VIII. OTHER PROVISIONS

A. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS (SECS. 801 AND 815 OF THE SENATE AMENDMENT)

PRESENT LAW

In general, corporations are required to make quarterly estimated tax payments of their income tax liability (section 6655). For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

HOUSE BILL

No provision.

SENATE AMENDMENT

With respect to corporate estimated tax payments due on September 17, 2001,[149] 30 percent is required to be paid by September 17, 2001, and 70 percent is required to be paid by October 1, 2001. With respect to corporate estimated tax payments due on September 15, 2004, 80 percent is required to be paid by September 15, 2004, and 20 percent is required to be paid by October 1, 2004.

With respect to corporate estimated tax payments due in July, August, or September 2011, the payment must be 170 percent of the amount otherwise required to be paid under the corporate estimated tax rules.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with respect to corporate estimated tax payments due on September 15, 2004. With respect to corporate estimated tax payments due on September 17, 2001, 100 percent is not due until October 1, 2001. The conference agreement does not include the provision affecting corporate estimated tax payments due in 2011.

B. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER (SEC. 802 OF THE SENATE AMENDMENT AND SEC. 7508A OF THE CODE)

PRESENT LAW

The Secretary of the Treasury may specify that certain deadlines are postponed for a period of up to 90 days in the case of a taxpayer determined to be affected by a Presidentially declared disaster.[150] The deadlines that may be postponed are the same as are postponed by reason of service in a combat zone. If the Secretary extends the period of time for filing income tax returns and for paying income tax, the Secretary must abate related interest for that same period of time.[151]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment directs the Secretary to create in the IRS a Permanent Disaster Response Team, which, in coordination with the Federal Emergency Management Agency, is to assist taxpayers in clarifying and resolving tax matters associated with a Presidentially declared disaster. One of the duties of the Disaster Response Team is to postpone certain tax-related deadlines for up to 120 days in appropriate cases for taxpayers determined to be affected by a Presidentially declared disaster.

It is anticipated that the Disaster Response Team would be staffed by IRS employees with relevant knowledge and experience. It is anticipated that the Disaster Response Team would staff a toll-free number dedicated to responding to taxpayers affected by a Presidentially declared disaster and provide relevant information via the IRS website.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement expands the period of time with respect to which the Secretary may postpone certain deadlines from 90 days to 120 days. The conference agreement does not include the provision of the Senate amendment that provides for a Permanent Disaster Response Team.

C. INCOME TAX TREATMENT OF CERTAIN RESTITUTION PAYMENTS TO HOLOCAUST VICTIMS (SEC. 803 OF THE SENATE AMENDMENT)

PRESENT LAW

Under the Code, gross income means ''income from whatever source derived'' except for certain items specifically exempt or excluded by statute (sec. 61). There is no explicit statutory exception from gross income provided for amounts received by Holocaust victims or their heirs.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that excludable restitution payments made to an eligible individual (or the individual's heirs or estate) are: (1) excluded from gross income; and (2) not taken into account for any provision of the Code which takes into account excludable gross income in computing adjusted gross income (e.g., taxation of Social Security benefits).

The basis of any property received by an eligible individual (or the individual's heirs or estate) that is excluded under this provision is the fair market value of such property at the time of receipt by the eligible individual (or the individual's heirs or estate).

The Senate amendment provides that any excludible restitution payment is disregarded in determining eligibility for, and the amount of benefits and services to be provided under, any Federal or federally assisted program which provides benefit or service based, in whole or in part, on need. Under the Senate amendment, no officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided under such a program before January 1, 2000, by reason of failure to take account of excludable restitution payments received before that date. Similarly, the Senate amendment requires a good faith effort to notify any eligible individual who may have been denied such benefits or services of their potential eligibility for such benefits or services. The Senate amendment also provides coordination between this bill and Public Law 103–286, which also disregarded certain restitution payments in determining eligibility for, and the amount of certain needs-based benefits and services.

