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INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES

APRIL 25 (legislative day, APRIL 24), 1978.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 7581]

The Committee on Finance, to which was referred the bill (H.R. 7581) relating to the income of mutual or cooperative telephone companies, having considered the same, reports favorably thereon with amendments, and an amendment to the title, and recommends that the bill as amended do pass.

I. SUMMARY

H.R. 7581 clarifies the income-source requirement which must be satisfied by a mutual or cooperative telephone company as a condition for exemption from Federal income taxation. Present law provides that such a company can qualify for tax-exempt status only if at least 85 percent of its income consists of amounts collected from members to meet expenses. The Internal Revenue Service ruled, in 1974, that when a mutual or cooperative telephone company completes telephone calls to its members made by customers of another company under a reciprocal call-completion arrangement, the mutual or cooperative company receives payments which constitute nonmember income. The bill provides, for post-1974 taxable years, that such payments are not to be counted in determining whether the company satisfies the 85-percent member-income test.

The committee amendment to the bill makes substantive changes in three areas: one concerns the income tax treatment of an owner of securities who lends the securities to a broker; another relates to the earned income credit; and the last concerns the accounting methods of certain cooperatives.

The amendment provides that the lending of securities to a broker and the return of identical securities does not constitute a taxable sale or exchange of the securities and thus does not interrupt the lender's

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holding period or affect the lender's basis. The committee amendment also provides that payments on these securities loans are not to be treated as unrelated business taxable income for tax-exempt organizations. Furthermore, the committee amendment provides that these payments are to be treated in the same manner as dividends and interest for purposes of the excise tax imposed on the net investment income of private foundations, for the 90-percent income test for regulated investment companies, and for the support test limitations on investment income in determining whether a charitable organization is a publicly supported organization rather than a private foundation. With respect to exempt organizations and regulated investment companies, the amendment provides this treatment only for payments on security loans which are fully collateralized and which may be terminated on 5 business days' notice by the lending organization.

The committee amendment also clarifies the categories of persons eligible for the earned income credit to include any individual who maintains a household for any minor individual for whom a dependency exemption is allowed to that individual (for example, a grandparent maintaining a household for a grandchild for whom the grandparent can claim a dependency exemption).

The committee amendment also permits certain tobacco growers cooperatives to continue to use the completed crop pool method of accounting for computing taxable income with respect to crop pools opened prior to March 1, 1978. The amendment applies to those cooperatives which enter into annual agreements with the Commodity Credit Corporation for purposes of assisting the Department of Agriculture in the administration of Federal tobacco price support programs.

II. GENERAL STATEMENT

A. Income of Mutual or Cooperative Telephone Companies (sec. 1 of the bill and sec. 501(c)(12) of the Code)

Present law

A mutual or cooperative telephone company (referred to in this report as a telephone cooperative) qualifies for exemption from Federal income taxation under present law (sec. 501(c)(12) of the Internal Revenue Code of 1954) only if at least 85 percent of its income consists of "amounts collected from members for the sole purpose of meeting losses and expenses." In Rev. Rul. 74-362, 1974-2 CB 170, the Internal Revenue Service ruled that amounts earned by a telephone cooperative in connection with completing calls made to its members by subscribers to another telephone company constitute nonmember income. Accordingly, if it cannot be established that such amounts are less than 15 percent of total receipts, the telephone cooperative cannot qualify for exempt status under the 1974 ruling.

Reasons for change

The committee believes that the performance by a telephone cooperative of call-completion services involving calls to or from members of the cooperative is substantially related to the cooperative's performance of its statutory exempt function, and hence that actual or

constructive "payments" from another telephone company for such services should not disqualify otherwise eligible telephone cooperatives from tax-exempt status.

The committee understands that the approach set forth in the Service's ruling, described above, might well make the statutory exemption provision into a "dead letter," since few, if any, telephone cooperatives could prove that the constructive "payments" hypothesized by the Service do not cause the telephone cooperative to fail the 85-percent member-income test.

