SUMMARY OF PROVISIONS CONTAINED IN THE SMALL BUSINESS TAX FAIRNESS ACT OF 2000

As Introduced
on March 6, 2000

by

HOUSE COMMITTEE ON WAYS AND MEANS
CHAIRMAN BILL ARCHER

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

March 6, 2000
JCX-21-00

CONTENTS

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the provisions in a bill introduced by House Committee on Ways and Means Chairman Archer, the "Small Business Tax Fairness Act of 2000."

The provisions of the bill generally follow those in H.R. 3081, the Wage and Employment Growth Act of 1999, as reported by the House Committee on Ways and Means with amendments on November 11, 1999, with certain modifications.

[1] This document may be cited as follows: Joint Committee on Taxation, *Summary of Provisions Contained in the Small Business Tax Fairness Act of 2000* (JCX-21-00), March 6, 2000.

SUMMARY OF PROVISIONS CONTAINED IN THE SMALL BUSINESS TAX FAIRNESS ACT OF 2000

A. Small Business Provisions

1. Deduction for 100 percent of health insurance costs of self-employed individuals (sec. 101 of the bill)

Beginning in 2001, the provision would increase the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent. The provision also would provide that the deduction is not available in any month in which the taxpayer participates in an employer-subsidized health plan.

The provision is the same as sec. 201 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective for taxable years beginning after December 31, 2000.

2. Increase section 179 expensing (sec. 102 of the bill)

Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $20,000 (for taxable years beginning in 2000) of the cost of qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $20,000 amount is increased to $25,000 for taxable years beginning in 2003 and thereafter. The increase is phased in.

The provision would provide that the maximum dollar amount that may be deducted under section 179 is increased to $30,000 for taxable years beginning in 2001 and thereafter, without the present-law phase-in rule.

The provision is the same as sec. 202 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective for taxable years beginning after December 31, 2000.

3. Increased deduction for business meal expenses (sec. 103 of the bill)

The provision would increase the business meals deduction, only for small businesses, from the present-law 50 percent to 55 percent for taxable years beginning in 2001 and 60 percent for taxable years beginning in 2002 and thereafter.

The provision is the same as sec. 203 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective for taxable years beginning after December 31, 2000.

4. Increased deduction for business meals while operating under Department of Transportation hours of service limitations (sec. 104 of the bill)

The provision would accelerate the increase in the business meals deduction for individuals subject to Department of Transportation hours of service limitations. Under present law, the deduction is scheduled to increase from 55 percent in 1999 to 80 percent in 2008. The bill would increase the deduction to 80 percent in 2001 and thereafter.

The provision is the same as sec. 204 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective for taxable years beginning after December 31, 2000.

5. Income averaging for farmers and fishermen (sec. 105 of the bill)

The election to average income applicable to income from the trade or business of farming under present law would be extended to cover income from the trade or business of fishing as well. For this purpose, the trade or business of fishing would include the conduct of commercial fishing as defined in Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) and would include the trade or business of catching, taking or harvesting fish that are intended to enter commerce through sale, barter or trade.

The provision would also coordinate farmers' and fishermen's income averaging with the alternative minimum tax. A farmer or fisherman electing to average his or her farm or fishing income would owe alternative minimum tax only to the extent he or she would have owed alternative minimum tax had averaging not been elected.

The provision is identical to sec. 206 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

6. Repeal special occupational taxes on producers and marketers of alcoholic beverages (sec. 106 of the bill)

Under present law, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. These excise taxes are imposed as part of a broader Federal tax and regulatory engine governing the production and marketing of alcoholic beverages. The special occupational taxes are payable annually, on July 1 of each year. The present tax rates are as follows:

Producers:[2]	
Distilled spirits and wines (sec. 5081)	$1,000 per year, per premise
Brewers (sec. 5091)	$1,000 per year, per premise
Wholesale dealers (sec. 5111):	
Liquors, wines, or beer	$500 per year
Retail dealers (sec. 5121):	
Liquors, wines, or beer	$250 per year
Nonbeverage use of distilled spirits (sec. 5131)	$500 per year
Industrial use of distilled spirits (sec. 5276)	$250 per year

The provision would repeal the special occupational taxes on producers and marketers of alcoholic beverages.