Eligible restitution payments are any payment or distribution made to an eligible individual (or the individual's heirs or estate) which: (1) is payable by reason of the individual's status as an eligible individual (including any amount payable by any foreign country, the United States, or any foreign or domestic entity or fund established by any such country or entity, any amount payable as a result of a final resolution of legal action, and any amount payable under a law providing for payments or restitution of property); (2) constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden, or otherwise lost to, the individual before, during, or immediately after World War II by reason of the individual's status as an eligible individual (including any proceeds of insurance under policies issued on eligible individuals by European insurance companies immediately before and during World War II); or (3) interest payable as part of any payment or distribution described in (1) or (2), above. An eligible individual is a person who was persecuted for racial or religious reasons by Nazi Germany, or any other Axis regime, or any other Nazi-controlled or Nazi-allied country.

[149] September 15, 2001 will be a Saturday. Under present law, payments required to be made on a Saturday must be made no later than the next banking day.

[150] Section 7508A.

[151] Section 6404(h).

*Effective date.*—The provision is effective for any amounts received on or after January 1, 2000. No inference is intended with respect to the income tax treatment of any amount received before January 1, 2000.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, with three changes. First, the definition of eligible individuals is expanded to also include individuals persecuted on the basis of physical or mental disability or sexual orientation. Second, interest earned by enumerated escrow or settlement funds are also excluded from tax. Third, the provision disregarding excludible restitution in determining eligibility for and the benefit calculation of certain Federal or Federally assisted programs is deleted.

D. TREATMENT OF SURVIVOR ANNUITY PAYMENTS WITH RESPECT TO PUBLIC SAFETY OFFICERS (SEC. 804 OF THE SENATE AMENDMENT)

PRESENT LAW

The Taxpayer Relief Act of 1997 provided that an amount paid as a survivor annuity on account of the death of a public safety officer who is killed in the line of duty is excludable from income to the extent the survivor annuity is attributable to the officer's service as a law enforcement officer. The survivor annuity must be provided under a governmental plan to the surviving spouse (or former spouse) of the public safety officer or to a child of the officer.

The provision does not apply with respect to the death of a public safety officer if it is determined by the appropriate supervising authority that (1) the death was caused by the intentional misconduct of the officer or by the officer's intention to bring about the death, (2) the officer was voluntarily intoxicated at the time of death, (3) the officer was performing his or her duties in a grossly negligent manner at the time of death, or (4) the actions of the individual to whom payment is to be made were a substantial contributing factor to the death of the officer.

For purposes of the exclusion, ''public safety officer'' is defined as in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended). Under that Act, a public safety officer is an: (1) individual serving a public agency (with or without compensation) as a law enforcement officer, firefighter, rescue squad member, or ambulance crew member; (2) employee of the Federal Emergency Management Agency (FEMA) performing hazardous duties with respect to a Federally declared disaster area; and (3) employee of a State, local, or tribal emergency agency who is performing hazardous duties in cooperation with FEMA in a Federally declared disaster area.

The provision applies to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after that date.

HOUSE BILL

No provision. However, H.R. 1727, the ''Fallen Hero Survivor Benefit Fairness Act of 2001,'' as passed by the House, extends the present-law treatment of survivor annuities with respect to public safety officers killed in the line of duty with respect to individuals dying on or before December 31, 1996.

*Effective date.*—The provision is effective with respect to payments received after December 31, 2001.

SENATE AMENDMENT

The Senate amendment provision is the same as H.R. 1727.

*Effective date.*—The provision is effective with respect to payments received after December 31, 2000.

CONFERENCE AGREEMENT

The conference agreement does not include the provisions of H.R. 1727 or the Senate amendment provision.

