SUMMARY OF REVENUE PROVISIONS

OF H.R. 4961

(The "Tax Equity and Fiscal Responsibility Act of 1982")

AS PASSED BY THE SENATE ON JULY 22, 1982

Prepared by the Staff

of the

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Summary of Revenue Provisions of
the "Tax Equity and Fiscal Responsibility Act of
1982" as passed by the Senate

Individual Income Tax Provisions

Individual minimum tax

The bill repeals the "add-on" minimum tax for individuals and restructures the existing alternative minimum tax, effective for taxable years beginning after 1982.

All present law preferences under the existing add-on and alternative minimum taxes, except adjusted itemized deductions, are included in the base of the expanded alternative minimum tax. Several new preferences are added: interest and dividend income excluded under the $100 dividend exclusion, the All-Savers exclusion, or the 15-percent net interest exclusion (which takes effect after 1984) and the excess of expensing over 10-year amortization for mining exploration and development costs, research and development costs, and magazine circulation expenditures.

To calculate minimum taxable income, preference amounts are added to adjusted gross income, and deductions are allowed for charitable contributions, medical expenses, casualty losses, personal housing interest, other interest to the extent of investment income, and net operating losses not attributable to preferences. Under the bill, the first $30,000 of minimum taxable income ($40,000 on joint returns) is exempt from the alternative minimum tax. Minimum taxable income in excess of $30,000 but less than $50,000 ($40,000-$60,000 for couples filing joint returns) is taxed at a 10-percent rate, and the excess is taxed at a 20-percent rate.

The bill allows individuals, other than limited partners, producing oil and gas to elect to depreciate intangible drilling costs under the rules for the 5-year ACRS class with an investment credit but without safe-harbor leasing.

Medical expense and casualty loss deductions

The bill restricts the availability of the itemized deductions for medical expenses and nonbusiness casualty or theft losses, effective for taxable years beginning after 1982.

The bill provides that nonbusiness casualty losses will be deductible only to the extent total losses sustained during the year exceed 10 percent of adjusted gross income. As under present law, each casualty loss will be deductible only to the extent it exceeds $100.

The bill raises the floor for deductible medical expenses from [illegible] percent to 7 percent of adjusted gross income. Also, the bill reduces from $150 to $100 the ceiling on the amount of the one-half of health insurance premiums which are deductible without regard to the percentage floor.

Capital gains holding period

The bill reduces the holding period distinguishing long-term from short-term capital gains and losses from one year to six months, effective for sales or exchanges after June 30, 1982.

Capital gains indexing

The bill generally provides for an inflation adjustment (or indexing) to the basis of certain assets for purposes of determining gain or loss on the sale or other disposition of the assets. The inflation adjustment is based on the level of the gross national product deflator in the quarter the asset is purchased compared with the index for the quarter of sale. Assets eligible for the indexing adjustment are corporate stock and real property where these assets are capital assets or assets used in a trade or business and held for more than one year. The inflation adjustment applies only to inflation occurring after December 31, 1984.

Under the bill, the inflation adjustment applies with respect to sales, exchanges, or other dispositions of property whether or not gain or loss is recognized. However, it does not apply for purposes of determining any deduction for depreciation, cost depletion or amortization.

Business Tax Provisions

Corporate tax preferences

The bill reduces the following corporate tax preferences by 15 percent: percentage depletion for coal and iron ore, excess bad debt reserves, interest on debt used to carry tax-exempt securities acquired after 1982, deferred DISC income, section 1250 recapture on structures, rapid amortization of pollution control facilities, intangible drilling costs of integrated oil companies, and mineral exploration and development costs.

Under the bill, integrated oil producers are allowed to expense up to 85 percent of intangible drilling costs. The remainder will be written off under the ACRS 5-year recovery percentages with an investment credit but without safe-harbor leasing. (Fifteen percent of mineral exploration and development costs will be recovered under these ACRS rules as well.)

To prevent preferences from being cut back excessively through the interaction of this provision and the add-on minimum tax, the bill provides that only 71.6 percent of these tax preferences are to be included in the base of the add-on minimum tax for corporations.

These provisions apply to taxable years beginning after December 31, 1982, except that the change in percentage depletion applies after 1983, the change in section 1250 applies to sales or other dispositions after December 31, 1982, the change in amortization of pollution control facilities applies to property placed in service after December 31, 1982, the change in intangible drilling costs applies to expenditures after December 31, 1982, and the change in the add-on minimum tax applies to taxable years ending after December 31, 1982.

