[COMMITTEE PRINT]

DESCRIPTION OF TECHNICAL AND MINOR BILLS LISTED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON MISCELLANEOUS REVENUE MEASURES

OF THE

COMMITTEE ON WAYS AND MEANS

ON

AUGUST 11, 1978

PREPARED FOR THE USE OF THE

COMMITTEE ON WAYS AND MEANS

BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION

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I. INTRODUCTION

The bills described in this pamphlet are those on which the Subcommittee on Miscellaneous Revenue Measures of the Committee on Ways and Means has announced a public hearing for Friday, August 11, 1978.

In connection with this hearing, the staff of the Joint Committee has prepared a description of the bills, similar to the descriptions the staff was directed to prepare in connection with the hearings on miscellaneous bills during 1977.

The pamphlet first briefly summarizes the bills in consecutive bill number order. This is followed by a more detailed description of each bill indicating in each case the present law treatment, the issue involved, an explanation of what the bill would do, the effective date of the provision, any prior Congressional consideration of the bill, and the position of the Treasury Department or other relevant departments with respect to the bill. The sponsor or sponsors of each bill are listed in the table of contents. Also, identical or similar bills are noted in the Table of Contents.

II. SUMMARY

1. H.R. 8533 (Also H.R. 7460 and H.R. 13405)

Exemption for Income Received by Certain Tax-Exempt Organizations From Bingo and Similar Games

Under present law, most organizations which are generally exempt from Federal income taxes are subject to tax on their unrelated business taxable income. Also, political organizations are subject to tax on all income other than exempt function income.

H.R. 7460 would provide that most tax-exempt organizations (under sec. 501(a)), but not political organizations, would not be subject to tax on income from bingo and similar games that are conducted in accordance with State and local law and not in competition with profit-making businesses, even though such games are regularly carried on with paid labor.

H.R. 8533 would provide a similar exemption for political organizations (but not for other tax-exempt organizations).

H.R. 13405 would provide tax exemption for income from these types of games for both political organizations and most other tax-exempt organizations (exempt under sec. 501(a)).

2. H.R. 8615

Income Averaging for Certain Taxpayers Who Have Changed Marital Status

Present law requires certain taxpayers to include income earned by a former spouse in base-year income for purposes of determining eligibility for, and income tax liability under, income averaging.

The bill would permit a taxpayer whose marital status is different in the computation year than in a base period year to include in base period income only his or her separate income for the affected base period years. This rule would apply when the taxpayer's separate income for the base period year does not exceed the greater of (1) 85 percent of the combined income of the taxpayer and the former spouse for the base period year, or (2) 85 percent of the combined income of the taxpayer and the current spouse for the base period year.

3. H.R. 8696

Tax Treatment of Retroactive Determination of Eligibility for Disability Compensation From the Veterans' Administration

The bill would clarify that the portion of military retirement pay corresponding to the amount of a Veterans' Administration disability compensation award is excludable from income where the V.A. determination is retroactive. On March 31, 1978, the Internal Revenue Service announced that it was reversing its prior ruling position and would interpret existing law in a manner generally similar to the provisions of this bill.

4. H.R. 12395

"The Independent Local Newspaper Act of 1978"

The bill would allow independent local newspapers to establish tax-exempt trust funds in order to pay the estate taxes of the owners of the paper. Contributions to the trust by the paper would generally be deductible in computing income tax, and interests in the trust would be exempt from the estate tax. In addition, the bill would provide an extended payment period for estate taxes attributable to interests in independent local newspapers.

5. H.R. 12846

Investment Tax Credit For Poultry Structures

Under present law, special purpose structures which house property used as an integral part of a production activity (such as farming) are eligible for the investment tax credit if the structure is so closely related to the use of such property that the structure is clearly expected to be replaced when the property it houses is replaced. It is the position of the Internal Revenue Service, however, that special purpose poultry-raising and egg-producing structures generally do not qualify for the credit.

