[JOINT COMMITTEE PRINT]

DESCRIPTION OF TAX BILLS

(S. 352, S. 483, S. 502, and S. 565)

SCHEDULED FOR A HEARING

BEFORE THE

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

OF THE

COMMITTEE ON FINANCE

ON MARCH 16, 1981

PREPARED FOR THE USE OF THE

COMMITTEE ON FINANCE

BY THE STAFF OF THE

JOINT COMMITTEE ON TAXATION

MARCH 13, 1981

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1981

75-176 O

JCS-6-81

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INTRODUCTION

The bills described in this pamphlet have been scheduled for a public hearing on March 16, 1981, by the Senate Finance Subcommittee on Taxation and Debt Management.

There are four bills scheduled for the hearing: S. 352 (relating to the political contributions credit), S. 483 (relating to the excise tax on wagers and the occupational tax on wagering), S. 502 (relating to exemption for foreign pension plans), and S. 565 (relating to the deduction for moving expenses).

The first part of the pamphlet is a summary of the bills. This is followed by a more detailed description of the bills (in numerical order), including present law, issues, an explanation of the bills, effective dates, and estimated revenue effects.

I. SUMMARY

1. S. 352—Senator Packwood

Political Contributions Credit

Present law (Code sec. 41) allows individual taxpayers an income tax credit equal to one-half the amount of the taxpayer's political contributions during the year, but not in excess of $50 ($100 in the case of a joint return).

Contributions eligible for the credit include contributions made to organizations operated to influence the nomination or election of candidates for public office, for use by the organization to further the candidacy of such candidates. In "letter rulings" issued in February 1980, the Internal Revenue Service ruled that the credit was not available for contributions made to certain organizations described as carrying on activities to oppose the nomination or election of particular candidates for public office.

Under the bill, the credit would be available for contributions made to campaign organizations operated to influence the nomination or election of candidates for public office, for use by the organization for such purpose. Thus under the bill, the credit would be available for contributions made to campaign organizations which either support or oppose particular candidates for office.

The provisions of the bill would be effective with respect to taxable years ending after December 31, 1971 (the effective date of the political contributions credit provisions as enacted in the Revenue Act of 1971).

2. S. 483—Senators Cannon and Laxalt

Exemption From Excise Tax on Wagers and Occupational Tax on Wagering in States Authorizing Wagering

Under present law, a two-percent excise tax is imposed on the amount of certain wagers. In addition, an annual $500 occupational tax is imposed on a person who is liable for the excise tax or who receives wagers subject to the tax. These taxes do not apply with respect to parimutuel wagering, a wager placed in a coin-operated device, or a wager in a State-conducted lottery (Code secs. 4401–4405, 4411–4414).

The bill would exempt from the two-percent excise tax any wager authorized under State law, and would exempt from the annual $500 occupational tax any person authorized by State or local law to engage in the business of accepting wagers or to receive wagers on behalf of any such person.

The bill would apply to taxable periods beginning after June 30, 1981.

3. S. 502—Senators Moynihan and Wallop

Exemption for Foreign Pension Plans

Under present law, income earned by a qualified U.S. pension plan, or income earned by life insurance companies on behalf of qualified plans, generally is not subject to income tax until distributed as benefits (Code sec. 501). In many instances, foreign pension plans fail to satisfy the requirements under U.S. tax law for qualified status. Accordingly, U.S-source investment income of foreign pension plans is subject to U.S. tax pursuant to the income tax rules generally applicable to foreign investors. Also, income earned by life insurance companies on behalf of foreign pension plans is taxable to the insurance company as well as to the pension plan when the income is distributed to the plan.

The bill would exempt certain foreign pension plans from tax on U.S.-source income and would also exempt U.S.-source income when earned on behalf of such foreign plans through pooled asset accounts managed by U.S. insurance companies. A foreign pension plan would qualify for this exemption if (1) the plan is maintained primarily to provide retirement or similar benefits to employees who are primarily nonresident alien individuals; (2) the assets of the plan must, pursuant to foreign law, be segregated from the employer's assets; and (3) the income of the plan is exempt from foreign tax or is subject to a rate lower than the generally applicable rate of foreign tax.

The provisions of the bill would be effective on January 1, 1981.

