The original documents are located in Box 59, folder "1976/10/04 HR10612 Tax Reform Act of 1976 (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
OCT 4 - 1976

Ceremony - Oval Office (Noon)

Statement issued 10/4/76

10/4/76

THE WHITE HOUSE

WASHINGTON

October 2, 1976

ACTION

Last Day: October 5

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 10612 - Tax Reform Act of 1976

archives
10/4/76

Attached for your consideration is H.R. 10612, the Tax Reform Act of 1976, sponsored by Representative Ullman.

A description of the provisions of the bill is provided in OMB's enrolled bill report at Tab A.

OMB, Jack Marsh, Counsel's Office (Kilberg), Bill Seidman (Porter) and I recommend approval of the enrolled bill and the proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.R. 10612 at Tab B.

That you approve the statement at Tab C.

Approve _____ Disapprove _____

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 30 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10612 - Tax Reform Act of 1976
Sponsor - Rep. Ullman (D) Oregon

Last Day for Action

October 5, 1976 - Tuesday

Purpose

To improve income tax equity; to continue tax cuts provided in the Tax Reduction Act of 1975; to simplify certain tax provisions and delete unnecessary language; and to make "reforms" in the administration of the tax laws.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Commerce	Approval
Department of Agriculture	Approval
Department of Defense	Approval
Department of Health, Education and Welfare	No objection
Department of Justice	No objection
Department of State	No objection
Department of Housing and Urban Development	No objection
Department of Labor	No objection (Informally)
Department of Transportation	No objection
Council of Economic Advisers	No objection
Federal Reserve Board	No objection (Informally)
Federal Home Loan Bank Board	No objection
Small Business Administration	No objection
Securities and Exchange Commission	No recommendation received

Discussion

H.R. 10612 makes extensive revisions in the United States Tax Code and continues the basic individual and corporate tax reductions enacted in 1975, making some of these reductions permanent. It substantially increases estate and gift tax exemptions and credits and generally provides more generous benefits for working parents needing child care and for the elderly. H.R. 10612 increases the minimum tax for individuals and corporations and tightens the treatment of tax shelters, capital gains, large interest deductions, and income earned abroad.

In other changes regarding foreign source income, the enrolled bill levies higher taxes on U.S. oil and gas companies operating abroad, taxes bribes immediately upon payment by U.S. companies to foreign officials, curtails existing tax deferral advantages conferred on DISC (Domestic International Sales Corporation) profits, and imposes tax penalties on U.S. companies which participate in the Arab boycott of Israel.

Domestically, certain major industries are given more liberal tax treatment through more generous loss offsets, higher investment credits, and more lenient amortization and depreciation rules. Such industries include life and mutual insurance, mutual funds, and airlines, railroads, and shipping.

Finally, the enrolled bill contains numerous provisions designed to simplify tax procedures, to delete unnecessary language from the Tax Code and otherwise to improve and clarify the administration of the tax laws.

Many of the provisions in H.R. 10612 reflect Administration initiatives or have been supported by the Administration. Others have been actively opposed. The attached table compares features of the enrolled bill with the Administration's tax proposals in terms of the size of tax cuts or increases and the associated revenue impact. The major or controversial provisions of H.R. 10612 are discussed in greater detail below.

INDIVIDUAL TAXPAYERS

Extension of 1975 Tax Reductions

H.R. 10612 makes permanent or extends the individual tax cuts enacted in 1975 and slightly expanded in 1976, including (1) the extra $35 tax credit (or, if greater, 2 percent of the first $9,000 of taxable income) a taxpayer may claim for each personal exemption; (2) the earned

income refundable tax credit for low income families with children which is pegged at 10 percent of the first $4,000 of earnings and phased out between $4-8,000; and (3) the higher minimum and maximum standard deductions, which are made permanent. Thus, the minimum standard deduction or low income allowance is fixed at $1,700 for single persons and $2,100 for couples filing joint returns. The percentage standard deduction is 16 percent of adjusted gross income with the maximum set at $2,400 for individuals and $2,800 for couples.

These reductions differ from your proposed deepened tax cuts which would have eliminated the $35 per exemption tax credit and earned income credit but would have

-- introduced a higher personal exemption ($1,000 versus the $750 current level)

-- established a simplified standard deduction.

Tax Shelters

The bill strengthens the tax treatment of tax-shelter investments. Investors in oil and gas properties would be limited by the amount of their own capital "at risk" in deducting losses. A recapture provision is imposed when an oil or gas property is sold to prevent excess prior deductions for intangible drilling expenses from being used to convert ordinary income into capital-gains income. Real estate investors will be required to capitalize and amortize construction period interest and taxes. Phase-in rules include postponing any impact of this provision until 1981 for Government assisted low income housing projects. "At risk" limitations are also provided for farming, movie, and equipment leasing tax shelters.

These changes are not those preferred by the Administration as a means of correcting tax-shelter abuses, although they are roughly in accord with the Administration's objectives.

Minimum Tax

The bill significantly expands the "minimum tax" provision, which first entered the tax code in 1969. Under current law, a 10 percent tax is applied to the sum of an individual's or corporation's tax preferences less a $30,000 exemption and the taxpayer's regular income taxes.

The bill increases the rate of minimum tax on individuals from 10 to 15 percent and reduces the exemption to the greater of $10 thousand or one-half of regular income taxes. New preference items are added to the base of the minimum tax: a taxpayer's itemized deductions -- other than medical and casualty deductions -- in excess of 60 percent of adjusted gross income; intangible drilling costs for oil and gas in excess of deductions if costs were capitalized, and accelerated depreciation on all equipment leases.

The Administration opposed the concept of the minimum tax and had proposed a tax on "minimum taxable income" and the concept of Limitations on Artificial Losses (LAL) as a means of assuring greater tax equity and reducing the use of tax preferences rather than taxing the excessive use of preferences in the aggregate.

Estate and Gift Taxes

H.R. 10612 provides the first major reform of estate and gift taxes since 1941 by increasing substantially the amount the taxpayer may bequeath tax free. Currently, the estate tax exemption is $60,000 with a $30,000 exemption for lifetime gifts. The enrolled bill combines the estate and gift tax exemptions and converts them into a single tax credit. The new unified credit will be equivalent to a $120,000 exemption in 1977 and to a $175,000 exemption after 5 years.

H.R. 10612 increases the marital deduction for transfer between spouses by raising the estate tax deduction to the greater of $250,000 or half the estate. It also provides an unlimited marital deduction for the first $100,000 of lifetime transfers, no deduction for gifts between $100,000 and $200,000 and a 50 percent deduction for larger gifts. Current law provides that up to half an estate can be left to a spouse without tax and that half the value of lifetime gifts between husband and wife are tax free.

To encourage heirs to maintain and operate family firms or closely held businesses, a special valuation based on "current" rather than "highest and best" use is made available, provided the estate's value is not thereby reduced by more than $500,000 and provided the property is held at least 15 years. Such estates are also granted up to 15 years (instead of the current 10 years) to pay the estate tax, and the interest rate on the unpaid balance (up to $1 million) is lowered from the current 7 percent to 4 percent. Any estate may be granted a 10-year extension on its estate tax payment upon a showing of "reasonable cause" instead of the current requirement of "undue hardship."

The enrolled bill tightens the tax treatment of inherited capital assets. Under current law the basis of the inherited property is set at the property's fair market value, no matter how much the value has increased since the asset was purchased. Thus, the heir often begins with a higher basis which reduces his subsequent capital gains tax if he ever sells. H.R. 10612 establishes, beginning December 31, 1976, a minimum basis of $60,000 per estate, and requires that an heir's basis would be computed as the greater of 1) the value of the property on December 31, 1976, 2) the heir's share of the $60,000 minimum basis or 3) the original purchase price.

Finally, the enrolled bill requires that newly created "generation skipping trusts" be taxed but excludes up to $250,000 for transfers to each grandchild.

Retirement Income Credit

H.R. 10612 simplifies and makes more generous the existing 15 percent retirement income credit applicable to persons 65 and over. This provision allows earned income to be eligible for the credit instead of just pensions and other retirement-related income, and thus would aid retired persons with some income -- from any source -- and low social security benefits. The maximum amount on which the credit may be computed is raised for single persons (from $1,524 to $2,500), for couples filing joint returns with only one spouse 65 or older (from $2,286 to $2,500) and for joint returns where both spouses are 65 and older (from $3,048 to $3,750).

In addition, the provision of current law which reduces the retirement income credit by an amount equal to half the taxpayer's earned income between $1,200 and $1,700 and by all earnings above $1,700, is repealed. The new credit phases out for single persons with income above $7,500 and for married persons with income above $10,000.