Investment tax credit

The bill provides that taxpayers must reduce the basis of assets by one-half of the amount of regular, historic rehabilitation and energy investment tax credits for the assets. This lower basis will be used, for example, to compute cost recovery deductions and gain or loss when the asset is sold or exchanged. The basis adjustment applies to property placed in service after December 31, 1982, except in the case of equipment (other than public utility property and rehabilitated buildings) placed in service before July 1, 1984, for which there was a contract entered into after August 13, 1981, which was binding on July 1, 1982, and at all times thereafter.

The limit on the amount of income tax liability which may be offset by the investment tax credit for both individuals and corporations is reduced from 90 percent to 85 percent, effective for taxable years beginning after December 31, 1982.

1985 and 1986 ACRS changes

The bill eliminates the 1985 and 1986 further acceleration of depreciation which had been scheduled for property placed in service after 1984.

Construction period interest and taxes

The bill requires corporations to capitalize and amortize over 10 years interest and real property taxes paid or accrued on non-residential real property the construction of which begins after 1982. The bill exempts the Alaska gas pipeline from this rule, and provides a special rule for certain hotels and motels the construction of which begins before 1984.

Safe-harbor leasing

The bill substantially modifies the safe-harbor leasing rules.

A 50-percent limitation is imposed on the percentage of tax liability that a lessor may avoid through the use of safe-harbor leasing, and lessors are not permitted to carry back tax benefits obtained as safe-harbor lessors to prior tax years.

The bill lowers the maximum interest rate on obligations of the lessor to the lessee in a safe-harbor sale-leaseback to 5 percentage points less than the interest rate on overpayments and underpayments of tax or 8 percent, whichever is greater.

The maximum lease term is reduced to 100 percent of the ADR midpoint life of the asset.

The maximum percentage of eligible property (including property used by the taxpayer subject to certain types of leases) that may be leased by any lessee in a safe-harbor lease is set at 45 percent in 1982 and 1983 and 40 percent in 1984 and 1985.

Property leased under the safe-harbor rules is depreciated under the cost recovery methods and periods provided for the minimum tax.

The bill provides that the investment tax credits earned on leased property are allowable over 3 years--50 percent the first year and 25 percent in each of the next 2 years.

The bill prohibits the use of leasing to increase foreign tax credits and percentage depletion and prohibits safe-harbor leasing between related parties.

The bill provides that safe-harbor leasing is not available for public utility property.

Under the bill, certain tax-exempt entities are not permitted to structure transactions to benefit from leasing.

The at-risk rules will not prevent certain closely-held corporations from acting as safe-harbor lessors.

Starting January 1, 1985, all leases will be permitted to include a fixed price purchase option at the end of the lease term of at least 10 percent of the original cost. Such options will be permitted after July 1, 1982, for leases of up to $150,000 of farm implements.

Mass transit leasing is permitted for property placed in service on or before December 31, 1987, if the property is purchased under certain binding contracts or commitments entered into on or before March 31, 1983. The bill also amends the definition of mass commuting vehicles to specifically include ferries used for mass transportation services.

So-called investment tax credit strips entered into before October 20, 1981, are permitted.

The bill prevents the Internal Revenue Service from retroactively denying lease treatment under rules in effect prior to safe-harbor leasing for motor vehicle operating leases involving business users by reason of the fact the lease contained a terminal rental adjustment clause. However, Treasury is not to be prevented from issuing regulations on a prospective basis that preclude lease treatment for such leases. The provision applies on a retroactive basis to any open taxable year.

The bill repeals safe-harbor leasing for property placed in service after September 30, 1985.

These rules are generally effective for leases entered into or property placed in service after July 1, 1982, except for certain anti-abuse rules, which are generally effective after February 19, 1982. The bill does not alter lease treatment for certain auto manufacturing equipment placed in service before July 1, 1982, and leased prior to August 15, 1982. In addition, the bill does not alter the lease treatment for property placed in service before January 1, 1983, if after June 25, 1981, and before February 20, 1982, the lessee has (1) commenced construction or acquired the property or (2) entered into a binding contract for the property. For papermaking plants, a March 31 date is substituted for the June 25 date in that transitional rule. Aircraft qualifies for the transitional rule if it is placed in service before January 1, 1984, and if after June 25, 1981, and before February 20, 1982, construction of a subassembly was commenced or the stub wing joiner occurred.

