The original documents are located in Box 64, folder "10/17/76 HR1142 Tax Code Amendments" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

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APPROVED
OCT 17 1976

S 10/17/76

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day: October 20

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 1142 - Tax Code Amendments

Posted 10/18/76

archives 10/18/76

Attached for your consideration is H.R. 1142, sponsored by Representative Waggonner.

The enrolled bill would:

-- Provide a special tax deduction for certain care and maintenance expenditures of a cemetery "perpetual care fund";

-- Postpone the effective date of three administrative provisions of the Tax Reform Act of 1976 from December 31, 1976 to February 28, 1977. These provisions regard jeopardy and termination assessments, administrative summons and minimum exemptions from levies for taxes on wages, salaries, or other income;

-- Amend the Internal Revenue Code to permit the deposit of certain fees into a separate account used to reimburse the Internal Revenue Service for costs incurred.

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

OMB, Max Friedersdorf, Counsel's Office (Kilberg), Bill Seidman, Alan Greenspan and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1142 at Tab B.

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A

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

OCT 12 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1142 - Tax Code Amendments
Sponsor - Rep. Waggonner (D) Louisiana

Last Day for Action

October 20, 1976 - Wednesday

Purpose

Provides a special tax deduction for certain care and maintenance expenditures of a cemetery "perpetual care fund"; postpones the effective date of three administrative provisions of the Tax Reform Act of 1976 from December 31, 1976 to February 28, 1977; and amends the Internal Revenue Code to permit the deposit of certain fees into a separate account used to reimburse the Internal Revenue Service (IRS) for costs incurred.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Treasury	Approval
Department of Justice	Approval

Discussion

Cemetery Perpetual Care Funds

H.R. 1142 would allow a deduction for a cemetery perpetual care fund, taxable as a trust, which is created by a taxable cemetery corporation for the care and maintenance of cemetery property. The deduction would be limited to amounts distributed by the fund for the care and maintenance of gravesites purchased from the corporation in prior tax years pursuant to a legal obligation. However, the deduction is limited to $5 times the number of gravesites previously sold.

The effect of the proposed change would be to allow the perpetual care funds to deduct some portion of their distributions to the cemetery companies in computing their taxable income as if the cemetery companies were beneficiaries. The distributions will be includable in the gross income of the cemetery companies.

The estimated annual revenue loss is $10 million. Treasury does not object to this provision.

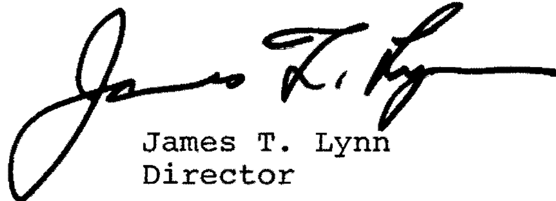
In its attached views letter, however, Justice notes its concern that the proposed changes would be retroactive to January 1, 1964, and would "only encourage taxpayers generally to seek retroactive legislation for their personal benefit." While we would agree as a general proposition that retroactive tax relief is undesirable, in fact the Internal Revenue Service has not imposed any tax in these cases in the past. Thus, H.R. 1142 in effect would simply forestall any revenue collections for the prior years.

Tax Reform Act Amendments

The amendments to the recently-enacted Tax Reform Act of 1976 would delay the effective date of three administrative provisions (regarding jeopardy and termination assessments, administrative summons, and minimum exemptions from levies for taxes on wages, salaries, or other income) from December 31, 1976 to February 28, 1977, thereby giving the Internal Revenue Service more time to implement these provisions of the new law.

Internal Revenue Code Amendments

Finally, the enrolled bill would amend the Internal Revenue Code to permit payments from the public, covering the cost of making available information regarding IRS private letter rulings and determinations, to be deposited into a separate account used to reimburse IRS for costs incurred. Procedures for making such information available to the public, including the imposition of fees, were set forth in the Tax Reform Act of 1976.



James T. Lynn
Director

Enclosures

B

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: 20

Date: October 12

Time: 830pm

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

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 15 Time: 500pm

SUBJECT:

H.R.1142-Tax Dode Amendments

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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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

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

OCT 07 1976

Dear Sir:

This is in response to your request for the views of the Treasury Department on the enrolled bill H.R. 1142.

