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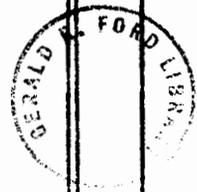
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Tax Reform Act of 1976 (HR 10612)
Evaluation of Conference Committee Action

Good: Significant (S) and Not Significant (NS) items
 Bad: Significant (S) and Not Significant (NS) items
 Indifferent: (Indif.)

| | Good | | Bad | | Indif. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| Titles I and II | | | | | |
| LAL and other tax shelter provisions | | | | | |
| A. Real Estate Provisions | | | | | |
| 1. Capitalize construction period interest and taxes and amortize it over a 10 year period - Transition rules for residential real property and low-income housing Deleted from bill: Limitation on deductions (LAL) for real property | x | | | | |
| 2. Deleted from bill: limitation on deductible losses of limited partner in the case of real estate | - | - | - | - | - |
| 3. Deleted from bill: include construction period interest and taxes in the minimum tax base | - | - | - | - | - |
| 4. In the case of residential real estate, recapture depreciation in the same manner as commercial real estate | x | | | | |
| 5. Extension of special 5-year amortization rule for low-income housing | x | | | | |
| B. Farming Provisions | | | | | |
| 6. Deleted from bill: Limitation on deductions (LAL) for farms | - | - | - | - | - |
| 7. Losses from farming operations except trees other than fruit or nut trees limited to amount at risk | x | | | | |
| 8. In the case of farm syndicates certain prepaid items and preproductive expenses must be capitalized | x | | | | |
| 9. Require farm corporations (other than subchapter S corporations, family corporations, and corporations whose gross receipts do not exceed \$1,000,000) to use the accrual method of accounting | x | | | | |



Indif.

| | Good | | Bad | | Indif. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 10. Terminate additions to excess deductions accounts (EDA) | | x | | | |
| C. Oil and Gas Provisions | | | | | |
| 11. Deleted from bill: Limitation on deductions (LAL) of intangible drilling costs | - | - | - | - | - |
| 12. Losses from oil and gas properties limited to amount at risk - Special rule that net fair market value of property used as collateral increases amount at risk | | | x | | |
| 13. Includes certain intangible drilling costs in the minimum tax base. | | | x | | |
| 14. Recapture deductions for intangible drilling costs on disposition of oil or gas property | | | x | | |
| D. Movie Provisions | | | | | |
| 15. Deleted from bill: Limitation on deductions (LAL) for movies | - | - | - | - | - |
| 16. Losses from film purchase shelters and service company shelters limited to amount at risk | x | | | | |
| 17. Require capitalization of production costs in case of movies, books, records and similar property | x | | | | |
| E. Equipment Leasing Provisions | | | | | |
| 18. Deleted from bill: Limitation on deductions (LAL) for leased property | - | - | - | - | - |
| 19. Losses from equipment leasing activity limited to amount at risk | x | | | | |
| 20. Includes accelerated depreciation on all personal property subject to a lease in the minimum tax base | | | | x | |
| F. Sports Franchises | | | | | |
| 21. Deleted from bill: Limitation on deductions (LAL) for certain depreciation deductions | - | - | - | - | - |



Good Bad
S NS S NS

- 22. Require buyer and seller of a sports franchise to allocate to player contracts the same portion of the purchase price
- 23. Recapture certain depreciation taken with respect to player contracts
- 24. Deleted from bill: Include certain depreciation deductions for player contracts in the minimum tax base

| | | | | |
|---|---|---|---|---|
| | | | | |
| | x | | | |
| | x | | | |
| - | - | - | - | - |

G. Partnership Provisions

- 25. Require capitalization of partnership syndication and organization expenses. Organization expenses may be expensed over a 60 month period
- 26. Disallow retroactive allocation of income or deductions to newly admitted partners
- 27. Clarify rules on special allocations of income or loss to partners
- 28. Apply limitation on deductible losses of limited partners to all tax shelters other than those specifically dealt with in the bill.

| | | | | |
|---|---|--|--|--|
| | | | | |
| x | | | | |
| x | | | | |
| x | | | | |
| | x | | | |

H. Interest Provisions

- 29. Require capitalization of prepaid interest
- 30. Limit the deduction for investment interest to investment income and \$10,000 - No limit on personal interest

| | | | | |
|---|--|--|--|--|
| | | | | |
| x | | | | |
| x | | | | |

Title III
Minimum and Maximum Taxes

- 31. Minimum tax on individuals
 - a. Tax rate 15%
 - b-c. Exempts from the minimum tax the amount of preferences equal to the greater of \$10,000 or one-half regular taxes

| | | | | |
|---|---|--|--|--|
| | | | | |
| | x | | | |
| x | | | | |



Good Bad

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|--------------------------------------------------------------------------------------------------------------------------|---|----|---|----|---|
| d. New Preferences | | | | | |
| - itemized deductions (other than medical and casualty deductions) in excess of 60% of adjusted gross income | | | | x | |
| - certain intangible drilling cost deductions | | | x | | |
| - accelerated depreciation on all leased property | | | | x | |
| 32. Minimum tax on corporations | | | | | |
| a. Tax rate 15% | | | x | | |
| b-c. Exempts from the minimum tax the amount of preferences equal to the greater of \$10,000 or regular taxes | x | | | | |
| d. Eliminates the carryover of regular taxes that are not previously used to offset preferences | | | | x | |
| e. Deleted from bill: include construction period interest and certain intangible drilling costs in the minimum tax base | - | - | - | - | - |
| f. Exempts timber from the increase in the minimum tax | x | | | | |
| 33. Modifies the maximum tax to conform with the minimum tax amendments | | x | | | |



Title IV Individual Tax Reductions

- 34 Per capita tax credit of \$35 through 1977
- 35 Standard deduction - Revenue Adjustment Act of 1975 increases made permanent
- 36 Earned income credit extended through 1977
- 37 Refunds from earned income credit are to be disregarded in determining eligibiliy for assistance benefits

Title V
Tax Simplification

- 38 Alimony is made an above-the-line deduction
- 39 Converted to a nonrefundable credit the present deduction for child care expenses - Substantially broadened the eligibility for the credit
- 40. Reveals the sick pay exclusion, except for certain low-income, elderly persons who are totally disabled
- 41 Moving expenses - increases from \$2,500 to \$3,000 deduction for househunting expenses. Special rules for military
- 42 Tax simplification study by Joint Committee
- 43 Deleted from bill. Treasury simplification study

| | Good | | Bad | | Indif. |
|----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| | | | | | |
| 34 | | | X | | |
| 35 | X | | | | |
| 36 | | | X | | |
| 37 | | | | | X |
| 38 | | X | | | |
| 39 | X | | | | |
| 40 | X | | | | |
| 41 | | X | | | |
| 42 | | | | | X |
| 43 | - | - | - | - | - |



Title VI

Business-related individual provisions

- 44 Deduction for business use of homes - tightened
- 45 Deduction for expenses of rented vacation homes - tightened
- 46 Deduction for attending foreign conventions - tightened
- 47 Repeal qualified stock option rules
- 48 Ordinary loss treatment of nonbusiness loan guarantees
- 49 Rules for determining the tax home of State legislators and their deduction for travel expenses

