dated February 26, 1976) does not oppose this bill. However, it suggests a minor technical amendment to make it clear that, in order to be deductible as distributions, the payments made to taxable cemeteries must be spent for the maintenance and care of cemetery grave sites in which interment rights have been sold.

2. H.R. 1144—Mr. Waggonner

Tax Treatment of Social Clubs and Other Membership Organizations

Summary of testimony

Albert L. McDermott, Washington Representative, American Hotel & Motel Association, Washington, D.C. (pp. 186–187): Opposes the bill. Contends that the bill permits social clubs to engage in substantial and recurring outside-income-raising activities, thereby increasing the unfair competition for taxpaying hotel, motel, and restaurant industries by permitting tax-exempt organizations to expand their operation of such businesses. Maintains that the bill would erode the tax base by reducing the income of, and thereby the taxes paid by, hotels, motels, and restaurants to Federal, State, and local governments.

James J. Clynes, Jr., President, National Club Association, Washington, D.C. (pp. 187–188): Supports the bill. Objects to the Internal Revenue Service position that a club which derives more than 5 percent of its total gross receipts from nonmembers jeopardizes its tax-exempt status. Believes the 5-percent test is too restrictive and is not justified because, as a result of the Tax Reform Act of 1969, nonmember income is taxed. Maintains that the Service's administrative and record-keeping requirements are so burdensome that some private clubs ban all nonmember contacts, even the use of club facilities for community, social, and service functions. Believes the bill, by allowing the Service to increase the 5-percent test to 15 percent, would sufficiently ease the restrictions on clubs and that the tax on the probable increase in nonmember income would result in a small revenue gain.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 152): Does not object to the bill.

3. H.R. 2474—Mr. Schneebeli

Refunds in the Case of Certain Uses of Tread Rubber and Tires

Summary of testimony

Edward E. Wright, Vice President, Rubber Manufacturers Association (pp. 177–180): Supports passage of H.R. 2474. Disagrees with

Treasury position that any tax refund or credit given on tire warranty adjustments should be limited by the amount of adjustment given by tire manufacturers to dealers. Believes that agreement between dealer and manufacturer reflects cost of warranty adjustments whether or not a specific adjustment is made to a dealer for each tire adjusted by him under warranty. Also disagrees with Treasury that the statute of limitations modification should apply to payment by the manufacturer rather than payments to the ultimate consumer. Agrees with Treasury suggestion to add to the bill a provision taxing tread rubber on re-treaded tires imported into the United States.

Additional information

The Treasury Department report, dated December 11, 1975, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

4. H.R. 2984—Mr. Conable

Treatment of Payment or Reimbursement of Government Officials for Expenses of Foreign Travel by Private Foundations

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 153) : Does not object to the bill.

5. H.R. 3052—Messrs. Rostenkowski and Schneebeli

Treatment of Option Lapse Income of Exempt Organizations

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 153) : Supports the bill. Notes that because the organizations are tax-exempt there is no reason for them to use options as tax shelters.

Robert Brandon, Director, Public Citizens' Tax Research (p. 153) : Supports the bill. Notes that because the organizations are tax-exempt there is no reason for them to use options as tax shelters.

American Bankers Association (p. 181) : Supports the bill. Believes that income derived from option writing should not be treated differently from other investment income.

Tallentyre S. Fletcher, Kentfield, California (pp. 191–193) : Supports the bill. Believes that option writing by fiduciaries, particularly pension fund managers, is a prudent investment decision which should not be discouraged by adverse tax considerations. Maintains that option writing strategies can reduce the risk in the ownership of equities, thus attracting more capital from tax-exempt institutions into the securities market, while providing such tax-exempt institutions with an additional cash income flow.