Section one of the enrolled bill would amend section 642 of the Code (relating to special rules for credits and deductions of estates and trusts) to provide for the taxation of certain distributions by cemetery perpetual care funds. In general, perpetual care funds are created as irrevocable trusts under State law or in accordance with the by-laws and contracts of a cemetery company. They are funded out of a percentage of the gross receipts from the sale of burial lots and crypts. The income from this set aside is applied to the perpetual care and maintenance of the cemetery, burial lots and mausoleum crypts.

Under present law, it has been the position of the Internal Revenue Service (at least since 1964) that perpetual care funds, when established by a taxable cemetery, are subject to the tax imposed by section 641 of the Code. It is held that such trusts are not exempt from taxation since they are discharging an essential function of the profit-making cemetery companies, e.g., maintaining the cemetery, burial lots and crypts. Thus, net earnings of the trusts inure to the benefit of the cemetery companies or their shareholders. See Revenue Ruling 64-127, 1964-2 C.B. 153.

In computing the taxable income of a simple trust there is allowed, under section 651(a) of the Code, a deduction for the income which is required under the terms of the trust instrument to be distributed currently to beneficiaries. In computing the taxable income of a complex trust, there is allowed under section 661(a) as a deduction for distributions to beneficiaries, the sum of income for the taxable year which is required to be distributed currently and any other amounts properly paid or credited or required to be distributerd for such taxable year. However, before a deduction can be allowed in either case it is a necessary prerequisite that there be a beneficiary as the object of the trust's bounty.

With respect to perpetual care funds of for-profit cemeteries, it is the position of the Service, based on certain State court decisions, that such funds do not have a particular beneficiary as the object of the trust bounty and, therefore, are not entitled to a section 651 or 661 deduction in computing taxable income. More specifically, it is held that the benefit of the trust is diffused. The owner of the lot is benefited in the sense that it is technically his property which is maintained; the cemetery companies are benefited since the trusts undertake to maintain the cemeteries in a marketable condition; and, the public is benefited in that the cemeteries, when fully occupied, are to be perpetually maintained in an attractive state without the need for public expenditures for such a purpose. However, none of these classes have a sufficiently direct, pecuniary or ascertainable interest in the trust to justify saying that they are the objects of the trust bounty.

Consistent with this position, the Service has also held that the income of perpetual care funds of for-profit cemeteries is not paid or permanently set aside for a charitable purpose and, thus, is not deductible under section 642(c) of the Code in computing the net income of such trust. See Revenue Ruling 58-190, 1958-1 C.B., 15.

Section one of enrolled bill H.R. 1142 would amend section 642 of the Code to provide that amounts paid by a cemetery perpetual care fund which is created pursuant to local law by a taxable cemetery corporation and which is treated as a trust shall be considered distributions (solely for purposes of sections 651 and 661) to the cemetery company. However, the amount deductible as a distribution is limited to a maximum of $5 times the aggregate number of cemetery gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust.

The effect of the proposed change would be to allow the perpetual care funds to deduct some portion of their distributions to the cemetery companies in computing their taxable income as if the cemetery companies were beneficiaries. However, it is also intended that the distributions to the cemetery companies, while includable in their gross income, will not have the same character in the hands of these companies as in the hands of the trust. Thus, distributions to the cemetery companies of capital gains realized by the trusts would be treated as ordinary income when received by the companies. In addition, the amendment to section 642 is to take effect on October 1, 1977, but is to apply to amounts paid

during taxable years ending after December 31, 1963. The retroactive effective date provision relates to the year in which the Service first gave notice of its position regarding the tax treatment of perpetual care funds of for-profit cemeteries.

The purpose of the bill is to establish that these trusts do have ascertainable beneficiaries, among them the public and that, as a matter of tax policy, the income earned by these trusts should not be subject to tax so long as their income is dedicated toward the perpetual maintenance of cemeteries rather than for the exclusive benefit of the cemetery companies.

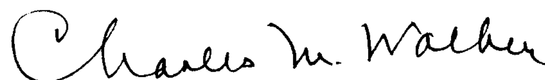
On February 26, 1976, the Treasury Department advised the Ways and Means Committee that it did not oppose the proposed amendment to section 642.

Section two of the enrolled bill changes the effective dates of three administrative provisions contained in the Tax Reform Act of 1976 and amends section 7809 of the Code, relating to deposit of collections. Section 1204(d) of the Act (relating to jeopardy and termination assessments), section 1205(c) of the Act (relating to administrative summons) and section 1209(e) of the Act (relating to minimum exemption from levy for wages, salary, and other income) are each amended by substituting "February 28, 1977" for "December 31, 1976". These changes were made at the request of the Internal Revenue Service which needed additional time to implement the new provisions.