Title VII

Accumulation trusts

- 50 Accumulation trusts - Improvement of throwback rules

Title VIII

Capital formation

- 51 Investment credit - used property limit of \$100,000 extended through 1980 (The Administration urged a permanent extension.)
- 52 10 percent investment credit extended through 1980 (The Administration urged a permanent extension.)
- 53 FIFO use of investment credit carryovers
- 54 Deleted from bill: Extension of expiring investment credits
- 55 ESOP - 1 percent investment credit plus 0.5% if employees contribute equal amount - apply through 1980
- 56 Deleted from bill: prohibition of certain ESOP regulations
- 57 Task force to study stock ownership expansion

| | Good | | Bad | | Indif. |
|----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 44 | | x | | | |
| 45 | | x | | | |
| 46 | | x | | | |
| 47 | | x | | | |
| 48 | | x | | | |
| 49 | | | | | x |
| 50 | | x | | | |
| 51 | x | | | | |
| 52 | x | | | | |
| 53 | x | | | | |
| 54 | - | - | - | - | - |
| 55 | | | | x | |
| 56 | - | - | - | - | - |
| 57 | | | | | x |



| | Good | | Bad | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|
| | S | NS | S | NS |
| 58 Investment credit for movies | | x | | |
| 59 5 percent investment credit for vessels constructed with money from tax-free capital construction fund | | | | x |
| 60 Eligibility for capital construction fund benefits extended from 5 ton to 2 ton commercial fishing vessels | | | | x |
| 61 Net operating losses: election to use for seven years forward or for three years back and seven years forward | | x | | |
| 62 Tighten rules to prevent trafficking in operating loss carryovers | x | | | |
| 63 Deleted from bill: credit for artist's donation of art works to charity | - | - | - | - |
| Title IX | | | | |
| Small Business provisions | | | | |
| 64 Continues corporate tax rate reduction and surtax exemption increase through 1977 (The Administration urged a permanent extension.) | x | | | |
| Title X | | | | |
| Changes in the treatment of foreign income | | | | |
| 65 Exemption of income earned abroad - tightened and reduced from \$20,000 to \$15,000 | | x | | |
| 66 Joint returns may be filed by U.S. citizen married to nonresident alien | | x | | |
| 67 Foreign trust income taxed to grantor where beneficiary is U.S. person | x | | | |
| 68 Accumulation distribution of foreign trust bears additional tax equivalent to interest | | x | | |
| 69 Unrecognized appreciation in assets transferred to foreign entities subject to increased excise tax or, at taxpayer's option, to income tax on the gain | | x | | |
| 70 Investment in U.S. property by controlled foreign corporations: permits portfolio investments and investments in certain drilling rigs | | x | | |



- 71 Shipping profits of foreign corporations - provisions eased
- 72 Deleted from bill: would have changed and made difficult to administer rules re base company sales income derived from sales of agricultural products not grown in the U.S.
- 73 Foreign tax credit determined on overall basis - per country limitation repealed; Transition rule for possession source income
- 74 Permits recapture of foreign losses; Transition rules for U.S. possessions and Puerto Rico
- 75 Refinement of foreign tax credit computation in the case of capital gains
- 76 Foreign oil and gas extraction income - 48 percent cap on foreign tax credit
- 77 The source of underwriting income is the place of risk
- 78 Foreign tax credit rules of 2nd tier subs apply also to 3rd tier subs
- 79 Tax exemption is made permanent for interest on bank deposits of foreign owners
- 80 Transfers to foreign corporations no longer require advance IRS ruling
- 81 Income from contiguous country branches of domestic life insurance companies not taxed until repatriated
- 82 Improve tax treatment of corporations conducting business in Puerto Rico and U.S. possessions
- 83 Repeal provisions relative to China Trade Act corporations - 3 year phase out
- 84 Denies benefits of DISC, deferral and foreign tax credit to taxpayers participating in Arab boycott of Isreal
Foreign bribes deemed a distribution to U.S. parent company and may not reduce earnings and profits of foreign subsidiary.

| | Good | | Bad | | Indif. |
|----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 71 | | x | | | |
| 72 | - | - | - | - | - |
| 73 | | x | | | |
| 74 | | x | | | |
| 75 | | x | | | |
| 76 | | x | | | |
| 77 | | x | | | |
| 78 | | x | | | |
| 79 | x | | | | |
| 80 | x | | | | |
| 81 | | | | | x |
| 82 | | x | | | |
| 83 | | x | | | |
| 84 | | | | x | |



Title XI
DISC

85 DISC - incremental approach adopted. About 2/3 of DISC benefits preserved. Only 1/2 military sales qualify. Agricultural products qualify

Title XII
Administrative provisions

86 Publication of private IRS rulings. Taxpayers names not to be disclosed

87 Disclosure of tax return information restricted. Justice Department access prescribed in nontax criminal cases

88 Income tax return preparers - requirements imposed

89 Jeopardy assessment procedures modified - taxpayers afforded opportunity to contest

90 Administrative 3rd party summons: taxpayers are given right to contest. Justice Dept. objects

91 Tax abatement can be requested by taxpayer whose assessments due to math or clerical error

92 Requires Federal withholding of state income taxes from military personnel

93 Requires Federal withholding of state and local income taxes from National Guard or Ready Reserve

94 Permits Federal withholding of state income taxes from Federal employees so requesting

95 Definition of City for purposes of withholding - already enacted - PL 94-355

96 Withholding on winnings from state lotteries over \$5,000 and certain horse race winnings

97 Self employment status (no withholding) for crewmen on fishing boats with crew less than 10

| | Good | | Bad | | Indif. |
|----------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 85 DISC - incremental approach adopted. About 2/3 of DISC benefits preserved. Only 1/2 military sales qualify. Agricultural products qualify | | | x | | |
| 86 Publication of private IRS rulings. Taxpayers names not to be disclosed | x | | | | |
| 87 Disclosure of tax return information restricted. Justice Department access prescribed in nontax criminal cases | | x | | | |
| 88 Income tax return preparers - requirements imposed | | x | | | |
| 89 Jeopardy assessment procedures modified - taxpayers afforded opportunity to contest | x | | | | |
| 90 Administrative 3rd party summons: taxpayers are given right to contest. Justice Dept. objects | | | x | | |
| 91 Tax abatement can be requested by taxpayer whose assessments due to math or clerical error | | x | | | |
| 92 Requires Federal withholding of state income taxes from military personnel | | | | | x |
| 93 Requires Federal withholding of state and local income taxes from National Guard or Ready Reserve | | | | | x |
| 94 Permits Federal withholding of state income taxes from Federal employees so requesting | | | | | x |
| 95 Definition of City for purposes of withholding - already enacted - PL 94-355 | - | - | - | - | - |
| 96 Withholding on winnings from state lotteries over \$5,000 and certain horse race winnings | x | | | | |
| 97 Self employment status (no withholding) for crewmen on fishing boats with crew less than 10 | | | | x | |

| | Good | | Bad | | Indif. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 98 Deleted from bill: withholding of state income tax for certain legislative officers and employees | | | - | - | - |
| 99 Minimum amount exempt from levy - \$50/week plus \$15 per dependent | | x | | | |
| 100 Jurisdictional amount for Joint Committee referred cases raised from \$100,000 to \$200,000 | | x | | | |
| 101 Social Security numbers can be used for state and local tax administration, drivers licences, motor vehicle registration and for locating runaway parents | | | x | | |
| 102 IRS has authority to waive interest on math errors on returns prepared by IRS | | x | | | |
| 103 Deleted from bill: award of costs and attorney fees (max, \$10,000) to taxpayers who win tax litigation | | | - | - | - |
| Title XIII | | | | | |
| Miscellaneous provisions | | | | | |
| 104 Cooperative housing corporation treated as tax-exempt with respect to its membership dues and assessments. Also, lending institutions which obtain stock in such a company through foreclosure treated as a tenant-stockholder for up to 3 years | | x | | | |
| 105 Defer due date of tax owed on certain 1972 disaster relief payments | | | | | x |
| 106 Allows deduction for certain types of worthless debts owed by political parties | | x | | | |
| 107 Exemption from tax of interest on bonds issued to finance certain student loans | | | | x | |
| 108 Pre-publication expenses of publishers - overturns IRS ruling | | | | x | |
| 109 Income from intangible property leased with tangible property is rent, not royalty income for personal holding company purposes | | x | | | |
| 110 Accelerates and expands work incentive credit (WIN) | | | | x | |
| 111 Repeal excise tax on certain parts for light duty trucks | | x | | | |