The provision is the same as sec. 207 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective on July 1, 2001, but would not apply to taxes imposed for periods before such date.

7. Repeal of modification of installment method (sec. 107 of the bill)

Section 536(a) of the Ticket to Work and Work Incentives Improvement Act of 1999 prohibited the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting, effective for sales or other dispositions occurring on or after December 17, 1999.

The provision of the bill would reverse this prohibition as if it had not been enacted. Accordingly, any disposition of property that otherwise qualifies to be reported using the installment method of accounting may be reported using that method without regard to whether the disposition would otherwise be reported using the accrual method of accounting.

[2] Tax is $500 per year premise for businesses with gross receipts of less than $500,000 in the preceding taxable year. Certain small alcohol fuel producers are exempt from the tax. (See secs. 5081(c) and 5181(c)(4).)

The provision leaves unchanged the rule added by section 536(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 that modified the installment method pledge rule.

Effective date.--The provision would be effective for sales or other dispositions on or after December 17, 1999.

B. Pension Provisions

Except as otherwise indicated, the provisions are the same as included in H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

1. Expanding coverage (secs. 201-208 of the bill)

Increase contribution and benefit limits

Beginning in 2001, the proposal would increase the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in $1,000 annual increments until the limits reach $14,000 in 2004. Beginning in 2001, the proposal would increase the maximum annual elective deferrals that may be made to a SIMPLE plan in $1,000 annual increments until the limit reaches $10,000 in 2004. The $14,000 and $10,000 dollar limits would be indexed in $500 increments, as under present law. The proposal would increase the dollar limit on deferrals under a section 457 plan to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, and $14,000 in 2004. After 2004, the limit would be indexed in $500 increments. The section 457 limit would be twice the otherwise applicable dollar limit in the three years prior to retirement.

Effective in 2001, the proposal would (1) increase the annual benefit dollar limit for defined benefit plans to $160,000 (indexed in $5,000 increments) and lower the early retirement age to 62 and the normal retirement age to 65 for purposes of applying the limit; (2) increase the $30,000 annual contribution limit for defined contribution plans to $40,000 (indexed in $1,000 increments); and (3) increase the limit on compensation that may be taken into account under a plan to $200,000 (indexed in $5,000 increments).

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Plan loans for subchapter S shareholders, partners, and sole proprietors

The proposal generally would eliminate the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption would apply to such transactions. Present law would apply with respect to IRAs.

Effective date.--The proposal would be effective with respect to loans made in years beginning after December 31, 2000.

Modification of top-heavy rules

The proposal would provide that a safe-harbor section 401(k) plan is not a top-heavy plan and that matching contributions may be taken into account in satisfying the minimum contribution requirements. The proposal also would provide that, in determining the minimum benefit required under a defined benefit plan, a year of service does not include any year in which no employee benefits under the plan. In addition, the proposal would simplify the definition of key employee and the determination of top-heavy status, and repeal the family attribution rule used to determine whether an individual is a key employee by reason of being a 5-percent owner of the employer.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Elective deferrals not taken into account for purposes of deduction limits

Elective deferral contributions would not be subject to the qualified plan deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan would not take into account elective deferral contributions.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations

The proposal would repeal the rules coordinating the section 457 dollar limit with contributions under other types of plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Eliminate IRS user fees for determination letter requests regarding small employer plans

Under the proposal, an employer with no more than 100 employees would not be required to pay a user fee for any determination letter request made during the first 5 plan years with respect to the qualified status of a retirement plan that the employer maintains.

Effective date.--The proposal would be effective for determination letter requests made after December 31, 2000.