The amendment of section 7809(c) of the Code represents a technical amendment which provides for the deposit of collections directly into the Treasury from work or services performed pursuant to section 6110 of the Code (relating to public inspection of written determinations).

The Treasury Department recommends that the President approve H.R. 1142.

Sincerely yours,



Charles M. Walker
Assistant Secretary

Director, Office of Management and Budget
Attention: Assistant Director for
Legislative Reference, Legislative
Reference Division
Washington, D.C. 20503

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

October 6, 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. 1142) "To amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care funds, to modify the effective dates of certain provision of the Tax Reform Act of 1976, and for other purposes."

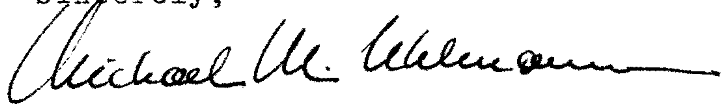
Section 1 of the bill would amend Section 642 of the Internal Revenue Code of 1954 to allow a deduction for a cemetery perpetual care fund, taxable as a trust, which is created by a taxable cemetery corporation for the care and maintenance of cemetery property. The deduction would be limited to amounts distributed by the fund for the care and maintenance of gravesites purchased from the corporation in prior tax years pursuant to a legal obligation. However, the deduction is limited to $5 times the number of gravesites previously sold.

We have no objection to this provision from a substantive standpoint. We unsuccessfully defended Graceland Cemetery Improvement Fund v. United States, 515 F. 2d 763 (Ct. Cl., 1975), where the Court held that deductions for similar purposes were allowable to a corporate care fund. The legislation would reverse the current position of the Internal Revenue Service and extend analogous treatment to care funds taxable as trusts. While we have no objection to legislative reversal of the Service's position, we are troubled by the fact that the bill would make the reversal retroactive to January 1, 1964. This aspect of the legislation can only encourage taxpayers generally to seek retroactive legislation for their personal benefit.

Section 2 of the bill would extend to February 28, 1977, the effective dates of Tax Reform Act of 1976 Sections 1204 (relating to jeopardy and termination assessments), 1205 (relating to administrative summons) and 1209 (relating to exemptions from levy). It would also amend Section 7809(c) of the Internal Revenue Code, relating to the maintenance of a separate account which may be used to reimburse appropriations for the costs of certain work or services, by including work or services performed pursuant to Section 6110 of the Code concerning public inspection of written determinations.

Although we defer to the Treasury Department as to Section 1 of the bill, we feel that Section 2 is of such importance, particularly the deferral of the effective date of Section 1205 of the Tax Reform Act of 1976, that the bill should receive Executive approval.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General
Office of Legislative Affairs

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 9

Date: October 12 Time: 830pm

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

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

106

FROM THE STAFF SECRETARY

DUE: Date: October 15 Time: 500pm

SUBJECT:

H.R.1142-Tax Code Amendments

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

No objection
K. Lazarus
10/13

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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.:

9

Date: October 12 Time: 830pm

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

cc (for information): Jack Marsh
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Steve McConahey

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REMARKS:

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OK PLZ 10/13/76

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James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: 9

Date: October 12

Time: 830pm

FOR ACTION: Paul Leach
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SUBJECT:

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REMARKS:

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Recommend Approval. MLF

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James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

9

Date: October 12 Time: 830pm

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

cc (for information): Jack Marsh
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FROM THE STAFF SECRETARY

DUE: Date: October 15 Time: 500pm

SUBJECT:

H.R.1142-Tax Code Amendments

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

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APPROVAL
RWS

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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

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL OF ECONOMIC ADVISERS

WASHINGTON, D.C. 20506

October 14, 1976

MEMORANDUM FOR JAMES M. CANNON

FROM: PAUL W. MACAVOY, Acting Chairman

This is in response to your request for the views of the Council of Economic Advisers on Enrolled Bill H. R. 1142, "Tax Code Amendments".

This bill clarifies the definition of a beneficiary in the case of cemetery perpetual care funds and therefore allows them to take advantage of the deductions from income granted to other irrevocable trusts. Although there is an estimated revenue loss of $10 million annually, this provision makes the tax treatment of trust income more equitable. The bill also delays for two months the effective date of three administrative provisions of the Tax Reform Act of 1976, and amends the Internal Revenue Code to permit deposit of certain fees from the public into a separate account which will be used to reimburse IRS for costs incurred.

