98TH CONGRESS 1st Session | HOUSE OF REPRESENTATIVES | REPORT No. 98-325

INTEREST AND DIVIDENDS TAX WITHHOLDING REPEAL

JULY 27, 1983.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2973]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 2973) to repeal the withholding of tax from interest and dividends, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—INTEREST AND DIVIDEND TAX COMPLIANCE

SEC. 101. SHORT TITLE: AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Interest and Dividend Tax Compliance Act of 1983".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 102. REPEAL OF WITHHOLDING ON INTEREST AND DIVIDENDS.

(a) IN GENERAL.—Subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding of tax from interest and dividends) is hereby repealed as of the close of June 30, 1983.

(b) CONFORMING AMENDMENT.—Except as provided in this section, the Internal Revenue Code of 1954 shall be applied and adminis-

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tered as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

(c) Repeal Not To Apply to Amounts Deducted and Withheld Before September 2, 1983.—

(1) In general.—If, notwithstanding the repeal made by subsection (a) (and the provisions of subsection (b)), an amount is deducted and withheld before September 2, 1983, under subchapter B of chapter 24 of the Internal Revenue Code of 1954 (as in effect before its repeal by subsection (a)), the repeal made by subsection (a) (and the provisions of subsection (b)) shall not apply to the amount so deducted and withheld.

(2) Election to have paragraph (1) not apply.—Paragraph (1) shall not apply with respect to any payor who elects (at the time and in the manner prescribed by the Secretary of the Treasury or his delegate) to have paragraph (1) not apply.

(d) Estimated Tax Payments.—For purposes of determining the amount of any addition to tax under section 6654 of the Internal Revenue Code of 1954 with respect to any installment required to be paid before July 1, 1983, the amount of the credit allowed by section 31 of such Code for any taxable year which includes any portion of the period beginning July 1, 1983, and ending December 31, 1983, shall be increased by an amount equal to 10 percent of the aggregate amount of payments—

(1) which are received during the portion of such taxable year after June 30, 1983, and before January 1, 1984, and

(2) which (but for the repeal made by subsection (a)) would have been subject to withholding under subchapter B of chapter 24 of such Code (determined without regard to any exemption described in section 3452 of such subchapter B).

(e) Technical Amendments.—

(1) Subsection (a) of section 6049 (relating to returns regarding payments of interest) is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out "or" at the end of paragraph (2),

(C) by striking out paragraph (3), and

(D) by striking out ", tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld", and inserting in lieu thereof "and the name and address of the person to whom paid".

(2) Subsection (b) of section 6049 (defining interest) is amended—

(A) by amending subparagraph (C) of paragraph (2) to read as follows:

"(C) except to the extent otherwise provided in regulations—

"(i) any amount paid to any person described in paragraph (4), or

"(ii) any amount described in paragraph (5),", and

(B) by adding at the end thereof the following new paragraphs:

"(4) Persons described in this paragraph.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

"(C) the United States or any wholly owned agency or instrumentality thereof,

"(D) a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing,

"(E) a foreign government, a political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing,

"(F) an international organization or any wholly owned agency or instrumentality thereof,

"(G) a foreign central bank of issue,

"(H) a dealer in securities or commodities required to register as such under the laws of the United States or a State, the District of Columbia, or a possession of the United States,

"(I) a real estate investment trust (as defined in section 856),

"(J) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

"(K) a common trust fund (as defined in section 584(a)), or

"(L) any trust which—

"(i) is exempt from tax under section 664(c), or

"(ii) is described in section 4947(a)(1).

"(5) AMOUNTS DESCRIBED IN THIS PARAGRAPH.—An amount is described in this paragraph if such amount—

"(A) is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount, or

"(B) would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

"(i) such amount is income from sources outside the United States,

"(ii) the payor thereof is exempt from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)).".

(3) Paragraph (1) of section 6049(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

SEC. 103. SENSE OF THE CONGRESS WITH RESPECT TO INCREASED APPROPRIATIONS.

It is the sense of the Congress—

(1) that additional amounts should be appropriated for purposes of collecting tax due with respect to reportable payments (as defined in section 3406(b) of the Internal Revenue Code of 1954), and

(2) that—

(A) such additional amounts should not be less than—

(i) $15,000,000 for fiscal year 1984, and

(ii) $300,000,000 for the period consisting of fiscal years 1984 through 1988, and

(B) it would be preferable that such additional amounts for such period be at least $600,000,000.

SEC. 104. BACKUP WITHHOLDING.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source) is amended by inserting after section 3405 the following new section:

"SEC. 3406. BACKUP WITHHOLDING.

"(a) REQUIREMENT TO DEDUCT AND WITHHOLD.—

"(1) IN GENERAL.—In the case of any reportable payment, if—

"(A) the payee fails to furnish his TIN to the payor in the manner required,

"(B) the Secretary notifies the payor that the TIN furnished by the payee is incorrect,

"(C) there has been a notified payee under-reporting described in subsection (c), or

"(D) there has been a payee certification failure described in subsection (d),

then the payor shall deduct and withhold from such payment a tax equal to 20 percent of such payment.

"(2) SUBPARAGRAPHS (C) AND (D) OF PARAGRAPH (1) APPLY ONLY TO INTEREST AND DIVIDEND PAYMENTS.—Subparagraphs (C) and (D) of paragraph (1) shall apply only to reportable interest or dividend payments.

"(b) REPORTABLE PAYMENT, ETC.—For purposes of this section—

"(1) REPORTABLE PAYMENT.—The term 'reportable payment' means—

"(A) any reportable interest or dividend payment, and

"(B) any other reportable payment.

"(2) REPORTABLE INTEREST OR DIVIDEND PAYMENT.—

"(A) IN GENERAL.—The term 'reportable interest or dividend payment' means any payment of a kind, and to a payee, required to be shown on a return required under—

"(i) section 6049(a) (relating to payments of interest),

"(ii) section 6042(a) (relating to payments of dividends), or

"(iii) section 6044 (relating to payments of patronage dividends) but only to the extent such payment is in money.

"(B) SPECIAL RULE FOR PATRONAGE DIVIDENDS.—For purposes of subparagraphs (C) and (D) of subsection (a)(1), the term 'reportable interest or dividend payment' shall not include any payment to which section 6044 (relating to pa-

tronage dividends) applies unless 50 percent or more of such payment is in money.

"(3) OTHER REPORTABLE PAYMENT.—The term 'other reportable payment' means any payment of a kind, and to a payee, required to be shown on a return required under—

"(A) section 6041 (relating to certain information at source),

"(B) section 6041A(a) (relating to payments of remuneration for services),

"(C) section 6045 (relating to returns of brokers), or

"(D) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent such payment is in money and represents a share of the proceeds of the catch.

"(4) WHETHER PAYMENT IS OF REPORTABLE KIND DETERMINED WITHOUT REGARD TO MINIMUM AMOUNT.—The determination of whether any payment is of a kind required to be shown on a return described in paragraph (2) or (3) shall be made without regard to any minimum amount which must be paid before a return is required.

"(5) EXCEPTION FOR CERTAIN SMALL PAYMENTS.—To the extent provided in regulations, the term 'reportable payment' shall not include any payment which—

"(A) does not exceed $10, and

"(B) if determined for a one-year period, would not exceed $10.

"(6) OTHER REPORTABLE PAYMENTS INCLUDE PAYMENTS DESCRIBED IN SECTION 6041(a) OR 6041A(a) ONLY WHERE AGGREGATE FOR CALENDAR YEAR IS $600 OR MORE.—Any payment of a kind required to be shown on a return required under section 6041(a) or 6041A(a) which is made during any calendar year shall be treated as a reportable payment only if—

"(A) the aggregate amount of such payment and all previous payments described in such sections by the payor to the payee during such calendar year equals or exceeds $600,

"(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee, or

"(C) during the preceding calendar year, the payor made reportable payments to the payee with respect to which amounts were required to be deducted and withheld under subsection (a).

"(7) EXCEPTION FOR CERTAIN WINDOW PAYMENTS OF INTEREST, ETC.—For purposes of subparagraphs (C) and (D) of subsection (a)(1), the term 'reportable interest or dividend payment' shall not include any payment—

"(A) in redemption of a coupon on a bearer instrument or in redemption of a United States savings bond, or

"(B) to the extent provided in regulations, of interest on instruments similar to those described in subparagraph (A).

The preceding sentence shall not apply for purposes of determining whether there is payee underreporting described in subsection (c).

"(c) NOTIFIED PAYEE UNDERREPORTING WITH RESPECT TO INTEREST AND DIVIDENDS.—

"(1) NOTIFIED PAYEE UNDERREPORTING.—If—

"(A) the Secretary determines with respect to any payee that there has been payee underreporting,

"(B) at least 4 notices have been mailed by the Secretary to the payee (over a period of at least 120 days) with respect to the underreporting, and

"(C) in the case of any payee who has filed a return for the taxable year, any deficiency of tax attributable to such failure has been assessed,

the Secretary may notify payors of reportable interest or dividend payments with respect to such payee of the requirement to deduct and withhold under subsection (a)(1)(C) (but not the reasons therefor).

"(2) PAYEE UNDERREPORTING DEFINED.—For purposes of this section, there has been payee underreporting if for any taxable year the Secretary determines that—

"(A) the payee failed to include in his return of tax under chapter 1 for such year any portion of a reportable interest or dividend payment required to be shown on such return, or

"(B) the payee may be required to file a return for such year and to include a reportable interest or dividend payment in such return, but failed to file such return.

"(3) DETERMINATION BY SECRETARY TO STOP (OR NOT TO START) WITHHOLDING—

"(A) IN GENERAL.—If the Secretary determines that—

"(i) there was no payee underreporting,

"(ii) any payee underreporting has been corrected (and any tax, penalty, or interest with respect to the payee underreporting has been paid),

"(iii) withholding under subsection (a)(1)(C) has caused (or would cause) undue hardship to the payee and it is unlikely that any payee underreporting by such payee will occur again, or

"(iv) there is a bona fide dispute as to whether there has been any payee underreporting,

then the Secretary shall take the action described in subparagraph (B).