Definition of compensation for purposes of deduction limits

For purposes of the qualified plan deduction limit the compensation otherwise paid or accrued during the employer's taxable year to the beneficiaries under the plan would include elective deferrals under a section 401(k) plan or a section 403(b) annuity, elective contributions under a section 457 plan, and salary reduction contributions under a section 125 cafeteria plan.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Option to treat elective deferrals as after-tax contributions

The proposal would provide that a section 401(k) plan or a section 403(b) annuity may permit a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. Designated plus contributions are elective deferrals that a participant designates as not excludable from the participant's gross income. A qualified distribution from a participant's designated plus contributions account would not be includible in the participant's gross income. Designated plus contributions would generally otherwise be treated the same as elective deferrals for purposes of the qualified plan rules.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

2. Enhancing fairness for women (secs. 221-226 of the bill)

Additional catch-up contributions

The proposal would permit individuals who are age 50 or older to make additional contributions to a section 401(k) (or similar) plan. The maximum permitted additional contribution would be the applicable percent of the otherwise applicable dollar contribution limitation. The applicable percent would be 10 percent in 2001, and would increase by 10 percentage points until the applicable percent is 40 in 2004 and thereafter. Catch-up contributions to a section 401(k) (or similar) plan would not be subject to any other contribution limits, would not be taken into account in applying other contribution limits, and would not be subject to nondiscrimination rules.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Equitable treatment for contributions of employees to defined contribution plans

The proposal would (1) increase the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent, (2) conform the limits on contributions to a section 403(b) annuity to the limits applicable to tax-qualified plans, and (3) increase the 33-1/3 percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Simplify and update the minimum distribution rules

The proposal would apply the present-law rules applicable if the participant dies before distribution of minimum benefits has begun to all post-death distributions. The proposal would reduce the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed. The Treasury would be directed to update, simplify, and finalize the regulations relating to the minimum distribution rules. The proposal would repeal the special minimum distribution rules applicable to section 457 plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Clarification of tax treatment of division of section 457 plan benefits upon divorce

The proposal would apply the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan would not be treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO.

Effective date.--The proposal would be effective for transfers, distributions, and payments made after December 31, 2000.

Modification of safe harbor relief for hardship withdrawals from 401(k) plans

The Secretary of the Treasury would be directed to revise the applicable regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Faster vesting of employer matching contributions

Under the proposal, employer matching contributions would have to vest at least as rapidly as under 3-year cliff vesting or under 6-year graded vesting that provides for a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement.

3. Increasing portability for participants (secs. 231-239 of the bill)

Rollovers of retirement plan and IRA distributions

The proposal would provide that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, IRAs and governmental section 457 plans generally can be rolled over to any of such plans or arrangements. The direct rollover and withholding rules would be extended to distributions from a governmental section 457 plan. The proposal would provide that employee after-tax contributions can be rolled over into another qualified plan or a traditional IRA. In the case of a rollover of after-tax contributions from a qualified plan to another qualified plan, the rollover could be accomplished only through a direct rollover. The proposal would provide that surviving spouses can roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates.

Effective date.--The proposal would be effective for distributions made after December 31, 2000.

Waiver of 60-day rule

The proposal would provide that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Effective date.--The proposal would apply to distributions made after December 31, 2000.

Treatment of forms of distribution

If certain requirements are satisfied, a defined contribution plan would be permitted to eliminate optional forms of benefit (1) in connection with certain transfers of benefits, or (2) if a single sum distribution is offered. In addition, the Secretary would be directed to provide for circumstances under which early retirement benefits, retirement-type subsidies, or an optional form of benefit may be reduced or eliminated if the rights of participants are not materially affected.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Rationalization of restrictions on distributions

The proposal would modify the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service.

Effective date.--The proposal would be effective for distributions after December 31, 2000.

Purchase of service credit under governmental pension plans

A participant in a State or local governmental plan would not be required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay certain contributions with respect to amounts previously forfeited.

Effective date.--The proposal would be effective for transfers after December 31, 2000.

Employers may disregard rollovers for purposes of cash-out rules

A plan would be permitted to disregard benefits attributable to rollover contributions for purposes of the cash-out rules.

Effective date.--The proposal would be effective for distributions after December 31, 2000.