The bill would provide specifically that structures which are used to house, raise or feed poultry or their produce will be eligible for the investment credit if the structure is designed specifically and used solely for these purposes and for providing working space for these activities.

6. H.R. 12950

Nonrecognition of Gain on Sale of Residence for Certain Members of the Armed Forces

Under present law, a member of the Armed Forces generally is not required to recognize gain on the sale of a principal residence if he or she purchases a new principal residence within four years after the date of the sale of the old residence.

The bill would extend the nonrecognition period for members of the Armed Forces who are stationed outside of the United States or who are required to reside in Government-owned quarters to the later of: (1) four years after the date of the sale of the old residence, or (2) one year after the date on which the member no longer is stationed outside of the United States or required to reside in Government-owned quarters.

7. H.R. 13047

Tax Accounting Rules for Trading Stamps and Coupons Redeemed After the Close of the Taxable Year

Under present law, long-standing Treasury Regulations provide that issuers of trading stamps and premium coupons may reduce gross receipts by the estimated cost of redeeming stamps or coupons outstanding at the close of the taxable year. The term "premium coupon" is not defined in the regulations, nor have the courts directly addressed the question of what constitutes a premium coupon. The Internal Revenue Service issued two revenue rulings, one in 1973 and another in 1978, that deny the benefit of the regulations to two types of discount or cents-off coupons.

The bill would codify the existing Treasury Regulations with an amendment making it clear that gross receipts for the taxable year would be reduced by the estimated cost of redeeming discount or cents-off coupons outstanding at the close of the taxable year.

8. H.R. 13092

Small Tax Case Procedures of the Tax Court and Authority of Tax Court Commissioners

Under present law, cases involving income, estate or gift tax deficiencies of less than $1,500 may, at the taxpayer's option, be tried under the small tax case procedures of the Tax Court. These trials are conducted informally and neither the taxpayer nor the Internal Revenue Service may appeal the decision. Typically, these small tax cases are tried by commissioners appointed by the Chief Judge of the Tax Court. Following the trial, the commissioners file written reports of their findings and conclusions of law, and decisions based on these reports are made by the Chief Judge.

The bill would increase the jurisdictional amount for electing the small tax case procedure from $1,500 to $5,000. In addition, it would specifically authorize commissioners to administer oaths, issue subpoenas, examine witnesses, prepare reports and make decisions in such cases.

III. DESCRIPTION OF BILLS

1. H.R. 8533 (Also H.R. 7460 and H.R. 13405)

Exemption for Income Received by Certain Tax-Exempt Organizations From Bingo and Similar Games

Present law

Under present law, most organizations which are generally treated as tax-exempt under the Internal Revenue Code are nonetheless subject to tax on their unrelated business taxable income (sec. 511). Thus, unless a specific exception applies, an organization which is tax-exempt (under sec. 501(a))[1] is subject to tax with respect to income derived from any trade or business the conduct of which is not substantially related (aside from the need of the organization for income or funds) to the exercise or performance of its exempt function.

Under some State laws, nonprofit organizations are allowed to conduct bingo games or other similar types of games to raise funds for their exempt purposes. Often State laws limit the conduct of these types of games to nonprofit organizations.

Two recent cases have held that tax-exempt organizations are subject to unrelated business income tax on the proceeds of bingo games regularly carried on by the organizations with paid labor even though the organizations were not in competition with for-profit businesses.[2]

For political organizations, "exempt function income" is tax exempt, but all other income is subject to tax. Exempt function income means (1) contributions, (2) membership dues, fees, and assessments, and (3) proceeds from a political fund-raising or entertainment event, or the proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business (sec. 527).

Thus, for political organizations, the proceeds of bingo or similar games which are regularly carried on with paid labor do not qualify as "proceeds from a political fund-raising or entertainment event, which are not received in the ordinary course of any trade or business," and, consequently, these proceeds would be subject to tax.

