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ADMINISTRATION POSITIONS

ON

H.R. 10612

TAX REFORM ACT OF 1976

(PREPARED FOR USE BY THE HOUSE AND SENATE
CONFEREES IN CONJUNCTION WITH THE
CONFERENCE COMPARISON)



TREASURY DEPARTMENT
AUGUST 25, 1976

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Administration Positions

on H.R. 10612

Titles I and II - LAL and Other Tax Shelter Provisions

Real Estate Provisions

Administration Position

1. Limitation on Deductions (LAL)

1. Support House bill.

No objection to alternative approaches which seek to match expenses with the income related thereto.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

2. Limitation on deductible losses of limited partners

2. Oppose the substantive provision and the effective date.

Discussion: The "at risk" limitation is not appropriate for real estate since real estate has value against which the bona fides of the financing can be established.

3. Minimum Tax

3. Oppose, provided that LAL or other effective curbs on real estate tax shelters are enacted.

In addition, if LAL or other effective curbs on real estate shelters are enacted, delete existing preference.

Support Senate bill with respect to treatment of excess investment interest EXCEPT for low and moderate income housing provisions (Sparkman amendment) Prefer Finance Committee provisions.

Administration Position

4. Recapture of depreciation on real property

4. Support House bill. Oppose Sparkman amendment for low and moderate income housing.

Discussion: Support provision in the House bill providing for a phase-out of recapture between 100 months and 200 months in the case of government subsidized low income housing.

5. 5-year amortization for low-income housing

5. Support House bill.

Farming Provisions

Administration Position

6. Limitation on Deductions (LAL)

6. Support House bill with certain modifications:

- LAL should not apply to timber generally,
- LAL should apply to pre-productive expenses of livestock and certain one year crops.

No objection to Senate farming provisions (items 7, 8) as an alternative solution.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

7. Limitation on deductions to amount at risk

7. No objection to Senate provision as an alternative solution if combined with limitations on farming syndicates.

Discussion: The "at risk" limitation for farming would be an effective deterrent to sham transactions which generally present difficult enforcement problems for the Internal Revenue Service.

Administration Position

8. Limitations on deductions for farming syndicates

8. No objection to Senate provisions as an alternative approach.

Discussion: The Senate limitations deal directly with certain of the underlying deductions which result in tax abuse.

9. Accrual accounting for farm corporations

9. Support House bill, including the exception for family farm corporations.

10. Termination of additions to Excess Deductions Accounts under section 1251 (EDA)

10. Support, provided that limitations on farm tax shelters are enacted.

No objection to "D" reorganization provision.

Discussion: The "D" reorganization provision provides for the carryover of EDA to the surviving corporations on an aggregate basis and can be administratively complex.



Oil and Gas Provisions

Administration Position

11. Limitations on Deductions (LAL)

11. Support House bill effective at such time as the prices of oil and gas in interstate markets are deregulated.

No objection to alternative approaches which seek to more properly match income with expenses related thereto, effective upon complete deregulation.

12. Limitation on deductions to amount at risk

12. Oppose both the House and the Senate provisions.

13. Minimum tax

13. Oppose both the House and the Senate provisions, provided that LAL or other effective curbs on oil and gas shelters - effective upon deregulation - are enacted.

14. Recapture of intangible drilling costs

14. Support House bill effective at such time as the prices of oil and gas in interstate markets are deregulated.

Movie Provisions

Administration Position

15. Limitation on Deductions (LAL)

- a) Film purchase shelter

- b) Service company shelter

15.

- a) Support House bill.

No objection to alternative approaches which seek to more properly match expenses with income related thereto.

- b) Support House bill.

No objection to Senate provisions (items 16, 17) as alternative solutions.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

16. At risk rule

- a) Film purchase shelter

- b) Service company shelter

- 16. a-b) No objection to Senate provisions as an alternative solution.

Oppose the special exception for certain production companies.

Discussion: The "at risk" limitation for movies would be an effective deterrent to sham transactions which generally present difficult enforcement problems for the Internal Revenue Service.

Administration Position

17. Capitalization--Service company shelter

17. No objection to Senate provisions as an alternative solution.

Discussion: The capitalization provision deals directly with the deductions which result in tax abuse.

Equipment Leasing Provisions

18. Limitation on Deductions (LAL)

18. Support House bill with certain modifications:

- ADR variance in useful lives should not be treated as an accelerated deduction;
- LAL should not apply to operating - as opposed to net - leases.

No objection to alternative approaches which seek to more properly match expenses with income related thereto.

19. Limitation on deductions to amount at risk

19. Oppose Senate provision.

Discussion: The "at risk" limitation is not appropriate for equipment leasing since equipment has value against which the bona fides of the financing can be established.

20. Minimum tax

20. Oppose both the House and the Senate provisions, provided LAL or other effective curbs on equipment leasing shelters are enacted.

In addition, if LAL or other effective curbs on equipment leasing shelters are enacted, delete existing preference.

Sports Franchise Provisions

Administration Position

21. Limitation on deductions (LAL)

21. Oppose House bill.

Discussion: Application of LAL to sports franchises is an unwarranted extension of the Administration's 1973 proposal. Tax abuse in sports franchises can be handled administratively by the Internal Revenue Service.

22. Allocation of Basis to
Player Contracts

22. Prefer Senate bill.

Discussion: The Administration opposes any special rules applicable only to sports franchises as unnecessary.

23. Recapture of Depreciation
on Player Contracts

23. Prefer Senate bill.

Administration Position

24. Minimum tax

24. Oppose House bill.

Partnership Provisions

25. Partnership syndication and organization fees

25. Support Senate provision.

Discussion: Section 248 of the Internal Revenue Code presently allows a corporation to amortize its organizational expenses over a period of not less than 60 months.

26. Retroactive allocations of partnership income or loss

26. Support Senate provision.

Administration Position

27. Partnership special allocations

27. Support Senate provision.

28. Deductible losses of limited partners - at risk

28. Oppose the substantive provision and the effective date.

Discussion: The provision restricts only the basis of limited partners of a partnership. It does not purport to generally repeal the long-established rule based on Crane v. United States, 331 U.S. 1 (1947) that nonrecourse financing is included in the cost, and thus the basis of property. Thus, other business arrangements may be used to circumvent the limitation.