4. Strengthening Pension Security and Enforcement (secs. 241-245 of the bill)

Phase in repeal of 150 percent of current liability funding limit; deduction for contributions to fund termination liability

Under the proposal, the current liability full funding limit would be 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit would be repealed for plan years beginning in 2004 and thereafter. The special rule allowing a deduction for unfunded current liability generally would be extended to all defined benefit pension plans covered by the PBGC and would be modified to allow a deduction for unfunded termination liability.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Excise tax relief for sound pension funding

If an employer elects, contributions in excess of the current liability full funding limit would not be subject to the excise tax on nondeductible contributions.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Notice of significant reduction in plan benefit accruals

The proposal would require the plan administrator of a defined benefit plan (other than governmental plans and certain church plans) with more than 100 participants to notify plan participants of an amendment that significantly reduces the rate of future benefit accruals. The notice would be required to include sufficient information to allow participants to understand the effect of the amendment. An excise tax would apply if the required notice is not provided.

Effective date.--The proposal would be effective for plan amendments taking effect on or after the date of enactment.

Modifications to section 415 limits for multiemployer plans

Under the proposal, the 100 percent of compensation defined benefit plan limit would not apply to multiemployer plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

5. Reducing regulatory burdens (secs. 261-272 of the bill)

Modification of timing of plan valuations

The proposal would modify the rules regarding the timing of plan valuations in the case of a defined benefit plan with assets of at least 125 percent of current liability.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

ESOP dividends may be reinvested without loss of dividend deduction

Under the proposal, an employer would be entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are paid to the plan and reinvested in employer securities.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

Repeal transition rule relating to certain highly compensated employees

The proposal would repeal the special definition of highly compensated employee under the Tax Reform Act of 1986.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

Employees of tax-exempt entities

The Treasury Department would be directed to revise its regulations under section 410(b) to provide that, if certain requirements are satisfied, employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan.

Effective date.--The proposal would be effective as if included in section 1426(b) of the Small Business Job Protection Act of 1996.

Treatment of employer-provided retirement advice

Under the proposal, qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan would be generally excludable from income and wages.

Effective date.--The proposal would be effective with respect to taxable years beginning after December 31, 2000.

Reporting simplification

The Secretary of the Treasury would be directed to provide for an exemption from the annual return requirement for a plan that covers only the sole owner of a business that maintains the plan (and such owner's spouse), or partners in a partnership that maintains the plan (and such partners' spouses), if the total value of the plan assets as of the end of the plan year and all prior plan years does not exceed $250,000 and the plan meets certain other requirements. In addition, the Secretary of the Treasury would be directed to provide for the filing of a simplified annual return substantially similar to the Form 5500-EZ by a plan that covers less than 25 employees and meets certain other requirements.

Effective date.--The proposal would be effective on January 1, 2001.

Improvement of employer plans compliance resolution system

The Secretary of the Treasury would be directed to continue to update and improve EPCRS, giving special attention to (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period under APRSC for significant compliance failures, (4) expanding the availability to correct insignificant compliance failures under APRSC during audit, and (5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

Effective date.--The proposal would be effective on the date of enactment.

Modification of exclusion for employer-provided transit passes

The proposal would repeal the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

Repeal of the multiple use test

The proposal would repeal the multiple use test.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Flexibility in nondiscrimination, coverage, and line of business rules

The proposal would provide for circumstances under which plans may use facts and circumstances to satisfy the nondiscrimination, coverage, and line of business rules.

Effective date.-- The proposal would be effective on the date of enactment.

Extension to international organizations of moratorium on application of certain nondiscrimination rules applicable to State and local government plans

A plan maintained by a tax-exempt international organization would be exempt from the nondiscrimination and minimum participation rules.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

Notice and consent period regarding distributions

The proposal would require a qualified retirement plan to provide the applicable distribution notice no less than thirty days and no more than six months before the date distribution commences. The Secretary of the Treasury would be directed to modify the applicable regulations to reflect the extension of the notice period to six months and to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

6. Plan amendments (sec. 281 of the bill)

Any amendments to a plan or annuity contract required to be made by the proposal would not be required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments would be extended to the first plan year beginning on or after January 1, 2005.

Effective date.--The proposal would be effective on the date of enactment.

C. Estate Tax Relief

1. Reduction of estate, gift, and generation-skipping transfer taxes (secs. 301, 302 and 311 of the bill)

The provision states the sense of the Congress that death tax relief is considered a first step in the effort to ultimately repeal the estate, gift, and generation skipping taxes.