4. S. 565—Senator Stevens

Increased Dollar Limitations on Moving Expense Deduction

Present law provides a deduction from gross income for certain expenses of job-related moves, including expenses related to the sale of, or settlement of a lease on, the old residence and the purchase of, or acquisition of a lease on, a new residence at the new job location (Code sec. 217). The maximum amount deductible for qualified sale, purchase, or lease expenses is $3,000 ($6,000 in the case of foreign moves), reduced by any moving expense deduction amount allowed for premove house-hunting trips or temporary living expenses.

The bill generally would increase the amount of qualified sale or purchase expenses deductible as moving expenses to the maximum reimbursement allowed to a Federal employee for such expenses (currently $12,000). This limitation on sale or purchase expenses under the bill would not be reduced by any amount deducted for premove house-hunting trips or temporary living expenses. Qualified lease expenses would be deductible up to a maximum of $2,500, reduced by expenses attributable to the purchase of a new residence at the new job location.

The new limitations under the bill would apply to both foreign and domestic moves and would be applicable for taxable years beginning after December 31, 1981.

II. DESCRIPTION OF BILLS

1. S. 352—Senator Packwood

Political Contributions Credit

Present law

Present law (Code sec. 41) allows individual taxpayers a nonrefundable income tax credit equal to one-half the amount of the taxpayer's contributions during the year to candidates for elective public office, but not in excess of $50 ($100 in the case of a joint return).

The credit generally is available for contributions made to: (1) a candidate for nomination or election to Federal, State, or local public office in general, primary, or special elections, for use by the candidate to further his or her candidacy; (2) certain campaign organizations formed and operated with respect to the nomination or election of candidates for public office; (3) national, State, or local committees of a national political party; and (4) newsletter funds of an elected public official or candidate for elective public office. With respect to campaign organizations, Code section 41(c)(1)(B) provides that the credit is available for contributions to any committee, association, or organization which is "organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office * * *."

In several "letter rulings" issued in February 1980,[1] the Internal Revenue Service ruled that the political contributions credit was not available for contributions made to certain organizations described as carrying on activities to oppose the nomination or election of particular candidates for public office. In these rulings, the Revenue Service took the position that because the organizations at issue directed their activities at opposing the election of targeted candidates, the organizations did not use their funds to further the candidacy of one or more candidates, within the meaning of Code section 41(c)(1)(B).

Issue

The issue is whether the political contributions credit should be available for contributions made to a campaign organization organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who

[1] IRS Letter Rulings 8019024 (February 12, 1980), 8019056 (February 13, 1980), and 8019057 (February 13, 1980).

are candidates for nomination or election to any Federal, State, or local elective public office, whether by directly supporting particular candidates for office or by opposing particular candidates for office.

Explanation of the bill

The bill would modify the provisions of present law with respect to the credit for contributions made to campaign organizations, by deleting the specific language in Code section 41(c)(1)(B) referring to use of contributions by the organization "to further the candidacy of such individual or individuals for nomination or election to such office." Under the bill, the political contributions credit would be available for contributions made to a campaign organization formed and operated exclusively to influence the nomination or election of candidates for public office, for use by the organization for such purpose.

Thus under the bill, the credit would be available for contributions made to such campaign organizations, whether the funds are used by the organization directly to support particular candidates for office or are used by the organization in activities to oppose particular candidates for office. For example, the credit would be available for contributions made to a political campaign organization which expends its funds to oppose a particular public officeholder who is a candidate for reelection,[2] whether or not an opposing candidate for the office has announced his or her candidacy for such office at the time such funds are so expended.

Effective date

The amendment made by the bill would be effective with respect to taxable years ending after December 31, 1971 (the effective date of the political contributions credit provisions as enacted in the Revenue Act of 1971).

Revenue effect

It is estimated that the bill would reduce budget receipts by approximately $1 million annually.

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[2] Code sec. 41(c)(2) defines a "candidate" as an individual who "publicly announces before the close of the calendar year following the calendar year in which the contribution or gift is made that he is a candidate for nomination or election to such office * * *."