6. H.R. 3055—Mr. Rostenkowski

Distilled Spirits

Summary of testimony

John F. McCarren, General Counsel, Distilled Spirits Council of the United States (pp. 39–44) : Supports the bill. Asserts bill's prin-

cipal purposes are to simplify and encourage the exportation of distilled spirits. Claims bill would also liberalize the removal of samples for research, development, or testing and would relax existing requirements for mingling and blending distilled spirits in bond. States bill would permit production of gin with greater uniformity and without loss of quality, and that an oversight in present law would be corrected to make the loss provisions currently applicable to imported and domestic bulk spirits also applicable to bulk spirits "brought into" the United States from Puerto Rico and the Virgin Islands. States that adoption of the bill would cause no loss of revenue, but that adoption of section 3 of the bill would cause a short-term lag in revenue of an undetermined but not major amount. [Staff estimate is one-time revenue loss of $3 to $5 million.] Urges that the effect of adoption of section 2 (allowing drawback of tax for certain exported spirits that had previously been imported, processed, and packaged or bottled domestically) would be to increase jobs in domestic distilleries.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 153): Comments that adoption of the bill would result in a one-time revenue loss, but that the bill, allowing for its complexity, appears to be meritorious.

7. H.R. 3605—Mr. Pickle

Reduction in Beer Tax for Small Brewers

Summary of testimony

William M. O'Shea, Executive Secretary, Brewers Association of America (pp. 46–60): Supports the bill. States that there are 53 brewing companies in operation, compared with 750 such companies in 1935, and that less than 10 percent of the 700 brewing companies which have gone out of business did so because they were merged with other companies. Maintains that this bill would reduce beer tax revenues by about $3.9 million per year, and would benefit 39 small brewing companies in 20 States, which are unable to afford modern efficient plants and cannot as a result produce malt beverages as cheaply as the large operators. Asserts that the bill is supported by the entire brewing industry, including the larger operators which would receive no benefit from it.

Hon. Michael T. Blouin (U.S. Cong., Iowa) (pp. 50–51): Supports the bill. Maintains that it is especially important for the survival of small, independent, and family-owned breweries.

Hon. Philip E. Ruppe (U.S. Cong., Mich.) (p. 51): Supports the bill. Believes that it would reduce the competitive disadvantages under which 38 small brewing companies live.

Hon. Joseph P. Vigorito (U.S. Cong., Penna.) (p. 60): Supports the bill. Maintains that the present flat rate excise tax violates the principle of a graduated tax. Argues that the bill would give small breweries a chance to remain economically sound.

Hon Louis J. Tullio, Mayor, Erie, Penna. (pp. 60–72): Supports the bill. Asserts that the tax relief will help all small brewers to

survive. Submits list of 10 breweries closed in 1974 and State-by-State list of breweries that have gone out of business since 1935.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 148): Opposes H.R. 3605 on the grounds that competitive problems (between large and small producers) should be solved through antitrust approaches rather than through changes in the tax system.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 163, 167): Opposes the bill because the tax laws should be neutral and not discriminate between large and small producers. Argues that the antitrust laws are better and more efficient in protecting small businessmen.

Additional information

The Treasury Department report, dated December 15, 1975, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

8. H.R. 5071—Mr. Conable

Maintenance of Common Trust Fund by Affiliated Banks

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 149): Does not object to enactment of this proposal.

American Bankers Association (pp. 180–181): Supports the bill. Believes bill would permit smaller banks in bank holding company systems to serve their trust customers.

Donald L. Rogers, Association of Registered Bank Holding Companies (p. 195): Supports the proposed legislation. Believes bill would be helpful to bank holding companies in smaller communities.

Robert H. Brome, Executive Vice President, Bankers Trust New York Corporation (pp. 195–196): Supports the proposed legislation. Believes that bill would enable smaller banking affiliates to provide diversified and well-managed common trust funds.

Additional information

The Comptroller of the Currency report, dated January 6, 1976, urges favorable action on this bill.

9. H.R. 5161—Mr. Corman

Tax Treatment of Magazines Used for Display Purposes

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 153): Does not object to the bill.

