[JOINT COMMITTEE PRINT]

DESCRIPTION OF MISCELLANEOUS TAX BILLS

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT REVENUE MEASURES

OF THE

COMMITTEE ON WAYS AND MEANS

ON JUNE 19, 1980

PREPARED FOR THE USE OF THE

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INTRODUCTION

This pamphlet provides a description of seven miscellaneous tax bills (H.R. 4175, H.R. 4511, H.R. 4544, H.R. 4620, H.R. 5512, H.R. 5847, and H.R. 7220) scheduled for a public hearing on June 19, 1980, by the Ways and Means Subcommittee on Select Revenue Measures. The first part is a summary of the bills. This is followed by a more detailed description of the bills (in numerical order), including a description of present law, issues involved, an explanation of the provisions of the bills, effective dates, and estimated revenue effects.

A separate pamphlet describes H.R. 7553, which is also scheduled for the hearing on June 19, 1980.

I. SUMMARY

1. H.R. 4175—Messrs. Duncan (Tenn.), Conable, Bevill, Lott, Brinkley, and Frost

Income, Gift, and Estate Tax Deduction for Contributions for the Construction or Maintenance of Buildings Housing Fraternal Organizations

The bill would allow a deduction for Federal income, gift, and estate tax purposes for a contribution or gift to a tax-exempt fraternal organization for the construction or maintenance of a building which is principally used to house the organization.

2. H.R. 4511—Messrs. Mineta, Dougherty, Ertel, LaFalce, Lagomarsino, Gilman, Martin, Matsui, Patterson, Thompson, Heftel, Goldwater, Mrs. Spellman, and Mr. Fisher

Taxation of Certain Homeowners Associations at the Corporate Graduated Rates

Under present law, a qualified homeowners association is not taxed on its exempt function income. Other income, less certain deductions, is taxed at the highest corporate rate of 46 percent. The bill would permit this income to be taxed at the corporate graduated rates.

3. H.R.—4544—Mr. Beard (Tenn.)

Election of Estate Tax Alternate Valuation

Under present law, an executor may elect to value assets for estate tax purposes as of the date of the decedent's death or the alternate valuation date which is generally six months after the decedent's death. Alternate valuation must be elected on an estate tax return that is timely filed.

The bill would permit an executor to elect alternate valuation on a timely filed estate tax return or, if no estate tax return is timely filed, on the first estate tax return filed.

Generally, the bill would apply with respect to estates of decedents dying after December 31, 1977. For estates of decedents dying on or before that date, the bill would apply only if an election had been attempted on the first estate tax return filed and if the executor elects the provisions of the bill within 90 days after enactment of the bill. This transitional rule is intended to benefit the estate of Sylvia Buring of Tennessee.

4. H.R. 4640—Messrs. Pickle and Archer

Local Newspaper Exemption From Foundation Business Holding Provisions

Under present law, private foundations are limited in their percentage ownership in a business enterprise. The bill would exempt holdings in an independent local newspaper business from these restrictions.

The bill would apply to the Houston Endowment of Houston, Texas, and any other private foundation whose business holdings meet the requirements of the bill.

5. H.R. 5512—Messrs. Pickle and Archer

Exemption to Private Foundation "Self-Dealing" Rules for Continuation of Certain Leasing Arrangements

Present law generally prohibits certain "self-dealing" transactions, including leasing arrangements, between a private foundation and a "disqualified person." There is a 10-year transitional rule that permits continuation of an otherwise prohibited leasing arrangement pursuant to binding contract in effect on October 9, 1969 (or pursuant to renewals of such contract), if the leasing arrangement is at least as favorable to the foundation as an arm's length transaction with an unrelated party.