Child Care

H.R. 10612 converts the existing itemized deduction for child care expenses to a 20 percent credit for child care costs and sets a maximum credit of $400 for one child and $800 for two or more children. Since the credit is subtracted directly from taxes owed, the benefit can be enjoyed by those who use the standard deduction and hence are more likely to be in the lower income bracket.

However, unlike current law which phases out the deduction at an income level above $35,000 and requires that both husband and wife work full-time, the enrolled bill removes the income limit and extends the tax break to couples where one spouse works part-time, or is a full-time student, and to divorced or separated parents having custody of a child. In addition, while existing law precludes the deductibility of payments to relatives for child care, the bill contains a "grandma" clause which makes payments to relatives eligible for the credit.

The Administration has supported the concept of a tax credit for child care costs as a move toward simplification, although it has expressed opposition to removal of the income ceiling.

Sick Pay Repeal

The bill repeals the provision in current law permitting an employee to exclude up to $100 of weekly pay from income during extended sick leave. An exclusion of up to $5,200 a year is provided for retired persons under age 65 who are permanently and totally disabled; however, there is a dollar-for-dollar reduction in the value of this exclusion for persons with incomes in excess of $15,000.

Capital Gains and Losses

H.R. 10612 increases the duration for holding an asset in order to qualify for long term capital gainstreatment from 6 to 9 months in 1977 and to 12 months thereafter; however, for farm commodity futures contracts the 6-month period will continue. To offset this more restrictive capital gains treatment, the allowable deduction of capital losses from ordinary income will rise from $1,000 to $2,000 in 1977 and to $3,000 in 1978 and thereafter.

CORPORATIONS

Extension of 1975 Tax Reductions

The enrolled bill continues through 1977 the corporate tax rate reductions and increased surtax exemption which were enacted by the 1975 Tax Reduction Act. The 10 percent investment tax credit is extended to 1980 and liberalized to allow businesses to offset current income with unused credits from prior years instead of first using current year credits as required under existing law.

H.R. 10612 likewise extends to 1980 the one percent bonus enacted last year on top of the 10 percent investment credit for companies contributing an amount equal to the extra point to establish an Employee Stock Ownership Plan (ESOP). A further one-half percent bonus has been added in the bill for companies whose employees match the additional one-half percent tax credit.

The Administration has opposed since its enactment the 1 percent investment credit bonus for companies adopting an ESOP. The bonus simply results in 100 percent financing of ESOP's with tax dollars, with no benefits accruing to the tax paying public which ultimately puts up the funds. The preferred approach to greater stock ownership by low and middle income Americans -- unfortunately ignored by the Congress -- was your Broadened Stock Ownership Proposal (BSOP), which did not limit participation to specially situated individuals.

Minimum Tax

Along with raising the minimum tax on individuals, the bill increases the minimum tax on corporations from 10 to 15 percent of preference income. Current law reduces the base of the corporate minimum tax by the greater of $30,000 or regular taxes paid. The bill reduces the $30,000 exemption to $10,000. No new tax preference items are added to the base of the minimum tax for corporations.

In applying the new minimum tax provisions, preferential treatment is given to banks and savings and loan institutions and timber companies, which will effectively escape the minimum tax increase.

Offsetting Losses

H.R. 10612 permits most businesses to carry forward losses an additional 2 years to offset against income. Under current law companies may generally carry back losses for 3 years and any remaining losses forward for 5 years; regulated transportation businesses are permitted a 3-year carryback and 7-year carryforward benefit. Henceforth, most companies will be permitted a 3-year carryback and 7-year carryforward rule and regulated industries (transportation firms) will have 3 years back and 9 years forward. Alternatively, to avoid possible loss of investment tax credits and foreign tax credits a business may, for any one year, elect to carry operating losses forward only instead of first carrying them backward.

Beginning in 1978, the rules are tightened on acquisition of unprofitable firms by companies in search of losses to offset their profits. As a special benefit to life and other mutual insurance companies, however, the prohibition in current law is lifted on using the losses of nonlife insurance affiliates to offset parent company income, but this benefit will not begin for 5 years and is phased in over a 3-year period thereafter.

FOREIGN INCOME

Reduction in DISC Benefits

The enrolled bill reduces by about one-third existing benefits which permit companies to defer taxes on up to 50 percent of export profits of a Domestic International Sales Corporation (DISC). The new measure limits the DISC benefit to exports in excess of 67 percent of the annual average for the base period 1972 through 1975. After 1979, this base period will be moved forward one year at a time. Moreover, military exports will qualify for only half the regular DISC benefit.

The Administration has consistently opposed any cutback in DISC benefits, arguing that the full benefit is needed to encourage U.S. exports.

International Boycott

H.R. 10612 denies tax benefits to U.S. companies which participate in the Arab boycott of Israel. Boycott participants will lose those portions of their foreign tax credits, deferral of taxes on overseas earnings, and DISC benefits related to the boycott, but will be permitted to continue to enjoy tax benefits attributed to demonstrated nonboycott activities in boycott countries. A company will be deemed to participate in an international boycott if it agreed to

-- refrain from hiring employees on the basis of nationality, religion, or race.

-- refuse to do business with a specified country (i.e., "secondary" boycott).

-- refuse to do business with other countries which do business with a specified country (i.e., "tertiary" boycott).

-- ship products only by carriers not on an international boycott list.

This feature of the bill has been strongly opposed by Administration officials as an inappropriate remedy to the boycott problem, and one which will create severe foreign policy difficulties in attempting to enforce it. While the language in the enrolled bill is less punitive than proposed in the Senate version and may, therefore, permit more lenient administration of the measure, the provisions will, as Secretary Simon has noted, "penalize many business transactions in the Arab world unless the Arabs modify the boycott."

Other Provisions

The enrolled bill substantially revises existing law and adds new measures governing the taxation of income earned abroad by Americans. These changes include

-- a reduction of the exclusion taxpayers receive on income earned abroad from $20,000, or in some cases $25,000, to $15,000.

-- repeal of the option allowing companies to compute credit for payment of foreign taxes on a country-by-country basis. Henceforth, except for companies doing business in U.S. possessions and certain mining companies doing business abroad which may continue to use the per-country option for three more years, corporations will have to compute their credit for payment of foreign taxes on an overall basis, rather than per-country basis. Moreover, foreign losses that reduce U.S. taxes in one year will hereafter be subject to "recapture" in later years as the operation becomes profitable, thereby reducing allowable foreign tax credits.

-- a cut back to 48 percent from 50 percent in the allowance for foreign taxes used to offset U.S. taxes payable on foreign oil and gas extraction income.

-- removal of tax deferral benefits for foreign bribes paid by U.S. corporations. Companies that pay bribes to foreign officials will be subject to an immediate tax on the amount of the bribe and will no longer be permitted to defer tax on such payments.

The Administration generally supported these changes.

MISCELLANEOUS

In a number of areas the enrolled bill tightens tax exemptions, withholding rules, credits, and deductions to discourage further tax abuses or to close certain tax "loopholes". Important provisions in this category

-- tighten restrictions on deductions for rent, utility bills, and other expenses attributed to an office at home. Deductions are allowed only when part of the home is used exclusively and regularly as the taxpayer's principal place of business or for meeting clients, patients, or customers in the normal course of business. Deductions may not exceed the amount of income earned by the business conducted at home.

-- permit business and professional persons to deduct expenses for no more than two foreign conventions attended per year and limit deductions for meals, hotels, and other expenses to the applicable foreign per diem allowance given to U.S. government employees. Current law generally does not limit deductible expenses or the number of foreign conventions which may be attended.

-- reduce the maximum annual deduction for interest payments on investment debts from a total of $25,000, plus net investment income, long-term capital gain, and half of any investment interest exceeding these amounts, to a total of $10,000 plus net investment income.

-- disallow business deductions in excess of rental income for a vacation home rented out to others if the taxpayer uses it for personal purposes for more than two weeks or 10 percent of the days it was rented out. If the vacation home is rented out for less than 15 days per year, no income need be reported, but no business deductions may be claimed.

-- require immediate tax withholding of 20 percent of race track winnings of more than $1000, of state lottery payoffs over $5000, and of any other gambling winnings over $1000 where the odds are at least 300 to one. Winnings from slot machines, kino, and bingo are exempted from this withholding requirement.

-- change the treatment of qualified stock options issued to key corporate personnel by valuing such options as ordinary income rather than capital gains income. If the fair value cannot be determined at the time of issuance, the increase in the stock's price over the option price will be taxed as ordinary income when the option is exercised.

-- broaden the prohibition on the tax-free transfer of appreciated property to exchange or swap funds established as partnerships and trusts. Current law already forbids tax-free transfers to exchange funds set up as corporations.