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[1] In this pamphlet, references to "exempt organizations" do not include social clubs (sec. 501(c)(7) and employees' beneficiary associations (sec. 501(c)(9)), which may be taxable on investment income of all types as well as unrelated business income. The term "exempt organizations," as used also does not include political organizations (as described in sec. 527) and homeowners' associations (as described in sec. 528).

[2] *Clarence LaBelle Post No. 217* v. *United States* —— F. 2d —— (8th Cir. 1978), 78-1 USTC ¶9496; *Smith-Dodd Businessman's Ass'n*, 65 T.C. 620 (1975). In the *Smith-Dodd* case, a specific exemption for trades or businesses in which substantially all the work is performed without compensation (sec. 513(a)(1)) was held to be inapplicable because the organizations paid the workers $2 per hour and these sums could not be specifically correlated with the workers expenses. (The court indicated that expense reimbursement of workers might not violate the "without compensation" requirement.)

Issue

The primary issue is whether tax-exempt organizations and political organizations should be subject to taxation on income from bingo and similar games that are conducted in accordance with State and local law and not in competition with profit-making businesses even though such games are regularly carried on with paid labor.

Description of the bills

H.R. 7460

H.R. 7460 would exempt from taxation the proceeds of bingo and similar types of games in situations where State or local law permits such activities to be carried on by nonprofit organizations. This exemption from taxation would apply even though the activity is regularly carried on and is carried on with paid workers. However, to qualify for this exemption from the unrelated business income tax, the activity must not ordinarily be conducted on a commercial basis in the State in which the organization operates, and the conduct of the activity must not violate State or local law.

This bill would apply to games of the type in which usually the wagers are placed, the winners are determined, and the prizes are distributed in the presence of all persons placing wagers in the game. Thus, this bill would generally apply to bingo games, keno games, card games, dice games, and games involving wheels of chance, such as roulette wheels. (The statutory definition follows one of the exclusions from the term "lottery" under the wagering tax (sec. 4421(2)(A) of the Code).)

H.R. 8533

H.R. 8533 would provide that the exempt function income (i.e., tax-exempt income) of a political organization would include income from bingo and similar games that are conducted in accordance with State and local law and not in competition with profit-making businesses, even though such games are regularly carried on with paid labor. The types of games that could be conducted on a tax-free basis are defined in the same manner as the games that could be conducted on a tax-free basis by other exempt organizations under H.R. 7460.

H.R. 13405

H.R. 13405 would provide the same exemption for tax-exempt organizations from unrelated business income tax for income from bingo and similar games as would H.R. 7460. In addition, H.R. 13405 would provide the same exemption from tax for political organizations with respect to income from bingo and similar games as H.R. 8533.

Effective date

H.R. 7460 would apply to taxable years beginning after December 31, 1969. H.R. 8533 would apply to taxable years beginning after December 31, 1974 (the effective date of sec. 527 of the Code, which provides rules for the taxation of political organizations). The provisions of H.R. 13405 relating to section 501(a) organizations would apply to taxable years beginning after December 31, 1969; and the provisions of the bill relating to political organizations would apply to taxable years beginning after December 31, 1974.

Treasury position

The Treasury supports these bills only on a prospective basis and only for bingo where it is conducted in accordance with State and local law and, pursuant to such law, may not be conducted by profit-making businesses.

2. H.R. 8615

Income Averaging for Certain Taxpayers No Longer Married or Remarried

Present law

Under present law, a special tax computation is provided for taxpayers whose income fluctuates widely from year to year, or increases rapidly over a short period of time. Under this provision, called income averaging, a taxpayer may average that part of the current year's taxable income that exceeds 120 percent of the average taxable income of the prior four years (Sec. 1301). This excess is called "averagable income"; the current taxable year is the "computation year"; the four prior years are the "base period"; and taxable income for those years is "base period income". Generally, income averaging allows the averagable income to be taxed at lower rates than would otherwise apply, roughly approximating the tax which would have been imposed had the receipt of this excess income been spread evenly over the five-year period. If averagable income does not exceed $3,000, income averaging may not be used.