The bill would provide a permanent exception from the "self-dealing" rules under Code section 4941 in certain circumstances where a private foundation leases office space from a disqualified person, if the lease is pursuant to a binding contract in effect on October 9, 1969 (or renewals thereof) and if at the time of execution the lease was not disadvantageous to the foundation. For the lease to qualify for this exception, the space must be leased to the foundation on a basis no less favorable than that on which such space would be made available in an arm's-length transaction, and the leased space must be in a building in which there are tenants who are not disqualified persons.

This bill would apply to the Moody Foundation of Galveston, Texas, and any other private foundation leasing arrangement meeting the specific requirements of the bill.

6. H.R. 5847—Messrs. Gibbons, Young (Fla.), Bafalis, and Ireland

Tax Exemption for Industrial Development Bonds Used To Refinance Certain Docks and Wharves

Under present law, tax-exempt industrial development bonds may be used to provide docks and wharves. However, interest paid with respect to such obligations will not be tax-exempt where the proceeds are used to refinance indebtedness with respect to existing docks and wharves which were not originally financed with tax-exempt bonds. The bill would allow the use of tax-exempt industrial developments bonds for the refinancing of existing docks and wharves in Tampa, Florida, which were not originally financed with tax-exempt bonds. The principal beneficiary of the bill would be the Agrico Chemical Company.

7. H.R. 7220—Mr. Brown (Ohio)

Extension of Time To Amend Governing Instruments of Charitable Split-Interest Trusts

The Tax Reform Act of 1969 imposed new requirements which must be satisfied by charitable lead and remainder trusts in order for an income, gift, or estate tax deduction to be allowed for the transfer of an income interest or a remainder interest to charity. However, certain exceptions were provided in the case of wills executed, or property transferred in trust, on or before October 9, 1969, in order to allow a reasonable period of time to take the new rules into account.

The bill would extend for two years, until December 31, 1980, the time to amend, or commence judicial proceedings to amend, instruments of both charitable lead trusts or charitable remainder trusts which were executed before December 31, 1977, in order to conform such instruments to the 1969 Act requirements for a charitable deduction to be allowed for income, gift, or estate tax purposes.

II. DESCRIPTION OF BILLS

1. H.R. 4175—Messrs. Duncan (Tenn.), Conable, Bevill, Lott, Brinkley, and Frost

Income, Gift, and Estate Tax Deduction for Contributions for the Construction or Maintenance of Buildings Housing Fraternal Organizations

Present law

Under present law, a deduction is allowed for Federal income tax purposes (with certain exceptions not relevant here) for contributions to certain specified types of organizations. In the case of contributions to a domestic fraternal society, order, or association, operating under the lodge system, a charitable income tax deduction is allowed only if the contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. In the case of the Federal estate and gift taxes, a transfer or gift to a fraternal society, order, or association operating under the lodge system is deductible only if (1) the transfer or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) the fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and (3) the fraternal society, order, or association does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

In addition, certain types of organizations are exempt from Federal income tax (other than unrelated business income tax). One of the types of organizations that is exempt from income tax is a domestic fraternal society, order, or association, operating under the lodge system if its net earnings are devoted exclusively to religious, charitable, scientific, literary, educational, and *fraternal* purposes and it does not provide for the payment of life, sick, accident, or other benefits (Code sec. 501(c)(10)). Thus, while the net earnings of an exempt fraternal society can be used for religious, charitable, scientific, literary, educational or fraternal purposes, a deduction is not allowable for a contribution to such a society if the contribution may be used for *fraternal* purposes. The Internal Revenue Service has ruled that contributions to an organization or fund for the purpose of acquiring, erecting, or maintaining a building to be used by a fraternal organization in carrying on its activities are not deductible even though some of its activities may be of a charitable nature. Rev. Rul. 56–329, 1956–2 C.B. 125.

Issue

The issue is whether a deduction should be allowed for Federal income, gift, and estate tax purposes for the contribution or gift to a domestic fraternal society, order, or association, operating under the lodge system, for the construction or maintenance of a building which is principally used to house the organization.

