

Joint Committee on Taxation
June 7, 1984
JCX-15-84

The attached items were provided for the information of the conferees only and does not necessarily reflect any decisions made in the conference.

TENTATIVE RECOMMENDATIONS--CONFERENCE ISSUES

I. Tax Freeze; Tax Reforms Generally

D. Corporate Tax Provisions

23. Distributions from mutual funds. (p. 34)
- (a) House recedes with an amendment applying 100 percent test for dividends received deduction purposes.
 - (c) House recedes with a technical amendment treating as gross income short-term capital gain from dispositions of stock or securities over long-term capital loss from such dispositions.
 - (d) House recedes (applying 100-percent test).
28. Phaseout of graduated rates for large corporations. (p. 44)
- House recedes with an amendment phasing out the entire \$20,250 of tax benefit, and making the provision inapplicable to any 1983-1984 fiscal year.
31. Earnings and profits. (p. 46-48)
- House recedes with the following amendments:
1. Except as provided in regulations, the rules would generally not be applicable in determining the taxable income consequences of distributions to 20-percent or larger corporate shareholders.
 2. The changes effective under the Senate bill for taxable years beginning after the date of enactment would generally

be effective for taxable years beginning after September 30, 1984.

3. The changes relating to LIFO inventory, installment sales, and the completed contract method of accounting would not apply to certain foreign corporations until their taxable years beginning after December 31, 1985.

38. Repeal of stock for debt exception for purposes of determining income from discharge of indebtedness. (p. 56)

Senate recedes with an amendment making the provision inapplicable to transfers pursuant to binding contracts in effect on date of conference action or pursuant to the exercise of options (including convertible debentures) in effect on that date. Will also not apply to transfers in a workout, effective when the amendments made to section 382 by the Tax Reform Act of 1976 become effective. Transitional rule to be provided for certain transfers between corporations that are members of the same affiliated group after the transfer.

E. Partnership Provisions

42. Transfers of partnership interests by corporations. (p. 62) Same in both bills; House recedes on effective date.

F. Accounting Changes

49. Vacation pay. (p. 72) Senate recedes with technical modification permitting current accrual taxpayers to elect section 463 treatment.

I. Foreign Provisions

75. Foreign collapsible corporations (p. 110) . House recedes with modification that makes provision operative on enactment with regulatory authority to provide exceptions.
81. Foreign personal holding company rules (p. 118) (c) House recedes with technical modification to prevent tax avoidance through use of two tiers of foreign personal holding companies.

J. Compliance Provisions

93. Increased rate of interest for tax shelter cases (p. 132) House recedes with an amendment substituting for the Senate provision an increased interest rate on tax shelter underpayments equal to 120 percent of the otherwise applicable rate and making modification to the definition of tax shelter in the Senate amendment.
98. Disclosure to cities. (p. 136) Open
105. Reporting of State and local tax refunds. (p. 140) Open
106. Tax shelter study. (p. 140) Senate recedes; tax shelters to be included in study of alternative tax systems (item 276).

K. Depreciation Provisions

111. Depreciation recapture in case of installment sale. (p. 146) House recedes with amendment moving effective date to date of conference action.

112. Movies (p. 146-148)

House recedes with an amendment that the denial of recovery property treatment would not apply to any qualified film placed in service before March 15, 1984, if ACRS was claimed on a return filed before March 16, 1984, or to any qualified film placed in service before 1985 so long as (i) ACRS is claimed, (ii) credit is limited to 6 2/3 percent, and (iii) 20 percent of production costs were incurred prior to March 16, 1984.

M. Miscellaneous Reform Provisions

121. LIFO conformity rules.
(p. 160)

House recedes with an amendment, but clarifies transition rules for taxpayers who relied on Insilco in prior years: (1) Taxpayers who want to continue LIFO, can make protective election so that years beginning after date of enactment are protected; (2) taxpayers who want to elect FIFO can change with sec. 481 spread up to 4 years (not a category A method under Rev. Proc. 80-51). No inference with respect to present law.

125. Sales and exchanges of trade or business property. (p. 166)

House recedes with amendment providing that gains from the sale or exchange of section 1231 property would be treated as ordinary to the extent of post-1981 1231 losses. Losses would not be recharacterized.

129. Taxation of Federal Home Loan Mortgage

House recedes with technicals.

Corporation. (p. 170)

132. At-risk provision (p. 176)

(a) Senate recedes with an amendment requiring, in the case of a pass-thru lease, that the lessor be at risk unless the lessor is the manufacturer of the property, the property has a readily ascertainable value, or the property is exempted by regulations. In the case of property other than 3-year property, the percentage at-risk amount must equal two times the credit plus 10 percent.

(b) Senate recedes with clarification that the trade or business must be active and with a modification of the partnership rules. All leases of property placed in service in one taxable year by a partnership or S corporation will be treated as one activity. The Secretary may allow aggregation of the activities and may provide exceptions from the prohibition against borrowing from a person with an interest in the activity.

X. Miscellaneous Revenue Provisions

A. Estate and Gift Tax Provisions

193. Eligibility of certain usufructs for estate tax marital deduction. (p. 282)

House recedes.