- 112 Exemption from manufacturers' excise tax for certain articles resold after certain modifications
- 113 Apply to partnerships the same tax rule applied to proprietorships on transfer of franchises
- 114 Deleted from bill: Reversal of IRS ruling on employer reporting of tip income (IRS to defer for 2 yrs enforcement of this ruling)
- 115 Pollution control facilities - 5 year amortization and 50% investment credit - improved definition of "pollution control property"
- 116 Defines as "agricultural" the harvesting of aquatic resources, thus permitting a fishing organization to be a tax exempt agricultural organization and to receive lower postal rates
- 117 Subchapter S corporation maximum stockholders increased from 10 to 15. See also item 248
- 118 Innocent spouse relief provision enacted in 1971 would be made retroactive to 1962 (Relief afforded to one taxpayer)
- 119 Ease the limitations on percentage depletion in the case of certain retail sales and intra-family transfers - The 1975 statute left these items unclear
- 120 Make it easier for states to "piggyback" the federal tax provisions
- 121 Discharge of certain student loans will not be taxed as income
- 122 Tax benefit of 1 year corporate liquidation extended to simultaneous liquidation of controlled subsidiary
- 123 Deleted from bill: Prohibits state taxation of barges using navigable waters
- 124 Contributions to water and sewer utilities in aid of construction will not be taxable to them
- 125 Prohibits states from taxing generation or transmission of electricity if it is discriminatory - against out-of-state users

| | Good | | Bad | | Indif. |
|-----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 112 | | X | | | |
| 113 | | X | | | |
| 114 | - | - | - | - | - |
| 115 | | | | X | |
| 116 | | | | | X |
| 117 | | X | | | |
| 118 | | | | X | |
| 119 | | X | | | |
| 120 | | X | | | |
| 121 | | | | | X |
| 122 | | X | | | |
| 123 | - | - | - | - | - |
| 124 | | | X | | |
| 125 | | | | | X |



- 126 Provides deduction for cost of removing architectural and transportation barriers to handicapped and elderly (Senator Dole proposal)
- 127 Statistics of Income published by Treasury must show adjusted gross income and economic income
- 128 Deleted from bill: report on tax increases resulting from inflation
- 129 Historic structures - tax benefits provided for rehabilitation of, and tax advantages denied to taxpayers who demolish, historic structures
- 130 Supplemental Security Income is continued unreduced for an additional 12-months for certain disaster victims
- 131 Exclusion of countries which aid and abet international terrorists from preferential tariff treatment
- 132 Extends net operating loss carryover period for 5 additional years (to total of 20 years) in case of losses attributable to Cuban expropriation
- 133 Deleted from bill: study of tax treatment of married and single persons

Title XIV
Capital Gains and Losses

- 134 Increase from \$1,000 to \$2,000 in 1977 and to \$3,000 in 1978 the amount of ordinary income against which capital losses may be offset
- 135 Increase holding period for long-term capital gains to 9 months in 1977 and to 12 months in 1978. The 6 month period continues for farm commodity futures contracts. (The sliding scale provision was not in conference; was in neither the House nor Senate bill)

Title XV-
Pension and Insurance Taxation

- 136 Individual retirement account (IRA) made available for spouse: \$1,750 for worker and spouse jointly

| | Good | | Bad | | Indif. |
|--------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 126 | | | | x | |
| 127 | | | | | x |
| 128 | - | - | - | - | - |
| 129 | | x | | | |
| 130 | | | | | x |
| 131 | | | | x | |
| 132 | | | | x | |
| 133 | - | - | - | - | - |
| Title XIV | | | | | |
| Capital Gains and Losses | | | | | |
| 134 | | x | | | |
| 135 | | | | x | |
| Title XV- | | | | | |
| Pension and Insurance Taxation | | | | | |
| 136 | | x | | | |

- 137 HR 10 plan percentage limitations will not apply where adjusted gross income does not exceed \$15,000
- 138 Deleted from bill: IRA for persons inadequately covered by an employer plan; and for certain participants in a government plan
- 139 Members of Armed Forces Reserves and National Guard may qualify for an IRA
- 140 Contributions for tax-sheltered annuities can be made to closed-end investment companies as well as to open-end mutual funds
- 141 Allows a pension fund to invest in a segregated asset account in lieu of a trust
- 142 Extend to 1978 a Congressional study of salary reduction plans; meanwhile freeze status quo for plans established before June 27, 1974
- 143 Permit life insurance companies to file consolidated returns with non-life companies - 5 year delayed effective date
- 144 For taxation of life insurance companies, the time for which a policy is issued or renewed includes the period for which the insurer guarantees renewability
- 145 No provision - separate legislation (PL 94-267). Pension Plan rollover to IRA

Title XVI

Real Estate Investment Trusts

- 146-
- 155 Real estate investment trusts - technical amendments - no controversy

Title XVII

Railroad Provisions

- 156 Deleted from bill: 10-year amortization of railroad track materials and installation costs.
- 157 Special expensing rules for improved railroad ties

| | Good | | Bad | | Indif. |
|-----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 137 | | | | | x |
| 138 | - | - | - | - | - |
| 139 | | x | | | |
| 140 | | | | | x |
| 141 | | | | | x |
| 142 | | | | | x |
| 143 | | x | | | |
| 144 | | | | | x |
| 145 | - | - | - | - | - |
| 155 | x | | | | |
| 156 | - | - | - | - | - |
| 157 | | x | | | |

158 Railroads may use investment credits up to 100 percent of tax liability (instead of 50 percent under current law) for 1976 and 1977, declining 10 percent per year after 1977 until returned to 50 percent in 1982

159 Airlines, same use of investment credit as #158 for railroads

Title XVIII
Tax Credit for Home Garden Tools

160 Deleted from bill: 7 percent investment credit for first \$100 of garden tool expenses

Title XIX
Repeal of Obsolete Provisions

161 "Deadwood" provisions adopted, including clarified definition of "Secretary or his delegate"

Title XX
Energy Related Provisions

162-
176 Energy-related provisions were deleted from the bill. To be the subject of a separate bill

Title XXI
Tax Exempt Organizations

177 Technical easing of self-dealing rules of private foundations relating to property leased to certain disqualified persons

178 Permits private foundation "set-asides" without prior IRS approval under temporary, relaxed rules

179 Reduces to 5 percent the mandatory payout requirement of private foundations - "Blockage" discount limited to maximum of 10% of value

180 Extends from December 31, 1975 to December 31, 1977 time in which to modify charitable bequests to qualify for charitable remainder deduction

181 Deleted from bill: reduce from 4 percent to 2 percent excise tax on investment income of private foundations

| | Good | | Bad | | Indif. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 158 Railroads may use investment credits up to 100 percent of tax liability (instead of 50 percent under current law) for 1976 and 1977, declining 10 percent per year after 1977 until returned to 50 percent in 1982 | | | X | | |
| 159 Airlines, same use of investment credit as #158 for railroads | | | X | | |
| Title XVIII Tax Credit for Home Garden Tools | | | | | |
| 160 Deleted from bill: 7 percent investment credit for first \$100 of garden tool expenses | - | - | - | - | - |
| Title XIX Repeal of Obsolete Provisions | | | | | |
| 161 "Deadwood" provisions adopted, including clarified definition of "Secretary or his delegate" | X | | | | |
| Title XX Energy Related Provisions | | | | | |
| 162- 176 Energy-related provisions were deleted from the bill. To be the subject of a separate bill | - | - | - | - | - |
| Title XXI Tax Exempt Organizations | | | | | |
| 177 Technical easing of self-dealing rules of private foundations relating to property leased to certain disqualified persons | | | | | X |
| 178 Permits private foundation "set-asides" without prior IRS approval under temporary, relaxed rules | | | | | X |
| 179 Reduces to 5 percent the mandatory payout requirement of private foundations - "Blockage" discount limited to maximum of 10% of value | X | | | | |
| 180 Extends from December 31, 1975 to December 31, 1977 time in which to modify charitable bequests to qualify for charitable remainder deduction | | | | | X |
| 181 Deleted from bill: reduce from 4 percent to 2 percent excise tax on investment income of private foundations | - | - | - | - | - |