Explanation of the bill

The bill would allow a deduction for Federal income, gift, and estate tax purposes for a contribution or gift to an organization described in section 501(c)(10) for the construction or maintenance of a building the principal purpose of which is to house the organization.

Effective date

The provisions of the bill would be effective for gifts or contributions made after the date of enactment.

Revenue effect

It is estimated that this bill will reduce budget receipts by $5 to $10 million annually.

2. H.R. 4511—Messrs. Mineta, Dougherty, Ertel, LaFalce, Lagomarsino, Gilman, Martin, Matsui, Patterson, Thompson, Heftel, Goldwater, Mrs. Spellman, and Mr. Fisher

Taxation of Certain Homeowners Associations at the Corporate Graduated Rates

Present law

Homeowners associations

Under present law, a qualified homeowners association (a condominium management association or a residential real estate association) may elect to be treated as a tax-exempt organization (Code sec. 528). If an election is made, the association will not be taxed on "exempt function income." Exempt function income means membership dues, fees, and assessments received from persons who own residential units in the particular condominium or subdivision and who are members of the association.

The association will be taxed, however, on income which is not exempt function income. For example, any interest earned on amounts set aside in a sinking fund for future improvements is taxable. Similarly, any amount paid by persons who are not members of the association for use of the association's facilities, such as tennis courts, swimming pools, golf courses, etc., is taxable. Further, any amount paid by members for special use of the association's facilities, the use of which would not be available to all the members as a result of having paid the membership dues, fees, or assessments required to be paid by all members of the association, will be taxable. For example, if the membership dues, fees, or assessments do not entitle a member to use the association's party room or to use the swimming pool after a certain time period, then amounts paid for this use are taxable to the association.

Deductions from nonexempt income are allowed for expenses directly related to the production of such income, and a $100 deduction against taxable income is provided so that associations with only a minimal amount of taxable income will not be subject to tax. However, a net operating loss deduction is not allowed, and the special deductions for corporations (such as the dividends received deduction) are not allowed.

A homeowners association is taxed on its taxable income at the highest corporate rate (46 percent). If the association has net long-term capital gain, the tax rate is 28 percent for determining the association's alternative tax for capital gains.

Corporate tax rates

Under present law, a corporation is taxed at graduated rates on the first $100,000 of taxable income. The corporate rates are 17 percent on the first $25,000 of taxable income, 20 percent on the next $25,000, 30 percent on the next $25,000, 40 percent on the next $25,000, and 46 percent on all taxable income above $100,000. The alternative tax rate for capital gains is 28 percent.

The Code contains rules to prevent abuse of the graduated rate structure. A controlled group of corporations is limited in the aggregate to a maximum of $25,000 of taxable income in each of the rate brackets below the 46 percent bracket (Code sec. 1561). These rules are used to prevent income splitting by such commonly controlled corporations.

Issues

The issues are whether the taxable income of a homeowners association should be taxed at rates less than the highest corporate tax rate and, if so, what is the appropriate rate (or rates).

Explanation of the bill

The bill would provide that the taxable income of a homeowners association would be subject to the same graduated rates of tax as would a corporation's taxable income.

Effective date

The provisions of the bill would apply to taxable years beginning after December 31, 1978.

Revenue effect

It is estimated that this bill would reduce budget receipts by $8 million in fiscal year 1981 (due to the retroactive effective date) and $4 million per year thereafter.

Other possible issues for subcommittee consideration

The subcommittee may wish to consider the following issues related to this bill. The basic rationale for the tax treatment of homeowners associations in the Code is that activities which would not be taxed if engaged in by homeowners individually should not be subject to tax when the individuals band together in an association. An extension of this principle would appear to be that the rate of taxation on invested funds of the association should not greatly exceed the rate that would be imposed on the funds if they were invested by individual members of the association.

