

Joint Committee on Taxation  
June 14, 1984  
JCX-17-84

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

A. Tax Freeze and Related Provisions

1. Finance lease provisions (c) Open  
(p. 10)  
  
(d) House recedes with Statement of Managers language indicating that the rules and regulations differentiating between leases and financing not be liberalized.
4. Maximum estate and gift tax rates (p. 12) Open
5. Windfall profit tax rate on newly discovered oil (p. 14) Open
7. Modification of time and manner of paying cigarette and alcohol excise taxes (p. 16)
  - (a) Time of payment (a) Open
  - (b) Method of payment (b) Open

D. CORPORATE TAX PROVISIONS

22. Dividends received deduction for debt-financed portfolio stock (p. 34)  
  
House recedes with the technical modifications including:
  1. Stock would not be considered to be portfolio stock if the stock is held by an acquired company in the active conduct of its

trade or business.

2. Stock would not be considered to be portfolio stock if the corporate stockholder holds at least 20-percent of the voting power and value of the stock and 5 or fewer stockholders hold at least 50 percent of the voting power and value of the stock.

3. Stock would not be considered to be portfolio stock if the stockholder owns 80 percent of the equity and has options to acquire stock possessing at least 50 percent of the total voting power.

4. Stock would not be considered to be portfolio stock if stock possessing at least 50 percent of the voting power and value (disregarding certain preferred stock) of dividend payor is owned.

5. There would be an increase in the taxable income of the debtor rather than a reduction in any dividends received deduction.

24. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary distribution (p. 36)

(a) Basis reduction

(a) Same

Effective date. -- Senate recedes.

(b) Holding period requirement for dividends received deduction

(b)(1) Same

(b)(2) Senate recesses with amendment providing election to apply the Senate "substantially similar" rule using a 46-day holding period.

(c) Corresponding payments

(c) House recesses.

25. Non-liquidating distributions by corporations of appreciated property (p. 38)

House recesses with amendments (1) moving general effective date to distributions declared on or after date of conference action, (2) applying rule to distributions to 80 percent or greater corporate shareholders, effective for distributions after December 31, 1984, and (3) providing special consolidated returns aggregation rule for distributions to corporate shareholders before January 1, 1985, and a transitional rule for certain distributions thereafter.

27. Certain expenses incurred in connection with short sales (p. 40)

(a) Payments in lieu of dividends

(a) House recesses.

(b) Special holding period rule

(b)(1) Same

(b)(2) Senate recesses with amendment providing election to apply the Senate "substantially similar" rule using a 46-day holding period.

(c) Denial of deduction for short sale expense related to tax-exempt income

(c)(1) House recesses.

(c)(2) Senate recesses. The statement of managers will clarify that this is present law.

(c)(3) Open

- 30. "Golden parachute" contracts (p. 46) Open
- 36. Collapsible corporations (p. 152) Open
- 37. Condominium conversions (p. 54) Open

E. Partnership Provisions

- 43. Section 1031 not applicable to partnership interests; limitation on the period during which like-kind exchanges may be made (p. 64)
  - (a) Partnership interest.-- same in both bills.  
Effective date.--Open
  - (b) Period for exchange.-- House recedes with amendment requiring identification within 45 days of original transfer.  
Effective date.-- Senate recedes with amendment providing that when property to be received has been designated by June 13, 1984, the exchange must be closed by January 1, 1989, rather than January 1, 1987.

F. Accounting Changes

- 48. Mine reclamation and similar costs (p. 68) Open

I. Foreign Provisions

- 71. Income from factoring trade receivables (p. 106)
  - (a) House recedes with amendment extending provision to apply to 10-percent U.S. shareholders and parties related to them.
  - (b) Senate recedes with amendment to treat a

purchase of receivables of a related party like a loan to the purchaser of the goods or services with all income attributable to receivables treated as interest subject to the separate foreign tax credit limitation.