The provision also leaves unanswered the issue of proper allocation to the various partners of the basis attributable to nonrecourse liabilities. The limited partners' share of the basis attributable to such liabilities may be suspended until principal is repaid. The subsequent increases in basis resulting from such a suspense account could raise serious administrative problems in enforcing the limitation.

Interest

Administration Position

29. Treatment of prepaid interest

29. Support Senate provision, although do not object to House provision.

30. Limitation on deduction of nonbusiness interest

30. Oppose House bill.

Support Senate approach.
(See Administration Position on treatment of interest in the minimum tax.)

Discussion: The \$12,000 limitation on nonbusiness interest is an arbitrary limit on the interest deduction which would deter individuals from purchasing assets with borrowed funds. Moreover, the limitation can have the effect of permanently disallowing deductions for home mortgage interest.



Title III - Minimum and Maximum Tax Changes

Administration Position

31. Minimum tax for individuals

- a) Tax rate
- b) Exemption
- c) Deduction for regular taxes
- d) Preferences included in minimum tax

31. a-c) Prefer Senate provision.

d) 1. Prefer Senate provision with 70% AGI.

2,3 and 4 (House bill)
Oppose both the House and the Senate provisions and, in addition, delete existing preferences, provided LAL or other effective curbs on tax shelters are enacted.

4. (Senate amendment) Support Senate approach. Oppose House Limitation on Nonbusiness Interest.

5. Oppose House and Senate provisions.

Discussion: The Senate provision providing for a deduction for regular taxes paid tends to make the minimum tax more in nature of an alternative, rather than an add-on, tax. The Administration strongly supports an alternative minimum tax.

32. Minimum tax on corporations

- a) Tax rate
- b) Exemption
- c) Deduction for regular taxes
- d) Carryover of regular taxes
- e) Preferences included in minimum tax
- f) Exemption for timber

32. a-f) Oppose Senate provisions.

The amendments to the minimum tax for corporations were adopted on the Senate floor. No hearings were held on these changes which can impact adversely on many trades or businesses.

Administration Position

33. Maximum tax

33. No objection to conforming
maximum tax with minimum tax
provisions.

Title IV - Individual Tax Reductions

Administration Position

34. General tax credit

34. -----

Discussion: The Administration is disappointed by the form, duration and extent of the tax cut extension provisions in the House and Senate bills. It continues to support greater tax reductions coupled with a dollar-for-dollar reduction in federal expenditures.

35. Standard deduction

35. -----

36. Earned income credit

36. -----

37. Disregard of earned income credit

37. No objection to House and Senate provisions.

Title V - Tax Simplification

38. Alimony payments

Administration Position
38. Support provision with
Senate effective date

39. Child care expenses

39. Oppose the refundable
feature of the Senate
provision.

Discussion: The credit for child care expenses may be considered a cost of earning income. The credit thereby performs a legitimate tax function in determining the proper amount of tax due. However, refundability has nothing to do with the determination of tax liability; it is simply an addition to the tax system which more properly serves a welfare function.

40. Sick pay and certain military
disability pensions

40. Support House provision.
No objection to Senate
provision for Federal
employees injured as the
result of acts of terrorism.

Discussion: The Senate floor amendment retaining sick pay provisions of current law for taxpayers with adjusted gross incomes of \$15,000 or less is contrary to the simplification purpose of Title V. Also, more fundamentally, no justification exists for treating sick pay any differently than other wages.

Administration Position

41. Moving expenses

41. Support Senate provision.

42. Tax study by Joint Committee

42. No objection to Senate provision.

43. Treasury report on tax simplification and integration of corporate and individual income taxes

43. No objection to Senate provision.

Discussion: Treasury is presently undertaking a study on basic tax reform.

Title VI - Business Related Individual Provisions

44. Deductions for expenses attributable to business use of homes

44. Support Senate provision.
Oppose Senate floor amendment of Senator Bartlett expanding definition of business use of home.

Administration Position

45. Deduction for expenses attributable to rental of vacation homes

45. No objection to House and Senate provisions.

Discussion: It is appropriate to replace the present facts and circumstances test of current law with an objective mechanical rule. The Administration prefers the two week rule to the alternative tests of the House and Senate provisions.

46. Deductions for attending foreign conventions

46. Support Senate provision (as reported by the Finance Committee). Oppose Senate floor amendment retaining present law.

Discussion: The Senate provision would curb most of the abuse of the deduction allowed for attending foreign conventions. The House provision contains mechanical rules which would be difficult to administer. It also fails to deal with conventions on cruise ships.

The Administration believes that the deduction for attending foreign conventions has been abused and that current law is inadequate to deal with the problem. The Administration, therefore, opposes the Senate floor amendment which would make no change in present law.

Administration Position

47. Qualified stock options

47. Support House provision.

48. Nonbusiness guaranties

48. Support House provision.

Discussion: Current law creates an arbitrary distinction in the treatment of guaranteed payments depending on whether the guarantor is an individual and on whether the obligation is that of a corporation.

Administration Position

49. Deduction for legislators travel expenses away from home

49. No objection to House provision with Senate modification that the Secretary of Labor (rather than IRS) establish the daily amount of allowable living expenses.

Title VII - Accumulation Trusts

Administration Position

50. Revision of Method of Taxing
Accumulation Distributions on
Trusts

50. Support Senate provisions.

Discussion: The Senate provisions incorporate perfecting amendments to the House bill and thus are preferable.

Title VIII - Capital Formation

Administration Position

51. Extension of \$100,000 limitation on used property 51. Support Senate provision.

52. Extension of 10-percent investment credit 52. Support Senate provision.

53. First-in-first-out treatment of investment credit amounts 53. Support Senate provision provided that present treatment retained for pre-1976 carryovers.

Discussion: The FIFO rule improves the incentive to further capital investment. However, present law should be retained for investment credit carryovers from pre-1976 years to prevent windfalls.

54. Extension of expiring investment tax credits 54. Oppose Senate provision.

Discussion: The provision provides a windfall for a limited number of taxpayers who have unused, expiring credits from 1966.