Present law requires special computations to determine base period income for any base period year in which the taxpayer's marital status was different than the computation year. For example, the taxpayer may have been married in a base period year and unmarried in the computation year, or married to a different spouse in the computation year than in a base period year. These computations are required to determine what is known as the "minimum base period income" for the base period year. If the minimum base period income exceeds the taxpayer's separate base period income for a year, then the minimum base period income must be used for determining averagable income and the taxpayer's tax liability under the income averaging provisions. If the taxpayer's actual separate base period income for a base period year is more than the minimum base period income, then the actual base period income must be used in all income averaging computations.

The minimum base period income for a taxpayer who is unmarried in the computation year, but was married during a base period year, is 50 percent of the combined income and deductions of the taxpayer and his spouse for the base period year (i.e., 50 percent of taxable income, if a joint return was filed for the base period year).

The minimum base period income for a taxpayer who is married, filing a joint return for the computation year, but was married to a different spouse during a base period year is computed the same way as for the taxpayer who is unmarried in the computation year but was married during a base period year. However, if that taxpayer is married, filing a separate return in the computation year, the minimum base period income would be the greater of (1) 50 percent of the sum of the taxpayer's separate income and deductions for the base period year and the former spouse's separate income and deductions for the base period year, or (2) 50 percent of the sum of the taxpayer's separate income and deductions for the base period year and the "computation year" spouse's separate income and deductions for the base period year.

The application of the minimum base period income rules can result in a taxpayer including in base period income, income earned by another taxpayer (i.e., a former spouse). It can also result in the same taxable income being included in the base period income of more than one taxpayer.[1]

Issue

The issue is whether certain taxpayers who change marital status should be permitted to include only their actual separate incomes in base period income for purposes of income averaging.

Description of the bill

The bill would provide that any "qualified individual" who is not married for the computation year, but was married for any base period year, or who is married for the computation year, but was married to a different spouse for any base period year, may determine base period income for such base period year without regard to the income and deductions of the former spouse, i.e., by taking into account only his or her own separate income and deductions.

Under the bill, a "qualified individual" is an individual whose separate base period income does not exceed the greater of (1) 85 percent of the combined base period incomes of he and his former spouse, or (2) 85 percent of the combined base period incomes of he and his "computation year" spouse.

The bill would benefit divorced or widowed taxpayers who currently cannot qualify for the benefits of income averaging because they are required to include income actually earned by a former spouse as part of their base period income.

Effective date

The bill would apply to the computation of tax in taxable years ending after the date of enactment.

Treasury position

The Treasury opposes this bill.

3. H.R. 8696

Tax Treatment of Retroactive Determination of Eligibility for Disability Compensation From the Veterans' Administration

Present law

Under present law, gross income does not include amounts received as a pension, annuity, or similar allowance for personal injuries or

[1] For example, if a taxpayer's former spouse earned 100 percent of the taxable income for a base period year, the taxpayer's minimum base period income would be 50 percent of such taxable income while the former spouse's base period income would be 100 percent of such income. This would be the result even if the taxpayer and his former spouse had not filed a joint return for the base period year.

sickness resulting from active service in the Armed Forces of any country (sec. 104(a)(4) of the Code).[1] Thus, under this provision, military retirement pay is excludable from gross income to the extent that the pay is attributable to disability rather than length of service. In addition, payments of benefits due under any law administered by the Veterans' Administration is exempt from taxation (under 38 U.S.C. § 3101(a)).

In order for a serviceman who is receiving retirement pay to receive disability compensation from the Veterans' Administration, he must file a waiver for the reduction of his retirement pay in an amount equal to any disability compensation award (38 U.S.C. § 3105). This waiver is intended to prevent the duplication of benefits.