E. CIRCUIT BREAKER (SEC. 805 OF THE SENATE AMENDMENT)

PRESENT LAW

The Congressional Budget Act of 1974 contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that, in any fiscal year beginning with fiscal year 2004, if the level of debt held by the public at the end of that fiscal year (as projected by the Office of Management and Budget sequestration update report on August 20th preceding the beginning of that fiscal year) would exceed the level of debt held by the public for that fiscal year set forth in the concurrent resolution on the budget for fiscal year 2002, any Member of Congress may move to proceed to a bill that would make changes in law to reduce discretionary spending and direct pending (except for changes in Social Security, Medicare and COLA's) and increase revenues in a manner that would reduce the debt held by the public for the fiscal year to a level not exceeding the level provided in that concurrent resolution for that fiscal year.

A bill considered pursuant to this provision would be considered as provided in section 310(e) of the Congressional Budget Act.

The Senate amendment provides that it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report pursuant to the provision that contains any provisions other than those enumerated in sections 310(a)(1) and 310(a)(2) of the Congressional Budget Act. This point of order may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members. An affirmative vote of three-fifths of the Members shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised pursuant to the provision.

*Effective date.*—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

F. ACCELERATION OF HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS (SECS. 806 AND 807 OF THE SENATE AMENDMENT AND SEC. 162(L) OF THE CODE)

PRESENT LAW

Under present law, the individual income tax treatment of health insurance expenses depends on the individual's circumstances. Self-employed individuals may deduct a portion of health insurance expenses for the individual and his or her spouse and dependents. The deductible percentage of health insurance expenses of a self-employed individual is 60 percent in 2001, 70 percent in 2002, and 100 percent in 2003 and thereafter. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the individual is eligible to participate in a subsidized health plan maintained by the employer of the individual or the individual's spouse. The self-employed health deduction also applies to qualified long-term care insurance premiums treated as medical care for purposes of the itemized deduction for medical expenses, described below.

Employees can exclude from income 100 percent of employer-provided health insurance.

Individuals who itemize deductions may deduct their health insurance expenses only to the extent that the total medical expenses of the individual exceed 7.5 percent of adjusted gross income (sec. 213). Subject to certain dollar limitations, premiums for qualified long-term care insurance are treated as medical expenses for purposes of the itemized deduction for medical expenses (sec. 213). The amount of qualified long-term care insurance premiums that may be taken into account for 2001 is as follows: $230 in the case of an individual 40 years old or less; $430 in the case of an individual who is over 40 but not more than 50; $860 in the case of an individual who is more than 50 but not more than 60; $2,290 in the case of an individual who is more than 60 but not more than 70; and $2,860 in the case of an individual who is more than 70. These dollar limits are indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent beginning in 2002. The Senate amendment also provides that the deduction is not available for any month in which the self-employed individual participates in (rather than is eligible for) a subsidized health plan maintained by ay employer of the individual or his or her spouse.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2001.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

G. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, AND ARTISTIC COMPOSITIONS (SEC. 808 OF THE SENATE AMENDMENT AND SEC. 170 OF THE CODE)

PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the deduction is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose. In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property.

Under present law, charitable contributions of literary, musical, and artistic compositions are considered ordinary income property and a taxpayer's deduction of such property is limited to the taxpayer's basis (typically, cost) in the property. To be eligible for the deduction, the contribution must be of an undivided portion of the donor's entire interest in the property. For purposes of the charitable income tax deduction, the copyright and the work in which the copyright is embodied are not treated as separate property interests. Accordingly, if a donor owns a work of art and the copyright to the work of art, a gift of the artwork without the copyright or the copyright without the artwork will constitute a gift of a ''partial interest'' and will not qualify for the income tax charitable deduction.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that a deduction for qualified artistic charitable contributions is the fair market value of the

property contributed at the time of the contribution. The Senate amendment defines a qualified artistic charitable contribution to mean a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both). The tangible property and the copyright on such property are treated as separate interests in the property for purposes of the ''partial interest'' rule. Contributions of letters, memoranda, or similar property that are written, prepared, or produced by or for an individual in his or her capacity as an officer or employee of any person (including a government agency or instrumentality) do not qualify for fair market value deduction unless the contributed property is entirely personal.