"(B) SECRETARY TO TAKE ACTION TO STOP (OR NOT TO START) WITHHOLDING.—For purposes of subparagraph (A), if at the time of the Secretary's determination under subparagraph (A)—

"(i) no notice has been given under paragraph (1) to any payor with respect to the underreporting, the Secretary shall not give any such notice, or

"(ii) if such notice has been given, the Secretary shall—

"(I) provide the payee with a written certification that withholding under subsection (a)(1)C) is to stop, and

"(II) notify the applicable payors (and brokers) that such withholding is to stop.

"(C) TIME FOR TAKING ACTION WHERE NOTICE TO PAYOR HAS BEEN GIVEN.—In any case where notice has been given under paragraph (1) to any payor with respect to any underreporting, if the Secretary makes a determination under subparagraph (A) during the 12-month period ending on October 15 of any calendar year—

"(i) except as provided in clause (ii), the Secretary shall take the action described in subparagraph (B)(ii) to bring about the stopping of withholding no later than December 1 of such calendar year, or

"(ii) in the case of—

"(I) a no payee underreporting determination under clause (i) of subparagraph (A), or

"(II) a hardship determination under clause (iii) of subparagraph (A),

such action shall be taken no later than the 45th day after the day on which the Secretary made the determination.

"(D) OPPORTUNITY TO REQUEST DETERMINATION.—The Secretary shall prescribe procedures under which—

"(i) a payee may request a determination under subparagraph (A), and

"(ii) the payee may provide information with respect to such request.

"(4) PAYOR NOTIFIES PAYEE OF WITHHOLDING BECAUSE OF PAYEE UNDERREPORTING.—Any payor required to withhold any tax under subsection (a)(1)(C) shall, at the time such withholding begins, notify the payee of such withholding.

"(5) PAYEE MAY BE REQUIRED TO NOTIFY SECRETARY WHO HIS PAYORS AND BROKERS ARE.—For purposes of this section, the Secretary may require any payee of reportable interest or dividend payments who is subject to withholding under subsection (a)(1)(C) to notify the Secretary of—

"(A) all payors from whom the payee receives reportable interest or dividend payments, and

"(B) all brokers with whom the payee has accounts which may involve reportable interest or dividend payments.

The Secretary may notify any such broker that such payee is subject to withholding under subsection (a)(1)(C).

"(d) INTEREST AND DIVIDEND BACKUP WITHHOLDING APPLIES TO NEW ACCOUNTS AND INSTRUMENTS UNLESS PAYEE CERTIFIES THAT HE IS NOT SUBJECT TO SUCH WITHHOLDING.—

"(1) IN GENERAL.—There is a payee certification failure unless the payee has certified to the payor, under penalty of perjury, that such payee is not subject to withholding under subsection (a)(1)(C).

"(2) SPECIAL RULES FOR READILY TRADABLE INSTRUMENTS.—

"(A) IN GENERAL.—Subsection (a)(1)(D) shall apply to any reportable interest or dividend payment to any payee on any readily tradable instrument if (and only if) no certification

was provided to the payor by the payee under paragraph (1) and—

"(i) the payor was notified by a broker under subparagraph (B),

"(ii) such instrument was acquired directly by the payee from the payor, or

"(iii) such instrument is held by the payor as nominee for the payee.

"(B) BROKER NOTIFIES PAYOR.—If—

"(i) a payee acquires any readily tradable instrument through a broker, and

"(ii)(I) the payee does not provide a certification to such broker under subparagraph (C), or (II) such broker is notified by the Secretary before such acquisition that such payee is subject to withholding under subsection (a)(1)(C),

such broker shall, within 15 days after the date of the acquisition, notify the payor that such payee is subject to withholding under subsection (a)(1)(D) (or subsection (a)(1)(C) in the case of a notification described in clause (ii)(II)).

"(C) TIME FOR PAYEE TO PROVIDE CERTIFICATION TO BROKER.—In the case of any readily tradable instrument acquired by a payee through a broker, the certification described in paragraph (1) may be provided by the payee to such broker—

"(i) at any time after the payee's account with the broker was established and before the acquisition of such instrument, or

"(ii) in connection with the acquisition of such instrument.

"(3) EXCEPTION FOR EXISTING ACCOUNTS, ETC.—This subsection and subsection (a)(1)(D) shall not apply to any reportable interest or dividend payment which is paid or credited—

"(A) in the case of interest or any other amount of a kind reportable under section 6049, with respect to any account (whatever called) established before January 1, 1984, or with respect to any instrument acquired before January 1, 1984,

"(B) in the case of dividends or any other amount reportable under section 6042, on any stock or other instrument acquired before January 1, 1984, or

"(C) in the case of patronage dividends or other amounts of a kind reportable under section 6044, with respect to any membership acquired, or contract entered into, before January 1, 1984.

"(4) EXCEPTION FOR READILY TRADABLE INSTRUMENTS ACQUIRED THROUGH EXISTING BROKERAGE ACCOUNTS.—Subparagraph (B) of paragraph (2) shall not apply with respect to a readily tradable instrument which was acquired through an account with a broker if—

"(A) such account was established before January 1, 1984, and

"(B) during 1983, such broker bought or sold instruments for the payee (or acted as a nominee for the payee) through such account.

The preceding sentence shall not apply with respect to any readily tradable instrument acquired through such account after the broker was notified by the Secretary that the payee is subject to withholding under subsection (a)(1)(C).

"(e) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

"(1) FAILURE TO FURNISH TIN.—In the case of any failure by a payee to furnish his TIN to a payor in the manner required, subsection (a) shall apply to any reportable payment made by such payor during the period during which the TIN has not been furnished in the manner required.

"(2) NOTIFICATION OF INCORRECT NUMBER.—In any case in which the Secretary notifies the payor that the TIN furnished by the payee is incorrect, subsection (a) shall apply to any reportable payment made by such payor—

"(A) after the close of the 30th day after the day on which the payor received such notification, and

"(B) before the payee furnishes another TIN in the manner required.

"(3) NOTIFIED PAYEE UNDERREPORTING DESCRIBED IN SUBSECTION (C).—

"(A) IN GENERAL.—In the case of any notified payee underreporting described in subsection (c), subsection (a) shall apply to any reportable interest or dividend payment made—

"(i) after the close of the 30th day after the day on which the payor received notification from the Secretary of such underreporting, and

"(ii) before the stop date.

"(B) STOP DATE.—For purposes of this subsection, the term 'stop date' means the determination effective date or, if later, the earlier of—

"(i) the day on which the payor received notification from the Secretary under subsection (c)(3)(B) to stop withholding, or

"(ii) the day on which the payor receives from the payee a certification provided by the Secretary under subsection (c)(3)(B).

"(C) DETERMINATION EFFECTIVE DATE.—For purposes of this subsection—

"(i) IN GENERAL.—Except as provided in clause (ii), the determination effective date of any determination under subsection (c)(3)(A) which is made during the 12-month period ending on October 15 of any calendar year shall be the first January 1 following such October 15.

"(ii) DETERMINATION THAT THERE WAS NO UNDERREPORTING; HARDSHIP.—In the case of any determination under clause (i) or (iii) of subsection (c)(3)(A), the determination effective date shall be the date on which the Secretary's determination is made.

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"(4) FAILURE TO PROVIDE CERTIFICATION THAT PAYEE IS NOT SUBJECT TO WITHHOLDING.—

"(A) IN GENERAL.—In the case of any payee certification failure described in subsection (d)(1), subsection (a) shall apply to any reportable interest or dividend payment made during the period during which the certification described in subsection (d)(1) has not been furnished to the payor.

"(B) SPECIAL RULE FOR READILY TRADABLE INSTRUMENTS ACQUIRED THROUGH BROKER WHERE NOTIFICATION.—In the case of any readily tradable instrument acquired by the payee through a broker, the period described in subparagraph (A) shall start with payments to the payee made after the close of the 30th day after the payor receives notification from a broker under subsection (d)(2)(B).

"(5) 30-DAY GRACE PERIODS.—

"(A) START-UP.—If the payor elects the application of this subparagraph with respect to the payee, subsection (a) shall also apply to any reportable payment made during the 30-day period described in paragraph (2)(A), (3)(A), or (4)(B).

"(B) STOPPING.—Unless the payor elects not to have this subparagraph apply with respect to the payee, subsection (a) shall also apply to any reportable payment made after the close of the period described in paragraph (1), (2), or (4) (as the case may be) and before the 30th day after the close of such period. A similar rule shall also apply with respect to the period described in paragraph (3)(A) where the stop date is determined under clause (i) or (ii) of paragraph (3)(B).

"(C) ELECTION OF SHORTER GRACE PERIOD.—The payor may elect a period shorter than the grace period set forth in subparagraph (A) or (B), as the case may be.

"(f) CONFIDENTIALITY OF INFORMATION.—

"(1) IN GENERAL.—No person may use any information obtained under this section (including any failure to certify under subsection (d)) except for purposes of meeting any requirement under this section or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103.

"(2) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1), see section 7431.

"(g) EXCEPTIONS.—

"(1) PAYMENTS TO CERTAIN PAYEES.—Subsection (a) shall not apply to any payment made to—

"(A) any organization or governmental unit described in subparagraph (B), (C), (D), (E), or (F) of section 6049(b)(4), or

"(B) any other person specified in regulations.

"(2) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—Subsection (a) shall not apply to any amount for which withholding is otherwise required by this title.

"(3) EXEMPTION WHILE WAITING FOR TIN.—The Secretary shall prescribe regulations for exemptions from the tax imposed by subsection (a) during the period during which a person is waiting for receipt of a TIN.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) OBVIOUSLY INCORRECT NUMBER.—A person shall be treated as failing to furnish his TIN if the TIN furnished does not contain the proper number of digits.

"(2) PAYEE FURNISHES 2 INCORRECT TIN'S.—If the payee furnishes the payor 2 incorrect TIN's in any 3-year period, the payor shall, after receiving notice of the second incorrect TIN, treat the payee as not having furnished another TIN under subsection (e)(2)(B) until the day on which the payor receives notification from the Secretary that a correct TIN has been furnished.