Foreign oil and gas income

The bill repeals the country-by-country loss feature of the rule for the foreign tax credit limitation affecting oil and gas extraction. Oil companies thus will not be permitted to use credits or losses arising out of their foreign oil and gas extraction activities to shelter other income from U.S. tax.

The bill expands the present anti-tax haven rules (subpart F) so that controlled foreign corporations generally will be subject to tax currently on their foreign non-extraction oil income related to activities carried on in countries other than those where the oil is extracted or consumed. U.S. tax on foreign shipping income will continue to be deferred to the extent the income is reinvested in shipping assets.

The provisions relating to the foreign tax credit are effective for taxable years beginning on or after January 1, 1983. The provisions relating to current taxation of oil income are effective for taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of U.S. shareholders in which, or with which, such taxable years of foreign corporations end.

Possessions credit limitation

The bill makes several changes in the present tax credit for income earned in U.S. possessions. It provides that income of a corporation that qualifies for the possessions credit does not include income allocable to intangibles. Such income will be allocated to the U.S. shareholders of a qualifying corporation or to the qualifying corporation itself as noncreditable U.S. source income. In addition, the current rule that permits a qualifying corporation to earn up to 50 percent passive income is changed to permit only 10 percent passive income. Similar rules are provided for U.S. corporations effectively exempt from tax because they are inhabitants of the Virgin Islands.

The provision is effective for taxable years beginning after December 31, 1982. It applies to sales of intangibles made after July 1, 1982.

Industrial development and mortgage subsidy bonds

The bill imposes a number of restrictions on the use of tax-exempt bonds for private activities. Reporting is required for all post-1982 private-activities bonds. Also, public hearing and approval by an elected official or legislature is required for all post-1982 industrial development bonds (IDBs).

The cost of IDB-financed property placed in service after December 31, 1982 (except for property financed by bonds issued before July 1, 1982, or certain rollovers of such bonds, or property which is part of a facility under construction by July 1, 1982, or for which a binding contract existed as of that date), generally will be required to be recovered under the straight-line depreciation method over present law regular ACRS lives. Exceptions are provided for low-income housing, for municipal solid waste facilities, for new pollution control equipment to be used in connection with a plant in operation on or before July 1, 1982, and for facilities with respect to which certain UDAG grants are made. Bonds are not permitted under the $1 million small issue limit as part of an issue which includes bonds which are tax-exempt under other provisions. Certain composite issues are permitted. Certain research and development expenditures are not treated as capital expenditures for purposes of the $10 million capital expenditure limit on small issue IDBs. Small issue IDBs cannot be issued after September 30, 1987.

The bill allows tax-exempt IDBs for local district heating or cooling facilities which use water or steam and for facilities that provide gas to a service area comprised of no more than a city and one contiguous county or two contiguous counties. Also, the bill allows tax-exempt financing for the acquisition of existing pollution control facilities by a regional pollution control authority if the acquisition is on an arm's-length basis. A small issue IDB cannot be used for certain facilities, such as auto sales and service facilities, racket sports facilities, suntan facilities, hot tubs, and massage parlors.

The bill makes the following changes to the restrictions on the use of tax-exempt bonds for single-family housing imposed by the Mortgage Subsidy Bond Tax Act of 1980: (1) the arbitrage limitations are increased from 1.0 percentage points to 1-1/16 to 1-1/8 percentage points depending upon the size of the bond issue, (2) distributions of arbitrage on nonmortgage investments are not required to the extent that they require recognition of a loss in excess of undistributed arbitrage on nonmortgage investments at such time, (3) the 3-year rule is applied to 80 percent of the bond proceeds, and (4) the purchase price limitations are increased from 90 percent of area average purchase price (110 percent in targeted areas) to 110 percent (120 percent in targeted areas).

Mergers and acquisitions

The bill modifies the treatment of partial liquidations. Present law rules applicable to distributions of appreciated assets in a partial liquidation permit a step-up in the basis of such assets without the tax consequences normally incident to a disposition of property. Capital gain treatment is retained for noncorporate shareholders who receive property in a partial liquidation, and nonrecognition of gain to the distributing corporations is retained for such distributions to certain long-term noncorporate shareholders with at least a 10-percent interest. Distributions to corporate shareholders will generally receive dividend treatment.

The bill also repeals certain exceptions from the general rule that gain is recognized when appreciated property is used to redeem the stock of a distributing corporation. One such exception applicable to the distribution of stock in a subsidiary is modified so as to apply only if the distribution is to long-term, noncorporate, 10-percent shareholders and would have qualified as a partial liquidation if the subsidiary's assets had been distributed in lieu of stock.