- 182 Exempts from unrelated business income tax the income from fairs and expositions which promote certain public entertainment activities; also exempts income from certain conventions and trade shows
- 183 Charitable organization may bring suit to determine its right to tax exemption as a charity
- 184 Deleted from bill: establishment of alcoholism trust fund
- 185 Deleted from bill: babysitters as independent contractors and not employees of placement agency
- 186 Deleted from bill: private foundation qualifying distributions could include \$200 to unincorporated groups for charitable, civic or community activities

| | Good | | Bad | | Indif. |
|-----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 182 | | x | | | |
| 183 | x | | | | |
| 184 | - | - | - | - | - |
| 185 | - | - | - | - | - |
| 186 | - | - | - | - | - |

Title XXII
Estate and Gift Tax Provisions

- 187 Unified credit against estate and gift tax of \$47,000 (equivalent to exemption of \$175,000) phased in over 5 years.
- 188 Makes gift tax rates the same as the estate tax rates, ranging from 30% to 70%.
- 189 Subjects all transfers made within 3 years of death to the estate tax.
- 190 Requires the gift tax paid on gifts made within 3 years of death to be included in the transferor's gross estate.
- 191 Increases the estate tax marital deduction to the greater of \$250,000 or 50% of the decedent's adjusted gross estate.
- 192 Increases the gift tax marital deduction to \$100,000 plus 50% of the cumulative transfers in excess of \$200,000.
- 193 Allows a joint tenancy to be treated as 50% owned by each spouse for estate tax purposes, regardless of who furnishes what portion of the consideration.

| | | | | | |
|-----|---|---|--|--|---|
| 187 | x | | | | |
| 188 | | | | | x |
| 189 | | x | | | |
| 190 | | x | | | |
| 191 | x | | | | |
| 192 | x | | | | |
| 193 | | x | | | |

- 194 Allows real property used for farming or closely-held business purposes to be specialty valued on the basis of its current use.
- 195 Allows the estate tax attributable to farming and closely-held business interests to be paid over 15 years at 4% interest.
- 196 Allows capital gains treatment on redemptions of closely-held stock, to pay the estate tax, only if the shareholder bears the burden of the tax.
- 197 Provides that the decedent's basis in property is "carried over" to his heirs, but with a step-up to the property's value on 12/31/76.
- 198 Taxes generation-skipping transfers, with \$250,000 exclusion for grandchildren.
- 199 Excludes transfers to an orphan of \$5000 for each year he is under 21.
- 200 Requires IRS to disclose the basis of its valuation for estate, gift and generation-skipping tax purposes.
- 201 Eliminates requirement that donor file quarterly gift tax returns if his annual gifts are \$25,000 or less.
- 202 Requires IRS to keep public file of liens and do its best to have them publicly indexed by local authorities.
- 203 Includes stock in the decedent's gross estate if he retained the voting rights.
- 204 Provides uniform rule for when disclaimers are effective for tax purposes.
- 205 Exempts survivor's interest in H.R. 10 plans and IRAs, but removes exemption for lump-sum distributions from qualified plans.
- 206 Provides uniformity of gift tax treatment for spouse's interest in qualified plan in community property and common law states.

| | Good | | Bad | | Indif. |
|-----|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 194 | x | | | | |
| 195 | x | | | | |
| 196 | | x | | | |
| 197 | | | x | | |
| 198 | | | x | | |
| 199 | | x | | | |
| 200 | | x | | | |
| 201 | | x | | | |
| 202 | | x | | | |
| 203 | | x | | | |
| 204 | | x | | | |
| 205 | | x | | | |
| 206 | | x | | | |

| | Good | | Bad | | Indif. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 207 Prevents sale expenses that are taken as estate tax deduction from offsetting sales price for income tax purposes. | | x | | | |
| 208 Allows estate tax credit for transfer of Lake Tahoe area property from an estate to the Forest Service. | | | | | x |
| Title XXIII | | | | | |
| Other Amendments | | | | | |
| 209 Gain on condemnation of outdoor advertising displays need not be recognized if proceeds are reinvested in real property | | | | | x |
| 210 Changes bracket system to an ad valorem excise tax on certain cigars | | | | | x |
| 211 Broadens the circumstances denying capital gain treatment on sales between related parties: includes commonly controlled corporations; parents; adult children; trusts, estate or partnership in which taxpayer is a beneficiary or partner | | x | | | |
| 212 Excludes from income through 1979 amounts received under Armed Forces Health Professions Scholarship Program by members participating in program in 1976 | | | | | x |
| 213 Deleted from bill: tax counseling for the elderly | - | - | - | - | - |
| 214 Deleted from bill: Commission on value added tax | - | - | - | - | - |

215 Exchange funds - Tax-free transfers to partnership and trust funds prohibited

216 Allows distributions of previously taxed income to shareholders of subchapter S corporations before such shareholders will have taxable income from distributions attributable to E & P arising from accelerated depreciation

Title XXIV

U.S. International Trade Commission

217 International Trade Commission voting procedure clarified - not tax policy issue

218-

221 Deleted from bill: These items to be in separate bill

Title XXV Additional Miscellaneous Amendments

222 Government publications received by taxpayers without charge will not be treated as capital assets

223 Permits lobbying by public charities (other than churches), subject to certain expenditure tests

224 Exempt organizations: "acquisition indebtedness" does not include indebtedness for state and local taxes secured by a lien on the property until due and payable and the organization has had the opportunity to pay them

225 Extends transitional rule for sale of certain non-excess business holdings to disqualified persons

226 Excludes from a private foundation's net income amounts of imputed interest on sales made before January 1, 1970

227 Joint Committee and Treasury to study tax incentives

Title XXVI

Other Miscellaneous Amendments

228 Deleted from bill: credit for college tuition expenses

229 Deleted from bill: \$5 million small issue exemption increased to \$20 million for private hospitals.

| | Good | | Bad | | Indif. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 215 Exchange funds - Tax-free transfers to partnership and trust funds prohibited | x | | | | |
| 216 Allows distributions of previously taxed income to shareholders of subchapter S corporations before such shareholders will have taxable income from distributions attributable to E & P arising from accelerated depreciation | | x | | | |
| Title XXIV | | | | | |
| U.S. International Trade Commission | | | | | |
| 217 International Trade Commission voting procedure clarified - not tax policy issue | | | | | |
| 218- | | | | | |
| 221 Deleted from bill: These items to be in separate bill | - | - | - | - | - |
| Title XXV Additional Miscellaneous Amendments | | | | | |
| 222 Government publications received by taxpayers without charge will not be treated as capital assets | | | | | x |
| 223 Permits lobbying by public charities (other than churches), subject to certain expenditure tests | | x | | | |
| 224 Exempt organizations: "acquisition indebtedness" does not include indebtedness for state and local taxes secured by a lien on the property until due and payable and the organization has had the opportunity to pay them | | | | | x |
| 225 Extends transitional rule for sale of certain non-excess business holdings to disqualified persons | | | | | x |
| 226 Excludes from a private foundation's net income amounts of imputed interest on sales made before January 1, 1970 | | | | | x |
| 227 Joint Committee and Treasury to study tax incentives | | | | | x |
| Title XXVI | | | | | |
| Other Miscellaneous Amendments | | | | | |
| 228 Deleted from bill: credit for college tuition expenses | - | - | - | - | - |
| 229 Deleted from bill: \$5 million small issue exemption increased to \$20 million for private hospitals. | - | - | - | - | - |