On the other hand, taxation of an association at the regular corporate rates would generally result in the taxation of this income at a rate of 17 percent. Members of homeowners associations are likely to be in higher tax brackets. In addition, there are apparently no rules which would prevent abuse of the graduated rate structure by commonly controlled or related homeowners associations. The tests for commonly controlled corporations would not appear to be effective in nonprofit corporations which do not normally have stock ownership. Also, as is the case with political organizations, there appear to be almost no barriers to prevent the multiplication of organizations in order to minimize the tax burden.

In addition, if the graduated rates are to apply, the subcommittee may wish to consider whether the $100 deduction against taxable income should be repealed.

3. H.R. 4544—Mr. Beard (Tenn.)

Election of Estate Tax Alternate Valuation

Present law

Under present law, the executor of a decedent's estate may value the property in the gross estate as of the date of the decedent's death or the "alternate valuation date," generally six months after the date of the decedent's death (Code sec. 2032). Alternate valuation provides estate tax relief when property in a decedent's estate declines in value shortly after the decedent's death. Alternate valuation must be elected by the executor on an estate tax return filed within nine months of the date of death or any period of extension granted by the Internal Revenue Service (Code sec. 2032(c)).[1]

Under Code section 6081, the Internal Revenue Service may grant an extension of time to file an estate tax return. Except in the case of taxpayers who are abroad, the Internal Revenue Service has no discretionary authority to grant an extension exceeding six months.

Issue

The issue is whether an executor should be permitted to elect alternate valuation on an estate tax return that is not timely filed.

Explanation of the bill

The bill would permit the election of alternate valuation on a timely filed estate tax return or the first late return filed. In the case of a timely filed return, an executor would not be permitted to change the election after the due date for the return has passed. In the case of a late return, the election could not be changed after the first return has been filed.

Effective date

The provisions of the bill would apply to estates of decedents dying after December 31, 1977.[2]

The bill includes a transitional rule applicable to estates of decedents dying before January 1, 1978. The transitional rule would permit an effective election of alternate valuation to be made within 90 days after the enactment of the bill, if an election of alternate valuation had been indicated in the first estate tax return filed. If an election is made

[1] An executor may elect alternate valuation by checking a box on the second page of Form 706, United States Estate Tax Return. An executor's failure to check the appropriate box on a timely filed Form 706 may not prevent the use of alternate valuation if the entries on the form are otherwise consistent with an election of alternate valuation (Rev. Rul. 61-128, 1961-2 C. B. 150).

[2] The committee may wish to change the effective date to reflect the passage of time since this legislation was first introduced as S. 3381 in the 95th Congress.

under the transitional rule, an assessment of a deficiency in tax may be made within 90 days of the election although such assessment is otherwise barred. The transitional rule would benefit the estate of the late Sylvia Buring of Tennessee.

Revenue effect

This bill would have a negligible effect upon budget receipts.

Other Congressional action

The Senate Finance Committee has approved an identical provision, which is contained in H.R. 2492 as amended (S. Rept. 96–532).

4. H.R. 4640—Messrs. Pickle and Archer

Local Newspaper Exemption From Foundation Business Holding Provisions

Present law

The Tax Reform Act of 1969 imposed an excise tax upon the excess business holdings of a private foundation (sec. 4943 of the Code). Generally, under the excess business holdings provisions, the combined ownership of a business by a private foundation and all disqualified persons cannot exceed 20 percent of the voting stock of the business (35 percent if other persons have effective control of the business).

The 1969 Act provided that if a private foundation and disqualified persons together had holdings on May 26, 1969 in excess of the permitted amounts under the general rules, then those holdings could be retained if they consisted of not more than 50 percent of the business. If the combined holdings exceeded 50 percent of the business on that date, then over a transitional period the combined holdings have to be reduced to 50 percent (ultimately to 35 percent if the disqualified persons hold, in the aggregate, no more than 2 percent of the business; if they hold more than 2 percent, then the combined holdings may continue to be as much as 50 percent, of which the foundation itself may hold no more than 25 percent).