The bill replaces the present law rules for treating the acquisition of a controlled corporation as an asset acquisition with a new elective provision no longer requiring a liquidation. Within 75 days after a purchase of 80 percent or more of the stock of an acquired corporation, a corporate purchaser may elect to treat the acquired corporation as if it had sold all of its assets in a complete liquidation on the date of the stock purchase. The acquired corporation's tax attributes will be terminated, and the basis of its assets will be adjusted, as of the stock acquisition date, to reflect the price paid for its stock.

The bill requires consistent treatment where an acquiring corporation or affiliated group of corporations acquires stock in two or more corporations that are members of the same affiliated group. If a purchase of assets (other than in the ordinary course of business) is made from a corporation, the bill treats an acquisition of stock of the same corporation or of a member of the same affiliated group as a purchase of assets. Regulations are authorized to prevent the circumvention of this requirement of consistent treatment through the use of other provisions of law or regulations.

Generally, the provisions relating to mergers and acquisitions apply to property distributions after August 31, 1982, and acquisitions of target corporations after August 31, 1982. However, if a target corporation was purchased at any time during 1982, the new asset acquisition election may be made to avoid the present law requirement of an actual liquidation. Transitional rules are also provided to afford relief from the modification of the treatment of partial liquidations for transactions currently in progress.

<u>Completed contract method of accounting</u>

The bill instructs the Treasury Department to amend its regulations relating to the methods of accounting for long-term contracts, the use of which permits significant tax deferral on income from such contracts. The amended regulations will address certain problems relating to the determination of when a contract is considered completed and the determination of whether contracts should be treated as one or several contracts.

The amended regulations also will require that taxpayers generally must allocate additional costs to extended period long-term contracts, i.e., contracts with an estimated completion date of more than 2 years. However, a taxpayer engaged in an extended period long-term contract for the construction of improvements to real property or the installation of integral components thereof will not be subject to the new cost allocation rules if either the construction contract is expected to be completed within 3 years or less, or the taxpayer's average annual gross receipts are $25 million or less for the 3 preceding taxable years.

The new termination, segregation, and aggregation rules generally apply to taxable years ending after December 31, 1982. A special rule is provided for the application of the new contract termination rules to existing contracts. Another special rule is provided for the application of the new severance and aggregation rules to existing contracts. The cost allocation rules will apply to contracts entered into after December 31, 1982. During a transition period, a portion of the costs that will be required to be allocated to extended period long-term contracts by reason of the amended regulations will continue to be currently deductible. The portion of costs that will continue to be currently deductible is as follows:

For taxable years beginning in:	The percentage of costs that continue to be currently deductible is:
1983	66-2/3
1984	33-1/3
1985 and thereafter	0

Dividend reinvestment plans for utilities

The bill repeals the exclusion for dividends reinvested in public utility stock, effective for distributions made after 1982.

Modified treatment of original issue discount bonds and stripped coupon bonds

The bill replaces the present linear formula for amortization of original issue discounts with a formula which approximates the way in which interest accrues under borrowing with ordinary bonds. Also, the rules that govern amortization of original issue discount on bonds issued by corporations will be extended to certain non-corporate bonds. The bill provides that taxpayers who strip coupons from bonds will allocate basis between the coupons and the corpus of the bonds (i.e., the right to receive the principal amount of the bond at maturity) with the result that no artificial loss may be created through sale of the detached corpus. The retained portion of the stripped corpus or coupons will be treated as an original issue discount bond, requiring periodic inclusion of discount income. Purchasers of stripped corpus or coupons also will be treated as having purchased OID bonds. The effective date for these proposals are those announced in the relevant Treasury Department news releases issued on May 3, 1982, and June 9, 1982.

Acceleration of corporate income tax payments

The bill accelerates the collection of corporate estimated income taxes by (1) increasing the amount of estimated tax payments needed to avoid the estimated tax penalty from 80 percent to 90 percent of the actual tax due, (2) requiring that all remaining tax owed be fully paid on the return due date, and (3) requiring large corporations (those with $1 million or more of taxable income in any one of the three preceding years) which base their estimated tax payments on the prior year's income or tax liability, to pay at least 90 percent of their current year's tax liability in 1984 and thereafter. In addition, the penalty on underpayments of estimated tax will be one-half the full rate for underpayments on the portion of the underpayment between 80 and 90 percent of actual tax due.