Additional information

The Treasury Department report, dated January 19, 1976, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

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10. 6521—Mr. Duncan

Exemption from Tax on Farm Trailers and Horse Trailers

Summary of testimony

Thomas S. Pieratt, Jr., Executive Director, Truck Equipment & Body Distributors Association (pp. 74–77, 79–80): Opposes the bill. States that his organization is the truck equipment industry's largest trade organization. Maintains that the bill would discriminate against farmers with conventional truck-trailers in favor of farmers who purchased goose-neck trailers for mounting behind pickup trucks. Submits that any definition of a "farm" trailer or semitrailer (as would be required pursuant to the bill) would introduce "chaos" into the truck manufacturing industry. Suggests that the preferable alternative would be repeal of the manufacturers' excise tax in its entirety, or at least repeal of the provisions taxing further manufacture. Explains that use discrimination as a result of enactment of the bill would primarily involve trailer bodies that might be used either on trailers to be towed by light trucks or on a heavy truck chassis. Warns that some of the trailers to be exempted under the bill would have gross vehicle weight ratings of as much as 36,000 pounds.

Stephen F. Hefner, Executive Director, National Association of Farm & Ranch Trailer Manufacturers, Sherman, Texas (pp. 77–79): Supports the bill. Argues that the method used by the Internal Revenue Service to determine the gross vehicle weight of trailers—the axle rating system—now results in arbitrary taxation, principally because the axle is manufactured and rated by industries primarily aiming at lighter uses than does the farm trailer industry. Argues that the purpose of the bill is not to expand the present exemption (for light-duty trucks and trailers), but to carry out the Congress' intention in enacting the present exemption. Suggests that the large trailers which Mr. Pieratt believes would be exempted by the bill are actually commercial vehicles, not vehicles used by farmers, and hence would not qualify for the exemption. Maintains that bill does not apply to vehicles used for hire. Agrees that discrimination caused by the excise tax should be eliminated.

Charles J. Calvin, President, Truck Trailer Manufacturers Association (pp. 81–82): Explains that the Truck Trailer Manufacturers Association represents the builders of more than 90 percent of the truck trailers, tank trailers, cargo containers, and container chassis produced in the United States. Maintains that the bill should include repeal of the 10-percent excise tax on all truck trailers and bodies and the 8-percent excise tax on related parts and accessories. Asserts that the truck trailer manufacturing industry is operating at only 23.2 percent of capacity and is experiencing a 65-percent drop in employment. Points to the expense of the safety antilock braking system required by the Federal Government as a cause for this industry decline. Suggests "trading" the cost of this safety requirement for elimination of the excise taxes. Alleges discrimination in that there is no equivalent tax on autos, intracity buses, and light-duty trucks and trailers. Maintains that this tax is not a "user" tax although it is distributed into the

Highway Trust Fund. Believes that the administrative cost to the manufacturers resulting from the inherent complication of imposing a manufacturers' tax on sales to users, plus the inconsistencies of thousands of private IRS rulings, exceeds the revenues collected through the tax. Says tax reduction would not eliminate the administrative problems, and that the sensible solution is a complete repeal. Claims IRS Commissioner Alexander agrees that the tax is "complex to administer." Stresses that repeal would stimulate the industry.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 148): Opposes the bill as leading to discrimination against those truck trailers that would not qualify for the exemption.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 163, 167): Opposes the bill because it (1) adds complexity and inequity to the Code; (2) discriminates in favor of race horse owners; and (3) would benefit very large trailers, such as those used by racing stables.

Additional information

On reexamination, the staff concludes that the revenue loss is likely to be less than $2 million annually (rather than the $5 million amount set forth in the December 9, 1975, pamphlet).

11. H.R. 7228—Mr. Duncan

Devices Other Than Stamps on Distilled Spirits Containers as Evidence of Tax Payment

Summary of testimony

George Overturf, Technical Manager, Closure Division, Aluminum Corporation of America (pp. 85–87): Supports the bill. Asserts that enactment would save money for the Federal Government and the distilling industry. Notes that, in 1974 (for example), the cost of printing the present paper "strip stamps" was $2.0 million, and the industry incurred an additional cost of $2.8 million in purchasing sheets of paper stamps and preparing them for gluing on the bottle tops; that that is a process entirely unrelated to the typical bottling operation; and that lithographed aluminum tax stamp closures can be made part of the bottling process, specifically that of closing the bottle. Assures that opening the bottle with the lithographed closure will destroy the stamp. Avers that eight companies other than ALCOA are capable of producing this type of closure.