230 Contributions to and benefits under qualified group legal services will be excluded from employee's income. Applies for 5 years only - Treasury and Labor to report in 4 years on its effectiveness

231 Tax-exempt hospitals not taxed on unrelated income received for providing certain services to small hospitals, if provided at cost

232 Adds clinical services to services permitted to be performed by cooperative service organizations

233 Permits corporations to deduct certain donations to public charity limited to basis of donated property plus 1/2 of appreciation of inventory property but not to exceed twice its basis

Title XXVII

Additional Senate Floor Amendments

234 Deleted from bill: tax credit for certain costs of individuals participating in major national or international sports competitions

235 Establishes tax-exempt status for organizations whose primary purpose is to foster national and international amateur sports competition

236 Provides that Pension Benefit Guaranty Corp. is to be exempt from all federal taxes except social security and unemployment taxes

237 Allows owner-employee of HR 10 plan to make level annuity contract payments without regard to the overall 25 percent limitation

238 Permits taxpayer to treat certain lump sum pension distributions as ordinary income with the 10 year income averaging rule

239 Treats gain from lapse of an option and gain or loss from a closing transaction in options to be treated as short-term capital gain or loss, not as ordinary income or loss (H.R. 12224)

240 Permits "flow-through" of tax-exempt interest to shareholders of mutual funds

| | Good | | Bad | | Indif. |
|------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 230 | | | | | x |
| 231 | | | | | x |
| 232 | | | | | x |
| 233 | | | | | x |
| Title XXVII | | | | | |
| Additional Senate Floor Amendments | | | | | |
| 234 | - | - | - | - | - |
| 235 | | x | | | |
| 236 | | | | | x |
| 237 | | | | | x |
| 238 | | | | | x |
| 239 | x | | | | |
| 240 | | x | | | |

| | Good | | Bad | | Indif. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----|-----|----|--------|
| | S | NS | S | NS | |
| 241 Deleted from bill: establishment of Commission on Tax Simplification and Modernization | - | - | - | - | - |
| 242 Extends common trust fund treatment to custodial accounts, such as uniform gifts to minors act accounts | | x | | | |
| 243 Permits depletion to be retained on property transferred between certain controlled groups | | x | | | |
| 244 Allows noncustodial parent to receive exemption for child if he or she contributes at least \$1,200 for such child | | | | | x |
| 245 Extends to 3 years (previously 2 years) period within which replacement real property can be purchased to prevent recognition of gain on involuntary conversion of real property. Deleted proposal to remove the "like kind" requirement for such replacement property | | | | | x |
| 246 Increases to \$35,000 (previously \$20,000) amount of gain elderly taxpayers can exclude from income on sale of principal residence | | x | | | |
| 247 Deleted from bill: exemption from tax for certain mutual deposit guarantee funds | - | - | - | - | - |
| 248 In counting the permitted number of shareholders for subchapter S corporations, a spouse and estate of deceased spouse will be one if both would have counted as one before spouse's death. Grantor trusts and voting trusts are eligible shareholders. Eases present law on termination of subchapter S election. See also item 117. | | x | | | |
| 249 Extends IRA availability to members of voluntary fire departments if their pension benefit from private plans does not exceed \$150 per month | | | | | x |
| 250 Permits cash method farmers to defer for one year income from livestock sold on account of drought conditions | | | | x | |

THE WHITE HOUSE

WASHINGTON

September 15, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN *LWS*

SUBJECT: Conference Committee Action on Extension of
the Public Service Employment Program

The Conference Committee has completed action on H.R. 12987, the Emergency Jobs Program Extension Act of 1976. Before they began their deliberations, the conferees were informed of your decision of August 30 that you supported an extension of the program (Title VI) at current levels as long as new employees were limited to the long-term unemployed.

The Conference version targets 50 percent of the job openings resulting from attrition to the long-term unemployed and limits all jobs resulting from an increase in the size of the program to the long-term unemployed. As expected, the size of the program has been left open for resolution at the appropriations stage.

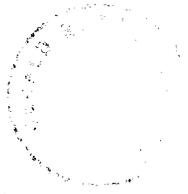
This memorandum discusses whether you should sign the bill as it emerged from conference and how your position should be explained to the public.

Issue 1: Should you sign the conference bill which limits only 50 percent of new positions to the long-term unemployed?

Option 1: Sign H.R. 12987

Advantages:

- o The bill establishes the principle that the public service jobs program should be targetted to the long-term unemployed. This is consistent with your original request for this program in October 1974.
- o You can justifiably claim credit for the provisions in the bill limiting eligibility to the long-term unemployed since this was the thrust of your original proposal and since your position, as conveyed to the conferees, almost certainly was responsible for the limitations that are included in the conference version.



- o Support for H.R. 12987 is consistent with your announced high priority for jobs and desire to more effectively target Federal outlays for jobs programs.
- o A major reason the eligibility limitations were not applied across the board is the crime wave in Detroit where PSE funds were used to rehire laid off policemen.

Option 2: Veto H.R. 12987

Advantages:

- o The bill continues a 260,000 emergency job program at a time when we are in the midst of a healthy recovery.
- o If you sign the authorization bill, it may prove impractical to oppose an increase in the size of the program at the appropriation stage if the appropriation for this program is included in an omnibus bill at the end of the session.

Decision

Option 1 *NR7* Sign H.R. 12987

Supported by: Labor, Commerce, Treasury, OMB
Cannon, Friedersdorf, Marsh

Option 2 _____ Veto H.R. 12987

Supported by: Greenspan*

* Given the options I would recommend a veto. However, I wonder whether there are other potential options such as allowing the bill to become law without your signature or alternatively signing the extension of the act but being prepared to veto an omnibus appropriations bill if the amounts for the public service jobs program and/or other elements in the omnibus appropriations bill are excessive.

Philip Buchen: I would lean towards recommending that the President sign H.R. 12987. However, before making a firm recommendation, I would want to see the OMB report on the enrolled bill.



Issue 2: Should you announce your position on H.R. 12987 before final congressional action or wait to announce your position when the bill reaches your desk?

The House is scheduled to vote on the Conference Report on Thursday, September 16. The bill should reach the Senate early the week of September 20.

If you decide to sign the bill, regardless of when you make your position known, your statement could rely on two bases: (1) the importance of targetting public service jobs on the long-term unemployed now that the recovery is proceeding well; (2) the appropriateness of relaxing present restrictions as an emergency measure to permit urban areas confronted with unrest to rehire law enforcement officers.

The Department of Labor anticipates that the House Appropriations Committee will begin consideration of a supplemental appropriation for this program the week of September 20.

Option 1: Issue a statement on H.R. 12987 before Senate action on the Conference Report.

Advantages:

- o Issuing a statement before final congressional action puts you in the position of leading rather than reacting since you could call upon the Congress to pass or defeat the bill.

Disadvantages:

- o If you reveal your position on the bill before congressional action is completed, this could encourage the Appropriations Committees to increase the size of the program substantially since the authorization bill authorizes "such sums as may be provided."

Option 2: Make no statement on H.R. 12987 until the bill reaches your desk.

If you decide to sign the bill and the Appropriations Committees have not acted, you could take the initiative on program size by announcing submission of a supplemental appropriation request in your signing statement.