(c) Open

74. Use of territories to avoid U.S. tax on foreign investors (p. 110)

Senate recesses.

83. Stapled stock (p. 118)

(a) Senate recesses.

(b) Senate recesses.

(c) Open

(d) Senate recesses.

84. Excise tax on foreign insurers (p. 120)

Senate recesses with Statement of Managers language indicating that although the Senate provision does not violate any income tax treaty, further study of restructuring the excise tax and the withholding mechanism is in order.

85. Insurance services performed in country of risk (p. 120)

House recesses with amendment extending the provision to 10-percent U.S. shareholders and parties related to them.

86. Foreign investment in U.S. real property--withholding (p. 122)

(a) House recesses with substantial modifications.

(b) House recesses with the following modifications:

1. Generally impose duty on buyer unless buyer receives sworn statement that seller is U.S. person (nonforeign affidavit). Give IRS regulatory authority to

require buyer to file affidavit with IRS.

2. Provide rules for withholding by foreign partnerships, trusts, and estates. Clarify withholding duty of U.S. partnerships, trusts and estates.

3. Clarify that withholding duty applies to dispositions of partnership, etc. interests, and to distributions by domestic real property holding corporations.

(c) House recedes with the following modifications:

1. Duty to withhold is imposed on a buyer's or seller's agent only if agent has actual knowledge that an affidavit is false and fails to notify buyer. However, agent for foreign corporate seller would be deemed to have actual knowledge that nonforeign affidavit is false.

2. Withholding duty applies only to agent's fee.

(d) House recedes with the following modifications:

1. Increase residence exemption to \$300,000.

2. Provide exemption for non-publicly traded stock of U.S. corporation if buyer receives affidavit that corporation is not a U.S. real property holding corporation. Give IRS regulatory authority to require buyer to file affidavit with IRS.

(e) House recedes with the following modifications:

1. Amount withheld generally is lesser of (i) 10 percent times price or (ii) maximum tax liability.

2. Provide early refund of overwithheld amounts.

(f) House recedes.

(g) House recedes with a modification that IRS be authorized to require information reporting by direct investors only.

Effective date.--  
Withholding: dispositions after 1984. Information reporting: retroactive to calendar 1980.

#### L. Domestic Relations Tax Reform

117. Innocent spouse relieved of liability in certain cases (p. 154)
- (a) Open
- (b) Senate recedes with an amendment that the Secretary could require the earner of community income to notify the other spouse of the income and require the spouse to notify the IRS of the name and social security number of the other spouse.

#### M. Miscellaneous Reform Provisions

122. Limitations with respect to property which is partially used for personal purposes and for luxury automobiles (p. 160) Open
127. Capital gains on coal royalties from related parties (p. 168) Open

III. General Charitable Deduction Rules; Private Foundation  
Excise Tax Provisions

B. Private Foundation Excise Tax Provisions

150. Reduction in excise tax on investment income if charitable payout increases (p. 205)

Senate recedes (i.e., tax reduction provision agreed to).

Effective date.--Taxable years beginning after 1984.

151. Limitation on grant administrative expenses as qualifying distributions (p. 205)

Senate recedes, with modifications to limitation: (1) excluding compensation, up to \$60,000, of grant reviewers from limitation; (2) sunsetting the limitation after 12/31/88, with Treasury study due 1/1/88 based on revised IRS forms; (3) using a 3-year average in computing limitation; (4) clarifying that limitation does not apply to expenses of making program-related investments; (5) clarifying definition of qualifying distributions; and (6) clarifying that State approval of director fees is not conclusive of reasonableness for tax purposes.

Effective date.--Taxable years after 1984.

152. Definition of disqualified persons (p. 205)

Senate recedes (i.e., cutoff after great-grandchildren).

Effective date.--January 1, 1985.