Robert Brandon, Director Public Citizens' Tax Research Group (p. 153): Has no objection to this bill.

12. H.R. 7929—Mr. Cotter

Interest on Corporate Debt to Acquire Another Corporation

SUMMARY

Under present law (sec. 279), the deduction for interest is denied, under certain circumstances, where the interest is incurred by

a corporation to acquire the stock (or assets) of another corporation. This rule was adopted as part of the Tax Reform Act of 1969. Under a transition rule contained in that Act, a corporation which held at least 50 percent of the voting stock in an acquired corporation on October 9, 1969, is permitted to acquire 80-percent control (but not more) of that corporation without being subject to the restrictions of section 279.

Under this bill, a corporation which held at least 50 percent of the voting stock in another corporation on October 9, 1969, would be allowed to acquire up to 100-percent control of that corporation without being subject to section 279.

Present law

Under the tax law in existence prior to the enactment of the Tax Reform Act of 1969, a corporation was allowed to deduct interest paid by it on its indebtedness but was not allowed a deduction for dividends paid on its stock or equity. Because of the increased level of corporate merger activities and the increasing use of debt for corporate acquisition purposes, Congress, in the Tax Reform Act of 1969, provided specific rules for determining whether an obligation constituted debt or equity insofar as the liability of the interest deduction was concerned in the case of corporate acquisitions. Under the 1969 Act, where certain tests apply, a corporation is not allowed an interest deduction (either for stated interest or unstated interest such as original issue discount) for indebtedness which it issues as consideration for the acquisition of stock in another corporation, or for the acquisition of assets of another corporation (sec. 279 of the Code).

A number of exceptions or modifications are provided under existing law to this interest disallowance rule. Generally the disallowance of the deduction for interest in the case of acquisition indebtedness applies to interest paid or incurred with respect to indebtedness incurred after October 9, 1969. However, the Tax Reform Act provided that this provision was to be inapplicable in certain cases where the issuing corporation had at least a 50-percent voting interest in another corporation on October 9, 1969, even though the obligation is issued after that date. This exception was adopted to allow a corporation which had acquired practical control of another corporation by October 9, 1969, to acquire the additional stock necessary to give it control for tax purposes (that is, 80-percent control), but it does not apply to indebtedness issued to acquire stock in excess of this amount.

Issue

Section 279 was added to the Code because of a Congressional concern over the increasing number of corporate mergers in which debt, rather than equity, was being exchanged for control of acquired corporations. This trend was thought to have adverse implications for the economic well-being of the companies involved (by increasing corporate debt to dangerous levels) as well as for the economy as a whole. The purpose of the exception for acquiring corporations having 50-percent or greater control of another corporation on October 9, 1969,

was, as stated above, to permit such acquiring corporations to obtain The purpose of the exception for acquiring corporations having 50- the 80-percent control of the acquired corporation necessary for certain may be questioned whether the 80-percent limitation imposed in connection with pre-October 10, 1969, control situations serves any useful purpose, in terms of the purpose of section 279, which was to discourage the future use of debt acquisitions under certain prescribed circumstances. In addition, minority shareholders of a corporation which is 80-percent controlled may find themselves without a ready market for their stock, unless the controlling corporation is able and willing to purchase these shares.

Explanation of the bill

Under the bill, the rules of section 279, denying a deduction for corporate acquisition indebtedness, would not apply in the case of a corporation which had acquired at least 50 percent of the total combined voting power of all classes of stock of another corporation by October 9, 1969. Thus, the 80-percent limitation (contained in sec. 279(i) of the Code) which applies under present law in such situations, would be removed.

This legislation was requested on behalf of Avco Corporation in connection with the acquisition of Seaboard Finance Company.[1]

Effective date

This provision would apply to debt obligations of a corporation issued after October 9, 1969.