The Council of Economic Advisers recommends that the President approve H. R. 1142.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1344

TAX TREATMENT OF CEMETERY PERPETUAL CARE FUND TRUSTS

JULY 19, 1976.—Committee of the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 1142]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1142) to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

The bill provides a special deduction in computing the income of a cemetery "perpetual care fund" for amounts expended by the fund for the care and maintenance of cemetery property in which interment rights have been sold. In order to qualify as a "perpetual care fund" under this provision, the fund must be a trust established pursuant to local law by a taxable cemetery for the care and maintenance of the cemetery. The deduction allowed is to be the amount actually distributed during the year for such care and maintenance (but not more than $5 per gravesite).

II. GENERAL STATEMENT

Present law

Perpetual care funds generally are created as irrevocable trusts under State law or in accordance with the by-laws and contracts of cemetery companies. They are funded out of a percentage of the gross receipts from the sale of burial lots and crypts. The income of such a trust is applied to the perpetual care and maintenance of the cemetery, burial lots, and mausoleum crypts.

The position of the Internal Revenue Service (at least since 1964) is that a perpetual care fund trust established by a taxable cemetery

is subject to tax.[1] The Service has also concluded that the deduction allowed to trusts for income distributed to their beneficiaries (under sec. 651 or 661) is not to be allowed to perpetual care funds because such funds do not have any specific beneficiaries. The Service's position in this regard is that the benefit of the trust is diffused among the owners of the lot, the cemetery companies, and the public in general.

The Court of Claims recently held (*Graceland Cemetery Improvement Fund* v. *U.S.*, 515 F. 2d 763 (Ct. Cl. 1975)) that a corporation formed for the perpetual care of a taxable cemetery was not exempt from Federal income tax (under sec. 501(c)(13)), but was entitled to deduct as ordinary and necessary business expenses all payments made for cemetery care and upkeep.

General reasons for change

Pursuant to State law (in most cases) or legally enforceable by-laws and contracts (in the other cases), many perpetual care funds make regular distributions to taxable cemeteries for the exclusive purpose of the care and maintenance of the gravesites of such cemeteries. The Service's position is that the deduction for income distributed to beneficiaries of trusts is not allowable to perpetual care funds because they do not have any ascertainable beneficiaries.

Because distributions by perpetual care funds for the purpose of the care and maintenance of gravesites are essentially equivalent to distributions on behalf of beneficiaries (gravesite owners, heirs, and general public) the committee believes that a limited deduction should be allowed with respect to such distributions.

Explanation of bill

The bill amends one of the trusts and estates income tax provisions (sec. 642) of present law to provide a deduction for amounts distributed by perpetual care fund trusts for the care and maintenance of gravesites. The deduction allowed is to be the amount actually distributed during the year for such care and maintenance (but not more than $5 per gravesite). Since perpetual care funds are established for the care of gravesites that have been previously sold by cemetery companies, the deduction for a taxable year is to apply only for amounts distributed to such companies for the care of gravesites sold before that taxable year. For the same reason, the deductions are to be available only with respect to those distributions for the care and maintenance of gravesites with respect to which the fund actually has an obligation of care and maintenance.

It is the committee's intent that the deduction be allowed only to the extent that the cemetery company actually expends the funds received for the care and maintenance of gravesites. Thus, if the cemetery company were to apply the funds received, for instance, to the payment of officer's salaries, the perpetual care fund trust, to that extent, would not be entitled to a distribution deduction.

The bill provides that the above-described payments by a perpetual care fund trust are to be treated as distributions "solely for purposes of sections 651 and 661." As a result, in general, the gravesite owners, heirs, and general public are not to be treated as trust beneficiaries who would be required to take the distributions into income. Since the taxable cemetery company is not the beneficiary of the perpetual care fund trust, the bill does not change the treatment of the receipt of such amounts by the taxable cemetery company. Consequently, such an amount is to continue to be taxable to the cemetery company as ordinary income (sec. 61) and is not to be treated as a trust distribution in the hands of the cemetery company (secs. 652 and 662). For example, even though the perpetual care fund makes a distribution out of dividend income, tax-exempt interest, or long-term capital gains, the cemetery company is to include in income the total amount, without regard to the dividends received deduction, the exclusion of tax-exempt interest, and the deduction for half of long-term capital gains.

[1] In Rev. Rul. 64-217 (1964-2 CB 153), the Service ruled that a perpetual care fund, the income of which is distributed to a profitmaking cemetery company for use in connection with the maintenance of cemetery sites and burial lots, is not entitled to exemption from Federal income tax under section 501(c)(13).