Explanation of provision

The bill provides that amounts of credits accrued or received by a telephone cooperative from another company for communication services on calls involving members of the telephone cooperative do not enter into the 85-percent member-income test in determining whether the telephone cooperative is exempt from Federal income tax as an organization described in section 501(c)(12). Thus, the sole effect of this provision is to exclude from the member-income computation any amounts which, under Rev. Rul. 74–362, would be considered as paid for performance by the telephone cooperative of telephone call-connection services for nonmembers.

This provision is identical to the House bill.

Effective date

The provision applies to taxable years beginning after December 31, 1974.

Revenue effect

The revenue effect of this provision is indeterminate because currently the tax-exempt status of mutual or cooperative telephone companies is dependent upon whether the Service's position on the income source requirement is a proper interpretation of the 85-percent member-income test. If the position of the Service is correct, the maximum annual revenue impact of the provision would be a loss of less than $2 million. Taking into account the uncertainty as to the status of present law together with the provision's retroactive effective date, it is estimated that this provision will have a negligible effect on the revenues in fiscal year 1978, that it may result in a net revenue loss of less than $5 million in fiscal year 1979, and that it may result in annual revenue los of as much as $2 million thereafter.

B. Treatment of Lender of Securities (sec. 2 of the bill and secs. 509, 512, 514, 851, and 4940 and new sec. 1058 of the Code)

Present law

In general

Under present law, uncertainty has developed as to the correct income tax treatment of certain securities lending transactions. As a result, some owners of securities are reluctant to enter into such transactions.

In these transactions, an owner of securities "lends" the securities to a broker who uses them to make timely deliveries of securities to purchasers. The broker is contractually required to return identical se-

curities to the lender, generally within 5 business days after the lender requests their return. In most cases, the loan of securities is fully collateralized (with adjustments made on a daily basis) by cash or marketable securities having a fair market value not less than the fair market value of the securities loaned. However, no collateral is provided if securities are borrowed from margin accounts.

In a typical lending transaction involving stock, the lender receives from the borrower amounts equal to the dividends paid on the stock during the period of the loan. The Internal Revenue Service, in Rev. Rul. 60–177, 1960–1 CB 9, ruled that these dividend equivalents are not themselves dividends for certain income tax purposes since the lender does not retain ownership of the stock.

The Service has not disputed the position that a securities lending transaction does not constitute a taxable disposition of the loaned securities, or that the transaction does not interrupt the lender's holding period. In a widely circulated private ruling issued to the New York Stock Exchange dated April 19, 1948, the Service ruled that the securities lending transaction described in the ruling—

> "is not a disposition of property which results in recognized gain or loss for Federal income tax purposes; and that such a transaction does not affect the lender's basis for the purpose of determining gain or loss upon the sale or the disposition of the stock, nor the holding period of the stock in the hands of the lender."

In a related area, the Service, in Rev. Rul. 57–451, 1957–2 CB 295, concluded that a securities lending transaction involves the substitution of the broker's contractual obligation for the lender's stock. The ruling treats this substitution as not being a taxable event. This ruling also held that the broker's satisfaction of the obligation to replace the lender's stock would not constitute a taxable disposition if the replacement stock were of the same kind and amount as that originally borrowed.

Recently, however, the Internal Revenue Service has declined to issue rulings as to whether a securities lending transaction constitutes a sale or exchange or whether the transaction interrupts the lender's holding period.

Exempt organizations—unrelated business income

The investment income of exempt organizations[1] generally is not subject to tax. The types of investment income generally free of tax are dividends, interest, annuities, royalties, rents, and capital gains from the sale of investment assets (sec. 512(b) (1), (2), (3) and (5)). However, if the investment income is derived from "debt-financed" property, it is treated as unrelated business taxable income in the proportion that the average acquisition indebtedness with respect to the property bears to the average amount of the adjusted basis of the property (secs. 512(b) (4) and 514).