2. S. 483—Senators Cannon and Laxalt

Exemption from Excise Tax on Wagers and Occupational Tax on Wagering in States Authorizing Wagering

Present law

Under present law, a two-percent excise tax is imposed on the amount of certain wagers. For this purpose, a wager means (1) a wager placed with a person who is in the business of accepting wagers on the outcome of a sports event or contest, (2) a wager with respect to a sporting event or contest placed in a wagering pool conducted for profit, and (3) a wager placed in a lottery conducted for profit (including the numbers game, policy, and similar types of wagering). However, this excise tax is not imposed on (1) wagers placed with a parimutuel wagering enterprise licensed under State law, (2) wagers placed in coin-operated gaming devices, such as slot machines, and (3) State-conducted wagering, such as sweepstakes and lotteries (Code secs. 4401–4405, 4421–4424). Under present law, the two-percent excise tax is imposed on so-called off-track betting authorized by State law.

Every person engaged in the business of accepting wagers is liable for the tax with respect to wagers which are placed with such person and which are subject to the tax.

Under present law, an occupational tax of $500 per year is imposed on each person who is liable for the two-percent excise tax on wagers and on each person who is engaged in receiving wagers for or on behalf of such person (Code secs. 4411–4414).

Issues

The issues are whether the two-percent excise tax should be imposed on wagers which are authorized by State law and whether a person authorized under State or local law to receive wagers should be subject to the occupational tax on wagering.

Explanation of the bill

Under the bill, the two-percent excise tax on certain wagers would not apply to wagers authorized by State law. Also under the bill, the occupational tax would not apply to a person authorized by State or local law to engage in the business of accepting wagers. The exemption from the occupational tax would be intended to apply only with respect to the wagering business authorized under State or local law.

Effective date

The provisions of the bill would apply to taxable periods beginning after June 30, 1981.

Revenue effect

It is estimated that this bill would reduce budget receipts by $3 million in fiscal year 1981; $14 million in fiscal year 1982; $15 million in fiscal year 1983; $17 million in fiscal year 1984; $18 million in fiscal year 1985; and $20 million in fiscal year 1986.

Prior Congressional consideration

On February 29, 1980, the Committee on Finance held a hearing on a bill (S. 485, 96th Cong.) which was identical in substance to the present bill. No further action was taken on S. 485.

Later during the 96th Congress, the Committee on Finance twice approved provisions to repeal the excise tax on wagering and the $500 occupational tax (H.R. 3755, Sen. Rpt. 96–912, and H.R. 7171, Sen. Rpt. 96–1032). No further action was taken on H.R. 3755. The provisions in H.R. 7171 repealing the wagering tax and occupational tax were deleted, by Senate floor amendment, prior to passage of that bill by the Senate on December 13, 1980 (and subsequent enactment of that bill as P.L. 96–613).

ERRATA SHEET

To correct a GPO printing error, please substitute this page for page 9 of Joint Committee Print, Description of Tax Bills (S. 352, S. 483, S. 502, and S. 565), dated March 13, 1981.

3. S. 502—Senators Moynihan and Wallop

Exemption for Foreign Pension Plans

Present law

Foreign pension plans

Under present law income earned by a qualified U.S. pension plan generally is not subject to tax until distributed as benefits (Code sec. 501). However, as discussed below, foreign pension plans generally do not satisfy the requirements for qualified pension plans, so that U.S.-source income earned by such a foreign plan is subject to U.S. tax under the rules generally applicable to foreign investors.

In general, a pension plan is treated as qualified if it is a U.S. trust and if (1) the plan does not discriminate in favor of certain employees, (2) the plan meets certain minimum standards designed to protect employee benefits, and (3) benefits or contributions under the plan are within prescribed limits (Code secs. 401–415). In many instances, foreign pension plans fail to satisfy the requirements under U.S. tax law for qualified status because of differences in the tax and pension laws between the United States and foreign countries. For example, the foreign country may require the plan assets to be held in a trust organized outside the United States, or the foreign country's rules on nondiscrimination or benefit security may not satisfy U.S. requirements.

Accordingly, nonqualified foreign pension plans are subject to tax on U.S.-source investment income on the same basis as other foreign investors. In general, this means that U.S.-source investment income is subject to a 30 percent withholding tax or, where applicable, a lower rate (e.g., as low as 5 percent on dividends and elimination of the tax on interest) provided for in a U.S. income tax treaty. Most foreign pension plans investing in the United States are residents of countries with which the United States has an income tax treaty and, thus, pay a reduced rate of U.S. tax on their U.S.-source income.

