

## THREE ADDITIONAL JUDGES FOR TAX COURT

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SEPTEMBER 25 (legislative day, JUNE 12), 1980.—Ordered to be printed

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

### REPORT

[To accompany H.R. 7779]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to whom was referred the bill (H.R. 7779) to amend the Internal Revenue Code of 1954 to authorize 3 additional Judges for the Tax Court, having considered the same, reports favorably thereon and recommends that the bill do pass.

#### SECTION 1. THREE ADDITIONAL JUDGES FOR TAX COURT; REMOVAL OF AGE LIMITATION.

(a) INCREASE IN NUMBER OF JUDGES.—Subsection (a) of section 7443 of the Internal Revenue Code of 1954 (relating to the number of judges on the Tax Court) is amended by striking out "16" and inserting in lieu thereof "19".

(b) REMOVAL OF AGE LIMITATION.—Subsection (b) of section 7443 of such Code (relating to appointment to the Tax Court) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1981.

Amend the title so as to read:

A bill to amend the Internal Revenue Code of 1954 to authorize 3 additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court.

#### I. SUMMARY

The bill increases the number of Tax Court judges from 16 to 19 and eliminates the prohibition on initially appointing an individual to the Court after he or she attains age 65. The bill becomes effective February 1, 1981.

## **II. EXPLANATION OF THE BILL**

### **A. Increase in Number of Tax Court Judges**

#### ***Present law***

The United States Tax Court, originally established as the Board of Tax Appeals in 1924, is composed of 16 judges, who are appointed by the President for 15-year terms with the advice and consent of the Senate. The number of judges on the Court has remained constant since 1925.

The Chief Judge of the Tax Court is authorized to appoint commissioners ("special trial judges") to decide small tax cases and to assist in the work of the court. Currently, there are ten commissioners.

#### ***Reasons for change***

In recent years, the workload of the Tax Court has increased significantly. Since 1974, the Tax Court has been authorized to issue declaratory judgments with respect to the status of certain organizations, employee retirement plans, municipal obligations, and the tax aspects of certain property transfers, and to decide certain disclosure actions brought against the Internal Revenue Service. The Crude Oil Windfall Profit Tax Act of 1980 extends the Court's jurisdiction to windfall profit tax deficiencies. Because of these new responsibilities, the growth of complex tax litigation (particularly in the area of tax shelters), and the increase in the number of petitions filed with the court, the committee believes an increase in the court's membership is necessary to insure the timely resolution of taxpayer disputes.

#### ***Explanation of provision***

The bill increases the number of U.S. Tax Court judges from 16 to 19.

#### ***Revenue effect***

This provision will have no effect on budget receipts, but the creation of three additional Court seats will increase budget outlays by an estimated \$185,000 in fiscal year 1981, \$565,000 in fiscal year 1982, and \$770,000 in fiscal year 1985.

### **B. Elimination of Maximum Appointment Age**

#### ***Present law***

Under present law, no individual may be first appointed to the Tax Court after attaining 65 years of age.

#### ***Reasons for change***

The committee believes that the prohibition on initial appointments of individuals age 65 or older conflicts with Federal policies against age discrimination and could deprive the Tax Court of experienced personnel.

***Explanation of provision***

The bill eliminates the ban on initial appointments of individuals age 65 or older as judges of the U.S. Tax Court.

***Revenue effect***

This provision will have no effect on budget receipts or outlays.

**C. Effective Date**

The bill becomes effective on February 1, 1981.

### III. EFFECT OF THE BILL ON THE BUDGET AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

#### ***Budget Effects***

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made about the effect on the budget of this bill, H.R. 7779, as reported. The committee estimates that the provisions contained in the bill will have no effect on budget receipts, but will increase budget outlays by an estimated \$185,000 in fiscal year 1981, \$565,000 in fiscal 1982, \$665,000 in fiscal year 1983, \$770,000 in fiscal year 1984, and \$770,000 in fiscal year 1985.

The Treasury Department agrees with this statement.

#### ***New Budget Authority and Tax Expenditures***

In accordance with section 308 of the Budget Act, the committee states that the changes made to existing law by this bill create no new budget authority. However, the bill will result in the need for increased budget authorizations of an estimated \$210,000 in fiscal year 1981, \$615,000 in fiscal year 1982, \$670,000 in fiscal year 1983, \$725,000 in fiscal year 1984, and \$780,000 in fiscal year 1985. The bill involves no new or increased tax expenditures.

#### ***Consultation with Congressional Budget Officials on Budget Estimates***

With respect to subdivision (C) of clause 2(1)(3), the committee advises that the Director of the Congressional Budget Office has submitted the following statement:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., September 24, 1980.*

Hon. RUSSELL B. LONG,  
*Chairman, Committee on Finance, United States Senate, 2227 Dirksen Senate Office Building, Washington, D.C. 20510*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 7779, a bill to amend the Internal Revenue Code of 1954 to authorize 3 additional judges for the Tax Court.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ROBERT D. REISCHAUER,  
(For Alice M. Rivlin, Director).

## CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

SEPTEMBER 24, 1980.

1. Bill number: H.R. 7779.
2. Bill title: A bill to amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court.
3. Bill status: As ordered reported by the Senate Committee on Finance, September 24, 1980.
4. Bill purpose: The bill amends section 7443 of the Internal Revenue Code of 1954 by increasing the number of Tax Court judges from 16 to 19.
5. Cost estimate:

## Estimated authorization level:

Fiscal year:	<i>Thousands</i>
1981-----	\$210
1982-----	615
1983-----	670
1984-----	725
1985-----	780

## Estimated outlays:

Fiscal year:	
1981-----	185
1982-----	565
1983-----	665
1984-----	720
1985-----	770

The costs of this bill fall within budget subfunction 752.

6. Basis of estimate: For the purposes of this estimate, it was assumed that 3 additional judges and support staff would be hired by June 1, 1981, and that they would incur costs similar to other judges in the Court pursuant to section 7472 of the Internal Revenue Code of 1954.

7. Estimate comparison: None.

8. Previous CBO estimate: On August 25, 1980, the Congressional Budget Office prepared an estimate for the House Committee on Ways and Means on H.R. 7779, as ordered reported by that Committee.

9. Estimated prepared by: Linwood Lloyd (925-7760).

10. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

***Vote of the Committee***

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made about the vote of the committee on the motion to report the bill. The bill, H.R. 7779 was ordered favorably reported by voice vote.

#### IV. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of Rule XXIX of the Standing Rules of the Senate, the following statement is made concerning the regulatory impact that might be incurred in carrying out the provisions of this bill, H.R. 7779, as reported by the committee.

*Individuals and businesses regulated and economic impact of regulation.*—The bill does not regulate any individuals or businesses.

*Impact on personal privacy.*—The provisions of the bill will have no impact on personal privacy.

*Determination of paperwork involved.*—The provisions of the bill will involve no additional paperwork.

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

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

**INTERNAL REVENUE CODE OF 1954**

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**SUBTITLE F—PROCEDURE AND ADMINISTRATION**

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**CHAPTER 76—JUDICIAL PROCEEDINGS**

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**Subchapter C—The Tax Court**

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**PART I—ORGANIZATION AND JURISDICTION**

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**SEC. 7443. MEMBERSHIP.**

(a) **NUMBER.**—The Tax Court shall be composed of **[16]** 19 members.

(b) **APPOINTMENT.**—Judges of the Tax Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. **[No individual shall be a judge of the Tax Court unless he is appointed to that office before attaining the age of 65.]**

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