H.R. 10612 also liberalizes other tax provisions. Some of these new or expanded "tax breaks"

-- change the existing deduction for alimony payments from an itemized deduction to a deduction from gross income — a so-called "above-the-line deduction — thus making it available to taxpayers who use the standard deduction.

-- make permanent the current tax exemption (which was due to expire on December 31, 1976) for the interest foreign individuals and corporations receive on their U.S. bank deposits.

-- provide for the tax-free treatment of the premiums and services of employee group prepaid legal insurance, thus placing group legal insurance on the same footing as group medical insurance.

-- increase the deduction for moving expenses from $2,500 to $3,000, including house-hunting and house-selling, and decrease the minimum distance one must move to qualify for the deduction from 50 to 35 miles.

-- encourage the acquisition and rehabilitation of certified, historic structures by permitting faster depreciation than at present while denying tax advantages to those who demolish such buildings.

-- increase from $20,000 to $35,000 the exclusion for capital gains on the sale of a house by a taxpayer over 65.

The enrolled bill contains a number of technical provisions dealing with tax simplification and administrative reform. Inter alia these provisions

-- establish additional rules for the disclosure of tax returns and return information and for public inspection of Internal Revenue Service private letter rulings after November 1, 1976.

-- permit State and local governments to use Social Security account numbers for identifying individuals in administering the tax, welfare, motor vehicle and driver licensing laws.

-- mandate federal withholding of State income taxes for members of the military, and withholding of State and local income taxes from the pay of National Guard and Reserve personnel.

-- provide simplified tables for taxpayer use in computing tax liabilities.

AGENCY VIEWS

Included below are the views of those agencies which have strong reservations about specific provisions of H.R. 10612 although, on balance, no agency recommends withholding approval of the bill.

HEW

The Department does not object to approval of H.R. 10612, although it soon intends to submit for legislative clearance proposals to correct problems perceived with two provisions in the bill.

HEW believes that section 1202(a), which prohibits the disclosure to Federal agencies of tax returns and return information except as specifically authorized, will adversely affect ongoing statistical and research efforts of the Social Security Administration and the National Institute for Occupational Safety and Health. HEW also fears that this provision would probably preclude the disclosure of taxpayer mailing addresses to the Office of Education for its collection activities in connection with defaulted student loans.

In addition, the Department, in its views letter, objects to section 1207(e) which would exempt withholding of social security taxes from fishermen employed on boats with ten-man crews or less who receive their pay as part of the catch. The Department asserts that this provision raises questions about the status of these fishermen (i.e., are they self-employed or employees of others), is disadvantageous to them (they may be subject to social security contributions at the higher self-employment rate) and would result in a revenue loss to the social security trust fund.

Justice

Although expressing serious reservations about sections 1202 and 1205 of H.R. 10612, Justice declines to make a recommendation on whether the bill should be approved and defers instead to the Treasury Department.

Like HEW, Justice is concerned about section 1202's restrictions on making tax information available to other federal agencies. These restrictions will, in Justice's view, "seriously impede the unraveling of white-collar, official corruption and organized crime cases and will increase the difficulty of bringing narcotics traffickers to justice."

Section 1205 is viewed as having an equally adverse effect on law enforcement and tax administration efforts. This section permits a taxpayer to seek an injunction in the courts to block a subpoena of the records of third parties even though the taxpayer has no legally protectable interest in such records. In Justice's view, income tax investigations of organized crime and white-collar crime will be impeded because many third party records "would be available only after extended litigation..." and not until the statute of limitations on prosecuting such crimes has taken effect.

Federal Home Loan Bank Board

On the overall desirability of the proposed legislation, the Bank Board defers to other agencies more directly affected. However, the Board characterizes Section 301, relating to the minimum tax increase and tightened preference income deduction rules, as unwise. The Board believes that the increasedtax liability of savings and loan institutions imposed by this Section will (1) lessen the incentive for such institutions to maintain a high percentage of assets in residential mortgage loans, (2) decrease after-tax income and retained earnings, thus making it difficult for thrift institutions to sustain growth while remaining in compliance with federal insurance reserve and net worth requirements, and (3) tend to push up home mortgage loan rates because of the larger tax "bite" on income. The Board concludes its views by urging that "changes in the tax liability of financial institutions be given special consideration apart from the general question of corporate income taxes."

Defense

While expressing reservations over two provisions in H.R. 10612, on balance Defense recommends approval of the bill.

The Department's concern with the first provision -- repeal of the exclusion from gross income of non-combat related disability payments for members of the armed forces who enter on duty after September 24, 1975 -- is based on the different tax treatment that will be accorded to members who may be similarly situated but have different entrance on duty dates. However, Defense defers to the judgment of Congress on this issue.

The second provision -- requiring the withholding of State and District of Columbia taxes of military personnel -- is viewed as creating a considerable administrative burden in its implementation. Accordingly, Defense intends to seek agreement with Treasury on the respective responsibilities and liabilities of each department in complying with this provision.

State

The Department strongly objects to two measures in the enrolled bill: the antiboycott provision and the provision dealing with voting procedures in the International Trade Commission (ITC). The boycott provision and the Administration's strong opposition to it have been discussed earlier in this memorandum.

The ITC voting procedures provision requires that, in the event the six Commissioners voting on a question of import injury are equally divided and the President declines to accept the views of either group, then the Congress can, by concurrent resolution, designate the views of either group of Commissioners as the ITC determination. A similar, though not identical, change applies to recommendations for remedy after injury has been found to exist.

Under current law, the President's determination on import relief cases can be overridden by concurrent resolution only if his determination differs from the determination of an absolute majority of the Commission.

Similar provisions for Congressional override of Executive branch determinations are contained in other bills being considered by this Congress. Such instances of legislative encroachment on Executive perogatives are, in our view, unconstitutional and inconsistent with the principle of separation of powers, and should normally be opposed. In the present case, however, the effect of this new provision is to expand congressional veto power already embodied in the Trade Act of 1974. Accordingly, and especially in view of the overall desirability of H.R. 10612, we do not believe this provision warrants disapproval.

RECOMMENDATION

We agree with Treasury that, while the enrolled bill has certain undesirable features, it "is meritorious" and should be approved. The specific problems raised by several agencies which are described briefly above are not serious enough to warrant disapproval; and some problems can be overcome through future legislative amendments.

We are working with White House staff on a signing statement for your consideration which will be submitted separately.

James T. Lynn
Director

Enclosures

Revenue Impact

of

Administration Tax Proposals
compared with
H.R. 10612
(in billions of dollars)

	1977	1978	1979	1980	1981
I. Administration Proposals					
Tax Reductions (as estimated in the Mid-session Review of the 1977 Budget, July 16, 1976)	-24.8	-32.6	-34.6	-36.7	-38.9
Tax Reform					
Minimum taxable income	.4	.5	.5	.6	.6
Capital gains	.1	- .6	- .9	- 1.1	- 1.2
Home insulation credit	- .3	- .3	- .3	--	--
Sick pay and disability	.3	.3	.4	.4	.4
Repeal 30% foreign withholding	- .2	- .4	- .4	- .4	- .5
Retirement	- .3	- .3	- .3	- .3	- .3
Other income tax changes	- .1	- .1	.1	.2	.2
Subtotal-individual and corporate income tax	*	- .8	- .8	- .6	- .6
Estate and gift tax	- .1	- 1.1	- 1.5	- 2.0	- 2.5
Total	- .1	- 1.9	- 2.3	- 2.6	- 3.2
Grand Total	-24.9	-34.5	-36.9	-39.3	-42.1
II. H.R. 10612					
Extension of Tax Cuts (including outlay portion of the earned income credit)	-17.3	-13.8	- 8.0	- 8.3	- 7.2
Tax Reform					
Tax shelters	.4	.4	.5	.5	.5
Minimum and maximum tax	1.1	1.3	1.5	1.6	1.8
Tax simplification	- .4	- .4	- .5	- .5	- .5
Business-related individual income tax provisions	.2	.2	.3	.3	.3
Changes in the treatment of foreign income	.2	.1	.2	.2	.2
Amendments affecting DISC	.5	.6	.6	.6	.7
Other income tax changes	- .3	- .4	- .5	- .6	- .6
Subtotal-individual and corporate tax	1.6	1.7	2.0	2.1	2.5
Estate and gift tax	--	- .7	- .9	- 1.1	- 1.4
Total	1.6	1.0	1.1	1.1	1.0
Grand Total	-15.7	-12.8	- 6.9	- 7.2	- 6.2

*Less than $50 million
Note: Detail may not add to total due to rounding

C

STATEMENT BY THE PRESIDENT

Today I have signed into law the Tax Reform Act of 1976. This action reflects my judgment that, on balance, the beneficial effects of the good provisions in this massive piece of legislation substantially outweigh the detrimental effects of the provisions which I find objectionable.