"(3) JOINT PAYEES.—Except to the extent otherwise provided in regulations, any payment to joint payees shall be treated as if all the payment were made to the first person listed in the payment.

"(4) PAYOR DEFINED.—The term 'payor' means, with respect to any reportable payment, a person required to file a return described in paragraph (2) or (3) of subsection (b) with respect to such payment.

"(5) BROKER.—

"(A) IN GENERAL.—The term 'broker' has the meaning given to such term by section 6045(c)(1).

"(B) ONLY 1 BROKER PER ACQUISITION.—If, but for this subparagraph, there would be more than 1 broker with respect to any acquisition, only the broker having the closest contact with the payee shall be treated as the broker.

"(C) PAYOR NOT TREATED AS BROKER.—In the case of any instrument, such term shall not include any person who is the payor with respect to such instrument.

"(6) READILY TRADABLE INSTRUMENT.—The term 'readily tradable instrument' means—

"(A) any instrument which is part of an issue any portion of which is traded on an established securities market (within the meaning of section 453(f)(5)), and

"(B) except as otherwise provided in regulations prescribed by the Secretary, any instrument which is regularly quoted by brokers or dealers making a market.

"(7) ORIGINAL ISSUE DISCOUNT.—To the extent provided in regulations, rules similar to the rules of paragraph (6) of section 6049(d) shall apply.

"(8) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(9) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect and such payee subsequently furnishes another TIN to the payor, the payor shall promptly notify the Secretary of the other TIN so furnished.

"(10) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than section 3402(n)), and so

much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this section shall be treated as if they were wages paid by an employer to an employee (and amounts deducted and withheld under this section shall be treated as if deducted and withheld under section 3402).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end thereof the following new subsection:

"(f) EXTENSION TO INFORMATION OBTAINED UNDER SECTION 3406.—For purposes of this section—

"(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and

"(2) any use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406."

(c) PENALTY FOR FAILURE BY BROKER TO PROVIDE NOTICE.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6705. FAILURE BY BROKER TO PROVIDE NOTICE TO PAYORS.

"(a) IN GENERAL.—Any person required under section 3406(d)(2)(B) to provide notice to any payor who willfully fails to provide such notice to such payor shall pay a penalty of $500 for each such failure.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—Any penalty imposed by this section shall be in addition to any other penalty provided by law."

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6705. Failure by broker to provide notice to payors."

(d) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF TIN.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(41) TIN.—The term 'TIN' means the identifying number assigned to a person under section 6109."

(2) YEAR FOR WHICH CREDIT ALLOWED.—Section 31 (relating to credit for tax withheld on wages) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR BACKUP WITHHOLDING.—Any credit allowed by subsection (a) for any amount withheld under section 3406

shall be allowed for the taxable year of the recipient of the income in which the income is received."

(3) REPEAL OF EXISTING BACKUP WITHHOLDING PROVISIONS.—Subsection (s) of section 3402 is hereby repealed.

(4) CLERICAL AMENDMENT.—The table of sections for chapter 24 is amended by inserting after the item relating to section 3405 the following new item:

"Sec. 3406. Backup withholding."

SEC. 105. PENALTY FOR FAILURE BY PAYORS TO MEET CERTAIN INTEREST AND DIVIDEND REPORTING REQUIREMENTS.

(a) FAILURE TO SUPPLY TAXPAYER IDENTIFICATION NUMBERS.—Section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

"SEC. 6676. FAILURE TO SUPPLY IDENTIFYING NUMBERS.

"(a) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(1) to include his TIN in any return, statement, or other document,

"(2) to furnish his TIN to another person, or

"(3) except in the case of a return or statement required to be filed under section 6042, 6044, or 6049, to include in any return, statement, or other document made with respect to another person the TIN of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $5 for each such failure described in paragraph (1) and $50 for each such failure described in paragraph (2) or (3), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(b) PENALTIES INVOLVING FAILURES ON INTEREST AND DIVIDEND RETURNS.—

"(1) IN GENERAL.—If any payor—

"(A) is required to include in any return or statement required to be filed under section 6042, 6044, or 6049 with respect to any payee the TIN of such payee, and

"(B) fails to include such number or includes an incorrect number,

then the payor shall pay a penalty of $50 for each such failure unless it is shown that the payor exercised due diligence in attempting to satisfy the requirement with respect to such TIN.

"(c) PROCEDURES RELATING TO ASSESSMENT OF PENALTY.—

"(1) SELF-ASSESSMENT OF PENALTY IMPOSED BY SUBSECTION (b).—Any penalty imposed under subsection (b) on any person—

"(A) for purposes of this subtitle, shall be treated as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which the return or statement was made.

"(2) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section."

(b) FAILURE TO FILE STATEMENTS.—

(1) SECTION 6652.—

(A) Subsection (a) of section 6652 (relating to returns relating to information at source, payments of dividends, etc., and certain transfers of stock) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) FAILURE TO FILE RETURNS ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—

"(A) IN GENERAL.—In the case of each failure to file a statement of the amount of payments to another person required by—

"(i) section 6042(a)(1) (relating to payments of dividends),

"(ii) section 6044(a)(1) (relating to payments of patronage dividends), or

"(iii) section 6049(a) (relating to payments of interest),

on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to file such statement a penalty of $50 for each such failure unless it is shown that such person exercised due diligence in attempting to satisfy the requirement with respect to such statement.

"(B) SELF-ASSESSMENT.—Any penalty imposed under subparagraph (A) on any person—

"(i) for purposes of this subtitle, shall be treated as an excise tax imposed by subtitle D, and

"(ii) shall be due and payable on April 1 of the calendar year following the calendar year for which such statement is required.

"(C) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subparagraph (A)."

(B) Subparagraph (A) of section 6652(a)(1) is amended—

(i) by striking out clauses (ii), (iii), and (iv) and by redesignating clauses (v) and (vi) as clauses (ii) and (iii), respectively, and

(ii) by striking out "6042(e), 6044(f), 6049(e), or" in clause (iii), as so redesignated.

(C) Paragraph (3) of section 6652(a) (as redesignated by subparagraph (A)) is amended by striking out "paragraph (1)" in the matter preceding subparagraph (A) and in subparagraph (A) and inserting in lieu thereof "paragraph (1) or (2)".

(2) SECTION 6678.—Section 6678 (relating to failure to furnish certain statements) is amended—

(A) by inserting "(a) IN GENERAL.—" before "In the case of",

(B) by striking out "6042(c), 6044(e), 6045(b), 6049(c)," in paragraph (1) and inserting in lieu thereof "6045(b),",

(C) by striking out "6042(a)(1), 6044(a)(1), 6045(a), 6049(a)," in paragraph (1) and inserting in lieu thereof "6045(a),", and

(D) by adding at the end thereof the following new subsection:

"(b) FAILURE TO FILE INTEREST AND DIVIDEND STATEMENTS.—

"(1) IN GENERAL.—In the case of any person who fails to furnish a statement under section 6042(c), 6044(e), or 6049(c) on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), or 6049(a), respectively, such person shall pay a penalty of $50 for each such failure unless it is shown that such person exercised due diligence in attempting to satisfy the requirement with respect to such statement.

"(2) SELF-ASSESSMENT.—Any penalty imposed under paragraph (1) on any person—

"(A) for purposes of this subtitle, shall be treated as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such statement is required.

"(3) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assesment or collection of any penalty imposed by paragraph (1)."

SEC. 106. PRESUMPTION THAT NEGLIGENCE PENALTY APPLIES TO UNDERPAYMENTS ATTRIBUTABLE TO FAILURE TO REPORT CERTAIN INTEREST AND DIVIDEND PAYMENTS.

Section 6653 (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULE IN THE CASE OF INTEREST OR DIVIDEND PAYMENTS.—

"(1) IN GENERAL.—If—

"(A) any payment is shown on a return made by the payor under section 6042(a), 6044(a), or 6049(a), and

"(B) the payee fails to include any portion of such payment in gross income,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

"(2) PENALTY TO APPLY ONLY TO PORTION OF UNDERPAYMENT DUE TO FAILURE TO INCLUDE INTEREST OR DIVIDEND PAYMENT.—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by paragraph (1) of subsection (a) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1)."

SEC. 107. CIVIL AND CRIMINAL PENALTIES ON FALSE INFORMATION WITH RESPECT TO BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.

(a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to civil penalty for false information with respect to withholding) is amended by inserting "or section 3406" after "section 3402".

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

(1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.—If any individual willfully makes—

"(1) any false certification or affirmation on any statement required by a payor in order to meet the due diligence requirements of section 6676(b), or

"(2) a false certification under paragraph (1) or (2)(C) of section 3406(d),

then such individual shall, in lieu of any other penalty provided by law (except the penalty provided by section 6682), upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

SEC. 108. SEPARATE MAILING OF 1099.

(a) INTEREST.—Section 6049(c)(2) (relating to time statement must be furnished) is amended to read as follows:

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(b) DIVIDENDS.—The second sentence of section 6042(c) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations."

(c) PATRONAGE DIVIDENDS.—The second sentence of section 6044(e) (relating to time statement must be furnished) is amended to read as follows: "The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, and shall be in such form as the Secretary may prescribe by regulations."

SEC. 109. RETURNS ON MAGNETIC TAPE.

(a) CERTAIN RETURNS MUST BE ON MAGNETIC TAPE.—Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended to read as follows:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with such a filing requirement.

"(2) CERTAIN RETURNS MUST BE FILED ON MAGNETIC MEDIA.—

"(A) IN GENERAL.—In the case of any person who is required to file returns under sections 6042(a), 6044(a), and 6049(a) with respect to more than 50 payees for any calendar year, all returns under such sections shall be on magnetic media.

"(B) HARDSHIP EXCEPTION.—Subparagraph (A) shall not apply to any person for any period if such person establishes to the satisfaction of the Secretary that its application to such person for such period would result in undue hardship."