Although the United States taxes the U.S. source income of a nonqualified foreign pension plan and exempts the income of a U.S. qualified pension plan, the U.S. taxation of the income of both plans is similar in that the income from both plans is taxed only once by the United States. The income of a qualified U.S. plan is not taxed when it is earned by the plan, but it is taxed to the pensioner when it is paid out as a pension. Conversely, the U.S.-source income of a nonqualified foreign pension plan is taxed when it is earned by the plan, but there is no U.S. tax on the income when it is paid to the foreign pensioner.

Although the U.S. income of a foreign pension plan is only taxed once by the United States, the fact that a tax is imposed by the United States at the plan level is nevertheless a disadvantage to the foreign

3. S. 502—Senators Moynihan and Wallop

Exemption for Foreign Pension Plans

Present law

Foreign pension plans

Under present law income earned by a qualified U.S. pension plan generally is not subject to tax until distributed as benefits (Code sec. 501). However, as discussed below, foreign pension plans generally do not satisfy the requirements for qualified pension plans, so that In general, a pension plan is treated as qualified if it is a U.S. trust tax under the rules generally applicable to foreign investors.

In general, a pension plan is treated as qualified if it is a U.S. trust and if (1) the plan does not discriminate in favor of certain employees, (2) the plan meets certain minimum standards designed to protect employee benefits, and (3) benefits or contributions under the plan are within prescribed limits (Code secs. 401–415). In many instances, foreign pension plans fail to satisfy the requirements under U.S. tax law for qualified status because of differences in the tax and pension laws between the United States and foreign countries. For example, the foreign country may require the plan assets to be held in a trust organized outside the United States, or the foreign country's rules on nondiscrimination or benefit security may not satisfy U.S. requirements.

Accordingly, nonqualified foreign pension plans are subject to tax on U.S.-source investment income on the same basis as other foreign investors. In general, this means that U.S.-source investment income is subject to a 30 percent withholding tax or, where applicable, a lower rate (e.g., as low as 5 percent on dividends and elimination of the tax on interest) provided for in a U.S. income tax treaty. Most foreign pension plans investing in the United States are residents of countries with which the United States has an income tax treaty and, thus, pay a reduced rate of U.S. tax on their U.S.-source income.

Although the United States taxes the U.S. source income of a nonqualified foreign pension plan and exempts the income of a U.S. qualified pension plan, the U.S. taxation of the income of both plans is similar in that the income from both plans is taxed only once by the United States. The income of a qualified U.S. plan is not taxed when it is earned by the plan, but it is taxed to the pensioner when it is paid out as a pension. Conversely, the U.S.-source income of a nonqualified foreign pension plan is taxed when it is earned by the plan, but there is no U.S. tax on the income when it is paid to the foreign pensioner.

Although the U.S. income of a foreign pension plan is only taxed once by the United States, the fact that a tax is imposed by the United States at the plan level is nevertheless a disadvantage to the foreign pension plan for two reasons. First, the foreign pension plan does not have the advantage that a qualified U.S. plan has of deferring the payment of the tax until some future date when the pension to which the income relates is paid. Second, unless the foreign pensioner's country of residence allows a credit for the U.S. tax paid by the foreign pension plan, the plan's U.S. source income is taxed twice, that is, once by the United States at the plan level, and again by the foreign country at the pensioner level.

This system of taxation is not dissimilar from the system of foreign taxation experienced by U.S. pension plans investing in foreign countries. Generally, foreign pension plans are exempt from tax in their home countries, but the pensioner pays a tax to the foreign country on receipt of the pension. U.S. pension plans, on the other hand, are taxed on their income from that country, but there generally is no foreign tax on the pension when it is paid to the U.S. pensioner. However, the pension is subject to U.S. tax when it is paid to the U.S. pensioner.

Life insurance companies

Currently, some pension plans use life insurance companies to invest all or a portion of the plan funds. If the pension plan is qualified, income earned by the life insurance company on behalf of the plan is not taxable either to the insurance company or to the plan. However, if the pension plan is not qualified, some or all of the income earned by the life insurance company on behalf of the pension plan may be taxable to the insurance company. The income is also taxed under the foreign investor rules when it is paid to the foreign pension plan.

Issues

The issues are whether foreign pension plans which do not meet the U.S. tax law requirements for status as qualified pension plans should be exempt from U.S. taxation on U.S.-source income, and whether U.S.-source income earned by U.S. insurance companies on behalf of such foreign plans should be exempt from U·S. taxation.