The effective date for a V.A. disability compensation determination is generally retroactive to the date the application is received (38 U.S.C. § 3010(a)). However, the effective date for the waiver of the retired pay in order to receive the V.A. compensation is not retroactive. The IRS had previously ruled that the military retirement pay based on years of service is not excludable from gross income merely because the effective date of the V.A. award is made retroactive.[2] However, on March 31, 1978, the Service announced it was reversing its position, and that taxpayers would be entitled to an exclusion for the portion of retirement pay corresponding to the amount attributable to the V.A. disability rating for the retroactive period.[3]

Issue

The issue is whether retired military pay should be excluded from income as disability compensation where the Veterans' Administration determines an individual to be eligible for disability compensation for a retroactive period.

Description of the bill

The bill would allow amounts received as military retirement pay to be excluded from income to the extent the Veterans' Administration retroactively determines a retired serviceman to be eligible for V.A. disability compensation. The exclusion would be for amounts received (not in excess of the amount of the disability compensation) after the effective date of the V.A. determination where, within 60 days after the determination is made, the individual elects the V.A. payment in lieu of the military retirement pay. Interest would not be allowed for any date before the V.A. determination is made. The statute of limitations would be waived if necessary to allow a claim for credit or refund.

Effective date

The bill would be effective with respect to determinations made by the Veterans' Administration after August 31, 1975.

Treasury position

The Treasury has no objection to this bill which is substantially similar to that adopted in Rev. Rul. 78-161.

[1] The Tax Reform Act of 1976 repealed the disability payment exclusion under section 104(a)(4) prospectively for persons who joined the Armed Forces after September 24, 1975, except for payments for certain service-connected disabilities.
[2] Rev. Rul. 62-14, 1962-1 C.B. 11.
[3] I.R. 1979 (March 31, 1978), Rev. Rul. 78-161, 1978-18 I.R.B. 7.

4. H.R. 12395

"The Independent Local Newspapers Act of 1978"

Present law

With respect to a trust established for the purpose of paying estate taxes attributable to an interest in a business (including an independent local newspaper), no provision is presently made under the Code for (1) according tax-exempt status to such a trust, (2) allowing income tax deductions for payments to the trust, or (3) excluding the corpus of the trust from estate taxes.

The Code provides extended payment provisions with respect to the estate tax attributable to interests in closely held businesses (secs. 6166 and 6166A).[1]

In addition, provision is made for capital gain treatment of certain redemptions of closely held business stock where the redemption is for the purpose of paying estate taxes (sec. 303).[2]

Issues

The main issues are (1) whether the owner of an independent local newspaper should be permitted to establish a tax-exempt trust to pay estate taxes attributable to the value of his interest in the newspaper, (2) whether the funds contributed to the trust (within prescribed limits) should be deductible by the newspaper for income tax purposes, (3) whether the value of the trust assets should be excludable from the owner's taxable estate in computing estate taxes, and (4) whether a 15-year period should be provided for the payment of any estate tax attributable to the value of an interest in the newspaper to the extent the tax was not paid by the trust.

Description of the bill

Under the bill, an independent local newspaper could establish a tax-exempt trust to receive payments to pay the estate tax liability of the owner of the newspaper. The newspaper would be allowed an income tax deduction in an amount not to exceed 50 percent of its taxable income for amounts paid to the trust. The trust assets would be required to be invested solely in obligations of the United States. The assets of

[1] Section 6166 provides a 15-year period for the payment of the estate tax attributable to the decedent's interests in a closely held business (including a farm). Under this provision, the executor can elect to defer principal payments for up to 5 years from the due date of the estate tax return. Thereafter, pursuant to the executor's initial election, the principal amount of the estate tax liability may be paid in from 2 to 10 annual installments. In order to qualify for this deferral and installment payment treatment, the value of the closely held business (or businesses) in the decedent's estate must exceed 65 percent of the value of the gross estate reduced by allowable expenses, indebtedness, and losses.