(b) STUDY OF WAGE RETURNS ON MAGNETIC TAPE.—

(1) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of the feasibility of requiring persons to file, on magnetic media, returns under section 6011 of the Internal Revenue Code of 1954 containing information described in section 6051(a) of such Code (relating to W-2's).

(2) REPORT TO CONGRESS.—Not later than July 1, 1984, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under paragraph (1).

SEC. 110. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply with respect to payments made after December 31, 1983.

(b) SECTION 102.—The amendments made by section 102 shall take effect as of the close of June 30, 1983.

(c) SECTIONS 104(b) AND 107.—The amendments made by sections 104(b) and 107 shall take effect on the date of the enactment of this Act.

TITLE II—CARIBBEAN BASIN INITIATIVE

SEC. 201. SHORT TITLE.

This title may be cited as the "Caribbean Basin Economic Recovery Act".

Subtitle A—Duty-Free Treatment

SEC. 211. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 212. BENEFICIARY COUNTRY.

(a)(1) For purposes of this title—

(A) The term "beneficiary country" means any country listed in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title. Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(B) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(C) The term "TSUS" means Tariff Schedules of the United States (19 U.S.C. 1202).

(2) If the President has designated any country as a beneficiary country for purposes of this title, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(b) In designating countries as "beneficiary countries" under this title the President shall consider only the following countries and territories or successor political entities:

Anguilla
Antigua and Barbuda
Bahamas, The
Barbados
Belize
Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Nicaragua
Panama
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Cayman Islands
Montserrat
Netherlands Antilles
Saint Christopher-Nevis
Turks and Caicos Islands
Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other con-

trolled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) produced, processed, or transported in such country from entering the United States unlawfully; and

(7) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens.

Paragraphs (1), (2), (3), and (5) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development;

(8) the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(11) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

(d) General headnote 3(a) of the TSUS (relating to products of the insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) Subject to the provisions in section 213 of the Caribbean Basin Economic Recovery Act, articles which are imported from

insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act.".

(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

SEC. 213. ELIGIBLE ARTICLES.

(a)(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(b) The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in part 10 of schedule 4 of the TSUS; or

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which TSUS column 2 rates of duty apply.

(c)(1) As used in this subsection—

(A) The term "sugar and beef products" means—

(i) sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS, and

(ii) articles of beef or veal, however provided for in subpart B of part 2 of schedule 1 of the TSUS.

(B) The term "Plan" means a stable food production plan that consists of measures and proposals designed to ensure that the present level of food production in, and the nutritional level of the population of, a beneficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this title to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to—

(i) the current levels of food production and nutritional health of the population;

(ii) current level of production and export of sugar and beef products;

(iii) expected increases in production and export of sugar and beef products as a result of the duty-free access to the United States market provided under this title;

(iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of stable food production; and

(v) proposals for a system to monitor the impact of such duty-free access on stable food production and land use and land ownership patterns.

(2) Duty-free treatment extended under this title to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if—

(A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section 212, does not submit a Plan to the President for evaluation;

(B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or

(C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.

(3) Before the President suspends duty-free treatment by reason of paragraph (2) (A), (B), or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country.

(4) The President shall monitor on a biennial basis the operation of the Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each biennium, that—

(A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented; and

(B) evaluates the results of such implementation.

(5) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.

(d) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to protect a price-support program for sugar beets and sugarcane, the importation and duty-free treatment of sugars, sirups, and molasses classified under items 155.20 and 155.30 of the TSUS shall be governed in the following manner:

(1)(A) For all beneficiary countries, except those subject to subparagraph (B) and paragraph (2), duty-free treatment shall be provided in the same manner as it is provided pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), at the time of the effective date of this title; except that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in

section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions.

(B) as an alternative to subparagraph (A), the President may at the request of a beneficiary country not subject to paragraph (2) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups, and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups, and molasses entered from that country.

(2) For the following countries whose exports of sugar, sirups, and molasses in 1981 were not eligible for duty-free treatment because of the operation of section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups, and molasses which may be entered in any calendar year shall be limited to no more than the quantity specified below:

Metric tons:	
Dominican Republic	*780,000*
Guatemala	*210,000*
Panama	*160,000*

Such sugar, sirups, and molasses shall be admitted free of duty, except as provided for in paragraph (3).

(3) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under paragraph (1)(B) or (2) if he determines such action will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty free treatment for all or part of the quantity of sugar, sirups, and molasses permitted to be entered by paragraphs (1)(B) and (2) if such action is necessary to protect the price-support program for sugar beets and sugarcane.

(4) Any quantitative limitation imposed on a beneficiary country under paragraphs (1)(B) and (2) shall apply only to the extent that such limitation permits a lesser quantity of sugar, sirups, and molasses to be entered from that country than the quantity that would be permitted to be entered under any other provision of law.

(e)(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed pursuant to section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the International Trade Commission to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be made under subsection (a) and (c) of section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under section 201(b) of such Act that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any proclamation issued pursuant to section 203 of the Trade Act of 1974 that is in effect when duty-free treatment pursuant to section 101 of this title is proclaimed shall remain in effect until modified or terminated.

(B) If any article is subject to import relief at the time duty-free treatment is proclaimed pursuant to section 211, the President may reduce or terminate the application of such import relief to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

(f)(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the proclamation of import relief pursuant to section 202(a)(1) of the Trade Act of 1974,

(B) on the day the President makes a determination pursuant to section 203(b)(2) of such Act not to impose import relief,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants provided for in subpart A of part 6 of schedule 1 of the TSUS;

(B) fresh or chilled vegetables provided for in items 135.10 through 138.42 of the TSUS;

(C) fresh mushrooms provided for in item 144.10 of the TSUS;

(D) fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(E) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(F) concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.

(g) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 214. MEASURES FOR PUERTO RICO AND UNITED STATES INSULAR POSSESSIONS.

(a) Effective with respect to articles entered on or after the effective date of this Act, general headnote 3(a) of the TSUS is amended—

(1) by amending clause (i)—

(A) by striking out "50 percent" and inserting in lieu thereof "70 percent", and

(B) by inserting after "total value", "(or more than 50 percent of their total value with respect to articles described in section 213(b) of the Caribbean Basin Economic Recovery Act)"; and

(2) by amending clause (ii) by striking out "50 percent" and inserting in lieu thereof "70 percent".

(b) Item 813.31 of the TSUS is amended by striking out "4 liters" and inserting in lieu thereof "5 liters", and by inserting after "United States,", "and not more than 4 liters of which shall have been produced elsewhere than in such insular possessions,".

(c) If the sum of the amounts of taxes covered into the treasuries of Puerto Rico or the United States Virgin Islands pursuant to section 7652(c) of the Internal Revenue Code of 1954 is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensation measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title. The President shall submit a report to the Congress on the measures he takes.

(d) Section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582) is repealed.

(e) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) of coffee imported into Puerto Rico.

(f) For purposes of chapter 1 of title II of the Trade Act of 1974, the term "industry" shall include producers located in the United States insular possessions.

(g) Any discharge from a point source in the United States Virgin Islands in existence on the date of the enactment of this subsection which discharge is attributable to the manufacture of rum (as defined in paragraphs (3) of section 7652(c) of the Internal Revenue Code of 1954) shall not be subject to the requirements of section 301 (other than toxic pollutant discharges), section 306 or section 403 of the Federal Water Pollution Control Act if—

(1) such discharge occurs at least one thousand five hundred feet into the territorial sea from the line of ordinary low water from that portion of the coast which is in direct contact with the sea, and

(2) the Governor of the United States Virgin Islands determines that such discharge will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

SEC. 215. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THIS ACT.

(a) The United States International Trade Commission (hereinafter in this section referred to as the "Commission" shall prepare, and submit to the Congress and to the President, a report regarding the economic impact of this Act on United States industries and consumers during—

(1) the twenty-four-month period beginning with the date of enactment of this Act; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 216(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b)(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding—

(A) the actual effect, during the period covered by the report of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable—

(A) analyze the production, trade and consumption of United States products affected by this Act, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c)(1) Each report required under subsection (a) shall be submitted to the Congress and to the President before the close of the nine-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

SEC. 216. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consulation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact which the implementation of the provisions of this title have with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

SEC. 217. FEASIBILITY STUDY REGARDING A CARIBBEAN TRADE INSTITUTE.

(a) The Secretary of State shall prepare a study regarding the feasibility of establishing a Caribbean Trade Institute in Harlem, New York City, supported by a combination of Federal and private funds.

(b) The study shall include, but not be limited to, an assessment of the extent to which, and the means by which, a Caribbean Trade Institute could—

(1) facilitate cooperation between public and private entities interested in engaging in or furthering Caribbean trade;

(2) serve as a catalyst for greater cultural exchange between the United States and Caribbean nations; and

(3) facilitate expansion of job opportunities both in the United States and the Caribbean Basin.

The study shall also include suggestions regarding the organization and staffing of such an institute.

(c) The study required by this section shall be submitted to the Congress within six months after the date of the enactment of this Act.

SEC. 218. EFFECTIVE DATE OF SUBTITLE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) EFFECTIVE DATE.—This subtitle shall take effect on the date of the enactment of this Act.

(b) TERMINATION OF DUTY-FREE TREATMENT.—No duty-free treatment extended to beneficiary countries under this subtitle shall remain in effect after September 30, 1995.

Subtitle B—Tax Provisions

SEC. 221. PAYMENT OF EXCISE TAXES COLLECTED ON RUM TO PUERTO RICO AND THE UNITED STATES VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by inserting after subsection (b) the following new subsection:

"(c) SHIPMENTS OF RUM TO THE UNITED STATES.—

"(1) EXCISE TAXES ON RUM COVERED INTO TREASURIES OF PUERTO RICO AND VIRGIN ISLANDS.—All taxes collected under section 5001(a)(1) on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

"(2) SECRETARY PRESCRIBES FORMULA.—The Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for transferring such tax collections.

"(3) RUM DEFINED.—For purposes of this subsection, the term 'rum' means any article classified under item 169,13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202).

"(4) COORDINATION WITH SUBSECTIONS (a) AND (b).—Paragraph (1) shall not apply with respect to any rum subject to tax under subsection (a) or (b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles imported into the United States after June 30, 1983.