I am pleased that in this bill the Congress has raised the minimum tax and has taken meaningful action to eliminate the use of so-called tax shelters by individuals with high incomes. These actions are consistent with my past proposals and firm support of strong measures designed to close these loopholes. In doing so, we are moving toward a tax system under which each taxpayer bears his or her fair share of the overall tax burden.

I am also gratified that the Congress has adopted the program of estate tax relief which I proposed at the beginning of this year. The Act essentially includes my proposals to increase the basic estate tax exemption from $60,000 to the equivalent of $175,000, to liberalize the marital deduction for the transfer of property between spouses, and to provide special relief to the owners of family farms and businesses so that their heirs are not forced to liquidate these enterprises in order to pay estate taxes. The estate tax provisions have both simplified and made much more equitable our system of estate taxation.

Despite the contribution many provisions of this tax bill make to improving our tax system, the bill fails to include several important and necessary changes in our tax structure. We must continue to reform our tax system in three important ways.

First, the best tax reform is tax reduction. Americans currently pay excessive taxes, particularly middle and low income Americans. This Act does temporarily continue the tax reductions enacted last year, but it fails to include my proposals for permanent deepened tax cuts. In particular, I am disappointed that the Congress did not reduce individual income taxes by the additional $10 billion I recommended. If Congress had adopted this measure together with an equal reduction in federal spending, the American people, rather than the Congress, could decide how that extra $10 billion should be spent. Accordingly, I will again urge Congress next year to further reduce the tax burden on Americans by increasing permanently the personal income tax exemption from $750 to $1,000.

Second, increased investment through appropriate tax incentives is absolutely essential if we are to succeed in creating productive jobs for our growing labor force. Such tax incentives can help focus investment in those areas where new jobs are needed most. I will again propose that Congress grant special tax benefits in the form of accelerated depreciation for new plants and equipment in areas of high unemployment. I will also strongly recommend enactment of several other tax measures to aid in capital formation including: enacting a broadened stock ownership plan to increase the participation of low and middle income Americans in the ownership of our free enterprise system; and adopting the proposal I made over a year ago to integrate the corporate and personal income taxes thereby eliminating the present burden of double taxation of dividends which presently inhibits savings and investment and places our nation at a disadvantage in competing for world markets with other industrialized countries.

Third, we must move toward a simplified and more equitable tax code. Last January, I requested the Secretary of the Treasury to study the potential for restructuring and simplifying the present tax code. The Treasury study is well under way. It involves an examination of our present tax code aimed at making it more simple, more fair, and more economically efficient. The Treasury is scheduled to report to me on the project in December. I will carefully review this study as an important part of my Administration's effort to make our tax system fair and equitable for all Americans.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 1 Time: 230pm

FOR ACTION: Jack Marsh
Bill Seidman
Max Friedersdorf
Bobbie Kilberg
Robert Hartmann
Alan Greenspan

cc (for information): Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: noon

SUBJECT:

H.R. 10612-Tax Reform Act of 1976

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

X ____ For Your Comments ____ Draft Remarks

REMARKS:

pleaee return to judy johnstongground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Tax Bill Signing Statement

Today I have signed into law the Tax Reform Act of 1976. This action reflects my judgment that, on balance, the beneficial effects of the good provisions in this massive piece of legislation substantially outweigh the detrimental effects of the provisions which I find objectionable.

I am pleased that in this bill the Congress has raised the minimum tax and has taken meaningful action to eliminate the use of so-called tax shelters by individuals with high incomes. These actions are consistent with my past proposals and firm support of strong measures designed to close these loopholes. In doing so, we are moving toward a tax system under which each taxpayer bears his or her fair share of the overall tax burden.

I am also gratified that the Congress has adopted the program of estate tax relief which I proposed at the beginning of this year. The Act essentially includes my proposals to increase the basic estate tax exemption from $60,000 to the equivalent of $175,000, to liberalize the marital deduction for the transfer of property between spouses, and to provide special relief to the owners of family farms and businesses so that their heirs are not forced to liquidate these enterprises in order to pay estate taxes. The estate tax provisions have both simplified and made much more equitable our system of

estate taxation.

Despite the contribution many provisions of this tax bill make to improving our tax system, the bill fails to include several important and necessary changes in our tax structure. We must continue to reform our tax system in three important ways.

First, the best kind of tax reform is tax reduction. Americans currently pay excessive taxes, particularly middle and low income Americans. This Act does temporarily continue the tax reductions enacted last year, but it fails to include my proposals for permanent deepened tax cuts. In particular, I am disappointed that the Congress did not reduce individual income taxes by the additional $10 billion I recommended. If Congress had adopted this measure together with an equal reduction in federal spending, the American people, rather than the Congress, could decide how that extra $10 billion should be spent. Accordingly, I will again urge Congress next year to further reduce the tax burden on Americans by increasing permanently the personal income tax exemption from $750 to $1,000.

Second, increased investment through appropriate tax incentives is absolutely essential if we are to succeed in creating productive jobs for our growing labor force. Such tax incentives can help focus investment in those areas where new jobs are needed most. I will again propose that Congress

grant special tax benefits in the form of accelerated depreciation for new plants and equipment in areas of high unemployment. I will also strongly recommend enactment of several other tax measures to aid in capital formation including: reducing the maximum corporate tax rate from 48 to 46 percent; enacting a broadened stock ownership plan to increase the participation of low and middle income Americans in the ownership of our free enterprise system; and adopting the proposal I made over a year ago to integrate the corporate and personal income taxes thereby eliminating the present burden of double taxation of dividends which presently inhibits savings and investment and places our nation at a disadvantage in competing for world markets with other industrialized countries.

Third, we must move toward a simplified and more equitable tax code. Last January, I requested the Secretary of the Treasury to study the potential for restructuring and simplifying the present tax code. The Treasury study is well under way. It involves an examination of our present tax code aimed at making it more simple, more fair, and more economically efficient. The Treasury is scheduled to report to me on the project in December. I will carefully review this study as an important part of my Administration's effort to make our tax system fair and equitable for all Americans.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 2 Time: 230pm

FOR ACTION: Paul Leach
Max Friedersdorf
Bobbie Kilberg
Alan Greenspan
Bill Seidman

cc (for information): Jack Marsh
Jim Connor
Ed Schmults
Paul O'Neill
Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: 400 pm

SUBJECT:

Signing Statement - H.R. 10612-Tax Reform Act

ACTION REQUESTED:

____ For Necessary Action
____ For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
__X__ For Your Comments
____ Draft Remarks

REMARKS:

10/2 please return to judy johnston, ground floor west wing

No objection. Have mentioned to Roger Porter that he may wish to include a brief reference to support for tax credits for post-secondary education.

B. Rotts

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 2 Time: 230pm

FOR ACTION: ~~Paul Leach~~ Art Quern ~~Max Friedersdorf~~ Jack Marsh ok
Bobbie Kilberg ok Paul O'Neill
not in Alan Greenspan Robert Hartmann
Bill Seidman Porter

cc (for information): Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: 0900pm

SUBJECT:

Signing Statement - H.R. 10612-Tax Reform Act

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__X__ For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

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K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 2 Time: 230pm

FOR ACTION: Paul Leach
Max Friedersdorf
Bobbie Kilberg
Alan Greenspan
Bill Seidman

cc (for information): Jack Marsh
Jim Connor
Ed Schmults
Paul O'Neill
Robert Hartmann

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: 400 pm

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ACTION REQUESTED:

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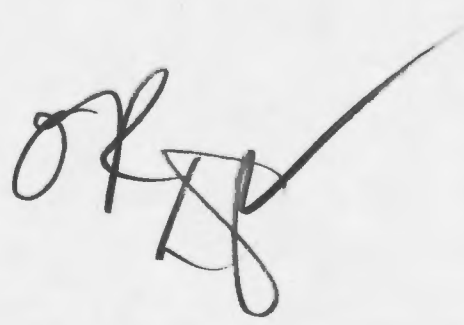
____ Prepare Agenda and Brief ____ Draft Reply

__X__ For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston,ground floor west wing

9:50
10/2/76 copy sent to research.



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For the President

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STATEMENT BY THE PRESIDENT

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GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

SEP 2 3 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning the enrolled bill, H. R. 10612, the Tax Reform Act of 1976.

H. R. 10612, is an omnibus tax reform bill, the basic objectives of which are to: 1) improve the equity of the income tax by limiting artificial losses and other tax shelters; 2) simplify many tax provisions and delete unnecessary language; 3) continue the anti-recessionary tax stimulus provided for individuals and corporations by P. L. 94-12, the Tax Reduction Act of 1975, and 4) make improvements in the administration of the tax laws.