Issue

The issue is whether ownership by a private foundation in an independent local newspaper business should be exempted from the excess business holding provision of present law.

Explanation of the bill

The bill provides that an independent local newspaper business would not be treated as a business enterprise for purposes of the excess business holding provisions of the Code (sec. 4943). Thus, there would be no limitation on the percentage interest in such an enterprise that a foundation may own.

An independent local newspaper business means a business (whether organized as a corporation, partnership, or a proprietorship), no interests in which are traded in an established securities market, which publishes an independent local newspaper. 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 January 1, 1979, within one State. A "chain of newspaper publications" is defined as two or more newspaper publications under common control on January 1, 1979, and which are not published in a single city, community, or metropolitan area.

This provision would apply to the Houston Endowment of Houston, Texas, and any other private foundation which also meets the specific requirements of the provision.

Effective date

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

Revenue effect

The revenue estimate for this bill is not yet available.

5. H.R. 5512—Messrs. Pickle and Archer

Exception to Private Foundation "Self-Dealing" Rules for Continuation of Certain Leasing Arrangements

Present law

The 1969 Tax Reform Act in effect prohibited certain "self-dealing" transactions between a private foundation and "disqualified persons" with respect to that foundation. These prohibited transactions include leasing arrangements between a private foundation and disqualified persons (Code sec. 4941(d) (1) (A)).

The 1969 Act also provided a transitional rule permitting continuation—until taxable years beginning after December 31, 1979—of otherwise prohibited leasing arrangements pursuant to binding contracts in effect on October 9, 1969 (or pursuant to renewals of such contracts). In order to qualify for this 10-year transitional protection, the leasing arrangement must be at least as favorable to the foundation as an arm's-length transaction with an unrelated party (P.L. 91-172, sec. 101(l) (2) (C)).

Issue

The issue is whether a private foundation which has been leasing office space from a disqualified person pursuant to an arrangement protected by the 10-year transitional rule should be able to continue such arrangement thereafter if the space is made available to the foundation on a basis no less favorable than that in an arm's-length transaction and if the leased space is in a building in which there are tenants who are not disqualified persons.

Explanation of the bill

The bill would provide a permanent exception from the self-dealing rules under Code section 4941 in certain circumstances where a private foundation leases office space from a disqualified person, if the lease is pursuant to a binding contract in effect on October 9, 1969 (or renewals thereof) and if at the time of execution the lease was not disadvantageous to the foundation.[1] For the lease to qualify for this exception, the space must be leased to the foundation on a basis no less favorable than that on which such space would be made available in an arm's-length transaction, and the leased space must be in a building in which there are tenants who are not disqualified persons.

The provision would apply to the Moody Foundation of Galveston, Texas, and any other private foundation which has been leasing space

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[1] The regulations indicate that present law requires that the leasing transaction must remain throughout the term of the lease as favorable to the foundation as a current arm's-length transaction with an unrelated person (Treas. Regs. § 53.4941(d)-4(c)(1)). Renegotiation of contracts may be required in certain cases (Treas. Regs. § 53.4941(d)-4(c)(2)).

from a disqualified person pursuant to an arrangement covered by the 10-year transitional rule and has a lease meeting the specific requirements of the provision.

Effective date

The bill would be effective on the date of enactment.

Revenue effect

It is estimated that this provision will reduce budget receipts by less than $5 million annually, beginning with fiscal year 1981.

Other Congressional action

The Senate Finance Committee has approved an identical provision, which is contained in H.R. 2297 as amended (S. Rept. 96–504).

6. H.R. 5847—Messrs. Gibbons, Young (Fla.), Bafalis, and Ireland

Tax Exemption for Industrial Development Bonds Used to Refinance Certain Docks and Wharves

Present law

Under present law, interest on State and local government obligations is generally exempt from Federal income tax. However, since 1968, tax exemption has been denied to State and local government issues of industrial development bonds (IDBs). A State or local government bond is an IDB if (1) all or a major portion of the proceeds of the issue are to be used in any trade or business of a person other than a State or local government or tax-exempt organization, and (2) payment of principal or interest is secured by an interest in, or derived from payments with respect to, property or borrowed money used in a trade or business.