The provision would repeal the 5-percent surtax (which phases out the benefit of the graduated rates), convert the unified credit into a unified exemption, and repeal the rates in excess of 53 percent beginning in 2001. In 2002, the rates in excess of 50 percent would be repealed. In 2003 and 2004, all estate and gift tax rates would be reduced by 1 percentage point each year, after which the rates would remain as in effect in 2004. There would be a proportionate reduction in the state death tax credit rate in 2003 and 2004, after which the state death tax credit would remain as in effect in 2004.

The provision is the same as sections 501, 502 and 511 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999, with a technical modification.

Effective date.–The unified credit is replaced with a unified exemption, and the 5-percent surtax and rates in excess of 53 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2000. The rates in excess of 50 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001. All estate and gift tax rates are reduced by 1 percentage point, and there is a proportionate reduction in the state death tax credit, in 2003 and 2004, which applies to estates of decedents dying after and gifts made after December 31, 2002.

2. Modify generation-skipping transfer tax rules

a. Deemed allocation of the generation-skipping transfer ("GST") tax exemption to lifetime transfers to trusts that are not direct skips (sec. 321 of the bill)

Under the provision, GST tax exemption is automatically allocated to transfers made during life that are "indirect skips." An indirect skip is any transfer of property (that is not a direct skip) subject to the gift tax that is made to a GST trust. A GST trust is defined as a trust that could have a generation-skipping transfer with respect to the transferor (e.g., a taxable termination or taxable distribution), unless certain the trust meets certain requirements.

If any individual makes an indirect skip during the individual's lifetime, then any unused portion of such individual's GST tax exemption is allocated to the property transferred to the extent necessary to produce the lowest possible inclusion ratio for such property.

An individual may elect not to have the automatic allocation rules apply to an indirect skip, and such elections will be deemed timely if filed on a timely-filed gift tax return for the calendar year in which the transfer was made or deemed to have been made or on such later date or dates as may be prescribed by the Treasury Secretary. An individual may elect not to have the automatic allocation rules apply to any or all transfers made by such individual to a particular trust and may elect to treat any trust as a GST trust with respect to any or all transfers made by the individual to such trust, and such election may be made on a timely-filed gift tax return for the calendar year for which the election is to become effective.

The provision is the same as sec. 521 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–The provision applies to transfers subject to estate or gift tax made after December 31, 1999, and to estate tax inclusion periods ending after December 31, 1999.

b. Retroactive allocation of the GST tax exemption (sec. 321 of the bill)

Under the provision, GST tax exemption may be allocated retroactively when there is an unnatural order of death. If a lineal descendant of the transferor predeceased the transferor, then the transferor may allocate any unused GST tax exemption to any previous transfer or transfers to the trust on a chronological basis. The provision allows a transferor to retroactively allocate GST tax exemption to a trust where a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor's grandparent or grandparent of the transferor's spouse, (c) is a generation younger than the generation of the transferor, and (d) dies before the transferor. Exemption is allocated under this rule retroactively, and the applicable fraction and inclusion ratio under this provision are determined based on the value of the property on the date that the property was transferred to the trust.

The provision is the same as sec. 521 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–This provision applies to transfers subject to the estate and gift tax made after December 31, 1999.

c. Severing of trusts holding property having an inclusion ratio of greater than zero (sec. 322 of the bill)

Under the provision, a trust may be severed in a "qualified severance." A qualified severance is defined as the division of a single trust and the creation of two or more trusts if (1) the single trust was divided on a fractional basis, and (2) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust. If a trust has an inclusion ratio of greater than zero and less than one, a severance is a qualified severance only if the single trust is divided into two trusts, one of which receives a fractional share of the total value of all trust assets equal to the applicable fraction of the single trust immediately before the severance. In such case, the trust receiving such fractional share shall have an inclusion ratio of one. Under the provision, a trustee may elect to sever a trust in a qualified severance at any time.

The provision is the same as sec. 522 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--This provision is effective for severances of trusts occurring after December 31, 1999.

d. Modification of certain valuation rules (sec. 323 of the bill)

Under the provision, in connection with timely and automatic allocations of GST tax exemption, the value of the property for purposes of determining the inclusion ratio shall be its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. In the case of a GST tax exemption allocation deemed to be made at the conclusion of an estate tax inclusion period, the value for purposes of determining the inclusion ratio shall be its value at that time.