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[1] In this report references to "exempt organizations" do not include social clubs (sec. 501(c) (7)) and employees' beneficiary associations (sec. 501(c) (9)), which may be taxable on investment income of all types. The term "exempt organizations," as used in this report, also does not include political organizations (as described in sec. 527) and homeowners' associations (as described in sec. 528).

Exempt organizations—public charities

Certain organizations described in section 501(c)(3) (organized and operated exclusively for religious, charitable, scientific, etc., purposes) may be treated as public charities, and not as private foundations, if they normally receive more than one-third of their support from a combination of gifts, grants, contributions, or membership fees and gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in activities which are not unrelated trades or businesses. This rule applies only if the organization normally receives not more than one-third of its support from gross investment income plus the excess of the organization's unrelated business taxable income over the amount of the tax imposed on that income (sec. 509(a)(2)). Under this provision, the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the unrelated business income tax.

Exempt organizations—private foundations

The Code imposes on each private foundation a tax equal to 4 percent of its net investment income for the taxable year (sec. 4940). For this purpose, net investment income is the amount by which the sum of gross investment income and net capital gain exceeds the deductions which are attributable to the earning of this income. For this purpose, gross investment income means the gross amount of income from interest, dividends, rents, and royalties (but not including any such income to the extent it is included in computing the unrelated business income tax).

Regulated investment companies

For a corporation to qualify as a regulated investment company, at least 90 percent of its gross income must be derived from dividends, interest, and gains from the sale or other disposition of stock or securities (sec. 851(b)(2)). The Internal Revenue Service has ruled privately that payments on securities loans are not dividends or interest even if they are paid by the broker (borrower) as the equivalent of a dividend or interest payment on the underlying security.

Reasons for change

Because of time delays which a broker may face in obtaining securities (from the seller or transfer agent) to deliver to a purchaser, brokers are frequently required to borrow securities from organizations and individuals with investment portfolios for use in completing these market transactions. It is generally thought to be desirable to encourage organizations and individuals with securities holdings to make the securities available for such loans since the greater the volume of securities available for loan the less frequently will brokers fail to deliver a security to a purchaser within the time required by the relevant market rules.

The Securities and Exchange Commission provides rules governing the lending of securities by regulated investment companies. These rules, in general, require that the loan of securities be fully collateralized (with adjustments made on a daily basis) by cash or

marketable securities with a fair market value equal to the fair market value of the securities loaned and that the lender be able to terminate the loan with 5 business days' notice.

In general, the lender of securities is compensated for the loan in two ways. First, if a dividend or interest is paid with respect to the security during the term of the loan, the borrower pays the lender an amount equal to that dividend or interest payment. Second, except in the case of securities borrowed from margin accounts, a fee is paid for the use of the security. This fee may be computed by reference to the period for which the loan is outstanding and the fair market value of the security during that period, or it may be the income from the collateral security for that loan, or it may be income from the investment of the collateral security.

As indicated above, the Internal Revenue Service has ruled privately that neither portion of this compensation constitutes dividend or interest income to regulated investment companies.

Existing law has been unclear as to whether such income constitutes unrelated business income to exempt organizations, and there has been some concern that the Service might take this position. Also, until recently the Service also has been unwilling to rule as to whether an exempt organization is engaged in a trade or business when it holds its investment portfolio securities available for such loans. If so, not only would the income from the lending transactions be subject to the unrelated business income tax but also gains from the sale of such securities might be treated as ordinary income, and a private foundation engaged in this activity might be treated as owning a business which would have to be disposed of in accordance with the excess business holdings rules (sec. 4943). However, on March 6, 1978 (after the committee had ordered this bill reported), the Service published a ruling (Rev. Rul. 78-88, 1978-10 IRB 12) which states that income from securities lending transactions generally is not subject to the tax on unrelated business income. In Revenue Ruling 78-88, the Service also ruled that an exempt organization's making available of securities in its investment portfolio for securities loans does not constitute a trade or business for purposes of the tax on unrelated business income.

