

**DESCRIPTION OF REVENUE PROVISION IN
CHAIRMAN'S AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 984, THE "CARIBBEAN AND CENTRAL AMERICA
RELIEF AND ECONOMIC STABILIZATION ACT"**

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS

on
June 10, 1999

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



June 9, 1999

JCX-27-99

INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of modifications to the provisions of H.R. 984, the “Caribbean and Central America Relief and Economic Stabilization Act” as ordered favorably reported by the Subcommittee on Trade of the House Committee on Ways and Means on May 18, 1999. These modifications are contained in the Chairman’s amendment in the nature of a substitute to the bill, to be considered by the House Committee on Ways and Means on June 10, 1999.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of Revenue Provision in Chairman’s Amendment in the Nature of a Substitute to H.R. 984, the “Caribbean and Central America Relief and Economic Stabilization Act”* (JCX-27-99), June 9, 1999.

DESCRIPTION OF PROVISION

The provisions contained in H.R. 984, the "Caribbean and Central America Relief and Economic Stabilization Act," as favorably reported by the Subcommittee on Trade of the Committee on Ways and Means on May 18, 1999, would be modified by the addition of the following revenue provision.

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.