Administration Position

55. ESOP investment credit provision 55. Oppose Senate provision.

Discussion: The Administration supports tax incentives for broadened stock ownership which are available to all taxpayers. ESOPs are restricted to corporate employees and do not afford diversification and investment choice. In addition, as among corporate employees, ESOPs tied to the investment tax credit favor employees in capital intensive industries.

56. Retroactive regulations on 56. Oppose Senate provision.
Employee Stock Ownership Plans
(ESOPs)

Discussion: To the extent that Congress endorses different rules for ESOPs, it should set forth specific criteria in legislation developed after public hearings and comment.

57. Study of stock ownership expansion 57. Support Senate provision.

Administration Position

58. Investment credit in the case of movie and television films

58. Support Senate provision except for "elect out".

Discussion: The provision provides a compromise investment credit for pre-'75 years in settlement of pending litigation. The "elect out" of the Senate provision frustrates the intent of the compromise to dispose of this litigation.

59. Investment credit in the case of certain ships

59. Oppose Senate provision (including its retroactive effective date).

Discussion: The provision selectively overturns the general tax concept of "basis" underlying the allowance of depreciation and investment credit.

60. Small fishing vessel construction reserves

60. Oppose Senate provision.

Administration Position

61. Net operating loss carryover election

61. Support Senate provision provided that the election be made on an annual basis for the losses occurring in such year.

62. Limitation on trafficking in net operating loss carryovers

62. Oppose Senate provision.

Discussion: The provision would significantly alter the tax consequences of certain corporate acquisitions where one of the parties to the transaction has net operating loss carryovers. The Administration strongly recommends that no such basic changes be made without an opportunity for study and comment by the major professional associations and other interested parties. The Internal Revenue Service has indicated that the provision will be difficult to administer due to its uncertainty and complexity. These factors may also impede legitimate business transactions.

If the provision is adopted, the Administration recommends that its effective date be delayed for at least one year and that Congress invite comments and specifically undertake to make necessary substantive and technical modifications prior to its effective date.

Administration Position

63. Credit for artist's donations of own work to charitable organizations

63. Oppose Senate provision.

Discussion: If a credit is allowed for artist's donations of his own work, the Administration prefers a 5 year holding period before the artist is eligible for such credit.

Title IX - Small Business Provisions

64. Continuation of changes in corporate tax rates and increase in surtax exemption.

64. Support Senate provision.

Discussion: Making the tax changes permanent is part of the President's deepened tax cut proposal. Also, the extension of the tax cuts to mutual insurance companies corrects a clear drafting oversight in the Tax Reduction Act.

Title X -- Changes in the Treatment of Foreign Income

	<u>Administration Position</u>
65. Income earned abroad by U.S. citizens living or residing abroad	65-1. Prefer the House bill, but do not object to the Senate version. 65-2. Do not oppose the Senate provision.
66. Income tax treatment of non-resident alien individuals who are married to citizens or residents of the United States	66-1. Support. 66-2. Support. 66-3. Support the Senate provision. Effective date. Prefer Senate effective date.
67. Foreign trusts having one or more United States beneficiaries to be taxed currently to grantor	67-1. Support. Prefer the Senate change. 67-2. Support. Effective date. Prefer Senate effective date.
68. Interest charge on accumulation distributions from foreign trusts	68. Support. Prefer the Senate version. Effective date. Prefer Senate effective date.
69. Excise tax on transfers of property to foreign persons to avoid Federal income tax	69. Support. Prefer the Senate version.

Administration Position

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| 70. Amendment of provisions relating to investment in U.S. property by controlled foreign corporations | 70. Support the change from present law, and prefer the Senate bill.

Effective date. Prefer Senate effective date. |
| 71. Shipping profits of foreign corporations | 71-1. Support. Prefer the Senate version.

71-2. Oppose the House provision.

71-3. Do not oppose Senate provision. |
| 72. Agricultural products | 72. Oppose the House provision and support the Senate bill which would make no change in present law. |

Discussion: The House provision would change present law to make it more difficult to administer.

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| 73. Requirement that foreign tax credit be determined on overall basis | 73. Do not object to the elimination of the per-country limitation. Support the Senate version. Oppose the House provisions which would retain the per-country for possession source income, and delay the effective date for 3 years in the case of mining companies. |
|--|--|

Discussion: The House provision would single out possession source income and mining companies for special treatment which discriminates against other taxpayers. The Administration cannot find any reason to single out these two classes of taxpayers for this kind of special treatment.

Administration Position

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| 74. Recapture of foreign losses | 74. Support the recapture of foreign losses, and prefer the Senate version. |
| 75. Treatment of capital gains for purposes of foreign tax credit | 75. Support and prefer the Senate version. |
| 76. Foreign oil and gas extraction income | |
| a. Transitional rule for foreign tax credit limit | 76a. Oppose the House provision. |
| <p><u>Discussion:</u> Generally oppose retroactive relief granted by the House provision.</p> | |
| b. Definition of foreign oil-related income | 76b. No objection to Senate provision. |
| <p><u>Discussion:</u> The Senate provision is consistent with the inclusion of interest from foreign corporations and dividends in the definition of foreign oil related income.</p> | |
| c. Foreign oil and gas extraction income earned by individuals | 76c. Support Senate provision. |
| d. Tax credit for production-sharing contracts | 76d. Do not oppose the Senate provision. |



Administration Position

76. Foreign oil and gas extraction income

e. Reduction in amount allowed as foreign tax credit on oil extraction income

76e-1. Support the Senate provision, with modifications.

Discussion: The Administration supports limiting the credit for oil and gas extraction taxes to 48 percent. However, the Administration recommends that the limit be computed not on a country-by-country basis, but by applying the overall limitation separately with respect to oil extraction income and other income using the regular section 904 rules for carryovers, etc.; that the definition of oil and gas extraction income be narrowed to include dividends only when they are from a foreign corporation when taxes are deemed paid with respect to those dividends; that interest be excluded from the definition.

76e-2. Oppose the Senate provision.

Discussion: The Administration opposes the attempt to define the portion of the payment to a foreign government which is a royalty. A new definition would only confuse the issue. It would raise doubts as to the applicability and the effect of recent IRS statements concerning the creditability of taxes. It would cloud the applicability of the law in non-oil and gas areas.