Section 6166A provides a 10-year extended payment of estate tax attributable to a closely held business where a lesser proportion of the estate is represented by its value. Under this 10-year extension, the value of the business must be in excess of either 35 percent of the value of the gross estate or 50 percent of the taxable estate.

[2] To qualify for this treatment, the value of the stock redeemed, plus the value of the other stock of the redeeming corporation includible in the estate, must be more than 50 percent of the "adjusted gross estate." The value of the stock redeemed can be no greater than the sum of all death taxes (and interest) plus funeral and administration expenses allowable as an estate tax deduction.

the trust could be used only to pay the Federal estate taxes of the owner of the newspaper.

The trust would be limited to holding amounts necessary to pay the potential Federal estate tax liability of the newspaper owner. In determining this limitation, the potential estate tax liability of a living individual would be considered to be 70 percent (i.e., the maximum estate tax rate) of the value of his interest in the business. Under the bill, any interest of a decedent in the trust would generally not be included in the decedent's gross estate.

If the owners of a newspaper which has established a trust for their benefit dispose of their interest in the newspaper, the amounts in the trust must be distributed and included in the owners' income and the deduction previously allowed the newspaper would be recaptured.

An "independent local newspaper" is defined as a newspaper publication which is not a member of a chain of newspapers if it has all of its publishing offices in a single city, community or metropolitan area, or, as of October 31, 1977, within one State. A "chain of newspaper publications" is defined as two or more newspaper publications under common control on October 31, 1977, and which are not published in a single city, community, or metropolitan area.

Under the bill, payment of any estate tax attributable to the value of an independent local newspaper not paid by a trust established under the provisions of this bill could be extended for a period of up to 15 years. This provision would apply where the estate does not qualify under existing extended payment provisions of present law. (See secs. 6166 and 6166A.)

Under this extended payment provision, the executor could elect to defer principal payments for up to 5 years from the due date of the estate tax return. However, interest for the first five years, payable at the rate of 4 percent, would be payable annually. Thereafter, the principal amount of the estate tax libability could be paid in from 2 to 10 annual installments. If the business ceases to qualify as an independent local newspaper, the extension would terminate.

Effective date

The provisions of the bill would apply to estates of decedents dying after October 1, 1977.

Treasury position

The Treasury opposes this bill.

5. H.R. 12846

Investment Tax Credit for Poultry Structures

Present law

Present law provides a credit against income tax liability for a taxpayer's investment in certain types of depreciable business assets. The investment credit rate is presently 10 percent of qualified investment in eligible property.

Eligible property for purposes of the investment tax credit includes tangible personal property (such as machinery and equipment) which is used in a trade or business or for the production of income. The investment credit is also allowed for other tangible property which is used as an integral part of manufacturing, production, extraction, or in furnishing certain utility services, even though such tangible property may otherwise be considered real (and not personal) property under local law. Farming is considered a production activity so that such items as fences, drain tiles, paved barnyards and water wells are eligible for the credit even though these items would be considered real property under local law.[1]

Buildings and their structural components generally are not eligible for the investment credit. The Internal Revenue Service has ruled that barns, stables and poultry houses are buildings and are ineligible for the credit.[2] However, an ineligible building is not considered to include certain special purposes structures which house property used as an integral part of a production activity (such as farming) where the structure is so closely related to the use of such property that it is clearly expected to be replaced when the property it houses is replaced. One indication of this type of structure is that the structure cannot be economically used for any other purpose other than that related to the property it houses.[3]

In 1971, the Senate Finance Committee stated that special purpose structures used in unitary hog-raising systems would be considered special purpose structures which qualify for the investment credit, rather than buildings.[4] However, the Internal Revenue Service considers that eligibility of special purpose farm structures must be approached on a case-by-case basis. For example, in two recent cases the Service contended that structures which are designed and used for poultry-raising and egg-producing activities were not eligible for the investment credit.[5]

Although the Service was unsuccessful in one of these cases, it is understood that the Service continues to adhere to the position that special purpose poultry-raising and egg-producing structures are not generally eligible for the investment credit.