Revenue effect

It is estimated that this provision will result in a revenue loss of less than $1 million.

Departmental position

In a report to the committee dated January 8, 1976, the Treasury Department indicated that it does not oppose enactment of this legislation.

Summary of testimony

Arthur Young & Co. (pp. 159–161): Strongly supports enactment of the proposal on behalf of Avco on the ground that Avco was placed in an unfair and difficult position under the transitional rules of present law. Argues that there is no policy reason why a corporation caught in a transition situation with respect to these provisions should not be allowed to acquire 100-percent control of another corporation.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 161): Does not object to enactment of this proposal. Believes there is no logic in the present law which prohibits a corporation covered under the transition rules in connection with the provisions on corporation acquisition indebtedness from acquiring more than 80-percent control of another corporation.

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[1] By September 20, 1969, Avco had acquired almost 94 percent of the stock of Seaboard. The remaining 6 percent of the shares of Seaboard were acquired by Avco on or before December 12, 1969, in exchange for convertible debentures of Avco.

13. H.R. 8046—Mr. Duncan

Exclusion From Income of Rental Value of Parsonage Furnished to Surviving Spouse of Minister

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 149): Questions the soundness of the bill, but believes it is one of the "more progressive loopholes" of the miscellaneous bills under committee consideration.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 163–164, 167): Opposes adoption of the bill because the exclusion from income taxes of the rental value of a parsonage furnished to the surviving spouse of a minister confers greater benefits on the wealthy and no benefits to persons too poor to pay income taxes.

Additional information

The Treasury Department report, dated February 26, 1976, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

14. H.R. 8125—Mr. Burke

Revision of Tax Structure on Large Cigars From Bracket System to an Ad Valorem Tax

Summary of testimony

Carl J. Carlson, President, Cigar Association of America, Inc. (pp. 89–101): Supports the bill. Maintains that present system of tax brackets is arbitrary, regressive, and inflationary.

Notes Treasury agreement to 8½-percent rate of bill, even though a 10-percent rate would be needed in order to avoid the bill's revenue loss. States that the 8½-percent rate of the bill (with continuation of the present law's "cap" of $20 on tax for 1,000 cigars) is necessary so that no cigars would be taxed more heavily under the bill than under present law. Asserts that only 2 percent of present sales and 5 percent of dollar volume are affected by the $20 cap.

Robert Brandon, Director, Public Citizens' Tax Research Group (pp. 148–149, 156): Would support the bill if two changes were made: (1) remove the $20 "cap" and (2) set the tax rate at 10 percent, so as to avoid a revenue loss.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 164, 167): Opposes the bill. However, would not object to the bill if the tax rate were high enough (e.g., 10 percent) to avoid revenue loss.

Additional information

On reexamination, the staff agrees in general with the industry's estimate of a revenue loss of about $7½ million a year (rather than the $11 million set forth in the December 9, 1975, pamphlet).

The Treasury Department report, dated January 23, 1976, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

15. H.R. 8283—Mr. Corman

Types of Flavors Permitted to be Used in the Production of Special Natural Wines

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (pp. 153–154): Does not object to the bill from a tax viewpoint.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 164, 167): Raises no objection to the substance of the provision but believes that the provision, together with all other provisions dealing with wine production, does not belong in the Internal Revenue Code. Argues that Congress should delegate rule-making authority in this area to the Food and Drug Administration.

16. H.R. 9889—Mr. Burke

Extension of Time to Amend Governing Instruments of Certain Charitable Remainder Trusts

Summary of testimony

William J. Lehrfeld, Counsel, Shriners Hospitals for Crippled Children (pp. 103–113): Supports the bill. Asserts that the Treasury Department has not yet issued adequate guidelines implementing the changes made in 1969 with respect to charitable remainder trusts. States that because of the lack of guidelines, many governing instruments attempting to create charitable remainder trusts are not being reformed properly. Argues that additional time is needed to permit proper reformation and to allow the Shriners Hospitals for Crippled Children to seek repeal of the charitable remainder trust provisions. States that it "would be a tremendous help" if the Congress were to tell the Internal Revenue Service to change its policy so as to permit rulings on ambulatory wills.