Advantages:

- o Permits you to withhold a public commitment to the bill until the size of the program is more clearly defined.
- o Uncertainty as to your intentions can be used to obtain greater leverage with the appropriations committees.

Disadvantage:

- o Puts you in the position of reacting rather than leading.

Decision

Option 1 _____ Issue a statement on H.R. 12987 before
Senate action on the Conference Report.

Supported by: Commerce, Friedersdorf

Option 2 MR7 _____ Make no statement on H.R. 12987 until the
bill reaches your desk.

Supported by: Labor, OMB, CEA, Marsh, Buchen



E



THE WHITE HOUSE

WASHINGTON

September 15, 1976

MEETING WITH THE ECONOMIC POLICY BOARD
EXECUTIVE COMMITTEE

September 16, 1976

9:30 a.m.

Cabinet Room

From: L. William Seidman

LWS

I. PURPOSE

- A. To discuss H.R. 10612, the Tax Reform Act of 1976, review the status of the Treasury study of basic tax reform, and to discuss your position on the tax reform issue.
- B. To discuss the sugar situation.
- C. To briefly discuss conference committee action on extension of the Public Service Employment program.
- D. To briefly discuss the mushroom import situation.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

- A. Background: Last Thursday evening, the Conference Committee completed its action on the Tax Reform Act of 1976. The Conference Report was filed on Monday, September 13. It is scheduled for action in the House of Representatives at 10:00 a.m. Thursday, September 16. It is scheduled for action in the Senate later the same day.

The Treasury has prepared a paper outlining the positive features of the tax bill, reviewing those Administration proposals which were omitted from the bill, detailing the negative features of the bill, and presenting some advantages and disadvantages to consider in determining whether or not to sign the bill. This paper, along with a memorandum from Secretary Simon providing his evaluation of the bill, is attached at Tab A.

The EPB Executive Committee has reviewed the bill as it will be reported by the Conference Committee and



considers it, on balance, a good bill and recommends that you sign it. The EPB Executive Committee has also discussed possible points that might be included in a signing statement. A brief paper outlining some ideas for a signing statement is attached at Tab B.

Last winter you approved Secretary Simon's proposal to undertake a study of basic tax reform and simplification of the tax system. A status report on that project, prepared by the Treasury, is also attached at Tab B.

Sugar: During the first six months of 1976 the price of raw sugar fluctuated between approximately 14¢ and 17¢ per pound. Since the middle of July the price for raw sugar has declined from over 15¢ a pound to between 9¢ and 10¢ per pound. The prospects for a rapid rise in sugar prices are not good. The Sugar Policy Task Force was reconstituted in early August to review the outlook for sugar prices and the implications for our sugar policy. A memorandum on the sugar situation outlining several policy alternatives is attached at Tab C.

Public Service Employment Bill: The Conference Committee has completed action on H.R. 12987, the Emergency Jobs Program Extension Act of 1976. A memorandum discussing whether you should sign the bill as it emerged from conference and how your position should be explained to the public is attached at Tab D.

Mushroom Imports: Since May mushroom imports have rapidly escalated prompting appeals for relief from domestic mushroom producers. A memorandum on the situation and recommended course of action is attached at Tab E.

- B. Participants: L. William Seidman, Alan Greenspan, James T. Lynn, Elliot L. Richardson, George Dixon, Charles Robinson, Frederick B. Dent, Earl L. Butz, John O. Marsh, Max Friedersdorf, Brent Scowcroft, James Cannon, Michael Moskow, Charles Walker, Scott Crampton.
- C. Press Plan: White House Press Corps Photo Opportunity.



III. AGENDA

A. Tax Reform Bill

Deputy Secretary Dixon and Assistant Secretary Walker will review the Tax Reform Act of 1976, the status of the Treasury study of basic tax reform, and your position on the tax reform issue.

B. Sugar

Secretary Butz will review the sugar situation in the light of recent significant declines in the price of raw sugar.

C. Public Service Jobs Extension Bill

Under Secretary Moskow will briefly review the public service jobs bill.

D. Mushroom Imports

Ambassador Dent will briefly review the mushroom import situation and a recommended course of action.







THE SECRETARY OF THE TREASURY
WASHINGTON 20220

SEP 11 1976

MEMORANDUM FOR THE ECONOMIC POLICY BOARD EXECUTIVE COMMITTEE

SUBJECT: Evaluation of Tax Legislation

The Tax Reform Act of 1976 (HR 10612) has now been through the Conference. The Conference report is scheduled to be filed at noon Monday, September 13. The earliest it can be considered will be noon Thursday unless the Rules Committee waives the "3-day rule" or unanimous consent is obtained to consider the bill at an earlier time.

Work on the tax reform portions of the bill has been underway for almost four years. Early in 1973 the Administration proposed closing tax shelters and strengthening the minimum tax.

Many provisions have been included in the bill which the Administration has not proposed. Many are good, some are bad. There is no doubt that complexity is being added to the tax code, but much of this is due to the technical character of the changes. The bill also, however, enacts the long sought after "deadwood bill" which removes from the Code many obsolete provisions and unnecessary language.

Among the good features of the bill are those which close tax shelters. The Administration recommended doing this by means of LAL (limitation on artificial accounting losses). Congress rejected LAL in favor of a different mechanism which, although not as effective as LAL, should substantially reduce the use of tax shelters:

The bill also tightens the minimum tax provisions. The Administration has consistently urged use of an alternative minimum tax to assure that all taxpayers pay their fair share of taxes. That is if the alternative tax (computed by taxing certain tax preferences) is higher than the regularly computed tax, the alternative would apply. The bill, however, uses an add on minimum tax. That is, regardless of the amount of regularly computed tax, there will be a minimum tax imposed on the tax preferences. The principal effect of the add on tax



is to increase the tax rate on capital gains. While the minimum tax provision in the bill is not in the preferred form, it does assure that tax preferences can no longer be used to escape paying taxes.

The bill includes provisions in aid of capital formation: continuing through 1977 the corporate tax rate reductions enacted in 1975, and extending through 1980 the 10% investment credit.

The bill includes estate tax relief. It allows a credit equivalent to raising the present \$60,000 exemption to \$175,000, phased in over 5 years. It increases the allowable marital deduction for transfers between spouses. It provides special valuation rules for farms and small businesses. It provides for a longer payment period for tax attributable to farms and small businesses.

The attached analysis lists numerous other good features.

The most significantly bad feature of the bill is the tax sanction against boycott activity. The Administration has firmly opposed any such legislation. The Conference adopted only the principle of the measure, providing for loss of foreign tax credits, DISC benefits and benefits of deferring tax on foreign source income attributable to boycott related activity. The language is still being developed by the Joint Committee.

The cutback on DISC tax benefits also is bad. The bill cuts them back about 1/3 by adopting an incremental approach to computing the benefits.

The attached analysis lists numerous other bad features in the bill.

On balance, I consider the bill, as it will be reported by the Conference Committee, to be a good one. In my opinion, good provisions significantly outweigh the bad ones.

(Signed) William E. Simon

William E. Simon



Analysis of Tax Legislation
(H.R. 10612)

A. The tax bill emerging from Conference has the following good features:

1. Extends existing tax cuts.
2. Closes tax shelters. The Administration initiated an effort to do this in 1973 and has pursued the effort ever since. Our method was by means of LAL (limitation on artificial accounting losses); the bill uses a different mechanism which may not be as effective but should substantially reduce the abusive use of tax shelters.
3. Tightens minimum tax provisions. The administration has consistently urged use of an alternative minimum tax to assure that all taxpayers pay their fair share of taxes. The bill, however, uses an add-on tax, the principal effect of which is to increase the tax rate on capital gains. While the add-on tax is not preferred, it does assure that tax preferences can no longer be used to escape paying taxes. The present 10% minimum tax rate is increased to 15%
4. Aids capital formation by:
 - a. Extending through 1977 the corporate tax rate reduction and increased surtax exemption enacted by the Tax Reduction Act of 1975, and which expired July 1, 1976.
 - b. Extends the 10% investment tax credit through 1980. Otherwise the 10% credit would expire after 1976, and return to 7%.
 - c. Improves availability of investment tax credit through changing the sequence in which credits are used.
 - d. Avoids possible loss of investment tax credits and foreign tax credits by allowing election to carry operating losses forward only instead of first carrying them backward; extending carryforward by 2 additional years.