Furthermore, under present law it does not appear that payments made with respect to securities lending transactions would be treated as gross investment income for the purposes of whether the lending organization is a public charity or whether the income is subject to the private foundation excise tax on investment income.

The committee believes that it is not desirable to discourage [2] exempt organizations and regulated investment companies from making their securities available for loans to brokers, because making such loans of securities can have a favorable impact on the liquidity of securities markets. The committee also believes that such lending transactions represent an appropriate and relatively safe use of investment assets which is consistent with the investment nature of the activity.

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[2] If a dividend or interest equivalent payment would be subject to the tax on unrelated business income, while the dividend or interest if paid directly would not be subject to this tax, then in many cases the exempt organization would find itself with less income after tax if it lent the securities than would be the case if it kept the securities.

The committee has concluded that, where the loan is fully collateralized in accordance with the Securities and Exchange Commission requirements, the income from the lending of a security should be regarded as investment income which is similar to dividends and interest in the case of exempt organizations and regulated investment companies. Furthermore, the committee has concluded that it is desirable to clarify existing law as to the appropriate tax treatment of lenders of securities generally.[3]

Explanation of provision

In general

In order to clarify existing law, the committee amendment (in new sec. 1058 of the Code) provides that no gain or loss is recognized by the owner of securities when the owner transfers securities for the contractual obligation of the borrower to return identical securities.[4] (In order to assure that the contractual obligation does not differ materially either in kind or in extent from the securities exchanged, the committee amendment makes the provision applicable only if the contractual obligation satisfies certain specified conditions.) Since no gain or loss is recognized, the lender takes a basis in the contractual obligation equal to his basis in the securities exchanged, and the lender's holding period in the contractual obligation includes the period he held the securities exchanged.

In order for the transaction to qualify for this treatment, the securities must be lent pursuant to an agreement which meets the following requirements: (1) the agreement provides for the return to the transferor of identical securities; (2) the agreement requires that payments be made to the transferor in amounts equivalent to the interest, dividends, and other distributions that the owner of the securities is entitled to receive because of ownership during the period that the loan is outstanding; and (3) the agreement does not reduce the transferor's risk of loss or opportunity for gain as to the transferred securities. In addition, the agreement must meet any other requirements prescribed in Treasury Department regulations under new section 1058. Such other requirements, however, are not to include requirements which are inconsistent with normal commercial practice, as permitted by the Securities and Exchange Commission, as of the date of enactment of this provision.

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[3] However, the bill does not deal with the tax treatment of "subordination agreements" that securities holders have entered into with brokerage firms. Generally, under a subordination agreement, the owner of an account with a brokerage firm allows the firm to utilize the cash and securities in the account to satisfy certain Securities and Exchange Commission and stock exchange requirements. Also the account owner agrees to subordinate any claims he might have against the brokerage firm with respect to his account to the claims of other creditors. The owner of the account may trade the securities at will and receives the interest and dividends payable on the securities in the account. In addition, the owner of the account also is entitled to receive "interest credits" monthly on the cash and securities in the account from the brokerage firm.

[4] For this purpose, the definition of a security is that provided by section 1236(c) of the Code, as "any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing." "Identical securities" are securities of the same class and issue.

Similarly, the committee amendment provides that the lender does not recognize gain or loss when the borrower transfers securities to him in satisfaction of the contractual obligation. As in the case of the initial exchange, the lender has a substituted basis and a tacked holding period in the securities which are returned. Since the lender owns a contractual obligation and not securities during the period of the loan, dividend equivalents received by the lender do not constitute dividends for purposes of the Internal Revenue Code.[5] This is consistent with the position taken in Rev. Rul. 60–177, described above.