The provisions described above apply to a cemetery care fund only if the fund is taxable as a trust and thene only if it was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property. The local law requirement relates to the governing law of the relevant jurisdiction (State, district, county, parish, city, etc.), and may take the form of a statute, ordinance, court-created doctrine, or other governmental rule.

Effective date

The amendment is to apply to amounts distributed during taxable years ending after December 31, 1963. The effective date provision relates to the year in which the Service issued the ruling described above regarding the tax status of perpetual care funds of taxable cemeteries.

III. Effect of the Bill on the Revenues and Vote of the Committee in Reporting the Bill

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect of this bill on the revenues. Your committee estimates that the bill will reduce tax liability by $10 million per year. The revenue effect pertaining to taxable years ending after December 31, 1963, and beginning before January 1, 1976, cannot be estimated with any degree of accuracy. In any event, it is understood that the Internal Revenue Service had not been collecting tax in these cases in the past, which means that the bill in effect would forestall any revenue collections for the prior years. The Treasury agrees with this estimate.

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote by the committee on the motion to report the bill. This bill was ordered reported by voice vote.

IV. Other Matters Required To Be Discussed Under House Rules

In compliance with clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A), relating to oversight findings, it was as a result of your committee's oversight activity concerning the tax treatment of nonexempt perpetual care fund trusts that it con-

cluded that the provisions of this bill are appropriate to allow limited deductions for care and maintenance distributions.

With respect to subdivision (B), after consultation with the Director of the Congressional Budget Office, your committee states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

With respect to subdivision (C), the Director of the Congressional Budget Office has not made an estimate or comparison of the estimates of the cost of H.R. 1142, but has examined the committee's estimates and agrees with the methods and the dollar estimates resulting therefrom.

With respect to subdivision (D), your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter of H.R. 1142.

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, your committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

V. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

*   *   *   *   *   *   *

SUBTITLE A—INCOME TAXES

*   *   *   *   *   *   *

CHAPTER 1—NORMAL TAXES AND SURTAXES

*   *   *   *   *   *   *

Subchapter J—Estates, Trusts, Beneficiaries, and Decedents

*   *   *   *   *   *   *

PART I—ESTATES, TRUSTS, AND BENEFICIARIES

*   *   *   *   *   *   *

Subpart A—General Rules for Taxation of Estates and Trusts

*   *   *   *   *   *   *

SEC. 642. SPECIAL RULES FOR CREDITS AND DEDUCTIONS.

(a) Credits Against Tax.—

(1) Partially tax-exempt interest.—An estate or trust shall be allowed the credit against tax for partially tax-exempt interest provided by section 35 only in respect of so much of such interest as is not properly allocable to any beneficiary under section 652 or 662. If the estate or trust elects under section 171 to treat as amoritizable the premium on bonds with respect to the interest on which the credit is allowable under section 35, such credit (whether allowable to the estate or trust or to the beneficiary) shall be reduced under section 171(a)(3).

(2) Foreign taxes.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries.

(3) Political contributions.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 41.

(b) Deduction for Personal Exemption.—An estate shall be allowed a deduction of $600. A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300. All other trusts shall be allowed a deduction of $100. The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).

(c) Deduction for Amounts Paid or Permanently Set Aside for a Charitable Purpose.—

(1) General rule.—In the case of an estate or trust (other than a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(2) Amounts permanently set aside.—In the case of an estate, and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—

(A) created on or before October 9, 1969, if—

(i) an irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) the grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) established by a will executed on or before October 9, 1969, if—

(i) the testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) the testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) the will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) POOLED INCOME FUNDS.—In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) DEFINITION OF POOLED INCOME FUND.—For purposes of paragraph (3), a pooled income fund is a trust—

(A) to which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

(B) in which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

(D) which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) from which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

(6) TAXABLE PRIVATE FOUNDATIONS.—In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

(d) NET OPERATING LOSS DEDUCTION.—The benefit of the deduction for net operating losses provided by section 172 shall be allowed to estates and trusts under regulations prescribed by the Secretary or his delegate.

(e) DEDUCTION FOR DEPRECIATION AND DEPLETION.—An estate or trust shall be allowed the deduction for depreciation and depletion only to the extent not allowable to beneficiaries under sections 167(h) and 611(b).