5. Provides estate tax relief by:
 - a. Effectively increasing the exemptions to approximately \$175,000 over 5 years.
 - b. Increasing the marital deduction for transfer between spouses.
 - c. Extending the period for the payment of the estate tax attributable to interests in farms and other closely-held businesses.
 - d. Providing for special valuation for real property used in farms and closely-held businesses.
6. Removes from the Code many obsolete provisions and unnecessary language - the so-called "Deadwood" provisions.
7. Many meritorious provisions are in the bill:
 - a. The retirement income credit has been substantially improved and simplified.
 - b. Relief for child care expense has been expanded and changed from a deduction to a non-refundable credit.
 - c. Alimony is made an above-the-line deduction,
 - d. Moving expense deductions are increased.
 - e. Provisions are tightened in abusive use of:
 - (1) Deduction for business use of homes and expenses of rented vacation homes.
 - (2) Deduction for attending foreign conventions.
 - (3) The "sale" of operating loss carryovers.



- f. Constructive changes are made in the tax treatment of foreign income.
- g. Constructive changes are made in certain administrative provisions, including:
 - (1) Publication of private IRS rulings, without violating taxpayer privacy.
 - (2) Restricting disclosure of tax return information
 - (3) Imposing requirements on tax return preparers
 - (4) Giving taxpayers the opportunity to contest jeopardy assessments
- h. Small corporation (Subchapter S) provisions have been eased
- i. Tax benefits are provided for rehabilitation of historic structures
- j. Increase from \$1,000 to \$2,000 in 1977 and to \$3,000 in 1978 the amount of ordinary income against which capital losses may be offset
- k. Long-sought and helpful changes are made for real estate investment trusts (REITs).
- l. The mandatory payout requirement of private foundations is fixed at 5%. Present law requires periodic changes--now set at 6.75%.
- m. A charity can bring suit to determine its right to tax exemption as a charity. Under present law, the only way to test this issue is for a contributor to sue when IRS denies his charitable deduction.
- n. Tax free transfer to partnership and trust funds are prohibited (swap funds).
- o. Gain from lapse of an option and gain or loss from a closing transaction in options



to be treated as short term capital gain or loss, not as ordinary income.

B. The bill has omitted the following features which had been included in the Administration's program

1. The Administration's proposed deepened tax cuts have not been adopted which also would have:
 - a. introduced a higher (\$1,000) personal exemption.
 - b. established a simplified standard deduction
 - c. eliminated the refundable earned income credit.
 - d. eliminated the per exemption general tax credit
2. The closing of tax shelters by means of LAL (limitation on artificial accounting losses) has been rejected in favor of a different mechanism. The Administration introduced LAL in 1973. The House version of the tax bill adopted it. The Senate firmly rejected it. The alternative mechanism set forth in the bill may not be as effective as LAL, but should substantially reduce the abusive use of tax shelters, and probably is less complicated.
3. The minimum tax provisions take the form of an add on tax, not an alternative tax as proposed by the Administration. The principal effects of the difference are:
 - a. To increase the tax rate on capital gains. The half of capital gains excluded from the regular tax base is included in the minimum tax base.
 - b. The add on minimum tax is regressive in nature, since it is a flat rate on tax preferences, regardless of the amount of other taxable income.



4. The Administration had proposed to repeal the withholding tax on interest and dividends paid to foreign investors. This has been rejected, although the bill does provide for a permanent exemption from tax of interest paid on bank accounts of foreigners.
5. The Administration's job creation proposal designed to provide jobs in areas of high unemployment is not included in the bill.
6. The electric utility tax package proposed by the Administration is not included in the bill.
7. The Broadened Stock Ownership Plan (BSOP) proposed by the Administration is not in the bill.
8. The bill omitted the Administration's proposal for a sliding scale for reducing the amount of the capital gain to be taxed according to the length of time the asset is held.

C. The bill has the following bad features:

1. The boycott tax sanctions (sponsored by Senator Ribicoff) are significantly bad. They deny to taxpayers participating in the boycott the tax benefits of DISC, deferral of tax on foreign source income and use of the foreign tax credit.
2. The foreign bribe provision included in the Senate bill invoked the same tax sanctions (DISC, deferral and foreign tax credit) for taxpayers who pay bribes or make illegal payments overseas. The Conference Committee substantially modified the "penalty" by classifying such payments as deemed distributions to the U.S. parent corporation which would not reduce the earnings and profits of the foreign subsidiary. This result is a close parallel to the tax treatment of bribes and illegal payments made by domestic U.S. corporations. The Administration has consistently opposed use of the tax system to discipline overseas behavior.



3. The bill cut back by about 1/3 the DISC tax benefits by adopting an incremental approach to computing the benefit. The administration has consistently opposed any cutback on DISC.
4. An extra 1% investment credit is given to companies adopting an employee stock ownership plan (ESOP). This is 100% government financing of an employee plan with respect to which employers take no risk--a plan which invests solely in stock of the employer. Present law which grants the extra 1% expires after 1976. The bill extends it to 1980, and adds a still further 1/2 of 1% if matched by a voluntary employee contribution.
5. The bill increases the holding period for long term capital gains to 9 months in 1977 and to 12 months in 1978. The 6 month period continues for farm commodity futures contracts.
6. In the estate tax area, the bill provides that the basis of property held by a decedent will be "carried over" to his heirs (not increased to the property's value on the date of death), except that the basis will be stepped up to the value of the property on December 31, 1976. Also, the bill contains a very complex provision relating to generation skipping trusts.
7. Social Security numbers are authorized for use by State and local authorities, not only in connection with tax administration (which the Administration has not opposed) but also in connection with drivers licenses, motor vehicle registration and the location of runaway parents.
8. Other undesirable provisions include the following:



- a. One half the normal investment tax credit is provided for vessels constructed with money from tax-free capital construction funds.
- b. Enforcement of tax crimes will be impeded by provisions in the bill which give taxpayers the right to contest an administrative 3rd party summons. The measure will virtually assure that in criminal tax investigations only judicial summons will be available.
- c. Contributions to water and sewer utilities in aid of construction will not be taxable to them. With a proper phase-in, such contributions should be taxable. In any event, there should be consistent rules for all utilities.
- d. Countries which aid and abet international terrorists will be denied preferential tariff treatment. The wrong remedy is used for the problem, as in the case of tax sanctions for boycotting activity.
- e. Railroads and airlines are singled out for preferential treatment by being able to use investment tax credits up to 100% of tax liability (instead of 50% under current law) for 1977 and 1978 declining 10% per year after 1978 until returned to 50% in 1983. Utilities were given similar benefits by the 1975 Act but no other taxpayer entitled to an investment credit has the same benefit. The reasons for providing special treatment for utilities are inapplicable to airlines and railroads.
- f. The bill makes an unwarranted statutory classification as self-employed persons (hence not subject to withholding or employment taxes) crewmen on a fishing boat with a crew less than 10. While not significant in impact, the provision is symbolic of unwarranted complexity and discrimination among taxpayers.