Under the Senate amendment, the increase in the deduction that results from the provision cannot exceed the amount of adjusted gross income of the donor for the taxable year from the sale or use of property created by the donor that is of the same type as the donated property, and from teaching, lecturing, performing, or similar activities with respect to such property. The fair market value deduction cannot be carried over and deducted in other taxable years.

A contribution is required to meet several requirements in order to qualify for the fair market value deduction. First, the contributed property must have been created by the personal efforts of the donor at least 18 months prior to the date of contribution. Second, the donor must obtain a qualified appraisal of the contributed property, a copy of which must be attached to the donor's income tax return for the taxable year in which such contribution is made. Third, the contribution must be made to a public charity or to certain limited types of private foundations. Finally, the use of donated property by the recipient organization must be related to the organization's charitable purpose or function, and the donor must receive a written statement from the organization verifying such use.

*Effective date*

The deduction for qualified artistic charitable contributions applies to contributions made after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

H. Estate Tax Recapture from Cash Rents of Specially-Valued Property (Sec. 809 of the Senate Amendment)

PRESENT LAW

Under the special-use valuation rules of section 2032A, the executor may elect to value certain ''qualified real property'' used in farming or another qualifying trade or business at its current use rather than its highest and best use. If, after the special-use valuation election is made, the heir who acquired the real property ceases to use it in its qualified use within 10 years (15 years for individuals dying before 1982) of the decedent's death, an additional estate tax is imposed in order to ''recapture'' the benefit of the special-use valuation. Section 2032A is effective for estates of decedents dying after December 31, 1976.

Under prior law, some courts had held that cash rental of property for which special-use valuation was claimed was not a qualified use under the rules, because the heirs no longer bore the financial risk of working the property, thus triggering the additional estate tax.[152]

With respect to a decedent's surviving spouse, a special rule provides that the surviving spouse will not be treated as failing to use the property in a qualified use solely because the spouse rents the property to a member of the spouse's family on a net cash basis. Members of an individual's family include (1) the individual's spouse, (2) the individual's ancestors, (3) lineal descendants of the individual, of the individual's spouse, or of the individual's parents, and (4) the spouses of any such lineal descendants.

Section 504(c) of the Tax Reform Act of 1997 expanded the class of heirs eligible to lease property for which special-use valuation was claimed without causing the qualified use of such property to cease for purposes of imposition of the additional estate tax. Section 2032A(c)(7)(E) provides that the net cash lease of property (for which special-use valuation was claimed) by a lineal descendant of the decedent to a member of such lineal descendant's family does not cause the qualified use of the property to cease for purposes of imposition of the additional estate tax. The amendment made under the Tax Reform Act of 1997 applies to leases entered into after December 31, 1976.

In Technical Advice Memorandum 9843001, the IRS determined that the retroactive effective date in the changes made by the Tax Reform Act of 1997 did not constitute a waiver of the period of limitations otherwise applicable on a taxpayer's claim. Accordingly, the IRS determined that a taxpayer's claim for refund of recapture tax paid on account of the cessation of a qualified use was barred under the generally applicable statute of limitations on refund claims.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that, if on the date of enactment or at any time within one year after the date of enactment, a claim for refund or credit of any overpayment of tax resulting from the application of net cash lease provisions for spouses and lineal descendants (sec. 2032A(c)(7)(E)) is barred by operation of law or rule of law, then the refund or credit of such overpayment shall, nonetheless, be allowed if a claim therefore is filed before the date that is one year after the date of enactment.

*Effective date.*—This provision is effective for refund claims filed prior to the date that is one year after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

I. Extension of Research and Experimentation Tax Credit and New Vaccine Research Credit (Sec. 810 and 811 of the Senate Amendment and Sec. 41 and new Sec. 45G of the Code)

PRESENT LAW

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit generally applies to amounts paid or incurred before July 1, 2004.