(f) AMORTIZATION DEDUCTIONS.—The benefit of the deductions for amortization provided by sections 168, 169, 184, 187, and 188 shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary or his delegate.

(g) DISALLOWANCE OF DOUBLE DEDUCTIONS.—Amounts allowable under section 2053 or 2054 as a deduction in computing the taxable estate of a decedent shall not be allowed as a deduction in computing the taxable income of the estate or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Secretary or his delegate, a statement that the amounts have not been allowed as deductions under section 2053 or 2054 and a waiver of the right to have such amounts allowed at any time as deductions

under section 2053 or 2054. This subsection shall not apply with respect to deductions allowed under part II (relating to income in respect to decedents).

(h) UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES.—If on the termination of an estate or trust, the estate or trust has—

(1) a net operating loss carryover under section 172 or a capital loss carryover under section 1212, or

(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subsections (b) or (c)) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary or his delegate, to the beneficiaries succeeding to the property of the estate or trust.

(i) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the deduction for contributions to candidates for public office provided by section 218.

(j) CERTAIN DISTRIBUTIONS BY CEMETERY PERPETUAL CARE FUNDS. In the case of a cemetery perpetual care fund which—

(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

(2) is treated for the taxable year as a trust for purposes of this subchapter,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed $5 multiplied by the aggregate number of such gravesites.

[(j)] *(k)* CROSS REFERENCES.—

(1) For disallowance of standard deduction in case of estates and trusts, see section 142(b)(4).

(2) For special rule for determining the time of receipt of dividends by a beneficiary under section 652 or 662, see section 116(c)(3).

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1344

TAX TREATMENT OF CEMETERY PERPETUAL CARE FUND TRUSTS

JULY 19, 1976.—Committee of the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 1142]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1142) to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

The bill provides a special deduction in computing the income of a cemetery "perpetual care fund" for amounts expended by the fund for the care and maintenance of cemetery property in which interment rights have been sold. In order to qualify as a "perpetual care fund" under this provision, the fund must be a trust established pursuant to local law by a taxable cemetery for the care and maintenance of the cemetery. The deduction allowed is to be the amount actually distributed during the year for such care and maintenance (but not more than $5 per gravesite).

II. GENERAL STATEMENT

Present law

Perpetual care funds generally are created as irrevocable trusts under State law or in accordance with the by-laws and contracts of cemetery companies. They are funded out of a percentage of the gross receipts from the sale of burial lots and crypts. The income of such a trust is applied to the perpetual care and maintenance of the cemetery, burial lots, and mausoleum crypts.

The position of the Internal Revenue Service (at least since 1964) is that a perpetual care fund trust established by a taxable cemetery

is subject to tax.[1] The Service has also concluded that the deduction allowed to trusts for income distributed to their beneficiaries (under sec. 651 or 661) is not to be allowed to perpetual care funds because such funds do not have any specific beneficiaries. The Service's position in this regard is that the benefit of the trust is diffused among the owners of the lot, the cemetery companies, and the public in general.

The Court of Claims recently held (*Graceland Cemetery Improvement Fund* v. *U.S.*, 515 F. 2d 763 (Ct. Cl. 1975)) that a corporation formed for the perpetual care of a taxable cemetery was not exempt from Federal income tax (under sec. 501(c)(13)), but was entitled to deduct as ordinary and necessary business expenses all payments made for cemetery care and upkeep.

General reasons for change

Pursuant to State law (in most cases) or legally enforceable by-laws and contracts (in the other cases), many perpetual care funds make regular distributions to taxable cemeteries for the exclusive purpose of the care and maintenance of the gravesites of such cemeteries. The Service's position is that the deduction for income distributed to beneficiaries of trusts is not allowable to perpetual care funds because they do not have any ascertainable beneficiaries.

Because distributions by perpetual care funds for the purpose of the care and maintenance of gravesites are essentially equivalent to distributions on behalf of beneficiaries (gravesite owners, heirs, and general public) the committee believes that a limited deduction should be allowed with respect to such distributions.

Explanation of bill

The bill amends one of the trusts and estates income tax provisions (sec. 642) of present law to provide a deduction for amounts distributed by perpetual care fund trusts for the care and maintenance of gravesites. The deduction allowed is to be the amount actually distributed during the year for such care and maintenance (but not more than $5 per gravesite). Since perpetual care funds are established for the care of gravesites that have been previously sold by cemetery companies, the deduction for a taxable year is to apply only for amounts distributed to such companies for the care of gravesites sold before that taxable year. For the same reason, the deductions are to be available only with respect to those distributions for the care and maintenance of gravesites with respect to which the fund actually has an obligation of care and maintenance.