SEC. 222. TREATMENT OF CARIBBEAN CONVENTIONS, ETC.

(a) GENERAL RULE.—Subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF CONVENTIONS IN CERTAIN CARIBBEAN COUNTRIES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'North American area' includes, with respect to any convention, seminar, or similar meeting, any beneficiary country if (as of the time such meeting begins)—

"(i) there is in effect a bilateral or multilateral agreement described in subparagraph (C) between such country and the United States providing for the exchange of information between the United States and such country, and

"(ii) there is not in effect a finding by the Secretary that the tax laws of such country discriminate against conventions held in the United States.

"(B) BENEFICIARY COUNTRY.—For purposes of this paragraph, the term 'beneficiary country' has the meaning given to such term by section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act; except that such term shall include Bermuda.

"(C) AUTHORITY TO CONCLUDE EXCHANGE OF INFORMATION AGREEMENTS.—

"(i) IN GENERAL.—The Secretary is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country. Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary or appropriate to carry out and enforce the tax laws of the United States and the beneficiary country (whether criminal or civil proceedings), including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration or oversight of, or in the determination of appeals in respect of, taxes of the United States or the beneficiary country and will be used by such persons or authorities only for such purposes.

"(ii) NONDISCLOSURE OF QUALIFIED CONFIDENTIAL INFORMATION SOUGHT FOR CIVIL TAX PURPOSES.—An exchange of information agreement need not provide for the exchange of qualified confidential information which is sought only for civil tax purposes if—

"(I) the Secretary of the Treasury, after making all reasonable efforts to negotiate an agreement which includes the exchange of such information, determines that such an agreement cannot be negotiated but that the agreement which was negotiated will significantly assist in the administration and enforcement of the tax laws of the United States, and

"(II) the President determines that the agreement as negotiated is in the national security interest of the United States.

"(iii) QUALIFIED CONFIDENTIAL INFORMATION DEFINED.—For purposes of this subparagraph, the term 'qualified confidential information' means information which is subject to the nondisclosure provisions of any local law of the beneficiary country regarding bank secrecy or ownership of bearer shares.

"(iv) CIVIL TAX PURPOSES.—For purposes of this subparagraph, the determination of whether information

is sought only for civil tax purposes shall be made by the requesting party.

"(D) COORDINATION WITH SECTION 6103.—Any exchange of information agreement negotiated under subparagraph (C) shall be treated as an income tax convention for purposes of section 6103(k)(4).

"(E) DETERMINATIONS PUBLISHED IN THE FEDERAL REGISTER.—The following shall be published in the Federal Register—

"(i) any determination by the President under subparagraph (C)(ii) (including the reasons for such determination),

"(ii) any determination by the Secretary under subparagraph (C)(ii) (including the reasons for such determination), and

"(iii) any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to conventions, seminars, or other meetings which begin after June 30, 1983.

SEC. 223. REPORT WITH RESPECT TO USE OF CARIBBEAN BASIN TAX HAVENS.

The Secretary of the Treasury shall, not later than ninety days after the date of the enactment of this Act, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) the level at which Caribbean Basin tax havens are being used to evade or avoid Federal taxes, and the effect on Federal revenues of such use,

(2) any information he may have on the relationship of such use to drug trafficking and other criminal activities, and

(3) current antitax haven enforcement activities of the Department of the Treasury.

Subtitle C—Sense of the Congress Regarding Sugar Imports

SEC. 231. SUGAR IMPORTS.

It is the sense of the Congress that sugar from any Communist country in the Caribbean Basin or in Central America should not be imported into the United States.

And the House agree to the same.

Amend the title of the bill so as to read: "A bill to promote economic revitalization and facilitate expansion of economic opportu-

nities in the Caribbean Basin region, to provide for backup withholding of tax from interest and dividends, and for other purposes."

And the House agree to the same.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL B. LONG,
SPARK M. MATSUNAGA,
LLOYD BENTSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 2973) to repeal the withholding of tax from interest and dividends, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment to the text of the bill which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

I. INTEREST AND DIVIDENDS TAX COMPLIANCE

(Title I of the Conference Agreement)

1. Withholding on Interest, Dividends, and Patronage Dividends

Present Law

Withholding.—Under present law, withholding at the rate of 10 percent is required on any payment or credit of interest (including original issue discount), dividends, or patronage dividends. This requirement is effective for amounts paid or credited after July 1, 1983, except that under statutory authority granted by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Secretary of the Treasury has delayed the application of withholding until after July 31, 1983, generally, and until after December 31, 1983, in the case of original issue discount.

Estimated taxes.—In general, individuals who have an estimated tax liability of $300 or more in excess of amounts withheld for their taxable year ending in 1983 must pay estimated taxes. Depending upon when this requirement to pay estimated taxes arises, the tax must be paid in up to four equal installments during the taxable year. In general, credits against tax (including credits for tax withheld on interest, dividends, or patronage dividends) reduce equally each installment of estimated taxes required to be made. If estimated taxes are underpaid, a penalty is imposed equal to the interest which would accrue on the underpayment for the period of the underpayment.

House Bill

Withholding.—The House bill repeals withholding on interest, dividends, and patronage dividends, effective as if it had never been enacted.

Estimated taxes.—The House bill provides that, in determining the amount of any estimated tax penalties otherwise applicable for pre-July 1983 installments, the taxpayer will be given credit for amounts which would have been withheld had withholding on interest, dividends, and patronage dividends (mandatory withholding) not been repealed. No make up of estimated taxes underpaid because of the repeal of mandatory withholding is required prior to the due date of the income tax return.

Senate Amendment

Withholding.—The Senate amendment follows the House bill, except that mandatory withholding is repealed effective for taxable years beginning after 1982.

Estimated taxes.—The Senate amendment follows the House bill but also provides that the estimated tax relief provision does not

apply unless the taxpayer satisfies any pre-July 1983 underpayment of estimated tax in full by the first installment due after July 1, which generally is due on September 15.

Conference Agreement

Withholding.—The conference agreement follows the House bill and the Senate amendment. Thus, withholding is repealed as of the close of June 30, 1983. In addition, to protect taxpayers who actually withheld from interest, dividend, or patronage dividend payments under the mandatory withholding rules, the conference agreement provides that the payor may elect to have the repeal apply to amounts which are, in fact, deducted and withheld before September 2, 1983. The Secretary will provide for procedures (by press release, revenue procedure, or regulation) under which payors may elect to refund withheld taxes to payees and receive a return of deposited funds from the Treasury. The conferees expect that where this election is made the Treasury will act promptly to return deposited funds.

Estimated taxes.—The conference agreement follows the House bill, except that a clarifying change extends relief with respect to all amounts subject to exceptions to mandatory withholding.

2. General Accounting Office (GAO) Study

Present Law

No provision.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the GAO (relying on information from the Internal Revenue Service) is directed to study collection efforts with respect to income on interest, dividends, and patronage dividends and to recommend improvements in such efforts. In addition, the GAO is directed to determine the percentage compliance rate with respect to such income which the GAO reasonably estimates was received by individuals during taxable years beginning in 1985. This report must be made to the Congress not later than January 1, 1988.

Conference Agreement

The Conference agreement follows the House bill.

3. Backup Withholding

Present Law

Under present law, certain payments made after 1983 are subject to backup withholding at a rate of 15 percent if (1) the payee fails to furnish a taxpayer identification number (TIN) to the payor, or (2) the Secretary of the Treasury notifies the payor that the TIN furnished by a payee is incorrect. Payments subject to these rules

are payments required to be shown on an information return relating to information at the source (e.g., compensation or rents), payments to non-employees, payments of dividends or interest, broker transactions, and certain fishing boat operators.

If the payee fails to furnish a TIN (or furnishes a TIN with an incorrect number of digits—an "obviously incorrect" TIN), backup withholding applies to any payment made after the account is opened. If a payee furnishes a TIN to the payor, and the Secretary later notifies the payor that the number supplied is incorrect, backup withholding is mandatory with respect to any payment made after the close of the 15th day after the day on which the payor was notified that the TIN is incorrect (although the payor may begin withholding at any time after notice). If a taxpayer subject to backup withholding furnishes a TIN (or a new TIN) to the payor, the payor has 15 days to correct its records and cease withholding.

If the payee twice furnishes an incorrect number to a payor, the payor must ignore any further TINs received from the payee until the day on which the payor is notified by the Secretary that a correct TIN has been supplied. A 15-day grace period then applies in which the payor must cease withholding.

In general, payors are allowed 15 days in which to implement backup withholding triggered by a notice from the Internal Revenue Service that the payee supplied an incorrect TIN (unless the payor elects to withhold earlier).

This backup withholding does not apply to amounts subject to withholding under other provisions of the Code, including mandatory withholding on interest, dividends, and patronage dividends.

House Bill

No provision.

Senate Amendment

Rate of backup withholding.—The rate of backup withholding on interest, dividend, and patronage dividend payments is increased from 15 to 20 percent. The rate of backup withholding with respect to other types of payments is not increased.

Underreporting or failure to report interest, dividends, or patronage dividends.—Backup withholding is extended to include payments of interest, dividends, and patronage dividends to persons who are determined by the Secretary to have failed to report in excess of $50 of interest, dividends, or patronage dividends, or to have failed to file a return in which in excess of $50 of such income was required to be shown. The Secretary has authority to apply backup withholding to failures to report or underreporting of less than $50 of such income.

Before a payor can be notified to begin backup withholding because of a failure to report interest, dividend, or patronage dividend income, the Secretary must give the payee at least 90-days' written notice. During that time, the payee has the opportunity to correct the condition which is causing the Secretary to institute backup withholding procedures.

To prevent imposition of backup withholding (because of underreporting or failure to report) or to terminate backup withholding once it is imposed, the taxpayer must show that (1) there was no failure to report any interest, dividend, or patronage dividend income, (2) any failure has been corrected (e.g., by payment of the tax and any penalties plus interest), (3) imposition of backup withholding would cause undue hardship, and that it is unlikely that such failure will occur again, or (4) there is a bona fide dispute with the Secretary with respect to the failure to report or underreporting of such income. If the Secretary determines that backup withholding should not commence, then he will not send the notice to the payor. If backup withholding has commenced and the Secretary determines that the payee is not subject to further backup withholding, the Secretary must promptly provide the payee with a written certification that backup withholding is to cease and notify the payee's payors to cease backup withholding.