Robert Brandon, Director, Public Citizens' Tax Research Group (pp. 150–151): Has no objection to enactment of this proposal, but notes that additional extensions should not be granted forever.

American Bankers Association (p. 181): Urges approval of H.R. 9889.

17. H.R. 10051—Mr. Waggonner

Treatment of Returned Inadvertent Distributions of Life Insurance Companies

Summary of testimony

William D. Grant, Chairman of the Board, Business Men's Assurance Co. of America (pp. 116–123): Supports the bill. Stresses the unintentional nature of the distribution that is being taxed under present law. Notes that the amount of the tax ($6 million) exceeds the amount of the unintended distribution ($5.5 million). Points out that, even under the bill, the $5.5 million would be taxed when it is finally distributed.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 155): Does not object to the bill.

Additional information

On reexamination, the staff concludes that the revenue loss with respect to BMA would be $6 million (rather than the $5 million amount set forth in the December 9, 1975, pamphlet).

18. H.R. 10101—Mr. Pickle

Exemption from Fuel and Use Excise Taxes for Certain Aircraft Museums

Summary of testimony

Hon. Dale Milford (U.S. Cong., Texas) (pp. 13–19): Supports the bill. Asserts that the bill is carefully worded to prevent abuse by unworthy groups or causes. Knows of only two flying museums to which the bill would apply—Confederate Air Force Ghost Squadron Flying Museum, Harlingen, Texas, and Experimental Aircraft Association Museum, Hales Corners, Wisconsin. Argues that those museums' aircraft do not use instrument landing systems, radar facilities, and other items paid for from user taxes and so should not be subject to those taxes.

Hon. E. de la Garza (U.S. Cong., Texas) (pp. 16–18): Urges favorable consideration of H.R. 10101. Asserts that the Federal airways use tax and Federal fuels taxes paid by the Confederate Air Force Flying Museum constitute a substantial burden to the organization but are insignificant so far as Federal revenue is concerned.

W. W. Estridge, National Commander, Confederate Air Force (p. 13): Supports the bill. Notes that no Government funds are provided for the activities of the Confederate Air Force, whose total effort is for a nonprofit, patriotic display of World War II aircraft for all U.S. citizens.

Wallace N. Merrick, Menard, Texas (p. 14): Supports the bill. Asserts that the bill will greatly help the flying museum to continue to show historical aircraft of World War II around the nation.

Paul H. Poberezny, President, Experimental Aircraft Association, Hales Corners, Wis. (p. 14): Supports the bill. Notes that the Experimental Aircraft Association Air Education Museum Foundation is exempt under Code section 501(c)(3). Because of high costs of fuel and taxes, urges favorable consideration of the bill so that these funds can be used in ensuring our aviation heritage is perpetuated.

John Schuck, Phoenix Publications, Minneapolis, Minn. (p. 14): Urges favorable action on H.R. 10101.

Dr. F. Leo Kerwin, Wing Leader, Florida Wing of Confederate Air Force, Cape Canaveral, Fla. (p. 14): Urges passage of the bill.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 149): Opposes H.R. 10101 for the same reasons as it is opposed by the Treasury.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 164, 167): Opposes the bill because charitable organizations

and State and local governments do not similarly enjoy an exemption from the use tax, and also because aircraft museums use air traffic facilities and navigational aids as do other aircraft.

Additional information

The Treasury Department report, dated December 15, 1975, is in accord with *Departmental position* in the staff pamphlet of December 9, 1975.

19. H.R. 10155—Mr. Vander Veen

Tax Treatment of Certain Income of Political Organizations

Summary of testimony

Hon. Garry Brown (U.S. Cong., Mich.) (pp. 5–8): Favors the bill. Notes that in Michigan certain political organizations, which have received State licenses, conduct weekly bingo games with volunteer labor and the purposes of these games are to raise funds and broaden the base of the political organizations. Believes that the income from these activities, and the income from other activities carried on solely with volunteer labor, should be tax-exempt for political organizations, as it is for nonpolitical tax-exempt organizations.