Issue

The issue is whether special purpose structures for the housing, raising and feeding of poultry should be eligible for the investment tax credit.

Description of the bill

The bill would amend the investment credit rules to specifically provide that enclosures or structures which are used to house, raise or feed poultry or their produce are to be eligible for the investment credit if the structure is specifically designed and used solely for these purposes and for providing work space solely for the stocking or collection of poultry or their produce, maintenance of the structure, and maintenance of equipment within the structure.

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[1] Rev. Rul. 66-89, 1966-1 Cum. Bull. 7.
[2] *Ibid.*
[3] Regs. § 1.48-1(e)(1).
[4] S. Rept. No. 92-437, 92d Cong., 1st Sess. (1971).
[5] *Melvin Satrum*, 62 T.C. 413 (1974), *nonacq.*, 1978-23 Int. Rev. Bull. 7 (June 5, 1978); *Starr Farms, Inc.* v. *U.S.*, 78-1 U.S.T.C. ¶9183 (W.D. Ark. 1977).

Effective date

The bill would apply to taxable years ending after August 14, 1971.

Treasury position

The Treasury opposes this bill.

6. H.R. 12950

Nonrecognition of Gain on Sale of Residence for Certain Members of the Armed Forces

Present law

Under present law, the entire amount of gain or loss realized on the sale or exchange of property generally is recognized. However, under a so-called "rollover" provision of the Code (sec. 1034), gain is not recognized on the sale or exchange of a taxpayer's principal residence if a new principal residence, at least equal in cost to the adjusted sales price of the old residence, is purchased and used by the taxpayer as his or her principal residence within a period beginning 18 months before and ending 18 months after the date of the sale of the old residence. The basis of the new residence then is reduced by the amount of gain not recognized on the sale of the old residence.

The replacement period is suspended during any time that the taxpayer (or his or her spouse) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence. Currently, this suspension may not extend more than four years beyond the date of the sale of the old residence. Thus, a member of the Armed Forces generally is not required to recognize gain on the sale of a principal residence if he or she purchases a new principal residence within four years after the date of the sale of the old residence.

Issue

The issue is whether the period of time in which a new principal residence may be purchased, in order to qualify for nonrecognition of gain on the sale of the old principal residence, should be extended in the case of a member of the Armed Forces who is stationed outside of the United States or is required to reside in Government-owned quarters.

Description of the bill

The bill would extend the period of time in which a member of the Armed Forces who is stationed outside of the United States or is required to reside in Government-owned quarters may purchase a new principal residence in order to qualify for nonrecognition of gain on the sale of the old principal residence. Under the bill, a member of the Armed Forces who is stationed outside of the United States or is required to reside in Government-owned quarters after the date of the sale of the principal residence generally will not be required to recognize gain on the sale of the residence if the taxpayer purchases a new principal residence within the later of four years after the date of the sale of the old residence or one year after the date on which the taxpayer is no longer stationed outside of the United States or is no longer required to reside in Government-owned quarters.

Effective date

The bill would apply to sales of old residences for eligible members of the Armed Forces occurring on or after January 1, 1973.

Treasury position

The Treasury has no objection to this bill.

7. H.R. 13047

Tax Accounting Rules for Trading Stamps and Coupons Redeemed After the Close of the Taxable Year

Present law

An income tax regulation (§ 1.451–4) provides a rule under which accrual method taxpayers who issue trading stamps and premium coupons are allowed to reduce gross receipts by the estimated cost of redeeming stamps or coupons outstanding at the close of the taxable year. The term "premium coupon" is not defined in the regulation, nor have the courts directly addressed the question of what constitutes a premium coupon.