Exempt organizations and regulated investment companies

The committee amendment also provides, in general, that payments on securities loans which satisfy certain requirements are to be treated in the same manner as dividends and interest in the case of a lender which is an exempt organization or a regulated investment company. Thus, if an exempt organization lends a security, in order for the payments to be specifically treated as investment under this provision, the agreement between the parties must (1) provide for reasonable procedures to implement the obligation of the borrower to furnish collateral to the lender with a fair market value on each business day the loan is outstanding in an amount at least equal to the fair market value of the security at the close of business on the preceding day and (2) permit the lender to terminate the loan at any time upon notice of no more than 5 business days.

The committee understands that the Service has indicated in private letter rulings, and recently in Rev. Rul. 78–88, that the income earned by an exempt organization which lends securities (other than securities which are financed in whole or in part by borrowings) pursuant to a typical securities lending transaction is not taxable as debt-financed income (sec. 514). The committee believes that this ruling position is correct. Consequently, the committee amendment provides that the lending of securities pursuant to a securities lending transaction of the type permitted by the SEC for regulated investment companies is not to be treated as the borrowing by the exempt organization of the collateral furnished by the broker. Thus, in ordinary circumstances, payments on securities loans are not debt-financed income. However, if an exempt organization incurred indebtedness to purchase the loaned securities, any income from such securities (including any income from loans of the securities) would be treated as debt-financed income and would be subject to taxation to the extent provided under sections 512(b)(4) and 514.

Also, it is contemplated that the activity of an exempt organization in merely making available its securities for loans is not to affect its status as an investor with respect to those securities nor is it to result in the organization's being treated as being in the trade or business of selling or lending securities so as to result in the gains from such securities being treated as subject to the unrelated business income tax.[6]

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[5] The committee does not intend to change the tax treatment of "repurchase agreements" in which loans of money collateralized by securities are structured as sales and repurchases of securities. See, for example, Rev. Rul. 77–59, 1977–1 CB 196.

[6] Thus, the lending of securities will not transform an investment activity into a trade or business subject to the excess business holdings rules of section 4943.

Similarly, payments on securities loans of this sort are to be treated as gross investment income for purposes of determining whether an organization has met the limitations on investment income as a percentage of support required under section 509(a)(2). These payments also are to be treated as gross investment income for the purpose of the excise tax on the investment income of private foundations (sec. 4940).

Furthermore, in the case of regulated investment companies, payments on securities loans are to be treated in the same manner as dividends and interest. However, where these payments are passed through to the shareholders of these companies, they would not be treated as dividends for the purpose of dividend exclusions or deductions.

In making these provisions for payments on securities loans which meet the prescribed standards, the committee intends that no inference is to be drawn with respect to the active or passive classification of income from securities loans that lack the safeguards required in the bill, either for purposes of the unrelated business income tax, treatment as gross investment income, or for other income tax purposes, such as determining whether such income is personal holding company income.

It is not intended that this treatment be available if the securities which are loaned constitute inventory or are being held for sale to customers in the ordinary course of the organization's trade or business. These activities go beyond the concept of production of investment income that is intended to be exempted or treated as passive income. Also, it is not intended that this bill detract from the court's decision in *Randall Foundation* v. *Riddell*, 244 F. 2d 803 (9th Cir. 1957), that securities trading can be so large a proportion of the activities of an organization that the organization fails to meet the statutory test of being "organized and operated exclusively for religious, charitable, scientific," etc. purposes, and thus does not qualify for exemption from tax.

Effective date

This amendment applies to amounts received after December 31, 1976, regardless of whether the organization involved is a calendar year taxpayer or a fiscal year taxpayer.

Revenue effect

This amendment is estimated to result in a decrease in budget receipts of less than $5 million per year.

C. Earned Income Credit (sec. 3 of the bill and sec. 43 of the Code)

Present law

Present law provides a refundable income tax credit equal to 10 percent of the first $4,000 of earned income. The credit is phased out for individuals with adjusted gross income (or, if greater, earned income) exceeding $4,000, and no credit is available if adjusted gross income (or earned income) exceeds $8,000.