77. Underwriting income

77. Support the Senate provision.

78. Third-tier foreign tax credit when section 951 applies

78. Support Senate provision.

Administration Position

79. Interest on bank deposits earned by nonresident aliens and foreign corporations

79. Support the House provision.

Discussion: The Administration strongly supports the permanent exemption which is contained in the House provision.

80. Changes in ruling requirements under section 367; certain changes in section 1248

80-1. Strongly support the change in present law, and prefer the Senate version.

80-2. Support the change in present law, and prefer the Senate version.

80-3. Strongly support the change in present law, and prefer the Senate version.

81. Contiguous country branches of domestic life insurance companies

81. Do not object to either version.

82. Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States

82-1. Do not object to the change in present law. Prefer the Senate version.

82-2. Do not object.

Effective date. Prefer Senate effective date.

83. Repeal of provisions relating to China Trade Act Corporations

83. Support the phaseout generally, and prefer the Senate version.

Administration Position

- | | |
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| 84. Denial of certain tax benefits on international boycotts and bribe-produced income | 84. Strongly oppose the Senate provision. |
|--|---|

Discussion: The Senate provision is an inappropriate means of dealing with the problems of boycotts and bribes. Moreover, these provisions would create substantial administrative problems.

Title XI -- Domestic International Sales Corporations (DISCs)

Administration Position

85. Amendments affecting DISC

85. Oppose both the House and Senate versions.

Discussion: In the context of the House and Senate bills, the Administration recommends the following compromise position:

1. Incremental rule limiting DISC benefits to the extent current export gross receipts exceed 60 percent of the average for 3 out of 4 base period years (initially 1972-1975);
2. Base period moves forward after 1980;
3. Exception to incremental rule contained in House and Senate versions for DISCs having taxable income of \$100,000 or less for a taxable year;
4. DISC benefits retained for agriculture;
5. DISC retained for military sales;
6. Technical changes with respect to disqualification recapture and producer's loans as in House version;
7. Senate provisions relating to distributions of DISC stock and double counting in the case of distribution to meet qualification requirements;
8. Effective date: for incremental rule - taxable years beginning after December 31, 1976.

Title XII - Administrative Provisions

Administration Position

86. Public inspection of written determinations by Internal Revenue Service

86. Support Senate provision.

Discussion: The Senate provision reflects a compromise worked out among representatives of the tax bar, the accounting profession, the Internal Revenue Service, the Treasury Department and public interest firms. Thus, the provision represents a publicly considered solution to a problem which has been the subject of extensive and costly litigation over the past several years. Certain technical matters, however, should be clarified by the Conference Committee.

Administration Position

87. Disclosure of returns and
return information

a) In general

b) Definition of returns
and return information

c) Disclosure to Congress

87. a-c. Support Senate provisions.

Administration Position

d) White House (and other
Federal agencies)

d-e. Support Senate provisions.

e) Civil and Criminal tax
cases

Administration Position

f) Nontax criminal cases

f. Oppose requirement of "probable cause" for disclosure to Justice Department and other Federal agencies of taxpayer information in nontax criminal cases. Prefer Finance Committee amendment.

g) Nontax civil matters

g-h. Support Senate provisions.

h) General Accounting Office

Administration Position

i) Statistical use

i-n. Support Senate provisions with following modification:
- Tax information disclosed to Federal, State and local welfare agencies should be limited to the tax information available from the IRS individual master files.

j) Other agencies - inspection on a general basis

k) State and local governments

l) Taxpayers with a material interest

m) Miscellaneous disclosures

n) Procedures and records concerning disclosure

Administration Position

o) Safeguards

o-q. Support Senate provisions.

p) Reports to Congress

q) Enforcement

88. Income tax return preparers

88. Support Senate provision.

Administration Position

89. Jeopardy and Termination Assessments

89. Support Senate provision.

Discussion: The Senate provision protects taxpayers against any abusive use of jeopardy and termination assessments, while providing more flexibility than the House provision for a mutually satisfactory disposition. Also, the Senate provision deals with the issues presented by the Supreme Court decision in Laing v. United States.

The Administration recommends that the effective date be February 28, 1977 to provide the IRS time to implement the new provision.

90. Administrative summons

90. Prefer Senate provision.

Discussion: The Administration recommends that the effective date be February 28, 1977 to provide the IRS time to implement the new provision. Certain other technical matters should be clarified by the Conference Committee.

91. Assessments in case of mathematical or clerical errors

91. Support Senate provision.

Administration Position

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| 92. Withholding State income taxes from military personnel | 92. Support House or Senate provision. |
| 93. Withholding of State or local income tax from members of the National Guard or ready reserve | 93. Support Senate provision. |
| 94. Voluntary withholding of State income taxes from Federal employees | 94. Support Senate provision. |
| 95. Definition of city for purposes of withholding | 95. Enacted into law (Public Law 94-). |
| 96. Withholding tax on certain gambling winnings | 96. Support Senate provision but oppose Senate floor amendment excluding State lotteries from withholding requirements. |
| 97. Withholding of Federal taxes on certain individuals engaged in fishing | 97. Oppose Senate provision. |

Discussion: The Administration recommends that the exemption be limited to one crewman (in addition to the operator) to deal with the problem of fishermen who own their own boats and hire crewmen on an intermittent basis.

Administration Position

98. Voluntary withholding of State income taxes in the case of certain legislative officers and employees

98. No objection to House provision.

99. Minimum exemption from levy for wages, salary, and other income

99. Support Senate provision.

Discussion: The Administration recommends that the effective date be February 28, 1977 to provide the IRS time to implement the new provision.

100. Joint Committee Refund Cases

100. Support Senate provision.

Discussion: The Administration recommends that the provision be made applicable to refunds submitted to Joint Committee after the date of enactment of H.R. 10612.

101. Use of Social Security numbers

101. Support House provision.

Discussion: The Administration recommends that the use of social security numbers be limited to Federal, State and local tax administrative purposes.

Administration Position

102. Interest on mathematical errors on returns prepared by IRS

102.

103. Award of Costs and Attorneys' Fees to Prevailing taxpayer

103. Oppose Senate provision.

Discussion: With an opportunity for recovery of attorney's fees, which are not normally awarded the prevailing party in litigation, there will be a greater incentive for litigation, even though the amount involved may be small and the taxpayer's case may appear frivolous on its face.