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's ''fixed-base percentage'' by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its ''fixed-base percentage'' is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of 0.16). All other taxpayers (so-called ''start-up firms'') are assigned a fixed-base percentage of 3.0 percent.

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.0 percent (i.e., the base amount equals 1.0 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2.0 percent. A credit rate of 3.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2.0 percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment would make the research credit permanent.

The Senate amendment also would increase the credit rates under the alternative incremental credit from 2.65 percent to 3.0 percent, from 3.2 percent to 4.0 percent, and from 3.75 percent to 5.0 percent.

In addition, the Senate amendment would provide a new research credit with respect to certain qualified vaccine and microbiocide research. The amendment would provide a credit equal to 30 percent of qualifying vaccine research expenses undertaken to develop vaccines and microbicides for malaria, tuberculosis, HIV, or any infectious disease (of a single etiology) which, according to the World Health Organization, causes over one million human deaths annually.[153] Qualifying expenses would include 100 percent of in-house research expenses and 100 percent of contract research expenses. In-house research expenses and contract research expenses would be defined as in present-law sec. 41. Qualifying vaccine research expenses would not include expenses for research incurred outside the United States, other than

[152] See *Martin* v. *Commissioner*, 783 F.2d 81 (7th Cir. 1986) (cash lease to unrelated party not qualified use); *Williamson* v. *Commissioner*, 93 T.C. 242 (1989), aff'd. 974 F.2d 1525 (9th Cir. 1992) (cash lease to family member not a qualified use); *Fisher* v. *Commissioner*, T.C. Memo. 1993–139 (cash lease to family member not a qualified use); cf. *Minter* v. *U.S.*, 19 F.3d 426 (8th Cir. 1994) (cash lease to family's farming corporation is qualified use); *Estate of Gavin* v. *U.S.*, 103 F.3d 802 (8th Cir. 1997) (heir's option to pay cash rent or 50 percent crop share is qualified use).

[153] The credit for vaccine research expenses would be coordinated with the credit for research under present-law sec. 41 and any deduction otherwise allowed with respect to qualifying vaccine research expenses would be reduced by the amount of the credit claimed for vaccine research expenses.

in the case of expenses for human clinical testing. No credit may be claimed for preclinical expenses unless a research plan has been filed with the Secretary of the Treasury.

*Effective date.*—The provision generally would be effective on the date of enactment. The increase in credit rates under the alternative incremental credit and the new credit for qualifying vaccine research expenses would be effective for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment.

J. ACCELERATION OF ROUND II EMPOWERMENT ZONE WAGE CREDIT (SEC. 812 OF THE SENATE AMENDMENT AND SEC. 1396 OF THE CODE)

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1993 (''OBRA 1993'') authorized the designation of nine empowerment zones (''Round I empowerment zones'') to provide tax incentives for businesses to locate within targeted areas designated by the Secretaries of Housing and Urban Development and Agriculture. The Taxpayer Relief Act of 1997 (''1997 Act'') authorized the designation of two additional Round I urban empowerment zones. Among other incentives, Round I empowerment zones qualify for a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the empowerment zone.

The 1997 Act also authorized the designation of 20 additional empowerment zones (''Round II empowerment zones''), of which 15 are located in urban areas and five are located in rural areas. The 1997 Act did not authorize a wage credit for businesses located in the Round II empowerment zones. The Community Renewal Tax Relief Act of 2000, however, extended the 20-percent wage credit to Round II empowerment zones for wages paid or incurred after December 31, 2001.[154]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment accelerates the availability of the wage credit for Round II empowerment zones to the earlier of July 1, 2001, or the date of enactment of the bill.

*Effective date.*—For wages paid or incurred after the earlier of July 1, 2001 or date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment.

K. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS IN DETERMINING ACQUISITION INDEBTEDNESS (SEC. 813 OF THE SENATE AMENDMENT AND SEC. 514 OF THE CODE)

PRESENT LAW

In general, income of a tax-exempt organization that is produced by debt-financed property is treated as unrelated business income in proportion to the acquisition indebtedness on the income-producing property. Acquisition indebtedness generally means the amount of unpaid indebtedness incurred by an organization to acquire or improve the property and indebtedness that would not have been incurred but for the acquisition or improvement of the property. However, under an exception, acquisition indebtedness does not include indebtedness incurred by certain qualified organizations to acquire or improve real property. Qualified organizations include pension trusts, educational institutions, and title-holding companies.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the exception to the definition of acquisition indebtedness in the case of a qualified hospital support organization. The exception applies to eligible indebtedness (or the qualified refinancing thereof) of the qualified hospital support organization.

A qualified hospital support organization is a supporting organization (under Code section 509(a)(3)) of a hospital that is an academic health center (under Code section 119(d)(4)(B)). The assets of the supporting organization must also meet certain requirements. First, more than half of the value of its assets at any time since its organization (1) must have been acquired, directly or indirectly, by gift or devise, and (2) must consist of real property. In addition, the fair market value of the organization's real estate acquired by gift or devise must exceed 10 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness is incurred. These requirements must be met each time eligible indebtedness is incurred or a qualified refinancing thereof occurs.

Eligible indebtedness means indebtedness secured by real property acquired by gift or devise, the proceeds of which are used exclusively to acquire a leasehold interest in or to improve the property. A qualified refinancing of eligible indebtedness occurs if the refinancing does not exceed the amount of refinanced eligible indebtedness immediately before the refinancing.

*Effective date.*—The Senate amendment applies to indebtedness incurred after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

L. MODIFY RULES GOVERNING TAX-EXEMPT BONDS FOR CERTAIN PRIVATE WATER FACILITIES (SEC. 814 OF THE SENATE AMENDMENT AND SEC. 142 OF THE CODE)

PRESENT LAW

Interest on State or local government bonds is tax-exempt when the proceeds of the bonds are used to finance activities carried out by or paid for by those governmental units. Interest on bonds issued by State or local governments acting as conduit borrowers for private businesses is taxable unless a specific exception is included in the Code. One such exemption allows tax-exempt bonds to be issued to finance privately owned and operated facilities for the furnishing of water. Such facilities must be operated in a manner similar to municipal water facilities in that service must be offered to the general public, and rates must be regulated. Tax-exempt private activity bonds for water facilities may be issued to finance arsenic and other pollutant treatment facilities.

Issuance of private activity tax-exempt bonds for water facilities is subject to aggregate annual State volume limitations that apply to most private activity bonds. Similarly, like most other private activity bonds, interest on these bonds is a preference item for purposes of the alternative minimum tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that private activity bonds for facilities to remediate arsenic levels in water (as opposed to such bonds to finance private water treatment facilities generally) are not subject to the State volume limits and the interest on the bonds is not a preference item for the alternative minimum tax. A bond is treated as for arsenic remediation if at least 95 percent of the proceeds are used for facilities to comply with the 10 parts per billion standard recommended by the National Academy of Sciences. The provision does not affect governmental bonds for municipal water facilities.

*Effective date.*—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

M. COMBINED EMPLOYMENT TAX REPORTING (SEC. 816 OF THE SENATE AMENDMENT AND SEC. 6103(d)(5) OF THE CODE)

PRESENT LAW

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service (''IRS'') to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

The Taxpayer Relief Act of 1997 authorized a demonstration project to assess the feasibility and desirability of expanding combined reporting. The demonstration project was: (1) limited to State of Montana, (2) limited to employment taxes, (3) limited to taxpayer identity (name, address, taxpayer identifying number) and the signature of the taxpayer and (4) limited to a period of five years. After August 5, 2002, the demonstration project will expire.

