

**DESCRIPTION OF REVENUE PROVISIONS INCLUDED IN THE
UNITED STATES-CARIBBEAN BASIN TRADE ENHANCEMENT ACT**

Scheduled for Markup

By the

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Prepared by the Staff

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INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of revenue provisions included in the "United States-Caribbean Basin Trade Enhancement Act." The Act is an original bill to be considered by the Senate Committee on Finance on June 22, 1999.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of Revenue Provisions Included in the United States-Caribbean Basin Trade Enhancement Act* (JCX-31-99), June 18, 1999.

DESCRIPTION OF REVENUE PROVISIONS

The following revenue provisions would be included in the "United States-Caribbean Basin Trade Enhancement Act."

A. Impose Limitation on Prefunding of Certain Employee Benefits

Present Law

Under present law, contributions to a welfare benefit fund generally are deductible when paid, but only to the extent permitted under the rules of Code sections 419 and 419A. The amount of an employer's deduction in any year for contributions to a welfare benefit fund cannot exceed the fund's qualified cost for the year. The term qualified cost means the sum of (1) the amount that would be deductible for benefits provided during the year if the employer paid them directly and was on the cash method of accounting, and (2) within limits, the amount of any addition to a qualified asset account for the year. A qualified asset account includes any account consisting of assets set aside for the payment of disability benefits, medical benefits, supplemental unemployment compensation or severance pay benefits, or life insurance benefits. The account limit for a qualified asset account for a taxable year is generally the amount reasonably and actuarially necessary to fund claims incurred but unpaid (as of the close of the taxable year) for benefits with respect to which the account is maintained and the administrative costs incurred with respect to those claims. Specific additional reserves are allowed for future provision of post-retirement medical and life insurance benefits.

The present-law deduction limits for contributions to welfare benefit funds do not apply in the case of certain 10-or-more employer plans. A plan is a 10-or-more employer plan if (1) more than one employer contributes to it, (2) no employer is normally required to contribute more than 10 percent of the total contributions under the plan by all employers, and (3) the plan does not maintain experience-rating arrangements with respect to individual employers.

If any portion of a welfare benefit fund reverts to the benefit of an employer that maintains the fund, an excise tax equal to 100 percent of the reversion is imposed on the employer.

Description of Proposal

Under the proposal, the present-law exception to the deduction limit for 10-or-more employer plans would be limited to plans that provide only medical benefits, disability benefits and group-term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed or pledged for collateral for a loan. The exception would no longer be available with respect to plans that provide supplemental unemployment compensation, severance pay and life insurance (other than group-term life) benefits. Thus, the

generally applicable deduction limits (secs. 419 and 419A) would apply to plans providing these benefits.

In addition, if any portion of a welfare benefit fund attributable to contributions that are deductible pursuant to the 10-or-more employer exception (and earnings thereon) is used for a purpose other than that for which the contributions were made (including cash payments to employees upon termination of the fund), such portion would be treated as reverting to the benefit of the employers maintaining the fund and would be subject to the imposition of the 100-percent excise tax.

No inference would be intended with respect to the validity of any 10-or-more employer arrangement under the provisions of present law.

Effective Date

The proposal would be effective with respect to contributions paid or accrued on or after June 9, 1999, in taxable years ending after such date.

**B. Temporary Increase in Amount of Rum Excise Tax that is Covered
Over to Puerto Rico and the U.S. Virgin Islands**

Present Law

A \$13.50 per proof gallon² excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States (sec. 5001). The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Code provides for coverover (payment) of \$10.50 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands (sec. 7652). During the 5-year period ending on September 30, 1998, the amount covered over was \$11.30 per proof gallon. This temporary increase was enacted in 1993 as transitional relief accompanying a reduction in certain tax benefits for corporations operating in Puerto Rico and the Virgin Islands (sec. 936).

Amounts covered over to Puerto Rico and the Virgin Islands are deposited in the treasuries of the two possessions for use as those possessions determine.

Description of Proposal

The proposal would increase from \$10.50 to \$13.50 per proof gallon the amount of excise taxes collected on rum brought into the United States that is covered over to Puerto Rico and the U.S. Virgin Islands.

The proposal further would provide that \$0.50 per proof gallon of the amount covered over to Puerto Rico will be transferred to the Puerto Rico Conservation Trust, a private, non-profit section 501(c)(3) organization operating in Puerto Rico.

Effective Date

The proposal would be effective for excise taxes collected on rum imported or brought into the United States from July 1, 1999, through September 30, 1999.

² A proof gallon is a liquid gallon consisting of 50 percent alcohol.