The Internal Revenue Service has ruled that two types of "cents-off" or "discount" coupons do not qualify under the regulation for the estimated deduction.[1] The two types are called "media coupons" and "in pak/on pak coupons". Media coupons are issued gratuitously through the mail or by newspaper, etc., while in pak/on pak coupons are included with merchandise purchased by the consumer. Both types allow the consumer "cents off" (or a discount) on the purchase price of specified merchandise. It is not clear whether media coupons or in pak/on pak coupons are of the type to which the regulation was intended to apply.

Issue

The issue is whether a deduction from gross receipts should be allowed for the estimated cost of redeeming discount or cents-off coupons outstanding at the close of the taxable year.

Description of the bill

The bill would codify the existing Treasury Regulations with an amendment making it clear that gross receipts for the taxable year would be reduced by the estimated cost of redeeming discount or cents-off coupons outstanding at the close of the taxable year.

Effective date

The bill would apply to taxable years beginning after December 31, 1953.

Treasury position

The Treasury opposes this bill. It is currently studying the problem and expects to propose an alternative solution shortly.

[1] Rev. Rul. 73–415, 1973–2 C.B. 154 and Rev. Rul. 78–212, I.R.B. 1978–23, p. 11.

8. H.R. 13092

Small Tax Case Procedures of the Tax Court and Authority of Tax Court Commissioners

Present law

Under present law, taxpayers who file a petition with the Tax Court for a redetermination of income, estate, or gift tax deficiencies or overpayments have the option of having their cases heard as small tax cases under an expedited and simplified procedure (sec. 7463). The option, however, is available only where the amount of the deficiency, or claimed overpayment, does not exceed $1,500, and where the cases are approved by the Tax Court. Trials of these cases are conducted informally. The rules of evidence are relaxed and neither party is required to file a brief. In addition, neither party may appeal, and decisions in these cases are not treated as precedents for any other case or purpose.

Typically, small tax cases are heard by commissioners appointed by the Chief Judge of the Tax Court (sec. 7456(c)). However, the law which provides for the appointment of commissioners does not specifically authorize them to administer oaths, issue subpoenas or examine witnesses. Under present law, judges and certain other employees, are authorized to administer oaths and issue subpoenas, but only judges are authorized to examine witnesses (sec. 7456(a)).

Following the hearing in small tax cases, the commissioners file reports which, upon review by the Chief Judge, may be adopted as reports of the Court. After a report is filed by the Court, a decision will be entered. The decision is based on the report and is comprised of a computational determination of the deficiency or overpayment. Under present law, the decision in a small tax case must be entered by a judge, rather than by a commissioner, in accordance with the report of the Tax Court (sec. 7459(a)).

Issues

The issues are (1) whether the jurisdictional amount for electing the small tax case procedure should be increased from $1,500 to $5,000; (2) whether commissioners should be authorized to administer oaths, issue subpoenas, and examine witnesses; and (3) whether commissioners should be authorized to enter decisions in small tax cases.

Description of the bill

The bill would increase the jurisdictional amount for electing the small tax case procedure from $1,500 to $5,000.

The bill also would specifically authorize commissioners to administer oaths, issue subpoenas, and examine witnesses.

Finally, the bill would expressly authorize the commissioners to prepare reports in small tax cases, and permit them to make decisions in such cases. However, the authority of the Court to review reports and decisions made by commissioners would be preserved.

Effective date

The provision of the bill increasing the jurisdictional amount in small tax cases from $1,500 to $5,000 would be effective on the first day of the first calendar month beginning more than 180 days after the date of enactment of the bill. The provisions of the bill relating to the powers of commissioners would be effective on the date of enactment.

Treasury position

The Treasury supports this bill. However, it recommends that it be made clear that the Government will have the right to remove appropriate cases from the small tax case category.

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