153. Modification to limitations on foundation support of voter

Open

- registration drives  
(p. 204)
154. Reliance on IRS classifications of donees (p. 205) Senate recesses (i.e., Treasury directed to amend regulations).
155. Divestiture of post-1969 holdings acquired by gift or bequest (p. 207) Senate recesses, with addition of Senate amendment requirement for submitting divestiture plan to State Attorney General.
- Effective date.--Applies where initial divestiture period ends after October 31, 1983.
157. Treatment of ESOP as disqualified person for section 4943 rules applicable to grandfathered holdings (p. 208) Open
158. Exemption for certain gambling income (p. 208) Open

## VI. Technical Corrections

178. Technical corrections (p. 230) Open

## X. Miscellaneous Revenue Provisions

### A. Estate and Gift Tax Provisions

190. Installment payments of estate tax attributable to interests in closely held businesses (p. 280) Open
191. Repeal of generation-skipping transfer tax (p. 280) Open
192. Treatment of certain disclaimers (p. 282) Open

196. No gain recognized from net gifts made before March 4, 1981 (p. 284) Senate recesses
198. Alternate valuation date (p. 286)
- (a) Circumstances in which estates qualify for election. (a) Senate recesses.
- (b) Ability to make election on late-filed returns. (b) Senate recesses except House recesses to requirement that return be filed within one year of due date.
- Effective date.--House recesses.

B. Charitable Deduction Provisions

200. Collection of amounts for U.S. Olympic Committee (p. 289) Open
201. Charitable expense deduction for use of passenger automobile (p. 291) Open

C. Exempt Organization Provisions

202. Acquisition indebtedness of certain educational institutions and organizations managing property for tax-exempt organizations; tax-exemption for such organizations (p. 292) Open
203. Church audits (p. 294) Open
205. UBIT exemption for renting of membership lists by Federally chartered corporations (p. 299) Open

E. Employee benefits

- 211. Nonqualified stock options (p. 308) Open
- 213. Certain section 83(b) elections (p. 310) Open
- 214. Employee achievement awards (p. 311) Open
- 215. Exclusion for educational assistance benefits; deferred educational benefits (p. 312) Open
- 217. Dollar limits on benefits under qualified pension plans for airline pilots (p. 314) Open

L. Miscellaneous Housing Provisions

- 248. Cooperative housing corporations (p. 350) Open
- 249. Sale-leasebacks of principal residences by taxpayers 55 or older (p. 354) Open
- 250. Deductibility of mortgage interest and taxes paid out of tax-free allowances for military personnel and ministers (p. 356) Open
- 251. Rollover of gain on sale of residence for military personnel stationed overseas (p. 356) Open

M. Extensions of Existing Provisions and Miscellaneous Transitional Rules

- 252. Investment income from S corporations (p. 358) Open
- 254. Special leasing rules for certain coal gasification facilities (p. 360) Open

255. Provisions of Indian Tribal Government Tax Status Act of 1982 made permanent (p. 360)

House recedes with technical modification providing that Indian Tribal governments are treated as State governments for the following additional purposes:

(1) Rules relating to accident and health plans;

(2) Expenses incurred in certain appearances with respect to legislation; and

(3) Rules relating to certain discount obligations.

256. Amortization of low-income housing rehabilitation expenditures (p. 360) Open

258. Eliminating architectural and transportation barriers to the handicapped (p. 362) Open

N. Social Security Tax Provisions

259. Tax-exempt interest in calculation of taxable social security benefits (p. 364) Open

260. Social security treatment of certain church employees (p. 364) Open

261. Coverage of employees under social security and Federal retirement systems (p. 368) Open

O. Miscellaneous Provisions

266. Employee tips (p. 374) Open

267. FUTA treatment of tips Open

(p. 374)

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|---|------|
| 269. Tax refunds relating to traveling expenses at North Dakota ABM site (p. 376) | Open |
| 270. Capital construction funds for fish processing facilities (p. 376)           | Open |
| 273. Boundary Waters Canoe Act Payments (p. 378)                                  | Open |
| 274. Physicians' and surgeons' mutual protection associations (p. 378)            | Open |