In order to apply backup withholding to newly opened accounts of persons subject to backup withholding, the Secretary may require payees of interest, dividend, or patronage dividend income to identify to the Secretary all payors from which they receive such income.

Backup withholding certificates.—Under the Senate amendment, if a payee of interest, dividends, or patronage dividends fails to certify to the payor under penalty of perjury that he is not subject to backup withholding, he will be subject to backup withholding on such payments. This rule only applies, however, with respect to instruments, memberships, contracts, accounts, etc., acquired or entered into after 1983. Withholding applies to any payment of interest, dividend, or patronage dividend income made during the period for which no certificate has been provided.

Special rules for tradable securities.—In the case of a disposition of an instrument which is part of an issue any part of which is traded on an established securities market or regularly quoted by brokers or dealers (i.e., a readily tradable instrument) that is not held in street name, failure by the purchaser to provide the retail broker with the purchaser's certification under penalty of perjury that he is not subject to backup withholding will also result in the imposition of backup withholding. Within 15 days after the disposition (or in the case of a sale or exchange, within 15 days of the settlement date), the retail broker must notify the payor of the readily tradable instrument of the failure by the purchaser to certify his nonwithholding status. Withholding applies to any payment of interest, dividends, or patronage dividends made after the 15th day after the disposition (or settlement) date. This rule applies to instruments acquired after 1983.

Validation of identification numbers.—With respect to backup withholding in general (including backup withholding with respect to interest, dividends, and patronage dividends), the Secretary may prescribe regulations requiring payors to submit to the Secretary the TIN or name of any payee to enable the Secretary to compare such number or name with the confidential list of TINs or names maintained by the Secretary and with respect to which backup withholding is required. If the name or TIN of a payee submitted is on the list, then the Secretary must notify the payor to backup

withhold on that payee. The payor may use the information received from the Secretary solely for the purpose of backup withholding on that payee. If the Secretary prescribes such regulations, he may terminate the requirement that payees certify their nonwithholding status.

Effective date.—The backup withholding amendments are effective with respect to payments of interest, dividends, or patronage dividends made after 1983.

Conference Agreement

In general.—The conference agreement adopts a modified form of the Senate amendment relating to backup withholding. Under the conference agreement, the rate of withholding on all payments subject to backup withholding (reportable payments) is set at 20 percent. Thus, the 20-percent rate applies to, for example, payments for services or rents reportable under sections 6041 and 6041A and amounts reportable under section 6045 as well as payments of interest, dividends, and patronage dividends.

Under the conference agreement, backup withholding is required with respect to reportable payments of interest (including original issue discount), dividends, and patronage dividends if

(1) the payee fails to furnish a TIN in the required manner,

(2) the Secretary notifies the payor that the payee furnished an incorrect TIN,

(3) the Secretary notifies the payor that backup withholding should be commenced in the circumstance in which the payee failed to report properly interest, dividends, or patronage dividends, or

(4) when required to do so, the payee fails to certify, under penalties for perjury, that the payee is not subject to backup withholding.

Failures to provide correct TINs.—With respect to the requirement that the payee furnish his or her TIN to the payor, the conference agreement distinguishes between pre-1984 accounts and post-1983 accounts. With respect to pre-1984 accounts, the conference agreement requires that the payor request the payee's TIN and correctly provide that number on information returns. If, however, no number has been provided, backup withholding will apply until a number is provided.

Under the agreement, TINs must be provided to payors in the manner required by regulations. With respect to post-1983 accounts, the conferees intend that the TIN must be provided to the payor under penalties of perjury. The accounts subject to this requirement are obligations, deposits, certificates, shares, memberships, contracts or other instruments established or acquired after December 31, 1983. No certification is required, however, in the case of an acquisition of a readily tradable instrument in a transaction between parties unrelated to the payor if the parties act without the assistance of a broker. Under regulations, a broker dealing directly with the payee may be required to notify payors with respect to transactions through a new brokerage account when a payee fails to provide a certified TIN. Alternatively, the Treasury may preclude transmission of non-certified TINs. In either event,

backup withholding would result until a certified TIN is provided. The conferees intend that the term acquisition be broadly defined in regulations to include, for example, a transfer of a readily tradable instrument from street name to the payee's name.

Certification is not required in the case of redemptions of coupons on bearer bonds, savings bonds of the United States, or similar instruments.

Certification is not required in the case of an investment or deposit made through an account or other ongoing relationship established or acquired prior to 1984. Any investment or deposit made through a brokerage relationship which was established before 1984 is a pre-1984 account if, at any time during 1983, the brokerage firm bought or sold for the payee, or held securities on behalf of the payee as a nominee. Thus, for example, if a taxpayer purchases a negotiable instrument in 1984 through a brokerage firm with whom he did business in the manner indicated during 1983, the taxpayer is not required to provide a sworn TIN certification. The brokerage firm, however, must nonetheless have the TIN provided by the taxpayer in its records, and supply this number to the payor in order to prevent backup withholding on the payee. Similarly, the purchase of additional shares in a credit union under an existing account relationship or the transfer of funds to a new account automatically under the terms of an existing contract would not constitute a post-1983 account. In determining whether shares of stock or securities are acquired after 1983, any stock or securities acquired after 1983 as a stock dividend will be considered as having been acquired before 1984.

It is anticipated that where a TIN certificate is required, the certification can be made on any document relating to the transaction, such as the signature card for an account.

With respect to notification of incorrect TINs by the Secretary, the conference agreement generally retains present law.

Failures to properly report.—With respect to notifications by the Secretary that the payee has failed to properly report interest, dividends, or patronage dividends, the conference agreement generally follows the Senate amendment with six modifications. First, the $50 threshold is deleted and the Secretary is not required to use backup withholding in all cases. Rather, the conference agreement specifically permits the Secretary to use existing collection tools or backup withholding, or both, as the Secretary determines to be appropriate in a given case.

Second, under the conference agreement, the Internal Revenue Service may not instruct payors to begin backup withholding until at least four notices with respect to the failure to report income have been mailed to the payee over a period of at least 120 days. In addition, in the case of taxpayers who filed a return, any deficiency in tax attributable to the failure must have been assessed before notification is sent to the payors. If a taxpayer files a Tax Court petition primarily for the purpose of delaying backup withholding, such a Tax Court petition would constitute a frivolous position subject to the $5,000 penalty imposed by section 6673.

Third, once payors are notified to begin backup withholding, that withholding will, in the usual case, remain in effect until at least the beginning of the next year. Backup withholding generally

ceases on January 1 if before the preceding December 2 the Secretary notified the payor and the payee that the backup withholding is no longer required. The Secretary must provide these notices to all payees who resolve, by October 15, the problem which caused them to be subject to backup withholding. It is anticipated by the conferees that the Secretary will take the appropriate action necessary to notify payors prior to December 2 in the case of payees who have resolved their problem by October 15 in order to insure that backup withholding on such payees will terminate by the following January 1. The conference agreement permits the Secretary to terminate backup withholding at any time in cases in which there was no failure to report or in hardship cases (such as where the taxpayer cannot pay immediately but backup withholding at the 20-percent rate would cause significant overwithholding). Further, in accordance with what the conferees understand to be existing Treasury practice, a payment of tax made voluntarily after expiration of the statute of limitations on collections has run will be treated as a payment of tax and relieve the taxpayer of backup withholding.

Fourth, the period of time in which a payor must begin backup withholding (or cease backup withholding) after receiving notice from the Internal Revenue Service is extended to 30 days. If backup withholding is imposed because of a failure to certify non-withholding status in the case of a readily tradable instrument traded through a broker, withholding must also begin within 30 days after the payor receives notice from the broker. In each case, the payor may elect to begin or stop withholding on shorter notice.

Fifth, the Secretary is granted authority to exempt from backup withholding any payment which is less than $10, and if made on an annual basis, would be less than $10.

Finally, the conference agreement provides that, with respect to any payment by a cooperative that is reportable under section 6044, the payment is a reportable payment subject to backup withholding only to the extent of money paid. However, if backup withholding is imposed with respect to such a payment because of a failure to file or to include any such reportable payment in income, or because of a failure to file a certificate of non-withholding status, the payment is a reportable payment subject to backup withholding only if 50 percent or more of such payment is in money and only to the extent of money paid. For this purpose the term "payment" includes any payment, distribution, or allocation, etc., reportable under section 6044. Further, for this purpose, "money" includes qualified checks (whether or not cashed).

Failures to certify non-withholding status.—With respect to failures to certify that the payee is not subject to backup withholding, the conference agreement requires certification only in those circumstances in which certification of TINs is required.

Under the conference agreement, a payor who withholds tax under the backup withholding provisions is required to report withheld amounts to the Internal Revenue Service and the payee on the information return and statement containing the payments to which the withholding relates. The payee is allowed a credit for withheld amounts with respect to the taxable year in which the payment subject to withholding is received.

The conference agreement deletes the authority granted to the Secretary under the Senate amendment to require, by regulations, that payees submit lists of all their payees' names or taxpayer identification numbers.

Effective date.—The amendments made by the conference agreement apply to payments made after December 31, 1983.

4. Penalties Related to Failure to Backup Withhold

Present Law

Under present law, any payor who fails to deduct and withhold an amount of interest, dividends, or patronage dividends is liable for the payment of the tax required to be deducted and withheld (unless he can show that such tax was paid by the recipient), and a 100-percent penalty which is applied, in practice, in only limited circumstances. In addition, the payor may be subject to a criminal penalty for failure to deduct and withhold.

House Bill

No provision.

Senate Amendment

Failure to withhold.—Under the Senate amendment, any payor of interest, dividends, or patronage dividends who fails to deduct and withhold backup withholding amounts is subject to a penalty of $100 per failure, unless such failure is due to reasonable cause and not willful neglect. This penalty applies in addition to the penalties provided under present law.