The provision is the same as sec. 523 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–This provision is effective for transfers subject to the estate and gift tax made after December 31, 1999.

e. Relief from late elections (sec. 324 of the bill)

Under the provision, the Treasury Secretary is authorized and directed to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. If such relief is granted, then the value on the date of transfer to a trust would be used for determining GST tax exemption allocation.

In determining whether to grant relief for late elections, the Treasury Secretary is directed to consider all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems relevant. For purposes of determining whether to grant relief, the time for making the allocation (or election) is treated as if not expressly prescribed by statute.

The provision is the same as sec. 524 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–The provision applies to requests pending on or filed after December 31, 1999.

f. Substantial compliance (sec. 324 of the bill)

Under the provision, substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption will suffice to establish that GST tax exemption was allocated to a particular transfer or a particular trust. If a taxpayer demonstrates substantial compliance, then so much of the transferor's unused GST tax exemption will be allocated to the extent it produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances will be considered, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems appropriate.

The provision is the same as sec. 524 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–The provision is effective on the date of enactment and applies to transfers subject to tax under Chapter 11 or 12 of the Code made after December 31, 1999.

3. Expand estate tax rule for conservation easements (sec. 331 of the bill)

The provision expands the availability of qualified conservation easements by modifying the distance requirements. Under the provision, distance within which the land must be situated from a metropolitan area, national park, or wilderness area is increased from 25 to 50 miles, and the distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The provision also clarifies that the date for determining easement compliance is the date on which the donation was made.

The provision is the same as sec. 531 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–The provision that clarifies the date for determining easement compliance is effective for estates of decedents dying after December 31, 1997. The provisions that modify the distance rules are effective for estates of decedents dying after December 31, 1999.

D. Tax Relief for Distressed Communities and Industries

1. American Community Renewal Act of 1999 (secs. 401-405 of the bill)

The provision authorizes the Secretary of Housing and Urban Development to designate up to 15 areas as renewal communities (of which at least three areas must be rural) that would receive certain tax benefits for a seven-year period beginning January 1, 2001, and ending December 31, 2007. The tax benefits include: a zero percent capital gains tax rate on the sale of qualified community assets held for more than five years; an above-the-line deduction for certain contributions to a family development account; tax-free distributions from such an account if used for qualified higher educational expenses, qualified first-time homebuyer costs, qualified business capitalization costs, and qualified medical expenses; a commercial revitalization deduction for qualified revitalization buildings located in a renewal community; $35,000 in additional section 179 expensing; expensing of environmental remediation costs (for brownfields); and an extension of the work opportunity tax credit to qualified individuals who live in a renewal community.

The provision is the same as sections 601-605 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.–The tax benefits would be available beginning January 1, 2001, and ending December 31, 2007.

2. Temporary suspension of maximum amount of amortizable reforestation expenditures (sec. 411 of the bill)

The provision increases the amount of reforestation expenditures eligible for 7-year amortization and the reforestation credit from $10,000 to $25,000 per taxable year (from $5,000 to $12,500 in the case of a separate return by a married individual), effective for taxable years beginning after 2000.

For taxable years beginning in 2001 through 2003, the provision would remove the limitation on the amount eligible for 7-year amortization. Thus, for taxable years beginning in 2001 through 2003, the amount of reforestation expenditures eligible for the credit is limited to $25,000 and no limit applies to the amount eligible for 7-year amortization.

The provision is the same as sec. 611 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

<u>Effective date</u>.--The provision would be effective for taxable years beginning after December 31, 2000.