To implement that demonstration project, the Taxpayer Relief Act of 1997 amended the Code to authorize the IRS to disclose the name, address, taxpayer identifying number, and signature of the taxpayer, which is common to both the State and Federal portions of the combined form. The Code permits the IRS to disclose these common data items to the State and not have it subject to the redisclosure restrictions, safeguards, or criminal penalty provisions.[155] Essentially, the State is allowed to use this information as if the State directly received this information from the taxpayer.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes the IRS disclosure authority permanent and expands the authorized recipients to include any State agency, body, or commission, for the purpose of carrying out a combined Federal and State employment tax reporting program approved by the Secretary. The statutory waiver of the redisclosure restrictions, safeguards, and criminal penalty provisions continues to apply. Further, the items authorized for disclosure continue to be limited to the name, address, taxpayer identification number, and signature of the taxpayer.

[154] H.R. 5662, sec. 113 (2000) (enacted by Pub. L. No. 106–554); sec. 1396(b). Among other changes, the Community Renewal Tax Relief Act of 2000 extended all empowerment zone designations through December 31, 2009, and provided that the wage credit rate remains at 20 percent for all empowerment zones (rather than being phased down) through December 31, 2009.

[155] Sec. 6103(d)(5). The following restrictions and requirements do not apply: (1) the prohibition on disclosure of returns or return information by State officers and employees (sec. 6103(a)(2); (2) the Federal penalties for unauthorized disclosure and inspection of returns and return information (secs. 7213 and 7213A) and (3) the requirement that the State establish safeguards regarding the information obtained from the IRS (sec. 6103(p)(4)).

*Effective date.*—The Senate amendment is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment.

N. REPORTING REQUIREMENTS OF STATE AND LOCAL POLITICAL ORGANIZATIONS (SECS. 901–904 OF THE SENATE AMENDMENT AND SECS. 527 AND 6012 OF THE CODE)

PRESENT LAW

*In general*

Under present law, section 527 provides a limited tax-exempt status to ''political organizations,'' meaning a party, committee, association, fund, account, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures (or both) for an ''exempt function.'' These organizations are generally exempt from Federal income tax on contributions they receive, but are subject to tax on their net investment income and certain other income at the highest corporate income tax rate (''political organization taxable income''). Donors are exempt from gift tax on their contributions to such organizations. For purposes of section 527, the term ''exempt function'' means: the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Thus, by definition, the purpose of a section 527 organization is to accept contributions or make expenditures for political campaign (and similar) activities.

*Notice of section 527 organization*

An organization is not treated as a section 527 organization unless it has given notice to the Secretary of the Treasury, electronically and in writing, that it is a section 527 organization. The notice is not required (1) of any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) by organizations that reasonably anticipate that their annual gross receipts will always be less than $25,000, and (3) organizations described in section 501(c). All other organizations, including State and local candidate committees, are required to file the notice.

The notice is required to be transmitted no later than 24 hours after the date on which the organization is organized. The notice is required to include the following information: (1) the name and address of the organization and its electronic mailing address, (2) the purpose of the organization, (3) the names and addresses of the organization's officers, highly compensated employees, contact person, custodian of records, and members of the organization's Board of Directors, (4) the name and address of, and relationship to, any related entities, and (5) such other information as the Secretary may require.

The notice of status as a section 527 organization is required to be disclosed to the public by the IRS and by the organization. In addition, the Secretary of the Treasury is required to make publicly available on the Internet and at the offices of the IRS a list of all political organizations that file a notice with the Secretary under section 527 and the name, address, electronic mailing address, custodian of records, and contact person for such organization. The IRS is required to make this information available within 5 business days after the Secretary of the Treasury receives a notice from a section 527 organization.

An organization that fails to file the notice is not treated as a section 527 organization and its exempt function income is taken into account in determining taxable income.