This Department favors these basic objectives. While we have some reservations concerning certain provisions of the bill of particular interest to the Department, we have previously expressed our views on those and, notwithstanding such provisions, recommend the President approve the enrolled bill.

The provisions, each of which we have reviewed and which particularly affect this Department, are:

Section 602 relating to American travel abroad;
Section 805 relating to investment tax credits for certain vessels;
Section 1061-1064 and 1066-1067 relating to international boycotts;
Section 1065 relating to bribe produced income;
Section 1101 relating to DISCs; and
Section 1402 relating to long-term capital gains.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department.

Sincerely,

General Counsel

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

September 28, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment H.R. 10612, the "Tax Reform Act of 1976." The act provides for extensive revision of the Internal Revenue Code, and is intended to reform our Federal tax structure.

The Department of Agriculture supports enactment of the bill.

H.R. 10612 is an omnibus bill that will have profound implications for many sectors in the American economic system. In the Department's view, most of the changes which will affect the agricultural sector are justifiable and warranted. Reform has been long overdue, and this bill provides reasonable and prudent corrections that should rectify past tax abuses.

Estate and gift tax reform is also long overdue. Some adjustments need to be made to compensate for thirty-four years without change since the present statutes were enacted. However, although many of the proposed changes for estate and gift taxation contained in this bill are consistent with general reform, two sections that would provide unique treatment for farmland may pose problems for the continued well-being of the farm sector.

Sections 2003 and 2004 would allow estates that are largely attributable to farms and other closely-held businesses the right to value real assets at use value for estate tax purposes, rather than at fair market price, and provide these estates with a special 15 year payment plan at subsidized interest rates of 4 percent. The intent of these provisions is to promote the transfer of family farms between generations; even with qualifiers provided in the bill, individuals outside farming may have a strong incentive to qualify for the special treatment and thereby reduce their estate tax liabilities. If this occurs, it will not be in the best long-run interest of agriculture. Furthermore, determination of use value rather than market value may lead to difficult appraisal problems which will complicate administration of the estate tax.

In summary, the Department's position is in favor of signing the bill but also calls for close review of the public response and utilization of the changes and their impact on family farming and our agricultural production mechanisms.

Sincerely,

Don Paarlberg

Don Paarlberg
Director, Agricultural Economics

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D. C. 20301

September 29, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Defense (DOD) on an enrolled bill, H. R. 10612, 94th Congress, the "Tax Reform Act of 1976".

Provisions in H. R. 10612 of interest to the Department of Defense include the following:

Section 505, Sick pay and military disability pensions;

Section 506, Moving expenses;

Sections 1061-1067, International boycotts and foreign bribes;

Section 1101, Amendments affecting DISC;

Section 1207, Withholding provisions;

Section 1503, Individual retirement accounts for members of Reserves and National Guard;

Section 2130, Tax treatment of Armed Forces health professions scholarships.

Comments on these sections are as follows:

Section 505, Sick pay.

Inasmuch as the new sick pay provisions apply equally to all taxpayers in the circumstances described in Section 505(a), we offer no objection to Section 505(a).

Military disability pensions.

Section 505(b) eliminates the exclusion for non-combat-related disability pensions for members who entered on duty after September 24, 1975. Any such member may exclude military disability retirement payments from gross income only if those payments result from a "combat-related injury". This Department has reservations about according different tax treatment to members who might be similarly situated solely because of their date of entrance on active duty. However, we defer to the judgment of the Congress in that regard.

Section 506, Moving expenses.

This section originated as a DOD legislative proposal and is of paramount importance to DOD in the taxation field. We strongly endorse this section.

Sections 1061-1067, International boycotts and foreign bribes.

DOD defers to the Departments of State, Treasury, and Commerce.

Section 1101, Amendments affecting DISC.

Section 1101, inter alia, changes the rules concerning taxable income of a DISC attributable to military property. DOD defers to the Departments of State, Treasury, and Commerce.

Section 1207, Withholding provisions.

Section 1207(a) requires Federal withholding of State and District of Columbia income taxes of military personnel pursuant to agreements between requesting States and the Secretary of the Treasury. Section 1207(b) extends the requirement for Federal withholding of State, District of Columbia, and city income taxes to members of the National Guard and Ready Reserve with certain stated exceptions. Section 1207(c) permits the Secretary of the Treasury to enter into agreements with States to withhold State income taxes from Federal employees in those States where the withholding is voluntary.

The Department has some reservations with respect to Section 1207. We cannot assess the impact of withholding upon our members; however, we can easily project that it will add considerably to the administrative burdens of the Military Departments. In order to minimize these, the Department will request the Treasury Department to include in the agreements reached with requesting states the following safeguard provisions:

1. The amount of tax withheld from the pay of each member shall be deposited quarterly and reported at the end of the calendar year along with the member's name, address, and Social Security number to the State of legal residence or domicile of such member;

2. The Secretary of Defense shall not be responsible for determining the State of legal residence or domicile of any member under his jurisdiction; however, as is presently the case, the Secretary of Defense shall require each member who is on extended active duty to declare in writing his State of legal residence or domicile and provide notice in writing of any change thereto;

3. The United States and its employees shall not be liable for the failure to withhold, report, or deposit amounts which were, or were not, withheld as a result of an erroneous declaration of legal residence or domicile.

Section 1503, Individual retirement accounts for members of the Reserves and National Guard.

DOD strongly supports this section.

Section 2130, Armed Forces health professions scholarships.

DOD strongly supports this section.

Despite our reservations about Sections 505 and 1207, it is considered that the good points (such as the moving expense provision) outweigh the bad points in this bill. Accordingly, the Department of Defense recommends that the President approve H. R. 10612.

Sincerely,

Richard A. Wiley

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

SEP 28 1976

Dear Mr. Lynn:

This is a report on H.R. 10612, an enrolled bill "To reform the tax laws of the United States."

Enactment of section 1202(a) of the enrolled bill would adversely affect research now conducted by the Social Security Administration (SSA), retrospective worker mortality and morbidity studies of the National Institute for Occupational Safety and Health (NIOSH), and collection activities of the Office of Education (OE) with respect to defaulted student loans. Further, section 1207(e) would create confusion regarding the status of fishermen under the Social Security Act as self-employed or the employees of others. However, our objections are not sufficient to support the bill's disapproval.

Briefly stated, section 1202(a) of the enrolled bill would amend section 6103 of the Internal Revenue Code (relating to confidentiality of returns and return information) to make returns and return information confidential except as specifically authorized. There is no authorization under that section to permit the Secretary of the Treasury to disclose individual taxpayer return data to SSA for statistical and research activities and to NIOSH for retrospective worker mortality and morbidity studies. Further, we doubt whether 6103(m), which would authorize the Secretary of the Treasury to disclose the mailing address of a taxpayer to officers of an agency for their use in attempting to collect or compromise a claim against the taxpayer under section 3 of the Federal Claims Collection Act, would apply to OE in its efforts to collect on defaulted loans under the Guaranteed Student Loan Program.

The practical consequences of section 1202(a) are that important studies conducted by SSA (including the Continuous Work History Sample and various joint research projects with the

Office of Tax Analysis of the Treasury Department) will have to be discontinued. Further, NIOSH and OE, which both require current individual address data, will have to turn to sources other than the Internal Revenue Service to obtain such information. It has been demonstrated that use of address data provided by the Internal Revenue Service is the least expensive and least time consuming means for locating individuals.

Section 1207(e) of the enrolled bill would exclude from social security coverage as "employment" any services performed by an individual on a boat used in fishing if: (1) under an arrangement with the boat owner or operator, the individual received part of the catch or proceeds from the sale of the catch from that boat (or from a group of boats engaged in the same operation) as his sole remuneration and (2) the operating crew of the boat or of each boat in the group of boats engaged in the same operation was normally made up of fewer than ten individuals. The remuneration of such an individual would be treated as self-employment income. We believe this section is undesirable because it would create confusion and uncertainty regarding the status of fishermen (as self-employed or the employees of others) under title II of the Social Security Act, would be disadvantageous to the employees involved (who may have to pay social security contributions at the higher self-employment rate), and also because it would result in less revenue for the social security trust funds.

Sections 1202(a) and 1207(e) and their effects are described in greater detail at Tab A.

Should the enrolled bill be enacted, we intend in the near future to submit for your review appropriate legislative proposals to resolve the problems raised by these sections.