E. Real Estate Provisions

1. Increase the low-income housing tax credit cap and make other modifications (secs. 501-507 of the bill)

An income tax credit having a present value of 70 percent (30 percent in certain cases) is allowed for the cost of rental housing units occupied by tenants having incomes below prescribed levels. The 70 percent credit applies to newly constructed housing (other than most such housing receiving other Federal subsidies) and to certain "substantial rehabilitations" of existing housing. The 30-percent credit applies to existing housing and generally to new housing that also receives other Federal subsidies. Actual credit percentages used in calculating the credit are adjusted monthly by the Internal Revenue Service to achieve the relevant present values for newly placed-in-service housing. The credit is claimed over a 10-year period. Projects receiving the credit must continue as low-income housing for an initial 15-year compliance period. Failure to satisfy the 15-year compliance period requirement results in recapture of a portion of the credits claimed.

The amount of credit available for housing in each State is limited by an annual volume limit. The aggregate new annual volume authority for each State is $1.25 per resident, plus any amounts allocated under a "national pool" mechanism which re-allocates credits not used by other States. Credits for projects that also are financed with the proceeds of tax-exempt bonds issued subject to the State's private activity bond volume limit are not subject to the low-income housing credit volume limit.

The provision would phase-in an increase in the $1.25 per resident State volume limit to $1.65 per resident. It would also create a $2 million minimum per state credit. The $1.65 and the $2 million amounts would be indexed for inflation beginning in 2004. The provision also would make several programmatic changes to the credit.

The provision is the same as sections 701-707 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision generally would be effective for calendar years beginning after December 31, 2000, and buildings placed-in-service after such date in the case of projects that receive financing with proceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued after such date.

2. Accelerate the scheduled increase in State volume limits on tax-exempt private activity bonds (sec. 511 of the bill)

Interest on bonds issued by governmental units to finance activities carried out and paid for by private persons ("private activity bonds") is taxable unless the activities are specified in the Internal Revenue Code. The volume of tax-exempt private activity bonds that States and local governments may issue for most of these purposes in each calendar year is limited by State-wide volume limits.[3] The current annual volume limits are $50 per resident of the State or $150 million, if greater, and are scheduled to increase to $75 per resident of each State or $225 million, if greater, beginning in calendar year 2007. The increase would be ratably phased in beginning with $55 per capita or $165 million, if greater, in calendar year 2003.

The provision would accelerate the scheduled increase in the present-law annual State private activity bond volume limits to $75 per resident of each State or $225 million (if greater) beginning in calendar year 2004. The increase would be phased-in as follows, beginning in calendar year 2000:

[3] The volume limits do not apply to private activity bonds to finance airports, docks and wharves, certain governmentally owned, but privately operated solid waste disposal facilities, certain high speed rail facilities, and to certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain "new" empowerment zone and enterprise community bonds).

Calendar Year	Volume Limit
2001	$55 per resident ($165 million if greater)
2002	$60 per resident ($180 million if greater)
2003	$65 per resident ($195 million if greater)
2004-2006	$70 per resident ($210 million if greater)

The provision is the same as sec. 761 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective beginning in calendar year 2001 and would be fully effective in calendar year 2004 and thereafter. The increase to $75 per resident ($225 million if greater) scheduled for 2007 under present law would not be changed by this provision.

3. Exclusion from gross income for certain forgiven mortgage obligations (sec. 512 of the bill)

Generally, gross income means all income from whatever source derived including income from the discharge of indebtedness. However, gross income does not include discharge of indebtedness income if: (1) the discharge occurs in a Title 11 case; (2) the discharge occurs when the taxpayer is insolvent; (3) the indebtedness discharged is qualified farm indebtedness; or (4) except in the case of a C corporation, the indebtedness discharged is qualified real property business indebtedness. No exclusion is provided for qualified residential indebtedness.

In the case of an individual taxpayer, the provision would provide an exclusion from discharge of indebtedness income to the extent such income is attributable to the sale of real property securing qualified residential indebtedness. Qualified residential indebtedness would be defined as indebtedness incurred or assumed by the taxpayer for the acquisition, construction, reconstruction, or substantial improvement of the taxpayer's principal residence and which is secured by such residence. The taxpayer would elect to have this exclusion apply. The exclusion would not apply to qualified farm indebtedness or qualified real property business indebtedness.

The provision is the same as sec. 771 of H.R. 3081, as reported by the House Committee on Ways and Means on November 11, 1999.

Effective date.--The provision would be effective for discharges of indebtedness after December 31, 2000.