Explanation of the bill

Under the bill, a trust or corporation formed pursuant to a foreign pension plan would be exempt from U.S. tax if it satisfies three requirements. First, the plan must be maintained primarily to provide retirement or similar benefits to employees who are primarily nonresident alien individuals. Second, the assets of the plan must, pursuant to foreign law, be segregated from the employer's assets. Third, the income of the plan must be exempt from foreign tax or be subject to a rate lower than the generally applicable rate of foreign tax. Under the bill, the President would have authority under current Code section 896 to eliminate the tax exemption with respect to pension plans of a particular foreign country if that country does not extend a reciprocal exemption for U.S. plans investing in that country.

In addition, the bill would exempt foreign pension funds which invest in the United States through pooled asset accounts managed by U.S. insurance companies.

Effective date

The provisions of the bill would be effective on January 1, 1981.

Revenue effect

There is not at present sufficient information available to estimate how much U.S. tax is currently collected on U.S.-source income earned by foreign pension trusts. In addition to the revenue loss attributable to the tax presently collected on existing investments, it is estimated that this proposal would result in a revenue loss of approximately $10 million a year for each $1 billion net increase in foreign pension investments in the United States resulting from the exemption.

4. S. 565—Senator Stevens

Increased Dollar Limitations on Moving Expense Deduction

Present law

Under present law, employees and self-employed individuals are allowed a deduction from gross income for certain expenses of moving to a new residence in connection with beginning work at a new location (Code sec. 217).

Expenses of moving eligible for the deduction include reasonable expenses of transporting the taxpayer and members of the household, as well as household goods and personal effects, from the old to the new residence; the cost of meals and lodging en route; expenses for premove house-hunting trips; temporary living expenses for up to 30 days (90 days in the case of foreign moves) at the new job location; and certain expenses related to the sale of, or settlement of a lease on, the old residence and the purchase of, or acquisition of a lease on, a new residence at the new job location.

The moving expense deduction is subject to a number of dollar limitations. The maximum aggregate deduction for premove house-hunting trips and temporary living expenses at the new job location is $1,500. A maximum deduction of $3,000 (reduced by any deduction allowed for premove house-hunting trips or temporary living expenses) is allowed for qualified sale, purchase, or lease expenses. If a husband and wife file separate returns, these maximum deductible amounts are halved.

In the case of foreign moves, the maximum aggregate deduction for premove house-hunting trips and temporary living expenses is $4,500. The maximum deduction for qualified sale, purchase, or lease expenses is $6,000 (reduced by any deduction allowed for premove house-hunting trips or temporary living expenses).

The moving expense deduction is available only if the taxpayer's new principal place of work is at least 35 miles farther from the former residence than is the former principal place of work (or the former residence, if the taxpayer has no former place of work). During the 12-month period following the move, the taxpayer generally must be a full-time employee in the new general location for at least 39 weeks during the next 12-month period. A self-employed person, during the 24-month period following arrival at the new work location, generally must perform services on a full-time basis for at least 78 weeks, with at least 39 weeks of full-time work falling within the first 12 months. In general, members of the Armed Forces are exempt from these mileage and full-time work requirements.

Issue

The issue is whether the limitation on the amount of qualified sale, purchase, or lease expenses which may be taken into account for purposes of the moving expense deduction should be increased.

Explanation of the bill

Under the bill, the limitation on the moving expense deduction for amounts attributable to qualified sale or purchase expenses would be equal to the maximum reimbursement allowed to a Federal employee for such expenses. At present, this maximum reimbursement amount is $12,000.[1] (Unlike present law, the limitation on sale or purchase expenses under the bill would not be reduced by any deduction allowed for premove house-hunting trips or temporary living expenses.) In the case of qualified lease expenses, the limitation under the bill would be $2,500, reduced by expenses attributable to the purchase of a new residence at a new job location.

The new limitations would apply to both domestic and foreign moves. As under present law, if a husband and wife file separate returns, these maximum deductible amounts would be halved.

Effective date

The amendments made by the bill would apply to taxable years beginning after December 31, 1981.

Revenue effect

It is estimated that this provision would reduce budget receipts by $272 million in fiscal year 1982, by $940 million in fiscal year 1983, by $1,057 million in fiscal year 1984 and $1,189 million in fiscal year 1985.

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[1] Federal Property Management Reg. sec. 101–7.

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