We also note that section 1211 of the enrolled bill would permit any State (or political subdivision) to utilize the social security number in the administration of any general public assistance, driver's license, or motor vehicle registration law within its jurisdiction. These proposed

uses of social security numbers are contrary to the Administration's position--expressed in Administration Positions on H.R. 10612-Tax Reform Act of 1976 (August 25, 1976) and in the letter from Quincy Rodgers, Executive Director of the Domestic Council Committee on the Right of Privacy, to the Honorable Russell B. Long, Chairman of the Senate Finance Committee (July 23, 1976)--to limit State and local use of social security numbers solely to tax administration purposes.

We recognize that our concern with these provisions is outweighed by those aspects of the enrolled bill that relate to taxation and fiscal policy. Accordingly, subject to the views of the Treasury Department with respect to the other provisions of the enrolled bill, we have no objection to the bill's approval.

Sincerely,

Marjorie Lynch

Under Secretary

Enclosure

Sections 1202(a) and 1207(e)

Section 1202(a)

Section 1202(a) of the enrolled bill would amend section 6103 of the Internal Revenue Code (relating to confidentiality of returns and return information) to make returns and return information confidential except as specifically authorized.

Subsection (j) of the new section 6103 would permit, under specified conditions, disclosures of information on tax returns by the Internal Revenue Service (IRS) for statistical and research purposes to the Bureau of the Census, the Bureau of Economic Analysis, the Federal Trade Commission, and the Department of the Treasury. However, none of these agencies would be empowered to redisclose such information to anyone, including statistical information to the Social Security Administration (SSA). Thus, the statistical and research activities of SSA would be adversely affected if the provision were to become law. For example, it would no longer be possible to use data from IRS records that is essential to the Continuous Work History Sample ("CWHS") system. (The CWHS system is a unique data base for statistical evaluation of social security programs and for research on a variety of other topics, such as the structure of the labor force and the relationships between internal migration and earnings. The system dates back to 1937 and is widely used for research by Federal agencies and others.)

The enrolled bill also would make it necessary to discontinue joint research projects with the Office of Tax Analysis of the Treasury Department involving the merger of the social security and IRS data. The Social Security Administration and the Office of Tax Analysis periodically develop sample data files in which social security data on age, sex, race, earnings, and benefits are added to tax return data for the IRS Statistics of Income sample. These files are used by both agencies to study tax-transfer policy issues and provide the only adequate basis for analyzing the differential effects of tax policies by age, sex, and race. Because these sample data files would no longer be available, their value would be lost if the provision were to become law.

New section 6103 would not authorize the Secretary of the Treasury to disclose any taxpayer return information to the National Institute for Occupational Safety and Health (NIOSH).

Under current law, NIOSH may enter into an agreement with IRS to allow NIOSH access to taxpayer address data maintained on all persons filing tax returns in the United States. There was such an agreement in force until it lapsed in July 1975 and it is expected that it will be renewed in the near future.

In conducting retrospective mortality and morbidity studies of worker populations, NIOSH, on a routine basis while the agreement was in force, submitted to IRS the social security numbers and names of all members of a given study population to obtain the last date of filing and the address from the most recently filed tax return. This enabled NIOSH to subsequently locate the individuals and confirm their vital status. In addition, NIOSH offered to assist workers, who had been located through the use of taxpayer address data and were likely to have developed cancer or other chronic diseases because of prior occupational exposure, to secure medical care.

It has been demonstrated that use of address data provided by IRS is the least expensive and least time consuming means for locating a given individual. It costs NIOSH less than fifty cents to locate a given study member using IRS data. Without the benefit of the taxpayer address information provided by IRS, we have found the cost to locate study members to be approximately $20 per person. The typical size of a study population averages around 2000 workers.

Subsection (m) of new section 6103 would authorize the Secretary of the Treasury to disclose the mailing address of a taxpayer to officers and employees of an agency for their use in attempting to collect or compromise a claim against the taxpayer under section 3 of the Federal Claims Collection Act. This amendment would raise two problems for the Office of Education (OE) in its efforts to collect on defaulted loans under the Guaranteed Student Loan program. First, since the Higher Education Act of 1965 contains specific authority for the Commissioner of Education to compromise and collect defaulted loans under that program, OE does not proceed in the collection of defaulted loans in accordance with the Federal Claims Collection Act. We therefore may no longer be able

to obtain address information under this provision. Second, even if this provision can be interpreted to enable OE to obtain such information for the purpose of tracing defaulted loans, we could not share the information with lenders and State and nonprofit private loan insurance agencies (whose loans we reinsure) as a form of pre-claim assistance. Of course, under the amendment those agencies would also be unable to obtain the information directly from the Treasury Department. The result will likely be to increase the difficulty lenders and State agencies encounter in locating defaulters, with a corresponding increase in the number of claims filed under both the guarantee and reinsurance programs.

Section 1207(e)

Section 1207(e) of the enrolled bill would exclude from social security coverage as "employment" any services performed by an individual on a boat used in fishing if: (1) under an arrangement with the boat owner or operator, the individual received part of the catch or the proceeds from the sale of the catch from that boat (or from a group of boats engaged in the same operation) as his sole remuneration for those services, and (2) the operating crew of the boat or of each boat in the group of boats engaged in the same operation was normally made up of fewer than 10 individuals. The remuneration of such an individual would be treated as self-employment income.

We oppose enactment of this provision because it would create confusion and uncertainty concerning the status of fishermen under the social security law. For example, a worker could perform identical services for two different boat owners and could be considered as self-employed with respect to one if the boat had a crew of fewer than 10 individuals and as the employee of the other if the boat had a crew of 10 or more. Further, covering employees as self-employed would be disadvantageous to the employees involved because they would have to pay contributions higher (now about 41 percent) than those paid by others covered under social security as employees and because some employees could lose social security protection if they were covered as self-employed

because their earnings would generally not be covered unless they had annual net earnings from self-employment of at least $400. Also, less money would be paid into the social security trust funds because the self-employment contribution rate is substantially less than the combined employer-employee contribution rate.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

September 27, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill, H.R. 10612, "To Reform the Tax Laws of the United States."

As you know, because of time consideration, this Department has already expressed its views on this bill in conjunction with those of the Treasury Department. We submitted written comments expressing our serious concern as to Sections 1202 and 1205 through and in connection with the Treasury Department. Copies of those comments are attached for your information. For an extensive exposition of problems we foresee as to Section 1205, see 122 Cong. Rec. S. 12270-72 (daily ed. 7/22/76).

In spite of these problems, the Department of Justice defers to the Department of the Treasury concerning whether this bill should receive Executive approval.

Sincerely,

Michael M. Uhlmann

Michael M. Uhlmann
Assistant Attorney General

In Section 1202, the bill imposes stringent restrictions on the availability of tax information to the Department of Justice. Tax return information is vital for law enforcement needs since it provides both essential investigative leads and concrete evidence of crime. The lack of this information will seriously impede the unraveling of white-collar, official corruption, and organized crime cases and will increase the difficulty of bringing narcotics traffickers to justice. The requirements for an application to the court, inspection by the court, and excision of those parts which do not meet the criteria for disclosure would also substantially add to the burdens of the federal judiciary.

While I am reluctant to sign a bill which includes such provisions, I have been assured by the Treasury and Justice Departments that responsible members of both Houses of Congress have expressed concern regarding its law enforcement provisions. I have asked members of the Administration to work with the Congress in an effort to find prompt legislative solutions.

There are two provisions in this bill which give me grave concern because of their adverse effect on law enforcement and tax administration. The first of these is Section 1205 dealing with administrative summonses. This provision grants a taxpayer standing in court to block the efforts of the Government to obtain the records of third parties even though the taxpayer has no legally protectable interest in those records. The Supreme Court has warned that to permit this procedure would stultify investigations by the Internal Revenue Service. The most harmful effect is that the Government will be severely hampered in its efforts to conduct income tax investigations of organized crime and white-collar crime since third-party records would be available only after extended litigation--much of which may not be concluded until the statute of limitations has barred prosecution of the crime being investigated.

DEPARTMENT OF STATE

Washington, D.C. 20520

September 29, 1976

Dear Mr. Lynn:

This letter is in response to Mr. Frey's communication requesting the views of the Department of State on an enrolled bill, H.R. 10612, to reform the tax laws of the United States.

The Department has a direct interest in several provisions in the bill, including Section 602 - Deductions for Attending Foreign Conventions, Title X - Changes in the Treatment of Foreign Income, Title XI - Amendment Affecting DISC, and Title XVIII - International Trade Agreements. We do not object to most aspects of these provisions and defer to the views of other agencies on them. There are two sections of the bill on which we shall comment specifically, however: Title X, Part VI - Denial of Certain Benefits for Cooperation with or Participation in International Boycotts and in Connection with the Payment of Certain Bribes, and Title XVIII on International Trade Agreements.