E. Employee Benefits

211. Nonqualified stock options. Senate recesses.
(p.308)
212. Incentive stock options. House recesses, with
(p. 308) an amendment changing the
date on which corporate
action must be taken under
the transitional rule to
May 15, 1984.
216. Application of cash- Senate recesses.
or-deferred arrange-
ment rules to pre-
ERISA money purchase
pension plans. (p. 312)
219. Treatment of certain House recesses.
distributions from a
qualified terminated
plan. (p. 314)
220. Special rule for Trans- House recesses.
Alaskan pipeline
employees. (p. 314)

G. Individual Retirement Arrangements (IRAs)

227. Alimony treated as House recesses.
compensation. (p. 324)
228. IRA withdrawals by Senate recesses with
dislocated workers. a study.
(p. 324)

I. Income Tax Credits

238. Alternative test House recesses.
for definition of
qualified rehabilitated
building. (p. 338)

L. Miscellaneous Housing Provisions

247. Disaster loss deductions. Senate recesses.
(p. 350)

N. Social Security Tax Provisions

262. Increased enforcement Senate recesses.
of earnings test.
(p. 370)

O. Miscellaneous Provisions

263. Section 1244. Senate -recedes.
(p. 372)
264. Medical expenses deduction Senate recedes.
for certain lodging.
(p. 372)
268. FUTA Treatment of House recedes.
certain fishing activities.
(p. 374)
271. Exclusion from gross income House recedes.
for cancellation of certain
student loans. (p. 376)
272. Duck stamps. (p. 378) House recedes.

P. Studies

276. Study of alternative House recedes with
tax systems. (p. 382) a modification that the
study is due December 31,
1984; tax shelters to be
included in study.
277. Study of taxation of House recedes with
certain services. a modification that
(p. 382) the study is due December
31, 1984.
278. Tax exemption for House recedes with a
the Central Liquidity technical modification
Facility of the providing that future
National Credit Union instrumentality exemptions
Administration. (p. 382) must be provided in the
Internal Revenue Code.

June 7, 1984

Senate Offer on Straddles

55. Repeal of stock option exception from anti-straddle rules

(a) General rule.--Repeal present exception for stock options. Exception for stock is continued except for stock that is offset by a stock option (other than a qualified covered call) or, under regulations, by substantially similar or related property (as defined for purposes of the dividend received deduction holding period). The regulations would not apply to stock v. stock straddles and would not be effective before March 1, 1984. Definition of qualified covered call would follow the House bill with modifications. For stock priced at \$25 or lower, the option strike price must be at least 85 percent of the stock price. Where the stock price is \$150 or less, the rule allowing the strike price to be 2 benchmarks below the stock price will not permit the call to be in the money by more than \$10. A new requirement would be added that, for purposes of the loss-deferral rule, a qualified covered call does not include a situation where the stock is sold in the taxable year following that in which the call is closed and is not held for 30 days after the call is closed. Effective date would follow the Senate bill (January 1, 1984), except as noted above.

(b) Capital gain treatment.--Replace gain recharacterization rule in both bills with a rule under which loss on a covered call is considered long-term if the offsetting stock has been held for the long-term holding period. Effective date will be date of conference action.

(c) Identified straddles.--Extend "identified straddle" rule to a straddle consisting wholly of RFCs but retain 60/40 mark-to-market treatment. Sec. 1092(d)(4) prevents this under present law.

(d) Offsetting position stock.--Take Senate provision.

56. Extension of mark-to-market to options

(a) Scope of extension.--All equity options, including broad-based stock index options, would be excluded from mark-to-market treatment. Treasury authority to treat unlisted options as listed options if proper safeguards are present.

(b) Options dealers.--Continue to apply self-employment tax to income of options dealers and provide parallel treatment to professional commodity traders. Make such

income eligible for Keogh plans and facilitate qualification under subchapter S.

(c) Capitalization of carrying costs.--Take Senate provision reducing capitalized carrying costs by dividends received on stock included in a straddle. For corporations, limit the dividend offset under sec. 263(g) to the portion included in income after the dividend received deduction.

(d) Technical amendment.--Revise definition of equity option to include cash settlement option based on a single stock.

(e) Technical amendment.--State in statute that gain or loss on equity options attributable to limited partners in a dealer partnership are short-term.

Effective date.--Take Senate provision.

57. Mixed straddles

Regulations.--Treasury would be required to issue mixed straddle regulations. These would have to provide a taxpayer election to adopt a separate netting rule for identified mixed straddles. For taxpayers who do not make this election, short-term losses will be converted to 60-40 losses to the extent of offsetting 60-40 gains.

Effective date.--No earlier than January 1, 1984.

58. Limit on hedging losses

Take Senate provision. Limit exception allowing losses exceeding unrecognized hedging gains to such gains in trade or business in which hedging transactions were entered into (sec. 1256(e)(5)(B)).

59. Clarification of treatment of options and futures

Regulated futures contracts.--Exercise of an option on an RFC would be a recognition event and such options would be treated as an option to buy or sell property in applying sec. 1234(a) and (b) (Senate provision with modification).

60. Wash sale rules

Take Senate provision with the following modifications:

(a) Wash sale rules would not apply to options dealers.

(b) Wash sale rules would apply to persons engaged in a trade or business if transactions are not entered into in the ordinary course of business.

(c) Technical amendment to effective date.

61. Time for identification

Take Senate provision with technical amendments.

House Response on Straddles

The House accepts the Senate offer on straddles with the following modifications:

56(a). Mark-to-market rules will be extended to broad-based equity index options for investors. Statement of Managers will urge prompt action by Treasury to determine status of index options for which there has been no CFTC designation.

57. Treasury regulations will provide for an elective mixed straddle account involving periodic marking to market applying separate netting principles. Rules of the mixed straddle account would provide that no more than 50 percent of the capital gain may be long-term, providing a minimum tax rate of 35 percent.