Business meals

Any deduction otherwise allowable for business meals and beverages (unless connected with business-related travel away from home) is limited to 50 percent of expenses, effective for taxable years beginning after December 31, 1982.

Soil and water conservation expenditures

The bill extends the investment tax credit to soil and water conservation expenditures which the taxpayer does not elect to expense, effective for expenditures after 1982.

Compliance Provisions

Withholding on interest and dividends

The bill requires withholding at a flat rate of 10 percent on payments of interest, dividends, and certain patronage dividends. Payments to certain tax-exempt institutions, corporations, certain low-income and elderly individuals, interest payments made by individuals, and interest payments of $100 or less on an annualized basis are generally exempt. An individual is entitled to withholding exemption if his or her prior year tax liability was $600 or less ($1,000 on a joint return). For the elderly (age 65 and over), the prior year tax liability exemption is $1,500 or less ($2,500 on a joint return). Exemption may be claimed by providing an exemption certificate to the payor.

The bill provides the Treasury Department with authority to set the frequency of deposits of taxes withheld on interest income and to exempt banks and similar depository institutions until it determines that they can comply with withholding.

These provisions are generally effective for payments made after 1982.

Taxpayer compliance improvements

The bill contains a series of provisions designed to encourage complete and accurate reporting of income and deductions. These include provisions improving information reporting, increasing penalties for noncompliance, amending the methods under which interest on tax deficiencies and overpayments is computed, substantially revising the withholding rules for pension distributions, encouraging reporting on foreign transactions, and revising certain rules governing information gathering by the Internal Revenue Service. In particular, the bill imposes a 10-percent penalty on substantial understatements for which the taxpayer does not rely on substantial authority and does not disclose the relevant facts of the item giving rise to the underpayment. (The bill does not change the present reporting requirements for tip income.) These compliance provisions have various effective dates.

The bill includes a sense of the Congress resolution that additional funds should be appropriated to the Internal Revenue Service to provide the staff proposed by the Administration and additional staff over that requested by the Administration's 1983 Budget sufficient to collect at least $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985 over the amount which would be collected in the absence of such increased staff.

Pension Provisions

The bill makes several changes affecting the overall limits on contributions and benefits under tax-qualified pension plans. The bill (1) reduces the maximum annual addition for profit-sharing and other defined contribution plans (other than H.R. 10 plans) from $45,475 to $30,000; (2) reduces the maximum annual retirement benefit under a defined benefit pension plan from $136,425 to $90,000; (3) increases the maximum deductible contribution limit for defined contribution H.R. 10 plans from $15,000 in 1982 to $20,000 in 1983, $25,000 in 1984, and $30,000 in 1985; (4) provides adjustments for post-1984 inflation beginning in 1986, for the limits on all plans (including corporate and H.R. 10 plans) based upon the social security benefit index formula then in effect; (5) increases the age below which actuarial reductions are required in the maximum benefit limit for defined benefit plans from 55 to 62; (6) reduces the overall limit where both a defined contribution and a defined benefit plan are provided from 1.4 to 1.25 with respect to the dollar limits only; and (7) generally places a $10,000 limit on outstanding loan balances of plan participants under all qualified plans and requires reporting to the Internal Revenue Service by plans with respect to participant loans. (A higher limit is provided for certain loans used to acquire, construct, or rehabilitate residential real property.) The bill does not affect benefits already earned under a plan or loans already made.

The bill permits an employer to provide additional contributions on behalf of disabled participants (other than officers, shareholders, or highly compensated individuals), based upon their pre-disability compensation. These participants are immediately vested in their accrued benefit derived from those additional contributions.

Under the bill, participants in certain defined benefit State judicial plans will not be subject to the rule requiring participants in an ineligible deferred compensation plan to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited.

The bill permits churches to provide certain retirement savings arrangements to their employees, subject to revised limitations.

If certain standards are met, the bill also permits a trust which is a part of a governmental plan to participate in a group trust without regard to whether the governmental plan is a tax-qualified pension plan.

Life Insurance and Annuity Provisions

Modified coinsurance

The bill repeals the modified coinsurance ("Modco") rules in section 820; treats existing Modco agreements as terminated on January 1, 1982, but allows a three-year installment payment of the tax increase from termination treatment of existing agreements for certain reinsurers; provides related party allocation authority for Treasury for future conventional reinsurance agreements; prevents tax avoidance by disallowing an interest deduction with respect to conventional reinsurance funded by a debt obligation; and grandfathers prior Modco transactions except in the event of fraud.