It is the committee's intent that the deduction be allowed only to the extent that the cemetery company actually expends the funds received for the care and maintenance of gravesites. Thus, if the cemetery company were to apply the funds received, for instance, to the payment of officer's salaries, the perpetual care fund trust, to that extent, would not be entitled to a distribution deduction.

The bill provides that the above-described payments by a perpetual care fund trust are to be treated as distributions "solely for purposes of sections 651 and 661." As a result, in general, the gravesite owners, heirs, and general public are not to be treated as trust beneficiaries who would be required to take the distributions into income. Since the taxable cemetery company is not the beneficiary of the perpetual care fund trust, the bill does not change the treatment of the receipt of such amounts by the taxable cemetery company. Consequently, such an amount is to continue to be taxable to the cemetery company as ordinary income (sec. 61) and is not to be treated as a trust distribution in the hands of the cemetery company (secs. 652 and 662). For example, even though the perpetual care fund makes a distribution out of dividend income, tax-exempt interest, or long-term capital gains, the cemetery company is to include in income the total amount, without regard to the dividends received deduction, the exclusion of tax-exempt interest, and the deduction for half of long-term capital gains.

The provisions described above apply to a cemetery care fund only if the fund is taxable as a trust and thene only if it was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property. The local law requirement relates to the governing law of the relevant jurisdiction (State, district, county, parish, city, etc.), and may take the form of a statute, ordinance, court-created doctrine, or other governmental rule.

Effective date

The amendment is to apply to amounts distributed during taxable years ending after December 31, 1963. The effective date provision relates to the year in which the Service issued the ruling described above regarding the tax status of perpetual care funds of taxable cemeteries.

III. Effect of the Bill on the Revenues and Vote of the Committee in Reporting the Bill

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect of this bill on the revenues. Your committee estimates that the bill will reduce tax liability by $10 million per year. The revenue effect pertaining to taxable years ending after December 31, 1963, and beginning before January 1, 1976, cannot be estimated with any degree of accuracy. In any event, it is understood that the Internal Revenue Service had not been collecting tax in these cases in the past, which means that the bill in effect would forestall any revenue collections for the prior years. The Treasury agrees with this estimate.

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote by the committee on the motion to report the bill. This bill was ordered reported by voice vote.

IV. Other Matters Required To Be Discussed Under House Rules

In compliance with clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A), relating to oversight findings, it was as a result of your committee's oversight activity concerning the tax treatment of nonexempt perpetual care fund trusts that it con-

[1] In Rev. Rul. 64-217 (1964-2 CB 153), the Service ruled that a perpetual care fund, the income of which is distributed to a profitmaking cemetery company for use in connection with the maintenance of cemetery sites and burial lots, is not entitled to exemption from Federal income tax under section 501(c)(13).

cluded that the provisions of this bill are appropriate to allow limited deductions for care and maintenance distributions.

With respect to subdivision (B), after consultation with the Director of the Congressional Budget Office, your committee states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

With respect to subdivision (C), the Director of the Congressional Budget Office has not made an estimate or comparison of the estimates of the cost of H.R. 1142, but has examined the committee's estimates and agrees with the methods and the dollar estimates resulting therefrom.

With respect to subdivision (D), your committee advises that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter of H.R. 1142.

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, your committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

V. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

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SUBTITLE A—INCOME TAXES

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter J—Estates, Trusts, Beneficiaries, and Decedents

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PART I—ESTATES, TRUSTS, AND BENEFICIARIES

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Subpart A—General Rules for Taxation of Estates and Trusts

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SEC. 642. SPECIAL RULES FOR CREDITS AND DEDUCTIONS.

(a) Credits Against Tax.—

(1) Partially tax-exempt interest.—An estate or trust shall be allowed the credit against tax for partially tax-exempt interest provided by section 35 only in respect of so much of such interest as is not properly allocable to any beneficiary under section 652 or 662. If the estate or trust elects under section 171 to treat as amoritizable the premium on bonds with respect to the interest on which the credit is allowable under section 35, such credit (whether allowable to the estate or trust or to the beneficiary) shall be reduced under section 171(a)(3).

(2) Foreign taxes.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries.

(3) Political contributions.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 41.

(b) Deduction for Personal Exemption.—An estate shall be allowed a deduction of $600. A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300. All other trusts shall be allowed a deduction of $100. The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).