The Department does not support the anti-boycott provisions of the bill (Sections 1061-1064). We strongly oppose the boycott of countries friendly to the U.S. and fully support the measures taken by the Administration to prohibit boycott related acts of religious or ethnic discrimination by U.S. firms and to discourage U.S. firms from participating in the boycott of Israel. We believe, however, that the effect of the anti-boycott provisions in this bill will not be to lessen the impact of the boycott, but may even stiffen and strengthen the enforcement of it by the Arab governments.

In terms of foreign policy interests, it is essential to our role in promoting a negotiated

Honorable James T. Lynn,
Director,
Office of Management and Budget,
Washington, D.C.

settlement of the Arab-Israel dispute that we maintain relationships of cooperation and confidence with all parties to the conflict. The anti-boycott provisions in the tax bill could prove harmful to our important political and economic interests in the Middle East without bringing any diminution of the boycott. Realistically, progress toward a settlement, which is our paramount interest in the area, offers the best means of achieving an end to the boycott problem and solutions to the many other issues involved in this troublesome and tragic conflict.

While not recommending that the President disapprove the bill on these grounds, we recommend that when the President signs it he make a strong statement expressing his reservations concerning the anti-boycott provisions. Alternatively, the White House could issue a press release to this effect at the time of signature. The Department has submitted to the National Security Council its suggestions regarding language for such a statement or press release.

The Department is concerned about Section 1801 (b) of the bill which deals with voting procedures in the International Trade Commission. Under existing law, if the ITC does not have a majority in favor of a particular remedy in escape clause or market disruption cases, the President can proclaim his own remedy without establishing the basis for a Congressional override. Section 1801 (b) would empower the Congress to override Presidential decisions in escape clause and market disruption cases in which only half of the members of the ITC voting agree on a remedy. Under Section 1801 (b), if the ITC were divided 3-3 on remedy, the Congress by concurrent resolution could require the President to effect the remedy recommended by either group.

This provision is another attempt by Congress to empower itself with authority to disapprove of Presidential actions by concurrent resolution. The President has already stated publicly the view that such provisions are "violative of fundamental constitutional precepts and thus without effect," and the Department of Justice is pressing a court case challenging the constitutionality of such provisions.

Despite our reservations about the anti-boycott and ITC provisions, the Department of State does not recommend disapproval of H.R. 10612 by the President.

Sincerely,

Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

September 17, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Ms. Ramsey

Dear Mr. Frey:

Subject: H.R. 10612, 94th Congress, Enrolled Enactment

This is in response to your request for our views on the enrolled enactment of H.R. 10612, the Tax Reform Act of 1976.

The bill makes many changes in the Federal tax laws. With respect to the overall policy of the bill, as well as most of the individual provisions, we would defer to the Department of the Treasury.

Our principal interest is in those provisions of the bill which would affect housing in general, and low and moderate income housing in particular. In general, it appears that these provisions are relatively more limited than might have been anticipated, considering the history of the bill and its treatment of other subjects. For example, the bill does not apply to real estate the limitation of deductions to "at risk" investment that was included in the Senate bill and retained in the final measure as a curb on most "tax shelters". It does include a provision requiring that construction period interest and taxes be amortized, instead of being deducted as a current expense, which could have an effect in reducing incentives for investment in housing. However, this amendment would not apply to low and moderate income housing before the end of 1982, and it would not apply to other residential projects before the end of 1978. Further, even after the construction interest and taxes provision becomes effective, it would be phased in through a gradual lengthening of the required amortization period so that its full impact would not be felt until 1984, or in the case of lower income housing, 1988.

Another provision of the bill would apply to most residential housing projects the stricter "recapture" rules governing excess depreciation that now apply to commercial real estate. However, in line with one of the alternative approaches suggested by this Department, low and moderate income projects would apparently receive the benefit of the more liberal rule currently applicable to nonsubsidized residential projects so that there would be no recapture in the case of projects held for at least 16-2/3ds years.

Still another significant provision of the bill would extend section 167(k) of the Code which permits rapid amortization of expenditures incurred to rehabilitate housing for low income families and would increase the per unit limit on the amount of such expenditures. As modified, section 167(k) would apply to rehabilitation expenditures incurred pursuant to binding contracts entered into before January 1, 1978. We consider extension of section 167(k) as necessary and desirable from the standpoint of housing and neighborhood conservation objectives.

In our view, the major provisions described above, along with other relevant features of H.R. 10612, represent a reasonable effort to balance tax reform and revenue objectives against housing needs. Although we believe that the delays allowed by some of the effective date provisions may prove too short so that questions of further extensions will have to be confronted before there has been sufficient opportunity for consideration of impact or alternatives, we regard the bill as an acceptable interim measure from the standpoint of this Department and would have no objection to its approval by the President.

Sincerely,

Robert R. Elliott

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

SEP 21 1976

Honorable James L. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the Department of Transportation's views on an enrolled bill, H.R. 10612, "to reform the tax laws of the United States." As requested we shall only refer to those provisions which directly affect the transportation industry.

Section 1701(a) of the Act would change the present tax treatment of certain railroad ties. It provides that expenditures for acquiring and installing non-wooden replacement ties shall be chargeable to the capital account to the extent the expenditure exceeds the value of wood replacement ties. The remainder of the cost could therefore be expensed. The Treasury has estimated this change will reduce tax receipts by $5 million annually.

Under present law, when concrete ties are used to replace wooden ties the entire cost of the concrete ties is required to be capitalized while the historic cost of the wooden ties is expensed. In contrast the replacement of railroad rail with a better grade of rail is considered a "betterment" and the railroad is permitted to expense the present replacement cost of the replaced rail and is required to capitalize only the additional cost of the higher grade of rail.

Thus, this amendment would allow the railroads to treat ties and rails in the same manner for tax purposes and we do not have any objection to this amendment.

The bill would increase substantially the value of investment tax credits both for the railroad and airline industries. At present investment tax credits may be in general utilized only against 50 percent of a taxpayer's

tax liability and unused credits expire at the end of a seven-year carryover period. Section 1701(b) and Section 1703 provide the railroads and the airlines a temporary increase in the present limitation on the amount of investment tax credit which may be used in the current year and allow the railroads and airlines to apply investment tax credits against 100 percent of their tax liability in 1977 and 1978. This percentage would then decline by 10 percent each year until the limitation is returned to 50 percent. We do not object to Sections 1701(b) and 1703.

Section 1702 would allow the railroads to amortize their pre-1969 tunnel borings. These are now treated as capital expenses that cannot be depreciated. Prior-1969 borings can now be depreciated. We do not have any objection to this amendment.

Section 802 of the bill also affects the use of investment tax credits. While this section applies to all industries, it has particular importance to the airline industry and to the large amount of credits generated and unused in recent years. At present a taxpayer must first apply the current tax credits against the current tax liability, and only after using all the current tax credits can he apply past tax credits.

Section 802 would reverse this order, and allow a company to apply unused credits from the earliest prior year first. Only after such unused credits had been applied would the taxpayer have to use tax credits from the current year. This amendment would have the effect of extending the life of many tax credits. This amendment would be of particular benefit to the airline industry where it is estimated that about $600 million in unused tax credits have been carried over through this year. Since Section 802 deals with all industries and not just transportation, we would defer to the Department of the Treasury regarding this amendment.

We also note that Section 806 would extend the number of years that tax losses may be carried forward for an additional two years. For most industries, tax losses may be carried forward for five years, and this provision would lengthen the period to seven years. Regulated transportation carriers, however, are currently allowed

to use their loss carryovers for seven years and this provision would extend that period to nine years. We believe that it is highly unwise to treat the regulated and unregulated industries in a different way for tax purposes. This amendment would perpetuate that different treatment, but since Section 806 applies to all industries, we would defer to the Department of the Treasury.

We do not have any objection to the President's signing this bill.

Sincerely,

William T. Coleman, Jr.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

September 24, 1976

Dear Mr. Frey:

This is in response to your request for our views on H. R. 10612, "To reform the tax laws of the United States." The Council of Economic Advisers has no objections to the President signing this bill.

Sincerely,

Alan Greenspan

Mr. James Frey
Assistant Director
for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Federal Home Loan Bank Board

320 First Street, N.W.
Washington, D.C. 20552

Federal Home Loan Bank System
Federal Home Loan Mortgage Corporation
Federal Savings and Loan Insurance Corporation

September 27, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your Enrolled Bill Request dated September 23, 1976, concerning H.R. 10612, the "Tax Reform Act of 1976".

The Federal Home Loan Bank Board is responsible for the regulation and supervision of the nation's approximately 4,200 Federally insured savings and loan associations, the largest single source of residential mortgage credit in the United States. The operations of these associations, and the availability of such mortgage credit, may be substantially impacted not only by changes in the taxation of savings and loan associations themselves, but, indirectly, by changes in the Federal income tax law relating to real estate tax shelters as well.