*Disclosure by political organizations of expenditures and contributors*

A political organization that accepts a contribution or makes an expenditure for an exempt function during any calendar year is required to file with the Secretary of the Treasury certain reports. The following reports are required: either (1) in the case of a calendar year in which a regularly scheduled election is held, quarterly reports, a pre-election report, and a post-general election report and, in the case of any other calendar year, a report covering January 1 to June 30 and July 1 to December 31, or (2) monthly reports for the calendar year, except that, in lieu of the reports due for November and December of any year in which a regularly scheduled general election is held, a pre-general election report, a post-general election report, and a year end report are to be filed.

The reports are required to include the following information: (1) the amount of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of the employer of the individual); and (2) the name and address (in the case of an individual, including the occupation and name of employer of such individual) of all contributors that contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount of the contribution.

The disclosure requirements do not apply (1) to any person required to report as a political committee under the Federal Election Campaign Act of 1971, (2) to any State or local committee of a political party or political committee of a State or local candidate, (3) to any organization that reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year, (4) to any organization described in section 501(c), or (5) with respect to any expenditure that is an independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971).

For purposes of the disclosure requirements, the term ''election'' means (1) a general, special, primary, or runoff election for a Federal office, (2) a convention or caucus of a political party that has authority to nominate a candidate for Federal office, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

The IRS is required to make available to the public any report filed by a political organization. In addition, the organization is required to make any such report available to the public. A penalty is imposed for failure to file a report or provide required information in the report.

*Return requirements for section 527 organizations*

Under present law, a section 527 organization that has political organization taxable income is required annually to file Form 1120–POL (Return of Organization Exempt from Income Tax). Section 527 organizations that do not have political organization taxable income but have gross receipts of $25,000 or more during the taxable year also are required to file an income tax return. The gross receipts requirement does not apply to political organizations that are subject to section 527 solely by reason of section 527(f)(1) (which makes certain charities subject to section 527 based on the charity's political activities). The annual return must be made available to the public by the organization and by the IRS.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that a political organization that is a political committee of a State or local candidate is exempt from the requirement to provide notice to the Secretary of its formation and purpose.

In addition, the Senate amendment exempts certain political organizations from the requirement provided by section 527(j)(2) to file regular reports with the Secretary detailing contribution and expenditure information. To be exempt from such reporting requirements under the amendment: (1) the organization must not be an organization already exempt from the reporting requirement under present law (as provided by section 527(j)(5)); (2) the organization must not engage in any exempt function activities other than activities for the purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization; and (3) no candidate for Federal office or individual holding Federal office can control or materially participate in the direction of the organization, solicit any contributions to the organization, or direct, in whole or in part, any expenditure made by the organization. Further, during the calendar year, the organization must be required to report under State or local law, and must in fact report, information regarding each separate expenditure and contribution (including information regarding the person who makes such contribution or receives such expenditure) that otherwise would be required. The agency with which such information is filed must make the filed information public and available for public inspection. If the minimum amount of a contribution or expenditure that triggers disclosure under State or local law is more than $100 than the minimum amount for disclosure required by the Code, the requirements for exemption from reporting will not be met.

Under the Senate amendment, political organizations described in the preceding paragraph are exempt from the requirement to file an income tax return if such organization does not have political organization taxable income, is not subject to section 527 solely by reason of section 527(f)(1) (as described above), and has gross receipts of less than $100,000 for the taxable year.

The Senate amendment further provides that the Secretary in consultation with the Federal Election Commission shall publicize the effects of these changes and the interaction of the requirements to file a notification or report under section 527 and reports under the Federal Election Campaign Act of 1971.

Finally, the Senate amendment gives the Secretary the authority to waive all or any portion of the penalties imposed on an organization for failure to notify the Secretary of the organization's establishment or the failure to file a report. Such waiver is subject to a showing by the organization that the failure was due to reasonable cause and not to willful neglect.

*Effective date*

The exemptions from the notification, reporting, and return requirements are effective as of July 1, 2000. The authority to the Secretary to waive penalties is effective for any tax assessed or penalty imposed after June 30, 2000.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.