(c) Deduction for Amounts Paid or Permanently Set Aside for a Charitable Purpose.—

(1) General rule.—In the case of an estate or trust (other than a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(2) Amounts permanently set aside.—In the case of an estate, and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which was—

(A) created on or before October 9, 1969, if—

(i) an irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) the grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) established by a will executed on or before October 9, 1969, if—

(i) the testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) the testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) the will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) Pooled income funds.—In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 6 months, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) Definition of pooled income fund.—For purposes of paragraph (3), a pooled income fund is a trust—

(A) to which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

(B) in which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

(D) which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) from which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate of return.

(6) Taxable private foundations.—In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

(d) Net Operating Loss Deduction.—The benefit of the deduction for net operating losses provided by section 172 shall be allowed to estates and trusts under regulations prescribed by the Secretary or his delegate.

(e) Deduction for Depreciation and Depletion.—An estate or trust shall be allowed the deduction for depreciation and depletion only to the extent not allowable to beneficiaries under sections 167(h) and 611(b).

(f) Amortization Deductions.—The benefit of the deductions for amortization provided by sections 168, 169, 184, 187, and 188 shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary or his delegate.

(g) Disallowance of Double Deductions.—Amounts allowable under section 2053 or 2054 as a deduction in computing the taxable estate of a decedent shall not be allowed as a deduction in computing the taxable income of the estate or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Secretary or his delegate, a statement that the amounts have not been allowed as deductions under section 2053 or 2054 and a waiver of the right to have such amounts allowed at any time as deductions

under section 2053 or 2054. This subsection shall not apply with respect to deductions allowed under part II (relating to income in respect to decedents).

(h) UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES.—If on the termination of an estate or trust, the estate or trust has—

(1) a net operating loss carryover under section 172 or a capital loss carryover under section 1212, or

(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subsections (b) or (c)) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary or his delegate, to the beneficiaries succeeding to the property of the estate or trust.

(i) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the deduction for contributions to candidates for public office provided by section 218.

(j) CERTAIN DISTRIBUTIONS BY CEMETERY PERPETUAL CARE FUNDS. In the case of a cemetery perpetual care fund which—

(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

(2) is treated for the taxable year as a trust for purposes of this subchapter,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed $5 multiplied by the aggregate number of such gravesites.

[(j)] *(k)* CROSS REFERENCES.—

(1) For disallowance of standard deduction in case of estates and trusts, see section 142(b)(4).

(2) For special rule for determining the time of receipt of dividends by a beneficiary under section 652 or 662, see section 116(c)(3).

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CORRECTED SHEET

H. R. 1142

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund, to modify the effective dates of certain provision of the Tax Reform Act of 1976, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 642 of the Internal Revenue Code of 1954 (relating to special rules for credits and deductions of estates and trusts) is amended by redesignating subsection (j) as subsection (k) and by adding after subsection (i) the following new subsection:

"(j) CERTAIN DISTRIBUTIONS BY CEMETERY PERPETUAL CARE FUNDS.—In the case of a cemetery perpetual care fund which—

"(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

"(2) is treated for the taxable year as a trust for purposes of this subchapter,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed $5 multiplied by the aggregate number of such gravesites.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1977, and shall apply to amounts distributed during taxable years ending after December 31, 1963.

SEC. 2. (a) Subsection (d) of section 1204 of the Tax Reform Act of 1976 (relating to jeopardy and termination assessments) is amended by striking out "December 31, 1976" and inserting in lieu thereof "February 28, 1977".

(b) Subsection (c) of section 1205 of the Tax Reform Act of 1976 (relating to administrative summons) is amended by striking out "December 31, 1976" and inserting in lieu thereof "February 28, 1977".

(c) Subsection (e) of section 1209 of the Tax Reform Act of 1976 (relating to minimum exemption from levy for wages, salary, and other income) is amended by striking out "December 31, 1976" and inserting in lieu thereof "February 28, 1977".

(d) Subsection (c) of section 7809 of the Internal Revenue Code of 1954 (relating to deposit of collections) is amended—

(1) by striking out "and" at the end of paragraph (2) thereof;
(2) by striking out the comma at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and "and"; and
(3) by adding at the end of paragraph (3) thereof the following new paragraph:
"(4) work or services performed (including materials supplied) pursuant to section 6110 (relating to public inspection of written determinations),".

(e) The amendments made by this section shall take effect on the date of the enactment of the Tax Reform Act of 1976.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.