Failure to transmit information.—Any retail broker who intentionally fails to provide a payor with a TIN or backup withholding status report when obligated to do so is subject to a penalty of $500 per failure.

False certificate.—If the Secretary establishes that any individual willfully made a false certification or affirmation under penalty of perjury with respect to a TIN or backup withholding, a penalty of $1,000 is imposed for each such certification or affirmation. This penalty is imposed in addition to all other penalties imposed by law.

Unauthorized use of information.—If any payor uses information that a payee is subject to backup withholding for any purpose other than to comply with the backup withholding requirement, that payor will be subject to civil liability for misuse of tax return information.

Effective date.—The penalties for failure to transmit information and for false certification apply for taxable years beginning after 1982. The other provision applies after 1983.

Conference Agreement

Failure to withhold.—The conference agreement follows the House bill.

Failure to transmit information.—The conference agreement follows the Senate amendment.

False certificates.—The conference agreement provides that the civil and criminal penalties for a false backup withholding or TIN certificate will be the same as those for false wage withholding certificates.

Unauthorized use of information.—The conference agreement follows the Senate amendment. Thus, for example, a payor could not use this information, including a payee's inability to certify that he is not subject to backup withholding, in deciding whether to extend credit to the payee, to surcharge an account, to close an account, or to refuse to open an account. The conferees intend that a good faith but erroneous interpretation of the permissible uses of information under the backup withholding rules will not result in liability.

Effective dates.—The provisions of the conference agreement apply after December 31, 1983 except that the provision relating to unauthorized use of information is effective upon enactment.

5. Penalty on Payor for Failure to Report Taxpayer Identification Numbers (TINs)

Present Law

Under present law, an assessable penalty of $50 per failure is imposed on any person who fails (when required to do so) to furnish his TIN to another person or to include the TIN of another person on any return with respect to such person. An assessable penalty of $5 per failure is imposed on any person who fails to include his own TIN in any return when required to do so by regulations. In either case, the total penalties imposed for any calendar year may not exceed $50,000.

Under present law, the civil penalty on payees for failure to furnish their TIN to another person, or on payors for failure to include the TIN of a payee on a return, are assessable penalties. Thus, the deficiency procedures do not apply and the penalties must be paid on notice and demand.

Under present law, brokers (including dealers, barter exchanges, and other persons who regularly act as middlemen with respect to property or services for profit) are required to make a return with the Secretary, according to regulations, showing such information (including TINs) as the Secretary may require.

House Bill

No provision.

Senate Amendment

Penalty on payor for failure to obtain TIN.—Under the Senate amendment, a self-assessed penalty is imposed on any person who is required to include the TIN of any payee of interest, dividends, or patronage dividends on any information return (filed with the Secretary) or statement (furnished to a payee) with respect to such payment if that person (1) fails to include such number or (2) includes an incorrect number on such return. This penalty is $50 per failure, without any limitation. If the number of failures constitutes substantial noncompliance, then the penalty is $100 per fail-

ure, with no limitation. For this purpose, substantial noncompliance exists if the number of failures for any calendar year to provide a correct TIN, file returns, and furnish statements, exceeds the lesser of 10,000 or 5 percent of the total number of returns or statements which are required to be filed with respect to the payment of interest, dividends, or patronage dividends by such payor for the calendar year.

No penalty is imposed under this provision if (1) the TIN included on the return or statement is the TIN provided by the payee to the payor under penalty of perjury (unless the number has an incorrect number of digits); (2) the payee is waiting for a TIN from the Secretary; (3) with respect to existing accounts, the payor exercises due diligence in obtaining the correct TIN; or (4) in the case of a readily tradable instrument, the payor relies on a number provided by a retail broker (or other party to the transaction) or (if no number is provided by the retail broker) the payor uses due diligence to obtain the number.

Payor "due diligence"—general rule.—In the case of existing accounts, the printed explanation by the Senate committee states that due diligence will be considered to have been exercised by the payor if a variety of detailed objective requirements are met. First, the payor must have withheld tax under the backup withholding provisions if required to do so. Second, the payor must mail to the payee a notice containing certain specific information: for example, what a taxpayer identification number is, the requirement that the payee provide the payor with a correct TIN, a description of the penalties which may be imposed on a payee not providing a correct TIN, the possibility of backup withholding, and the opportunity for the payee to provide a correct TIN under penalty of perjury.

The printed explanation by the Senate committee states that this notice must be provided a particular number of times during the calendar year, depending upon the calendar year and the particular failure at issue. During calendar year 1983, a notice must be provided three times if the payee provides the payor with no TIN (or a TIN with the incorrect number of digits). In any other case, such notice must be provided two or three times, depending upon the number of regular mailings made to the payee during the period beginning 31 days after the date of enactment and before the end of 1983. After 1983, such notice must be provided at least once yearly. In any event, the first notice required to be provided to the payee in 1983 (and the notice required in 1984) must be by a separate first-class mailing, including a penalty of perjury certificate by which the payee can correct his TIN, and a postage prepaid envelope. All notices may cease when a TIN is supplied under penalty of perjury. This form of due diligence applies only to existing accounts, etc. For this purpose, an account, or other debt instrument, stock, or cooperative membership or contract is considered "existing" if it is extant on, or is entered into before, the 31st day after the date of enactment.

Retail broker must obtain TIN.—Under the Senate amendment, a retail broker must generally obtain the TIN (under penalty of perjury) of any purchaser taking delivery of a readily tradable instrument. Having obtained a TIN with respect to any sale, exchange, or other disposition of any readily tradable instrument, the

purchasing broker must provide the payor of any interest or dividends with respect to that stock or debt instrument the TIN obtained by the broker from the purchaser under penalty of perjury. The payor may rely on such TIN and is not subject to a penalty if the TIN turns out to be incorrect.

If the payor does not receive a TIN from the retail broker (or other person), the payor is subject to the penalty for failure to include a TIN on any return or statement unless the payor both commences backup withholding and acts with due diligence to obtain a correct TIN from the payee.

Payor "due diligence"—retail broker case.—If a broker fails to supply a TIN, the printed explanation by the Senate committee states that payor due diligence consists of mailing to the payee, within 60 days of the sale or exchange of the instrument (i.e., the settlement date or other disposition date), a separate first-class mailing of a notice in the form previously described, requesting the correct TIN from that payee. In addition, the payor must make at least one such mailing for each subsequent calendar year until a certified TIN is obtained. In any case, the mailings required under this provision must include a certificate under penalty of perjury by which the payee may certify his correct TIN, and a postage prepaid envelope.

Retail broker penalties.—Under the Senate amendment, a self-assessed penalty is imposed on a retail broker if the broker fails to obtain from the purchaser of a readily tradable instrument acquired through the broker, the purchaser's TIN under penalty of perjury. This penalty is equal to $50 per failure with no cap. It is imposed with respect to any sale, exchange, or other disposition of any readily tradable instrument after the 30th day after the date of enactment.

A penalty of $500 is imposed on any retail broker or other person who intentionally fails to provide a payor with notice (within 15 days of the settlement date or other disposition date) that a purchaser has failed to provide a certificate of his TIN or that he is not subject to backup withholding and that the person is, therefore, subject to backup withholding. This is in addition to all other penalties. A retail broker is any person who, in connection with the sale or exchange of any readily tradable instrument in the ordinary course of his trade or business, receives purchase instructions from the purchaser, and either is the purchaser's agent in the purchase or sells (as a dealer) out of inventory.

TIN penalties self-assessed.—Under the Senate amendment, the penalty on any payor for failure to include a correct TIN in any return or statement filed with respect to any payee of interest, dividends, or patronage dividends, and the penalty imposed on any retail broker for failure to obtain the purchaser's taxpayer identification number under penalty of perjury, must be self-assessed. Thus, any person subject to either of those penalties must determine the fact of his liability and pay the tax when due without notice and demand. The penalty is payable with the first return of income tax due (without regard to extensions) more than 30 days after the due date of the return or statement with respect to which the penalty is imposed. In the case of an incorrect TIN, the penalty is not required to be self-assessed unless the payor receives notice

of the error before the original due date of the return or statement in which the number is required to be included.

Either of these penalties may be abated if the Secretary determines that the failure with respect to which the penalty is imposed could not have been avoided without undue hardship.

The Secretary is provided with regulation authority to apply this rule to pass-through entities or exempt entities.

Effective date.—This provision applies to returns or statements due (without extensions) after 1983. However, if any return or statement otherwise subject to those provisions is not required to include any payment of interest, dividends, or patronage dividends which is paid or credited after the date which is 30 days after the date of enactment, then those amendments do not apply.

Conference Agreement

In general.—The conference agreement adopts a modified form of the Senate amendment. Under the conference agreement, the $50,000 limitation on the $50 penalty for failure to supply TINs with respect to interest, dividends or patronage dividends is repealed and a due diligence defense is substituted for the reasonable cause defense under present law. In addition, the penalty is self-assessed.

Due diligence.—The conference agreement replaces the reasonable cause defense of present law (and the abatement authority provided in the Senate amendment) with a due diligence requirement because the Conferees desire to impose a higher standard of conduct on payors than the standard achieved under the construction of the reasonable cause defense in the past. Under prior practice, the reasonable cause defense was applied so liberally that the purpose of the TIN penalties was frustrated. Under the conference agreement, the Secretary is required to prescribe regulations specifically indicating the circumstances under which a payor will be considered to have exercised due diligence in attempting to comply with the obligations to obtain and provide TINs.

In general, the Conferees expect that the regulations will specifically provide that, with respect to new accounts and brokerage relationships established after 1983, the payor must use a TIN provided by the payee under penalties of perjury to satisfy the due diligence requirement.

Other circumstances in which it is expected the regulations will provide that the due diligence requirement has been satisfied would include cases in which the payor has used a TIN provided by a retail broker, cases in which the payee is awaiting the receipt of a TIN, cases in which the payor could have obtained or reported the proper TIN only by incurring an undue hardship, and cases in which the payor is required to effectuate a transfer to which it was not a party. In no event would undue hardship be found in being required to do that which a reasonably diligent payor would have done. Instead, undue hardship would exist where supervening events or extraordinary cost prevented the payor from complying.