To be eligible for the credit, an individual must maintain a household for his or her child if the child is either under age 19 or a student. Such an individual is eligible for the credit whether or not he or she is entitled to claim a dependency exemption for the child. In addi-

tion, the credit is available to a parent who maintains a household for a disabled adult son or daughter, but only if the parent is entitled to claim a dependency exemption for the son or daughter.

Reasons for change

The current earned income credit generally is available for individuals having children of their own or adopted children in their household. However, present law does not specify under what circumstances an earned income credit may be allowed for individuals who raise their grandchildren or other dependent children whom they do not adopt.

Explanation of provision

The committee amendment clarifies the eligibility rules of the earned income credit to make the credit available to an individual who maintains a household for any minor child for whom that individual is entitled to claim as a dependency exemption. Under this change, parents raising foster children and grandparents raising grandchildren will clearly be eligible for the credit where the income of the child or other person is less than $750, and the parents, grandparents or other individuals provide over half of that child's support. The credit will continue to be available to a parent who maintains a household for a child who is either under 19 or a student whether or not the parent is entitled to a dependency exemption for the child. The credit will also be available for adult disabled children who are dependents.

Effective date

This provision is to be effective for taxable years beginning in 1978.

Revenue effect

This provision is estimated to result in a negligible decrease in budget receipts.

D. Completed Crop Pool Method of Accounting (sec. 4 of the bill and new sec. 1382(g) of the Code)

Present law

Present law provides special rules for the taxation of cooperatives (including tobacco growers cooperatives) under which cooperatives are permitted deductions for qualifying distributions to patrons with respect to patronage occurring during the taxable year. However, since no special tax accounting rules are provided for cooperatives, they are subject to the general rule for methods of accounting which requires that the method of accounting selected by the taxpayer must clearly reflect income.

In 1969, the Internal Revenue Service issued Revenue Ruling 69-71, 1969-1 CB 207, which stated that a completed crop pool method of accounting employed by a farmers' cooperative operating under a pooling arrangement is not an acceptable accounting method for income tax purposes. The Internal Revenue Service has taken the position that this ruling prohibits the use of the completed crop pool method of accounting by tobacco growers cooperatives, even though some of them have used this method of accounting for income tax purposes for over 30 years.

Reasons for change

Tobacco growers cooperatives play an important role in the administration of Federal tobacco price support programs. Under the direction and supervision of the Commodity Credit Corporation (a federally chartered corporation within the Department of Agriculture), these cooperatives make available to tobacco growers the proceeds of price support loans, process and store the growers' tobacco, and sell it when a price approved by the Commodity Credit Corporation can be obtained. Their agreements with the Commodity Credit Corporation require that all tobacco acquired by the cooperatives in a given year be placed in one crop pool and that the proceeds from sales of tobacco from that crop pool be applied first against the nonrecourse price support loans made with respect to the tobacco in that pool. After the loan secured by the crop year pool is fully repaid with interest, growers whose products were placed in the pool are entitled to the profits of that pool (if any) based on patronage. Thus, no proceeds are available for distribution to patrons (or payment of taxes) until the loans with respect to a crop year pool have been fully repaid. For purposes of accounting to their patrons and the Commodity Credit Corporation, the tobacco cooperatives have used a completed corp pool method of accounting under which income is not recognized, and costs are not deducted, with respect to products in a crop year pool until the year in which the last products in the pool are disposed of.

The tobacco growers cooperatives have also used the completed crop pool method of accounting for income tax purposes for many years, and until recently the Service has not challenged their use of this method on audit. However, as noted above, in 1969 the Service ruled that this method of accounting is not acceptable for tax purposes.

Although the committee does not want to restrict the Service's broad general authority to determine when methods of accounting clearly reflect income, the committee believes that it is appropriate to allow the tobacco cooperatives to continue to use the completed crop pool method of accounting for crop pools which are open in years currently being audited by the Service and for crop pools formed prior to March 1, 1978.