Policyholder dividends

The bill raises the present $250,000 special deductions limit to $1 million, imposes an affiliated group limit, and targets the provision to smaller companies. The bill also allows a 100-percent deduction for policyholder dividends and interest for qualified pension business.

Under the bill, mutual life insurance companies are allowed to deduct a minimum of 77-1/2 percent of policyholder dividends on non-qualified business. Stock life insurance companies are allowed a minimum policyholder dividend and interest deduction of 85 percent of amounts paid or credited on nonqualified business.

Menge formula

A geometric "Menge" formula is provided to compute adjusted life insurance reserves for purposes of allocating investment yield to policyholders.

Consolidated returns

A "bottom-line" method of consolidation is allowed for determining consolidated life insurance company taxable income.

Reserves and contract liabilities

The bill revises the approximate revaluation formula for preliminary term reserves by reducing the revaluation from $21 to $19 per $1,000 of other than term insurance in force, for business written after March 31, 1982.

No reserve deductions are allowed for interest guaranteed beyond the close of a taxable year.

Beginning July 1, 1983, the amount taken into account as the policy or contract liability for a group pension contract, for purposes of determining the excludable policyholder share of investment yield, is limited to the amount of interest actually credited to the policyholder. This will eliminate the so-called "double-dip" available under present law with respect to these contracts. Also, for any taxable year ending before January 1, 1985, the Internal Revenue Service will be precluded from denying life insurance company status to a company for cases when disqualification might result from the Service's treatment of pension reserves for contracts without a permanent annuity purchase rate guarantee as not being life insurance reserves.

Grandfather rules

Tax treatment for modified coinsurance transactions with a section 820 election for periods prior to January 1, 1982 is grandfathered except in cases of fraud. Excess interest credited to policyholders for years prior to 1982 is fully deductible. Similarly, treatment claimed with respect to consolidation of two or more life insurance companies is grandfathered for years prior to 1982. For taxable years beginning before 1982, amounts that could have been charged as a premium or mortality charge, but were not, will not be included in premium income.

Deferred annuities

The tax treatment of recipients of annuities is modified. Withdrawals are deemed to be taxable to the extent income from investment had been earned. A rule for treating loans as distributions and a 10-percent penalty for withdrawals prior to age 59-1/2 or within 10 years of contribution, whichever period is shorter, are added. The penalty will not apply if annuity payments are received over a period of not less than 60 months. A 100-percent interest deduction is allowed to insurance companies for amounts credited to deferred annuity business (limited to 92-1/2 percent in the case of participating contracts).

Flexible premium policies

The bill prescribes guidelines for eligibility of the proceeds from "universal life" products for the income tax death benefit exclusion and, except for grandfather protection for prior periods, does not prescribe tax treatment of excess interest (leaving the issue open for litigation during the effective period as to characterization as fully deductible interest paid, or as a policyholder dividend deductible to the extent allowed under the percentage limitation safety net).

Stop-gap termination date

All of the above provisions terminate after 1984 (a three-year stop-gap period) except for (1) the treatment of modified coinsurance and related transactions, (2) the tax treatment of amounts received under an annuity contract and the deductibility of excess interest credited on deferred annuities, and (3) the "grandfather" rules.

Employment Tax Provisions

Independent contractors

The bill establishes a safe-harbor test that, if satisfied, results in classification of an individual as an independent contractor for Federal employment tax purposes (other than under the Railroad Retirement Tax Act). If all five requirements of the test are met with respect to service performed by an individual, then that service is treated as performed by an individual who is not an employee, and the service-recipient (i.e., the person for whom services are performed) is not treated as an employer with respect to that service. The safe-harbor requirements relate to (1) control of hours worked, (2) place of business, (3) investment or income fluctuation, (4) written contract and notice of tax responsibilities, and (5) the filing of required returns. The failure of a worker to satisfy the safe-harbor test will not affect his or her classification under the common law rules.

The bill also provides for reduction of certain employment tax liabilities in situations involving the reclassification of workers as employees and provides for Tax Court jurisdiction over employment tax reclassification disputes.

Federal unemployment tax (FUTA)

Effective January 1, 1983, the FUTA wage base is increased to $7,000, and the Federal tax rate is increased to 3.5 percent. Effective January 1, 1985, the tax rate is increased to 6.2 percent (a permanent tax of 6.0 percent and an extended benefit tax of 0.2 percent), and the credit which employers receive against the tax is increased to 5.4 percent. The progressive reduction of the FUTA credit applicable to States in default is retained as under current law.