Title XIII - Miscellaneous Provisions

Administration Position

104. Certain housing associations

104. Support Senate provision.

105. Tax treatment of certain
1972 disaster loans

105. Support provision with
April 15, 1977 date (Senate
provision) for payment of
first annual installment of
unpaid tax liability.

106. Worthless debts of political
parties

106. Support provision with Senate
effective date.

Discussion: The Administration opposes the
retroactive application of the provision pro-
vided by the House bill.

Administration Position

107. Exemption from taxation of interest on bonds issued to finance certain student loans

107. Oppose Senate provision.

Discussion: The Senate provision creates an undesirable precedent for the issuance of tax-exempt bonds by private corporations having only a minimal connection with governmental units. The Treasury Department has proposed regulations dealing with this question and is working on them with state and local representatives.

108. Prepublication Expenditures

108. Oppose House provision.

Discussion: The tax treatment of prepublication expenses should not depend upon the particular past practice of an individual publisher but upon sound tax rules of general application.

109. Income from lease of intangible property as personal holding company income

109. Oppose Senate provision.

Discussion: The Senate provision (adopted as a floor amendment) extends retroactive relief to one taxpayer and reverses through legislation an adverse decision rendered against that taxpayer in the Court of Claims. The Treasury Department would not object to the provision as amended by the Senate Finance Committee on July 23, 1976, if the provision were made prospective only.



Administration Position

110. Work Incentive (WIN) and
Federal Welfare Recipient
Employment Tax Credits

110. Oppose Senate provision.

111. Repeal of excise tax on
certain parts for light-duty
trucks

111. No objection to Senate
provision.

112. Exemption from manufacturers'
tax for certain articles resold
after certain modifications

112. No objection to Senate
provision.

Administration Position

113. Franchise Transfers

113. Support Senate provision.

114. Clarification of an employer's duty to keep records and to record tips

114. Oppose Senate provision.

Discussion: Tip income has presented IRS with chronic compliance problems due to a lack of reliable records from which the correct amount of tips can be verified. The Senate provision obviates sound attempts by IRS to alleviate these problems.

115. Pollution Control Facilities: 5-year amortization and investment credit

115. Support Senate provision with certain modifications:
- section 169 should be extended only until December 31, 1980; and
- the present definition of pollution control facility and the requirement that a facility be added to a plant etc., in operation by January 1, 1969 should be retained.

Discussion: As modified, the provision carries out the purpose of section 169 by accomodating further upgrading of pre-1969 plants.

116. Qualification of fishing organizations as tax-exempt agricultural organizations

116. No objection to Senate provision.

117. Subchapter S corporation shareholder rules

117. Support Senate provision.

Administration Position

118. Application of section 6013(e) 118. Oppose Senate provision.

Discussion: The Senate provision extends retro-active relief to a limited number of taxpayers.

119. Modifications in percentage depletion for oil and gas 119-1,2. No objection to Senate provision.
-3,4. Support Senate provision.

Discussion: The Administration believes that the provisions should apply to all similarly situated taxpayers. There is no justification for the exclusion of certain trusts from these provisions.

120. Implementation of Federal State Tax Collection Act of 1972 120. No objection to Senate provision with certain modifications.

Discussion: The Administration opposes the provision precluding any user charge and opposes reducing from two States to one the number of States necessary to start the system.

121. Cancellation of certain student loans 121. No objection to Senate provision.

Administration Position

122. Simultaneous liquidation of parent and subsidiary corporations 122. Support Senate provision.

Discussion: The Senate provision eliminates a trap for the unwary.

123. Prohibition of State-Local Taxation of Certain Vessels, Barges, or Crafts Using Interstate Waterways 123. Oppose Senate provision.

Discussion: The Federal government has, over the years, imposed relatively few constraints on the power of States to impose taxes. The fact that current State practices impose record keeping and financial burdens upon barge operations is not a sufficient reason for the Federal government to prevent the States from imposing taxes on this form of transportation.

124. Contributions in Aid of Construction for Certain Utilities 124. Oppose Senate provision.

Discussion: The Senate provision departs from the general tax principle that payments for services constitute taxable income.

125. Prohibition of Discriminatory State or Local Taxes on Generation or Transmission of Electricity 125. No objection to Senate provision.

126. Deduction for cost of removing architectural and transportation barriers to handicapped and elderly 126. Oppose Senate provision.

Administration Position

127. Publication of statistics
of income

127. No objection to Senate
provision.

128. Report on tax increases
resulting from inflation

128. No objection to Senate
provision.

129. Taxation of certified
historic structures

129. Support Senate provision.

Discussion: The Senate provision provides a variety of measures designed to equalize the tax treatment of new buildings and restored historic structures and has the Administration's full support.

Administration Position

130. Supplemental Security Income
for victims of certain natural
disasters

130. No objection to Senate
provision.

Administration Position

131. Exclusion of countries which aid and abet international terrorists from preferential tariff treatment

131. Oppose Senate provision.

Discussion: The trade laws are not an appropriate vehicle for solving complex foreign policy problems.

132. Net operating loss deduction for Cuban expropriation

132. Oppose Senate provision.

133. Study of tax treatment of married, single persons

133. No objection to Senate provision.

Title XIV - Capital Gains and Losses

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|---|--------------------------------|
| | <u>Administration Position</u> |
| 134. Increase in amount of ordinary income against which capital loss may be offset | 134. Support House provision. |

Discussion: There has been no change in the \$1,000 offset since 1942, and the economic value of this deduction has decreased significantly since that time.

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| 135. Increase in holding period for long-term capital gains | 135. Support House provision. |
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Discussion: The reasons for distinguishing between long-term and short-term capital gains - the "bunching" problem and the need to differentiate between assets held for investment and speculation - suggest that the distinction should be drawn on the basis of one full year.

Title XV - Pension and Insurance Taxation

- | | <u>Administration Position</u> |
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| 136. Individual retirement account (IRA) for spouse | 136. No objection to Senate provision. |

Discussion: The Administration recommends a broad study of retirement security which would give consideration to the future protection of housewives.