Explanation of provision

The committee amendment provides a special tax accounting rule for cooperatives which allows the tobacco cooperatives to use the completed crop pool method of accounting [1] for crop pools currently open

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[1] The completed crop pool method of accounting is a method of accounting under which income is not recognized, and costs are deferred, until the last of the products in the crop pool are disposed of. Under this method of accounting, the costs associated with the products in the crop pool are not considered inventory. In this respect, the costs deferred under the completed crop pool method of accounting are treated for tax purposes the same as the costs deferred under the completed contract method of accounting for long-term contracts. The income tax regulations allow the completed contract method of accounting to be used only in the case of long-term contracts. Long-term contracts involve a single sale and the amount of income or loss on the sale cannot be precisely determined until the contract is completed. Tobacco crop pools, on the other hand, are liquidated by multiple sales, and the income or loss on each sale can be determined at the time the sale is made.

and for crop pools opened prior to March 1, 1978. Only crop pools which are subject to an agreement with Commodity Credit Corporation qualify for this special treatment. Furthermore, this provision is limited to cooperatives which have been using this method for at least 10 years and whose operations consist of working with the administration of government farm price support systems.

Effective date

This amendment applies to crop year pools opened prior to March 1, 1978.

Revenue effect

If the Service's position on accounting methods is correct, the taxpayers affected would owe approximately $27 million in additional taxes for past years. However, these taxpayers are corporations, and it appears that the amount of their assets available for satisfaction of this tax liability would be less than $8 million. Consequently, this proposal would appear to have a one-time revenue loss of less than $8 million. In addition to this one-time effect, this provision would result in small revenue losses for immediate future years followed by revenue gains in years when crop pools currently open are closed.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING H.R. 7581, AS AMENDED

Revenue Cost

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out H.R. 7581 as reported by the committee. The committee estimates that this bill will result in a decrease in budget receipts of $8 million in fiscal year 1978 and a decrease in budget receipts of less than $5 million per year in fiscal years 1979–1983.

The Treasury Department agrees with this statement.

Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill, H.R. 7581, as amended by the committee, was ordered reported by a voice vote.

IV. REGULATORY IMPACT OF THE BILL AS REPORTED AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

Regulatory Impact

Pursuant to Rule XXIX of the Standing Rules of the Senate, as amended by S. Res. 4 (February 4, 1977), the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of H.R. 7581, as reported by the committee.

A. Numbers of individuals and businesses who would be regulated.— The provisions of this bill are primarily to revise and clarify certain income tax provisions affecting regulated investment companies and

organizations that are generally exempt from income taxation, to clarify the applicability of the earned income credit to certain low-income individuals, and to clarify the use of the completed crop pool method of accounting for tax purposes by certain tobacco cooperatives.

B. Economic impact of regulation on individuals, consumers, and businesses affected.—The provisions will make it easier for telephone cooperatives and lenders of securities to comply with the tax laws and will expand the availability of the earned income credit to certain low-income individuals.

C. Impact on personal privacy.—The bill makes no changes in those provisions of Federal law relating to the personal privacy of taxpayers.

D. Determination of the amount of paperwork.—The bill will involve little, if any, additional paperwork for taxpayers.

Consultation with Congressional Budget Office on Budget Estimates

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as shown in part III of this report) and agrees with the methodology used and the resulting dollar estimates for those items.

New Budget Authority

In compliance with section 308(a)(1) of the Budget Act, the committee states that the bill involves no new budget authority. The Congressional Budget Office advises that the Conference Report on the Second Concurrent Resolution on the Budget for Fiscal Year 1978 provides that the earned income credit is to be treated as a revenue reduction in the current fiscal year. The Report, however, explicitly did not deal with later years, and, in light of events since the adoption of the Report, there appear to be differing opinions in the Senate about the budgetary treatment of refundable credits. Therefore, the Congressional Budget Office takes no position as to whether this bill provides new budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee makes the following statement. The provision of this bill amending the earned income credit will involve a negligible change in the amount of tax expenditures for fiscal year 1979 and each fiscal year thereafter.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of Rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

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