Extension of Social Security hospital insurance taxes and Medicare coverage to Federal employees

Under the bill, Federal employees will be subject to the FICA hospital insurance tax. (The tax is imposed at the rate of 1.3 percent of wages received during 1982-1984, 1.35 percent of wages received during 1985, and 1.45 percent of wages received after December 31, 1985.) Federal employees will receive Medicare coverage after paying hospital insurance taxes for the required period of time.

Excise Tax Provisions

Airport and Airway tax measures

Under present law, no tax revenues are being transferred to the Airport and Airway Trust Fund. Under the bill, the following aviation excise taxes are designated for the Trust Fund: (1) an 8-percent passenger ticket tax (increased from the present 5-percent rate); (2) a 12-cents-per-gallon tax on noncommercial aviation gasoline (increased from the present 4-cent rate); (3) a 14-cents-per-gallon tax on nongasoline fuels for noncommercial aviation (no tax under present law); (4) a 5-percent air freight waybill tax (no tax under present law); (5) a $3 per person international departure ticket tax (no tax under present law); and (6) amounts equal to revenues from the present taxes on aircraft tires and tubes. Certain helicopters engaged in natural resources and timber operations not using Federal-aid airports or airway facilities will be exempt from fuel taxes and the air passenger ticket tax. The tax changes apply to tickets and fuels purchased after August 31, 1982.

In addition, the bill includes a separate provision regarding the Airport and Airway System Development Act which would: (1) authorize appropriations for certain capital improvements to airports; (2) authorize certain expenditures for Federal Aviation Administration programs; (3) establish a state block grant program; (4) require the Secretary of Transportation to study an airport defederalization program; and (5) permit airports to voluntarily withdraw from the Federal airport improvement program. The bill provides Trust fund program authorizations for fiscal years 1982-1987.

Telephone excise tax

The bill increases the telephone excise tax to 2 percent in 1983, 3 percent in 1984, 3 percent in 1985, and 2 percent for years after 1985.

Cigarette excise tax

The bill increases the present Federal excise tax on small cigarettes from $4 to $8 per thousand (from 8 to 16 cents per package) for the period January 1, 1983, to September 30, 1985. The tax on large cigarettes is increased from $8.40 to $16.80 per thousand.

Expansion of Dingell-Johnson Fund taxes

The bill expands the articles of fishing equipment which are subject to the 10-percent manufacturers excise tax and imposes a 3-percent excise tax on recreational fishing boats and boating equipment, with the revenues to be available for expansion of the Dingell-Johnson Fund program. The provision also extends the time for payment of the excise tax on fishing equipment.

Repeal of TAPS adjustment for crude oil windfall profit tax

Oil produced at Prudhoe Bay in Alaska would be treated like other oil under the windfall profit tax by repealing the special Trans-Alaska Pipeline System (TAPS) adjustment presently applicable to that oil, effective for oil removed after 1982.

Miscellaneous Provisions

Annual accrual accounting for certain joint ventures

Under the bill, a "qualified" partnership (a partnership composed entirely of corporations other than subchapter S corporations or personal holding companies) engaged in the business of sugar cane farming will be treated the same as a corporation for purposes of the annual accrual accounting method rules. Thus, a corporation that is allowed to use the annual accrual accounting method for the business of growing sugarcane could transfer substantially all of the assets of the business to a qualified partnership in exchange for an interest in the partnership, and the qualified partnership will be allowed to use the annual accrual method to compute the taxable income from the transferred business.

Targeted jobs tax credit

The targeted jobs tax credit is extended for 3 years. The credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1985.

In addition, the jobs credit is modified to encourage summer youth employment. Employers will receive a credit for hiring economically disadvantaged youths who are 16 or 17 years of age for any 90-day period between May 1 and September 15. Employees can qualify only one time as a summer youth with respect to a particular employer, and the credit will be 85 percent of up to $3,000 of wages paid.

Cooperative education students will be eligible for certification regardless of whether they are economically disadvantaged, but the credit for the group will be limited to 30 percent of the first $3,000 of wages paid in the first year of employment and 15 percent of the first $3,000 of wages paid in the second year of employment.

Coverage of general assistance recipients under the program will be amended so that recipients of non-cash, as well as cash, assistance will be eligible for certification.

The extension of the jobs credit will take effect on January 1, 1983. The credit for summer youth employment and the change affecting coverage of general assistance recipients takes effect July 1, 1982, and the change with respect to cooperative education students is effective after August 31, 1982.