Robert Brandon, Director, Public Citizens' Tax Research Group (pp. 154–155): Generally supports the bill as a way of having a political organization obtain money from diffuse sources if operation is staffed solely by volunteers.

20. H.R. 10902—Mr. Green

Tax Treatment of Securities Acquired for Business Reasons and Not as an Investment

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (pp. 149–150): Recognizes validity of some of Treasury's concern with administrative difficulties and complexity in the notice requirement. Suggests that the committee should substitute for the notice requirement a flat rule that all securities acquired by businesses should be considered capital assets and therefore receive capital gain and loss treatment (except that dealers in securities and certain sales of bonds by banks would receive ordinary income and loss treatment).

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 163, 166–167): Supports the bill.

21. H.R. 10926—Mr. Karth

Treatment of Face-Amount Certificates

Summary of testimony

David W. Richmond, Counsel, Investors Syndicate of America, Inc. (pp. 125–138): Supports the bill. Maintains that, from the time the 1954 Code was enacted until the Tax Reform Act of 1969, face-amount certificates were treated as endowment contracts under section 72, not

as original-issue discount paper under section 1232. Avers that 1969 Act did not change the law in this respect. Notes prior favorable action by the committee on a similar proposal in 1974. Asserts that this bill would not change existing law, but would merely override Treasury regulations which depart from existing law.

Additional information

On November 26, 1975, I.S.A. filed an action in the U.S. District Court for the District of Columbia for a declaratory judgment that these regulations, relating to face-amount certificates, be declared invalid. On December 26, 1975, the Court dismissed the action for the declaratory judgment. In its opinion, the Court concluded that the government has a "substantial basis" for promulgating these regulations.

On December 23, 1975, an action seeking a temporary restraining order and a preliminary injunction to enjoin the enforcement of these regulations was filed by Huntoon Paige & Company, Inc., and Association for Investment in United States Guaranteed Assets, Inc., in the U.S. District Court for the Southern District of New York. On December 30, 1975, the Court denied the plaintiff's request and dismissed the action.

22. H.R. 10936—Mr. Gibbons

Recapture as Ordinary Income of Property for Which a Business Expense Deduction Was Allowed

Summary of testimony

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 150) : Supports the bill.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 163, 166, 617) : Supports the bill. Believes there is no reason why property paid for with deductible money should also further benefit from taxation at lower capital gains rates when the property is sold.

23. H.R. 11006—Mr. Jones

Postponement of Time for Paying Excise Tax in the Case of Fishing Equipment

Summary of testimony

Quentin Mantooth, Controller of the Zebco Division, Brunswick Corporation, Tulsa, Oklahoma (pp. 139–141) : Supports the bill. Contends that deferral of the excise tax payments under H.R. 11006 would enable the manufacturer to maintain a more stable level of employment since it would be possible for him to maintain a constant level of production throughout the year. Points out that manufacturers of fishing equipment, particularly small manufacturers, find it necessary to borrow funds, and thus incur the additional cost of interest, in order to pay the excise taxes owing upon those sales of fishing equipment which occur prior to the time of the receipt of payment on such sales. Maintains that the stability provided the fishing tackle industry by the enactment of the bill would, in turn, provide stability to the sup-

pliers of component parts to the fishing tackle industry. Argues that passage of the bill would remove a distortion in the economic forces governing the production of fishing tackle equipment.

Robert Brandon, Director, Public Citizens' Tax Research Group (p. 149): Opposes the bill. Contends it would be a mistake to base excise tax policy on individual business credit arrangements in different industries.

Thomas J. Reese, Legislative Director, Taxation With Representation (pp. 164, 167): Opposes the bill. Points out that fishing tackle manufacturers have to pay salaries, rent, property taxes, and other costs as they occur, not when they receive payment from their vendees, and that there is no reason why the Federal Government should have to wait for payment when no one else does.