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| 137. Limitation on contributions to certain H.R. 10 plans | 137. No objection to Senate provision. |
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| 138. Deduction for retirement savings of private and government employees - limited employee retirement accounts | 138. Support House provision.
No objection to Senate provision. |
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Administration Position

139. Retirement deductions for members of Armed Forces Reserves and National Guard 139. Support Senate provision.

140. Tax-exempt annuity contracts in closed end mutual funds

140. No objection to Senate provision.

141. Pension fund investments in segregated asset accounts of life insurance companies

141. No objection to Senate provision.

142. Extension of study of salary reduction and cash or deferred profit-sharing plans

142. No objection to Senate provision.

Administration Position

143. Consolidated returns for life and mutual insurance companies

143. No objection to Senate provision.

144. Guaranteed renewal life insurance contracts

144. Support Senate provision.

145. Tax-free rollover in event of plan termination

145. Enacted into law (Public Law 94-267).

Title XVI - Real Estate Investment Trusts

Administration Position

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|--|--------------------------------|
| 146. Deficiency dividend procedure | 146. Support Senate provision. |
| 147. Failure to meet income source tests | 147. Support Senate provision. |
| 148. Treatment of property held for sale to customers | 148. Support Senate provision. |
| 149. Increase in 90-percent gross income requirement to 95 percent | 149. Support Senate provision. |
| 150. Change in definition of "rents from real property" | 150. Support Senate provision. |
| 151. Change in distribution requirements | 151. Support Senate provision. |
| 152. Manner and effect of termination or revocation of election | 152. Support Senate provision. |

Administration Position

153. Excise tax on distribution
made after taxable year

153. Support.

154. Allowance of net operating
loss carryover

154. Support Senate provision.

155. Alternative tax in case of
Capital Gains

155. Support Senate provision.

Discussion: The Senate provisions incorporate
perfecting amendments to the House bill and
thus are preferable.



Title XVII - Railroad Provisions

Administration Position

156. Amortization of track accounts 156. Oppose Senate provision.

Discussion: The retirement-replacement method of accounting for depreciation of track already provides significant advantages to railroads.

157. Railroad ties 157. Support Senate provision.
(other than the Senate floor amendment of Senator Stone).

Discussion: The Finance Committee amendment provides a more uniform application of the retirement-replacement method of accounting than the House provision or the Senate floor amendment.

158. Investment credit for railroads 158. Oppose Senate provision.

Discussion: The problems of railroads and airlines are fundamental. Therefore, meaningful assistance to these industries should be provided by means other than special changes in long-established tax principles governing the investment credit.

159. Investment credit for airlines 159. Oppose Senate provision.

Discussion: See discussion under #158.

Title XVIII - Tax Credit for Home Garden Tools

Administration Position

160. Home garden tool credit

160. Oppose House provision.

Title XIX - Repeal and Revision of Obsolete,
Rarely Used, Etc., Provisions of
Internal Revenue Code of 1954

Administration Position

161. "Deadwood" provisions

161. Support provision.

Discussion: The Administration recommends a
clarifying amendment to the definition of
"Secretary or his delegate".

Title XX - Energy-related Provisions

Administration Position

162. Residential insulation credit 162. Prefer House provision
with Senate effective date.

Discussion: The Senate provisions which increase the maximum credit will not result in any incremental increase in purchases, and the low income grants under the FEA extension act make refundability unnecessary. Moreover, there is no need to give credits to those who simply are replacing worn out heating systems.

163. Residential solar or geothermal energy equipment credit 163. Prefer Senate provision
except for the refundable credit.

Discussion: The Administration is opposed to this tax credit because it does not believe that it will result in any incremental increase in the use of this equipment, but will result in a windfall to those few taxpayers who for personal reasons may be installing this presently uneconomical equipment. Moreover, there is no reason to provide an indirect tax credit when the Congress in the FEA extension act decided to study the feasibility of direct grants.

164. Residential heat pump credit 164. Oppose Senate provision.

Discussion: The Administration is opposed to the heat pump credit because it may be very costly, and because it will result in greater energy consumption since the restriction to replacements of electric resistance heating systems is unadministrable.

Administration Position

165. Credit for wind-related residential energy equipment

165. Oppose Senate provision.

Discussion: The Administration is opposed to this provision because it would not increase use of this equipment if it is economical, and because direct grants are preferable.

166. Business insulation credit

166. Prefer Senate provision due to its effective dates.

Discussion: This provision is unnecessary since a profit making organization can be expected to insulate if it will save enough energy to be cost effective. The tax credit would simply provide a windfall for expenditures that would occur anyway while inducing relatively little additional expenditures. Moreover, businesses will now be able to finance this equipment under the \$2 billion loan guarantee program established under the FEA extension act.

167. Business solar and geothermal equipment credit

167. Prefer House bill rates with Senate effective dates.

Discussion: The Administration is opposed to this provision for the same reasons it opposes item 166, the business insulation credit.

168. Investment credit for wind-related energy equipment used in the production of electricity

168. Oppose Senate provision.

Discussion: The Administration is opposed to this provision for the same reasons it opposes item 166, the business insulation credit.

Administration Position

169. 12-percent credit for certain energy equipment 169.

Discussion: The necessary technology for increased utilization of most of this equipment is lacking at this time. Therefore, an investment credit such as this will have no substantial effect on their use at this time and will largely represent a windfall to those utilizing such equipment. As between an increased investment credit and a rapid amortization, an increased investment credit is preferable since an incentive based on rapid amortization favors equipment with a long useful life and discriminates against equipment with a short useful life.

a) Waste conversion equipment a) Prefer Senate provision.

Discussion: See above discussion.

b) Organic fuel conversion equipment b) Oppose Senate provision.

Discussion: See above discussion.

c) Railroad equipment c) Prefer Senate provision.

Discussion: See above discussion.

Administration Position

- d) Deep mining coal equipment d) Prefer Senate provision.

Discussion: See discussion on preceding page.

- e) Coal liquefaction and e) Prefer Senate provision.
gasification processing equip-
ment

Discussion: See discussion on preceding page.

- f) Shale oil conversion equipment f) Prefer Senate provision.

Discussion: See discussion on preceding page.



Administration Position

g) TVA compensatory adjustments

g) Oppose Senate provision.