D. Balanced evaluation

Given the relative significance of the good and bad features, the good outweigh the bad. It is a matter of judgement how heavily to weigh that balance. Weight cannot be measured merely by a numerical listing of the good and bad. (See the full tally sheet for the relevant numbers).

Secretary Simon weighing:

66 2/3% good

33 1/3% bad

E. Tax Reform still to come

The present tax bill, engrafting as it does so many complicated measures on an already complicated tax code, points dramatically to the need for a basic restructuring of the tax law.

The Treasury Department has been at work since early in the year developing a specific proposal for basic tax reform. Attached is a status report of the project (as of July 27, 1976).

The fundamental objective of the proposal will be to present a tax system that is simple, fair, and economically efficient. It necessarily will be responsive to the need for job creation and capital formation. Included, of course, will be the objective sought by the Administration's integration proposal to avoid the double tax on dividends. Until the basic tax reform package is presented for approval of the President (it is scheduled for mid-December) any new tax program or proposal should be kept sufficiently general that it will not impede the flexibility needed to move in the direction of a more basically restructured system.

F. Options

1. Sign the bill.

Advantages: Supports the tax reform effort which has been underway since 1973.

Enacts the many desirable measures in the bill.



An accompanying statement can emphasize that the tax cuts should have been deeper; also can comment on bad features of the bill.

Disadvantages:

Further complicates the law.

Tax reform elements of the bill are not significant enough to warrant the complexity.

Better to await more basic reform

Enacts undesirable provisions of the bill.

2. Veto the bill

Advantages:

Avoids further complicating the law.

Tax reform elements are not significant enough to warrant the complexity.

More basic reform should be made.

Prevents enactment of undesirable provisions of the bill.

Disadvantages:

Disavows the tax reform features of the bill.

Lose the desirable provisions in the bill.

Will require a revised bill with tax cuts equivalent to those in the bill or there will be a 1976 tax increase.



B



IDEAS FOR A SIGNING STATEMENT

If you decide to sign the bill, there will be an opportunity, when signing, to make a statement concerning your tax program generally. This could include the following:

1. Disappointment that the tax cuts were not as deep as you had recommended.
2. Disappointment that the bill omitted elements of your tax program including:
 - a. The job creation proposal designed to provide jobs in areas of high unemployment.
 - b. The broadened stock ownership plan.
 - c. The proposal to repeal the withholding tax on interest and dividends paid to foreign investors. The bill does, however, provide for a permanent exemption from tax of interest paid on bank accounts of foreigners--an exemption which has heretofore been only temporary.
 - d. The electric utility tax package.
 - e. The proposal for a sliding scale for reducing the amount of capital gain to be taxed according to the length of time the asset is held.
3. Disappointment that the bill contains the bad features it does, including:
 - a. The boycott tax sanctions.
 - b. The reduction in DISC benefits.
 - c. The 100% government financing of the investment credit ESOP--a provision which gives an extra 1% investment credit to companies adopting an employee stock ownership plan which invests solely in stock of the employer. The Administration has consistently urged, but without success, the adoption of a broadened stock ownership plan (BSOP) which is not nearly as heavily subsidized as an ESOP, and has much broader application.



- d. The increase of the present 6 month holding period for long term capital gains to 9 months in 1977 and to 12 months in 1978.

4. Concern that the bill adds such an additional weight of complexity to the already dangerously complex tax code that the voluntary compliance and self-assessment elements of our system will be severely damaged.

5. A move towards true tax reform is underway. Having seen the dangers of an ever-increasing complexity of the tax code, the Administration directed the Treasury Department early this year to undertake a project to design a basically restructured and simplified tax law. The present system is being examined for the purpose of changing it to achieve the following objectives:

- a. Make it simple.
- b. Make it more fair.
- c. Make it economically efficient.

The simplification goal is self-evident. The Code provisions should be easily understood and applied, especially by the large majority of individual taxpayers. Simplicity is of less concern to high income, sophisticated taxpayers and large business enterprises.

The fairness goal is designed to treat equally situated taxpayers in as equal a manner as possible, and to produce a system under which all taxpayers are perceived to pay, and in fact do pay, their fair share of taxes.

The economic efficiency goal is designed to neutralize the tax system in the utilization and allocation of resources.

Tentative decisions are being made on specific elements in the proposed restructured system. These have not yet been completed. When they are, computer analysis will enable a determination of an appropriate rate structure. Statutory rates should be lower than present rates.

Until the computer analysis has been made it will not be possible to determine how practical the tentative decisions have been. Some may very well have to be changed.



When a viable package emerges (perhaps by mid-November) we can then develop a mechanism for phasing in the new system. This work is essential before the proposal can be made public, and it probably can not be ready much before the end of the year.

6. When the next Congress convenes, the deepened tax cuts and other desirable measures omitted from the bill will be introduced.



Status Report on Basic Tax Reform
(July 27, 1976)

The present income tax system purports to impose tax on a net income base, but the actual base used does not derive from consistent application of any concept of income. Many items are excluded from the base that really are income, and many deductions, exemptions, credits, exclusions, etc. are applied in reduction of the base which are not costs of producing income. Moreover, there is no consistent approach to the economic consequences of taxes reflected in the present system. For example, many provisions are biased against saving and capital accumulation; a few are biased for it.

In approaching the Basic Tax Reform project, we are examining the present system for the purpose of changing it to achieve the following objectives:

1. Make it simple.
2. Make it more fair.
3. Make it economically efficient.

The simplification goal is self-evident. The Code provisions should be easily understood and applied, especially by the large majority of individual taxpayers. Simplicity is of less concern to high income, sophisticated taxpayers and large business enterprises.

The fairness goal is designed to treat equally situated taxpayers in as equal a manner as possible, and to produce a system under which all taxpayers are perceived to pay, and in fact do pay, their fair share of taxes.

The economic efficiency goal is designed to neutralize the tax system in the utilization and allocation of resources.

The review has assumed that no changes would occur in the total revenue raised, in the effective degree of progressivity in the present tax system, or in the distribution of the tax burden among income classes.

The project is under the direction of the Secretary of the Treasury, William E. Simon. He has assigned it to his Assistant Secretary for Tax Policy, Charles M. Walker, who



is developing the project with Deputy Assistant Secretaries David F. Bradford and William M. Goldstein. They are making tentative decisions on specific elements in the proposed restructured system. They have been going through the Code as it now exists and have made numerous tentative decisions. More are yet to be made. When these have been completed, computer analysis can begin to determine the appropriate rate structure. We expect to find statutory rates very substantially lower than present rates.

Until the computer analysis has been made (perhaps by the end of September), it will not be possible to determine how practical the tentative decisions have been. Some may very well have to be changed.

When a viable package emerges we can then develop a mechanism for phasing in the new system. This work is essential before the proposal can be made public, and it probably can not be ready much before the end of the year.

Our present feeling is that no effort should be made to introduce legislation to adopt the new system in the near future. Rather public education and discussion of it should occur appropriately in advance of Congressional consideration.

It is premature at this time to state any of the tentative decisions which have been made. It can be said, however, that there has been an effort to broaden the tax base in every reasonable and consistent way, and to reduce deductions, credits and exemptions to a minimum. In this respect, the starting point has been to eliminate all of them, and to retreat from that point only as far as necessary to advance the goals of simplicity, fairness and efficiency of the tax system. Decisions also have been made concerning the measurement and taxation of income from business, conducted both in corporate and noncorporate form. Decisions are in process with respect to the measurement and taxation of foreign source income. Decisions are yet to be made on numerous other subjects, including proposed statutory assurance that the relative tax burden among income classes, reflected by the lower rate structure adopted for the broadened base, will remain constant.

The finished product will be appropriate for publication. Its precise form has not yet been designed. The target date is December 15, 1976.