An exception to the denial of tax exemption for the interest on an IDB applies in the case of such obligations which are used to provide exempt activity facilities, including docks and wharves (Code sec. 103(b)(4)(D)). This exception applies where the proceeds of an IDB are to be used to finance the construction of a new facility or to finance the acquisition of an existing facility from an unrelated person. However, under the IRS regulations, tax exempt IDBs cannot be issued where the proceeds of an IDB are to be used to refinance an existing facility which was not originally financed with tax-exempt bonds (e.g., it was conventionally financed). Under these IRS regulations, tax exempt IDBs can be issued for the financing of an existing facility only where a person who was a substantial user of the facilities before issuance of the obligations and who receives a certain portion of the proceeds of the obligation will not be a substantial user of the facilities following the issuance of the obligations (Treas. Reg. sec. 1.103–8(a)(5)(iv)). In general, a substantial user of a facility includes any nonexempt person who regularly uses a part of such facility in his trade or business where (1) the gross revenue derived by such user with respect to such facility is more than 5 percent of the total revenue derived by all users of such facility or (2) the amount of area of the facility occupied by such user is more than 5 percent of the entire usable area of the facility (Treas. Reg. sec. 1.103–11(b)). For example, the interest on an IDB would not be tax exempt in the case where the proceeds of the obligation are used by a governmental entity to purchase docks and wharves which are then, in turn, leased back to the prior owner for a period equal to the useful life of the docks and wharves.

Issue

The issue is whether tax-exempt IDBs should be allowed to be used to refinance certain existing conventionally financed docks and wharves located in Tampa, Florida.

Explanation of the bill

The bill provides that interest on certain IDBs used to refinance existing conventionally financed docks and wharves in Tampa, Florida, would be exempt from Federal income taxation. In order to qualify under this provision, six requirements must be satisfied. First, part of the proceeds of the obligations must be used to make substantial improvements in the existing wharf facilities acquired with the obligations. Second, it must reasonably be expected that there will be more than one person who will be a substantial user of the facilities after the issuance of the obligations. Third, at least one of the substantial users of the existing wharf facility after the issuance of the obligations must not have been a substantial user before the issuance of the obligation. Fourth, all facilities with respect to which financing is provided must be owned by the issuing governmental unit. Fifth, the only interest in such facilities to be held by a substantial user must be a lease executed after issuance of the obligations for a period (including options) of not more than 80 years and under which no lessee has an option to purchase the facilities. Finally, the facilities must be located in a port with respect to which section 101 of Public Law 91–611 authorized the initiation and partial accomplishment of a project as described in House Document No. 91–401.[1]

[1] This document describes only the Port of Tampa, Fla.

The principal beneficiary of this bill would be the Agrico Chemical Company.

Effective date

The bill would be effective for obligations issued after the date of enactment.

Revenue effect

It is estimated that this bill would reduce budget receipts by $1 million in fiscal year 1981, $2 million in 1982, and $3 million in 1983, 1984 and 1985.

7. H.R. 7220—Mr. Brown (Ohio)

Extension of Time To Amend Instruments of Charitable Split-Interest Trusts

Present law

The Tax Reform Act of 1969 imposed new requirements that must be met in order for a charitable deduction to be allowed for income, gift, and estate tax purposes for the transfer of a split interest to charity (i.e., part charitable and part noncharitable). In the case of a remainder interest in trust, the interest passing to charity must be in either a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. In the case of an "income" interest passing to charity (i.e., a charitable lead trust), the "income" interest must be either a guaranteed annuity or a fixed percentage of the fair market value of the trust (determined annually). These rules generally apply for estate and gift tax purposes, in the case of decedents dying, or transfers made, after December 31, 1969, and for income tax purposes to contributions and transfers in trust after July 31, 1969. However, certain exceptions were provided in the case of wills executed, or property transferred in trust, on or before October 9, 1969. In general, these exceptions did not apply the new rules to these wills and revocable trusts until October 9, 1972 (unless the will was modified in the meantime), to allow a reasonable period of time to take the new rules into account.