Discussion: The TVA already has a substantial competitive advantage over commercial power companies in that it is not subject to Federal taxation. Further aid is not appropriate.

170. Deduction for production and intangible drilling costs of geothermal development

170. Oppose Senate provision.

Discussion: As technology is developed, this industry may not need a permanent operating subsidy, particularly one which will establish a new form of drilling fund tax shelter. The Administration supports instead allowing geothermal drilling and precommercial development expenditures to be treated as research and experimental expenditures that may be expended under section 174.

171. Denial of investment for portable air conditioners and heaters

171. Prefer Senate effective date.

Discussion: The investment credit should not be selectively modified to carry out policies inconsistent with the purpose of the investment credit provision, particularly when little energy will be saved and business decisions of taxpayers will be distorted.

Administration Position

172. Study of recycling incentives 172. No objection to Senate provision.

Discussion: The Administration has already studied this proposal and has found it to be very costly and ineffective. Further study is not likely to change these findings.

173. Repeal of manufacturers excise tax on buses and bus parts 173. Oppose Senate provision.

174. Excise tax on rerefined lubricating oil 174. Oppose Senate provision.

175. Exemption from retail excise tax on special motor fuels in nonhighway use 175. No objection to Senate provision.

176. Duty-free exchange of crude oil 176. No objection to Senate provision.



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Title XXI - Tax Exempt Organizations

Administration Position

177. Modification of self-dealing transitional rules in 1969 Act relating to leased property

177. No objection to Senate provision.

178. Private foundation set-asides

178. No objection to Senate provision.

179. Mandatory payout rate for private foundations

179. Support Senate provision.

Discussion: The present fluctuating payout rate is steadily eroding the endowments of private foundations.

180. Extension of Time to Amend Charitable Remainder Trust Governing Instrument

180. No objection to Senate provision.

Administration Position

181. Reduction of private foundation excise tax on investment income 181. Support Senate provision.

Discussion: The excise tax should be limited to the amount required to cover the cost of auditing exempt organizations. The 2% rate of the Senate provision will cover such costs.

182. Unrelated trade or business income of trade shows, State fairs, etc. 182. Oppose Senate provision.

Discussion: The Administration would have no objection to an exemption for trade shows that did not change the qualification requirements for exempt organizations.

183. Declaratory judgments regarding tax-exempt status as charitable etc., organization 183. Support Senate provision with House effective date.

Administration Position

184. Provision for establishment of alcoholism trust fund 184. Oppose Senate provision.

185. Exclusion of certain companion sitting placement services from employment tax requirements 185. No objection to Senate provision.

186. Minimum distribution requirements to include miscellaneous distributions 186. Oppose Senate provision.

Discussion: The special rule for distributions of \$200 or less for "civic or community activities" should be clarified to cover only those activities in furtherance of charitable purposes.



Title XXII - Estate and Gift Tax Provisions

Administration Position

187. Allowance of credit against the estate tax 187. Support House provision.

Discussion: The Administration proposed an increase in the estate tax exemption to \$150,000 and the elimination of the lower bracket rates on the first \$100,000 of taxable estate, with both changes phasing in over five years. The House bill achieves substantially equivalent results.

188. Unification of estate and gift tax rates 188. No objection to House provision.

189. Transfers made within 3 years of death 189. Support House provision.

190. Gross up for gift taxes 190. Support House provision.

191. Increase in estate tax marital deduction 191. Support House provision.

Discussion: The Administration proposed an unlimited marital deduction for estate and gift tax purposes.

Administration Position

192. Increase in gift tax marital deduction

192. Support House provision.

Discussion: See discussion for #191.

193. Joint interests

193. Support House provision.

194. Special valuation for certain types of property

194. Prefer House provision.

Discussion: The Administration prefers the House provision since it is more limited in scope and more tightly drafted. Both provisions will tend to lock elderly people and their heirs into potentially inefficient uses of the land.

Administration Position

195. Extension of time for payment
of estate tax

195. Support House provision.

Discussion: The Administration supports the greater liberalization of the extension provisions in the House provision. It also supports the tightening of eligibility requirements although it is concerned that the House requirements may be too strict.

196. Redemption of stock to pay
estate tax

196. Support House provision.

Discussion: The Administration supports the limitation of the favorable treatment to shareholders whose interests in the estate are reduced by the payment of the taxes, etc., but it is concerned that the tougher qualifications for eligible closely-held business interests may be too strict.

197. Carryover basis

197. Opposed to House provision.

Discussion: The Administration opposes any change in the present stepped-up basis rule, under which the heirs receive a new fair market value basis for property transferred from a decedent.



Administration Position

198. Generation-skipping transfers

198. Because of major technical deficiencies in both bills and the great complexity of the subject, the Administration recommends that the Conference take no action on this issue and delete both provisions.

199. Orphans' exclusion

199. No objection to House provision.

200. Requirement that IRS furnish a statement explaining estate or gift valuation

200. No objection to House provision.

201. Gift tax returns

201. Support House provision.

Administration Position

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|---|-------------------------------|
| 202. Public index of filed tax liens | 202. Oppose House provision. |
| 203. Inclusion of stock in decedent's estate where decedent retains voting rights | 203. Support House provision. |
| 204. Disclaimers | 204. Support House provision. |
| 205. Estate & gift tax exclusions for qualified retirement benefits | 205. Support House provision. |
| 206. Gift tax treatment of certain community property | 206. Support both provisions. |

Administration Position

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| 207. Income tax treatment of certain selling expenses of estates and trusts | 207. Support House provision. |
| 208. Estate tax credit for payment in kind | 208. No objection to Senate provision. |

Title XXIII - Other Amendments

Administration Position

209. Outdoor advertising displays

209. No objection to Senate provision.

210. Tax treatment of large cigars

210. Support Senate provision.

Discussion: If the bracket rate were changed to 10%, rather than 8-1/2% (the Senate provision), there would be no revenue loss and administration of the tax would be facilitated.

211. Gain from sales or exchanges between related parties

211. Support Senate provision.

212. Uniformed Services Health Professions Scholarships

212. Support Senate provision.

Discussion: The Administration supports the floor amendment by Senator Ford which was adopted by the Senate.