H.R. 10612 contains numerous amendments to the Internal Revenue Code of 1954 ("IRC") which would alter the favorable tax treatment currently afforded taxpayers who invest in real estate, both residential and commercial. These amendments are the product of three years of intensive study, debate and compromise by various Congressional committees and, when fully effective, may increase the tax liability of and lessen the incentive for private investment in real estate. While these provisions of the Tax Reform Act of 1976 may indirectly affect the savings and loan industry, the Board would, in view of the magnitude of the changes in H.R. 10612 and the limited time and opportunity for analysis, defer comment to others more directly affected by the changes.

We note, however, that section 301 of H.R. 10612 would amend section 56 of the IRC (relating to the minimum tax for tax preferences) to increase, when effective, the Federal income tax liability on savings and loan associations. At present, section 56 imposes a 10 percent tax upon the sum of a taxpayer's minimum tax preference items, reduced by a $30,000 exemption and the taxpayer's regular Federal income taxes. Savings and loan associations are currently subject to the minimum tax provisions (in addition to ordinary corporate income taxes) because of their ability to deduct, under section 593 of the IRC, a reasonable addition to a reserve for bad debts which exceeds the amount that would have been allowable had the institution maintained its bad debt reserve on the basis of actual experience. Section 57(a)(7) of the IRC defines this section 593 reasonable addition to a reserve for bad debts as a tax preference item.

Section 301 of H.R. 10612 would amend section 56 to, inter alia, raise the minimum tax rate from 10 to 15 percent and permit the taxpayer to deduct either $10,000 in preference income or one-half of current regular income taxes paid, whichever is greater (vice $30,000 plus regular income taxes paid). Our analysis of earlier similar versions of section 301 considered by the Congress indicated that this amendment would, based upon a number of preliminary assumptions and data, increase the Federal income tax liability of savings and loan associations.

The Board considers the increase in tax liability for savings and loan associations proposed by section 301 unwise at this point for a number of reasons. First, it is clear from the legislative history that Congress provided the special tax treatment under section 593 as an incentive for thrift institutions to maintain a high percentage of assets in residential mortgage loans. Section 301, which in effect increases the penalty for electing to use the optional section 593 bad debt provisions, lessens the attractiveness of the tax benefits obtainable under section 593 and thereby reduces the incentive for savings and loan associations to invest in residential mortgage loans.

Second, an increase in tax liability for savings and loan associations may be particularly harmful at this time when many institutions are undergoing rapid savings growth

and experiencing severely reduced earnings. Federal insurance reserve ("FIR") and net worth requirements for institutions insured by the Federal Savings and Loan Insurance Corporation are prescribed by statute under the National Housing Act. As a savings and loan association grows rapidly, its FIR and net worth requirements increase correspondingly. A decrease in after-tax income, and hence in retained earnings, makes it difficult for a savings and loan association to accumulate sufficient net worth to sustain growth, remain in compliance with regulatory and statutory guidelines, and consequently to provide adequate funds for housing. The increase in the effective tax rate has the consequence of penalizing the more aggressive, expanding savings and loan associations.

Third, the Board would point out that an increase in tax liability of savings and loan associations would reduce after-tax income, and, consequently have a tendency to increase rates on home mortgage loans. This result would be contrary to the policy of Congress in making, at low cost, residential credit available to the public.

Finally, the Board notes that the issue of taxation of savings and loan associations has been considered by the 94th Congress in the context of an overall restructuring of the nation's financial institutions. Because taxation of financial institutions is such an integral part of reform of such institutions, 1/ the Board would urge that changes in the tax liability of financial institutions be given special consideration apart from the general question of corporate income taxes. Section 301(g)(4) recognizes this necessity for special treatment of financial institutions by delaying the effective date of section 301 to taxable years beginning after December 31, 1977, with respect to financial institutions to which section 585 or 593 apply (i.e., commercial banks and savings and loan associations, respectively).

1/ See section 701 of the Senate-passed Financial Institutions Act of 1975 (S. 1267), which would, in general, phase out the tax treatment offered to savings and loan associations vis-a-vis commercial banks under section 593 and substitute in lieu thereof a generalized credit for interest received by all taxpayers on residential mortgage loans.

The Board would prefer to have the application of the provisions of section 301 be delayed until the expiration of the 95th Congress (December 31, 1978) to provide more time for consideration of financial reform. However, we could not recommend against the signing of this major legislation because of such a minor issue, and the Board defers judgment on the overall desirability of the legislation to more affected parties.

Sincerely,

Daniel J. Goldberg

Daniel J. Goldberg
Acting General Counsel

U.S. GOVERNMENT
SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

SEP 29 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for the views of the Small Business Administration regarding H.R. 10612, an Enrolled Bill "To reform the tax laws of the United States."

The Small Business Administration does not object to Presidential approval of the "Tax Reform Act of 1976."

On balance, SBA believes this legislation would provide significant tax relief for small businesses and their owners. In particular, the estate tax relief it would provide small businessmen is long overdue and certainly merits universal support.

Thank you for the opportunity to comment on this Enrolled Bill.

Sincerely,

Mitchell P. Kobelinski

Mitchell P. Kobelinski
Administrator

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: October 2 Time: 230pm

FOR ACTION: Paul Leach
Max Friedersdorf
Bobbie Kilberg
Alan Greenspan
Bill Seidman

cc (for information): Jack Marsh
Jim Connor
Ed Schmults
Paul O'Neill
Robert Hartmann

ok/jf

FROM THE STAFF SECRETARY

DUE: Date: October 2 Time: 400 pm

SUBJECT:

Signing Statement - H.R. 10612-Tax Reform Act

to DC
Oct 2 5:14
pa

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__X__ For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

Roger Porter XQ335

Tax Bill Signing Statement

Today I have signed into law the Tax Reform Act of 1976. This action reflects my judgment that, on balance, the beneficial effects of the good provisions in this massive piece of legislation substantially outweigh the detrimental effects of the provisions which I find objectionable.

I am pleased that in this bill the Congress has raised the minimum tax and has taken meaningful action to eliminate the use of so-called tax shelters by individuals with high incomes. These actions are consistent with my past proposals and firm support of strong measures designed to close these loopholes. In doing so, we are moving toward a tax system under which each taxpayer bears his or her fair share of the overall tax burden.

I am also gratified that the Congress has adopted the program of estate tax relief which I proposed at the beginning of this year. The Act essentially includes my proposals to increase the basic estate tax exemption from $60,000 to the equivalent of $175,000, to liberalize the marital deduction for the transfer of property between spouses, and to provide special relief to the owners of family farms and businesses so that their heirs are not forced to liquidate these enterprises in order to pay estate taxes. The estate tax provisions have both simplified and made much more equitable our system of

estate taxation.

Despite the contribution many provisions of this tax bill make to improving our tax system, the bill fails to include several important and necessary changes in our tax structure. We must continue to reform our tax system in three important ways.

First, the best kind of tax reform is tax reduction. Americans currently pay excessive taxes, particularly middle and low income Americans. This Act does temporarily continue the tax reductions enacted last year, but it fails to include my proposals for permanent deepened tax cuts. In particular, I am disappointed that the Congress did not reduce individual income taxes by the additional $10 billion I recommended. If Congress had adopted this measure together with an equal reduction in federal spending, the American people, rather than the Congress, could decide how that extra $10 billion should be spent. Accordingly, I will again urge Congress next year to further reduce the tax burden on Americans by increasing permanently the personal income tax exemption from $750 to $1,000.

Second, increased investment through appropriate tax incentives is absolutely essential if we are to succeed in creating productive jobs for our growing labor force. Such tax incentives can help focus investment in those areas where new jobs are needed most. I will again propose that Congress

grant special tax benefits in the form of accelerated depreciation for new plants and equipment in areas of high unemployment. I will also strongly recommend enactment of several other tax measures to aid in capital formation including: reducing the maximum corporate tax rate from 48 to 46 percent; enacting a broadened stock ownership plan to increase the participation of low and middle income Americans in the ownership of our free enterprise system; and adopting the proposal I made over a year ago to integrate the corporate and personal income taxes thereby eliminating the present burden of double taxation of dividends which presently inhibits savings and investment and places our nation at a disadvantage in competing for world markets with other industrialized countries.

Third, we must move toward a simplified and more equitable tax code. Last January, I requested the Secretary of the Treasury to study the potential for restructuring and simplifying the present tax code. The Treasury study is well under way. It involves an examination of our present tax code aimed at making it more simple, more fair, and more economically efficient. The Treasury is scheduled to report to me on the project in December. I will carefully review this study as an important part of my Administration's effort to make our tax system fair and equitable for all Americans.