In 1970, the Internal Revenue Service issued proposed regulations with respect to the new requirements for a charitable remainder annuity trust or unitrust (under sec. 664 of the Code). These regulations provided additional transitional rules allowing trusts created after July 31, 1969 (which did not come within the statutory exceptions) to qualify for an income, estate, or gift tax deduction if the governing instrument was amended prior to January 1, 1971. Subsequently, the date by which the governing instrument had to be amended was further extended by the Internal Revenue Service. On August 22, 1972, the Internal Revenue Service issued final regulations which further extended the date to December 31, 1972. On September 5, 1972, the Internal Revenue Service published Rev. Rul. 72–395, 1972–2 C.B. 340, which provided sample provisions for inclusion in the governing instrument of a charitable remainder trust that could be used to satisfy the requirement under section 664.

In 1974, Congress extended the date by which the governing instrument of a trust created after July 31, 1969, and before September 21, 1974, or pursuant to a will executed before September 21, 1974, could be amended (P.L. 93–483). Under that Act, if the governing instrument was amended to conform by December 31, 1975, to meet the requirements of a charitable remainder annuity trust or unitrust or pooled income fund, an estate tax deduction was allowed for the charitable remainder interest which passed in trust from the decedent even though the interest failed to qualify at the time of the decedent's death.

The Tax Reform Act of 1976 extended to December 31, 1977, the date by which the governing instrument of a charitable remainder trust created after July 31, 1969 and before December 31, 1977, must be amended in order to qualify as a charitable remainder annuity or unitrust or pooled income fund for purposes of the estate tax deduction. The Act also extended the date in the case of a trust created after July 31, 1969, pursuant to a will executed before December 31, 1977.

In the Revenue Act of 1978, Congress extended the amendment procedure to instruments establishing charitable lead trusts, and charitable remainder trusts in the case of income and gift taxes, which were created before December 31, 1977 (or created pursuant to a will executed before such date) which were amended (or judicial proceedings to amend were commenced) by December 31, 1978. As part of that provision, the Act extended until December 31, 1978, the time to amend (or to commence judicial proceedings to amend) instruments establishing charitable remainder trusts which were created before December 31, 1977 (or created pursuant to a will executed before such date) in order to conform such instruments to the requirements of the Tax Reform Act of 1969 for a charitable deduction to be allowed for estate tax purposes.

Issue

The issue is whether an additional two years should be granted (until December 31, 1980) to amend the governing instruments of charitable split interest trusts which were executed before 1978 in order to conform them to the requirements of the Tax Reform Act of 1969 for a charitable deduction to be allowed for income, gift, or estate tax purposes.

Explanation of the bill

The bill would extend for 2 years (i.e., until December 31, 1980) the time to amend (or commence judicial proceedings to amend) instruments of both charitable lead trusts and charitable remainder trusts which were created before December 31, 1977 (or which were created pursuant to a will executed before such date) in order to conform such instruments to the requirements of the Tax Reform Act of 1969 for a charitable deduction to be allowed for income, gift, or estate tax purposes.

Effective date

The bill would be effective, for estate and gift tax purposes, for decedents dying and transfers after December 31, 1969, and, for income tax purposes, for contributions and transfers in trust after July 31, 1969.

Revenue effect

It is estimated that the bill will decreasse budget receipts by $8 million in fiscal year 1980, by $8 million in fiscal year 1981, and will not have any revenue effect thereafter.

Other Congressional action

The Senate Finance Committee has approved an identical provision, which is contained in H.R. 2492 as amended (S. Rept. 96–532).

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