Foreign Corrupt Practices Act

An otherwise allowable business expense deduction is not disallowed for any payment to foreign officials or agents of a foreign government as long as the payment is legal under the Foreign Corrupt Practices Act, regardless of whether such payment would be illegal under U.S. laws if U.S. laws applied.

Debt management provisions

The authority given to the Secretary of the Treasury to issue bonds paying interest rates above the statutory ceiling of 4-1/4 percent is increased by $40 billion, from $70 billion to $110 billion. This change applies to bonds with maturities, when issued, that are longer than 10 years.

The statutory limitations on interest rates payable on savings bonds issued by the Treasury Department is repealed. This action will allow the issuance of savings bonds bearing interest rates related to market-determined rates paid on bonds of comparable character and maturity.

Study of alternative tax systems

The bill instructs the Secretary of the Treasury to conduct a study within 6 months covering the advisability of developing an alternative tax system that would reduce the complexity of the present income tax system and improve the efficiency and equity of the tax system. Alternative tax systems that should be evaluated include a simplified income tax based on gross income, a consumption-based tax structure, and broadening of the current income tax base combined with lowering of current tax rates.

National Research Service Awards

The bill extends for two additional years (to awards made through 1983) the income tax exclusion for National Research Service Awards.

Study of monetary policy

The bill requires the Administration to prepare a study in which it analyzes the effects on capital markets of a measurement of the growth of debt as the long-term target of monetary policy, and a measurement of total liquid assets as an interim target of monetary policy, instead of measuring the growth of the money supply.

New Jersey general revenue sharing allocation

The New Jersey Franchise and Gross Receipts Tax will be deemed an adjusted tax of units of local government within New Jersey for the quarterly payment period for the quarter beginning October 1, 1982. This change will remain in effect for future quarterly payment periods provided that the State of New Jersey amends the Franchise and Gross Receipts Tax no later than January 1, 1983, to provide for the collection and retention of the tax by units of local government for years beginning January 1, 1983.

Relief for the Jefferson County Mental Health Center

The bill authorizes the payment of $50,000 to the Jefferson County Mental Health Center, Lakewood, Colorado, in full settlement of its claims against the United States for repayment of the $74,128 the Center refunded to its employees for individual social security contributions after the Internal Revenue Service erroneously advised the Center that the contributions had been incorrectly withheld.

Disclosure of tax returns and return information for nontax criminal investigation purposes

The bill facilitates the disclosure of tax returns and return information for nontax criminal investigation purposes. The bill also expands the access of the General Accounting Office to tax returns and return information.

Alaska Native Claims Settlement Corporations

The bill amends the windfall profit tax provisions to clarify that wholly owned subsidiaries of native Indian corporations formed under the Alaskan Native Claims Settlement Act are exempt from the windfall profit tax.

Veterans organizations

The bill extends tax-exempt status to veterans organizations at least 75 percent of whose membership consists of past or present members of the Armed Forces of the United States (whether or not war veterans) and whose remaining membership consists substantially of cadets or spouses, widows, or widowers of past or present members of the U.S. Armed Forces or of cadets.

Amateur athletic organizations

The bill allows tax-exempt status to amateur athletic organizations that conduct national or international competition in Olympic sports, or support and develop amateur athletes for such competition. Such organizations may be eligible for exemption whether or not they provide facilities to members, and whether their membership is local or regional in nature.

Applicability of certain private foundation rules

The bill provides that the Otto Bremer Foundation, the El Pomar Foundation, the Houston Endowment, the Public Welfare Foundation, and the Sand Springs Home may retain certain business interests (if the foundation held such interests on May 26, 1969, and meets certain other conditions) without regard to the private foundation divestiture requirements of present law which otherwise would require divestiture of part of such interests by May 26, 1989. The bill allows the Ahmanson Foundation an additional 5 years to meet a private foundation divestiture requirement with respect to certain stock held on May 26, 1969. The bill provides that the New London Day Trust is not subject to the private foundation requirements which apply to charitable trusts, effective for taxable years beginning after November 20, 1978.

Certain income of religious orders from PHS leprosarium

The bill provides that income derived from services of certain members of religious orders from salaries from the Public Health Service in a leprosarium will be income of the religious organization rather than income of the member.

FCC policy toward VHF stations

The bill contains an amendment to the Communications Act of 1934 stating that it should be the policy of the Federal Communications Commission to allocate channels for very high frequency television broadcasting in a manner which ensures that no less than one such channel shall be allocated to each station if technically feasible.