Administration Position

213. Tax counseling for the elderly 213. Oppose Senate provision.

Discussion: Special tax assistance for the elderly is unnecessary in light of the IRS' current, effective taxpayer assistance program. Also, the provision for tax-free reimbursement of expenses furthers the proliferation of statutory exemptions in the tax code.

214. Commission on value added
taxation

214. No objection to Senate
provision.

Administration Position

215. Exchange funds

215. Support House provision.

Discussion: The Senate provision unnecessarily broadens the "grandfather" clause for partnership exchange funds and provides a special exception for certain family partnerships.

216. Distributions by subchapter S corporations

216. No objection to Senate provision.

Title XXIV

217. Voting by Commission on import relief

217. Oppose Senate provision.

Discussion: It is important for the U.S. International Trade Commission to reach definitive majority positions. The Administration therefore supports the objectives underlying the Senate provision. However, the Administration opposes this specific provision because it could have the effect of allowing the vote of a minority of the Commissioners to be binding on the President and the Congress. The problem could best be dealt with in a separate bill after full public hearings and discussion of the problems.

Administration Position

218. Increase in number of
Commissioners

218. Oppose the Senate
provision.

Discussion: The Administration would support
reducing the number of Commissioners from
six to five.

219. Authorization of appropriations

219. No objection to Senate
provision.

220. Administration of the Commission

220. Support Senate provision.

221. Continuation of reports with
respect to synthetic organic
chemicals

221. No objection to Senate
provision.

Title XXV

Administration Position

222. Contributions of certain
Government publications

222. No objection to Senate
provision.

223. Lobbying by public charities

223. Support Senate provision.

224. Tax liens, etc., not to
constitute "acquisition
indebtedness"

224. No objection to Senate
provision.

Discussion: The Administration recommends technical revisions to the Senate provision to ensure that it applies only to special assessments of a type normally made by a State or local governmental unit or instrumentality and cannot be utilized as a device for financing improvements to an exempt organization's property.

Administration Position

225. Extension of private foundation transitional rule for sale of business holdings

225. No objection to Senate provision.

226. Private operating foundations; Imputed interest; Libraries and museums

226. No objection to Senate provision except for the exemption of libraries and museums from the section 4940 tax.

Discussion: The exemption for libraries and museums from the audit fee tax has no real justification. It creates another species of foundation which is especially difficult to define.

227. Study of tax incentives

227. No objection to Senate provision.

Title XXVI - Other Miscellaneous Amendments

Administration Position

228. Credit for certain education expenses 228.

229. Interest on certain governmental obligations for hospital construction 229. Oppose Senate provision.

Discussion: This selective expansion of current law is not warranted - private hospitals will invest only where a profit is expected. The precedent is bad - other private businesses will seek similar treatment, and such proliferation of tax-exempt industrial development bonds would adversely affect state and local borrowing.

230. Group prepaid legal services 230. Oppose Senate provision.

Discussion: The Senate provision is contrary to the well-established tax principle that deductions for personal expenses are generally not allowed.

231. Unrelated business income from services provided by a tax-exempt hospital to other tax-exempt hospitals 231. Oppose Senate provision.

Discussion: The Senate provision will allow certain hospitals to engage in the business of selling services to other hospitals in competition with commercial operators. No provision is made for passing savings on to small hospitals who may be charged more than cost for the services provided. Thus, the Administration opposes this provision.

Administration Position

232. Clinical services of cooperative hospitals 232. No objection to Senate provision.

233. Certain charitable contributions of inventory 233. No objection to Senate provision.

Discussion: The limitation of the maximum deduction to twice the manufacturer's basis for the property ensures that a company cannot profit by manufacturing solely to make charitable contributions.

Title XXVII - Additional Floor Amendments

Administration Position

234. Tax credit for expenses for certain amateur athletes 234. Oppose Senate provision.

Discussion: The President's Commission on Amateur Athletics has been requested by the President to study further the issue of incentives for amateur athletes. Any tax relief at this time is, therefore, premature.

235. Exemption of certain amateur athletic organizations from tax 235. Oppose Senate provision.

Discussion: See discussion #234.

236. Taxable Status of Pension Benefit Guaranty Corporation 236. Support Senate provision.

Discussion: The Senate provision rectifies an apparent oversight in the ERISA legislation.

237. Level premium plans covering owner-employees 237. No objection to Senate provision.

238. Lump-sum distributions from pension plans 238. No objection to Senate provision.

Administration Position

239. Tax treatment of the grantor
of certain options

239. Support H.R. 12224 with
Senate September 1, 1976
effective date.

Discussion: In order to avoid uncertainty for
current transactions, it would be appropriate
to adopt a date of enactment effective date.

240. Exempt-interest dividends of
regulated investment companies

240. No objection to Senate
provision.

Discussion: Will enable investors with limited
funds to acquire tax-exempt bonds, thus helping
to provide a more efficient market for state and
local obligations.

241. Commission on tax simplification
and modernization

241. No objection to Senate
provision.

242. Common trust fund treatment of
certain custodial accounts

242. Support Senate provision.

Administration Position

243. Oil and Gas Depletion Rules
Relating to Transfers of Proven
Property

243. No objection to Senate
provision.

244. Support test for dependent
children of separated or
divorced parents

244. No objection to Senate
provision.

245. Deferral of gain on involuntary
conversion of real property

245. Oppose Senate provision.

246. Exclusion from gross income of
gain from sale of residence by
taxpayer who has attained age 65

246. Support Senate provision.

Administration Position

247. Exemption from taxation for certain mutual deposit guarantee funds 247. Support Senate provision.

Discussion: The January 1, 1969 limitation should be deleted. Otherwise, the provision will have to be further amended for corporations organized after 1968. The Administration prefers the approach taken in H.R. 13532 (94th Cong., 2d Session).

248. Additional changes in subchapter S shareholder rules 248. Support Senate provision.

249. Individual retirement accounts for volunteer firemen 249. No objection to Senate provision.

250. Optional taxable year of inclusion for sale of livestock on account of drought 250. Oppose Senate provision.

Discussion: The present tax deferral rules with respect to livestock provided by section 1033 of the Internal Revenue Code provide adequate relief for farmers in drought areas.

251. Sense of the Senate regarding revenue loss of bill in conference 251. -----