With respect to pre-1984 accounts and brokerage relationships, the payor will be treated as having exercised due diligence if at least annually the payor solicits a correct TIN from the payee for

whom the payor has no TIN provided under penalties of perjury. In addition, if no TIN was provided backup withholding must have commenced; however, the TIN provided does not necessarily have to be certified. The conferees expect that with respect to 1983, the Treasury will require that this solicitation must be made in a separate first-class mailing as contemplated under the Senate amendment. Thus, the mailing must describe the requirement to provide a TIN, the penalty associated with failure to provide a TIN, and the possibility of backup withholding. The 1983 mailing would be required to include a postage-paid reply envelope and a form in which the payee may provide his or her TIN. Under present law, the failure to provide a TIN or the provision of a bad TIN will result in backup withholding, these mailings will assist taxpayers in correcting their TIN before backup withholding is imposed.

The conferees expect that any regulations will require, in substance, that the payor take all reasonable steps to secure and transmit taxpayer identification numbers. Under this standard, a payor should be required to use the same care in the processing of TIN information as a reasonably prudent payor would use in handling account information such as account numbers and account balances in the course of the payor's business.

Self-assessment.—The conferees understand that this penalty and the 1099 penalties have rarely been imposed in the past. The conferees expect diligent enforcement in the future, and understand that the Administration has requested appropriations to enforce these penalties. The conferees also expect that the IRS will require such information as may be necessary to enforce these penalties and the self-assessment system. The conference agreement provides for self-assessment of the penalty for failure to provide TINs with respect to interest, dividend, or patronage dividends. The penalty is treated as an excise tax for purposes of Subtitle F (relating to procedure and administration) and is due and payable on April 1 of the calendar year following the calendar year for which the return or statement to which the penalty relates is made. Since the penalty is treated as an excise tax solely for purposes of Subtitle F, the payment of the penalty will not give rise to any deduction for income tax purposes under section 162(f). Similarly, self-assessed amounts under this provision are not subject to the penalties relating to the income tax. If a taxpayer fails to pay the excise tax when due, interest will accrue from the April first due date.

The conference agreement specifically provides that the deficiency procedures will not apply with respect to the assessment and collection of the penalty. Since each penalty with respect to a return or statement is separable, the payor will be able to litigate its liability for the penalty by paying one such penalty and suing for a refund in case in which the same issue arises with respect to multiple failures.

Broker penalty.—Under the conference agreement, a broker, acting willfully, who fails to secure non-withholding certificates and to notify the payor that the payee is subject to backup withholding when required to do so is subject to a penalty of $500 per failure.

Effective date.—The amendments made by the conference agreement apply after December 31, 1983.

6. Penalty for Failure to File Information Returns or Statements

Present Law

Under present law, any person required to file a return with the Secretary with respect to the payment to another person of interest, dividends, or patronage dividends who fails to do so on the date prescribed (with regard to extensions) is subject to a penalty of $50 per failure up to $50,000 for any calendar year. The penalty is not imposed if the failure is due to reasonable cause and not to willful neglect.

If any failure to file such return is due to intentional disregard of the filing requirements, the penalty imposed is not less than 10 percent of the aggregate amount of items required to be reported, and the $50,000 limitation does not apply.

If the Secretary requires that an information return with respect to payments of less than $10 of dividends or patronage dividends be filed, then a penalty of $1 is imposed for each statement not so filed on the date prescribed therefor (determined with regard to extensions). However, the total amount of penalties under this provision cannot exceed $1,000 for any calendar year. A penalty is not imposed if the failure is due to reasonable cause and not to willful neglect.

Any payor who is required to file an information return with the Secretary must also file an information statement with the recipients of the payment. Any person failing to file such a statement with the recipient on the date prescribed therefor is subject to a penalty of $50 per failure, not to exceed $50,000 for any calendar year, unless such failure is due to reasonable cause and not willful neglect.

House Bill

No provision.

Senate Amendment

Penalty.—Under the Senate amendment, any person who fails to file one or more information returns with respect to payments of interest, dividends, or patronage dividends on the date prescribed therefor (determined with regard to extensions) is subject to a penalty of $100 per failure.

Similarly, any person who fails to provide an information statement to the recipient of interest, dividends, or patronage dividends on the date prescribed therefor (determined with regard to extensions) is subject to a penalty of $100 per failure.

Substantial noncompliance.—If there is substantial noncompliance with either of these requirements, the penalty is increased to $200 per failure. Substantial noncompliance exists if the sum of the failures to file information statements or returns, together with the sum of the failures to supply correct TINs in any return or information statement required to be filed with respect to the payment of interest, dividends, or patronage dividends, exceeds the lesser of 10,000 or 5 percent of the number of returns or statements required to be filed for the calendar year.

Abatement.—In lieu of the reasonable cause exception provided under present law, the Secretary is given authority to abate this penalty if he determines that the failure could not have been prevented without undue hardship.

Self-assessment.—These penalties are also self-assessed under the above-stated rules.

Effective date.—This provision applies to returns or statements due (without extensions) after 1983. However, if any return or statement otherwise subject to this provision is not required to include any payment of interest, dividends, or patronage dividends which is paid or credited after the date which is 30 days after the date of enactment, then this provision does not apply.

Conference Agreement

Penalty.—The conference agreement removes the $50,000 calendar year limitation on the penalty with respect to failures to file interest, dividend, and patronage dividend information returns or statements and eliminates the reasonable cause defense.

Substantial noncompliance.—The conference agreement follows the House bill. Thus, the present law increases in the penalty for intentional disregard of the filing requirement for information returns is retained.

Abatement.—Under the conference agreement, the Senate amendment abatement provision is replaced by a due diligence defense comparable to that provided for the TIN penalty.

Self-assessment.—The conference agreement provides for self-assessment of the penalty for failure to file information returns and statements under the same procedures provided for self-assessment of the TIN penalties.

Effective date.—The amendments made by the conference agreement apply to payments made after December 31, 1983.

7. Returns on Magnetic Tape

Present Law

Under present law, taxpayers may, under regulations, request the permission of the Secretary to file returns on magnetic tape. In addition, the Secretary is directed to prescribe regulations providing standards for determining which returns must be filed on magnetic tape (or another machine-readable form). In promulgating such regulations, the Secretary must take into account the ability of the taxpayer to comply at a reasonable cost with the magnetic tape filing requirement.

Requirements with respect to magnetic media broker reporting, and revenue procedures describing the format for magnetic media reporting recently were published by the Treasury.

House Bill

No provision.

Senate Amendment

Explanation.—Under the Senate amendment, any person including individuals, estates, and trusts, required to file more than 50 returns with respect to payments of interest, dividends, or patronage dividends for any calendar year, must file all such returns on magnetic media. In addition, such returns must be filed with the Secretary no later than January 31 of the calendar year following the calendar year of payment.

W-2 study.—The Senate amendment also requires that the Secretary study the feasibility of requiring form W-2 reports concerning wage income to be filed on magnetic media. This study must be reported to the Congress no later than January 1, 1984.

Effective date.—The requirement that taxpayers filing more than 50 information returns with respect to payments of interest, dividends, or patronage dividends must file on magnetic media is effective for returns the due date for which (without regard to extensions) is after 1983. However, the Secretary may extend the effective date with respect to any person to returns due after 1984, in any case when application of the amendments prior to 1985 would cause undue hardship.

Conference Agreement

The conference agreement generally follows the Senate amendment. The agreement clarifies that in determining whether a payor files more than 50 returns with respect to interest, dividends or patronage dividends, all such returns should be aggregated. Thus, if a payor files information with respect to 30 interest payees and 30 dividend payees, magnetic media reporting is required.

The Secretary is granted permanent authority on a case-by-case basis to relieve payors of the magnetic media filing requirement for the period during which imposition of the requirement would cause undue hardship for the payors. In addition, the agreement does not contain the provision accelerating the due date for information returns to January 31. Under the agreement, the magnetic media filing requirement applies only to returns with respect to payments made after 1983.

The conference agreement also provides that the report on magnetic media reporting of W-2 information is to be provided by July 1, 1984.

8. Attachment of Duplicate Information Returns; Forms

Present Law

Under present law, information returns need not be provided to payees on separate Forms 1099 in all circumstances. Rather, such information in some cases may be provided to payees on end-of-the-year business statements (such as bank statements). In addition, there is no requirement that taxpayers attach duplicates of the Forms 1099 they have received with respect to interest, dividend, or patronage dividend income to their income tax returns.

House Bill

No provision.

Senate Amendment

Explanation.—Under the Senate amendment, any person receiving a Form 1099 with respect to interest, dividend, or patronage dividend income is required to attach a duplicate of that Form 1099 to his income tax return for the taxable year. These duplicate Forms 1099 must be provided to payees by payors on or before January 31 of the year following the calendar year in which the payment was made.

Special rules are provided with respect to fiscal year taxpayers.

Any failure to attach such a statement is subject to a penalty of $50 per failure, unless the failure is due to reasonable cause and not willful neglect.

Effective date.—This provision applies to returns or statements due (without extensions) after 1983. However, if any return or statement otherwise subject to this provision is not required to include any payment of interest, dividends, or patronage dividends which is paid or credited after the date which is 30 days after the date of enactment, then this provision does not apply.

Conference Agreement

Under the conference agreement, payors must provide payees with information statements with respect to interest, dividend, or patronage dividend payments in the form required by Treasury regulations. The conferees expect that the Treasury will require a separate official form be supplied to payees which contains a clear statement that the income being reported is subject to tax, and has been reported to the Internal Revenue Service, and if not reported will generate a negligence penalty.

Under the conference agreement, these information statements must be provided to the payee in a separate mailing which contains no additional information other than information relating to the correction of taxpayer identification numbers. The conference agreement does not require that the information statements be attached to the payee's income tax return.

Effective date.—The amendments made by the conference agreement apply to statements with respect to payments made after December 31, 1983.

9. Payee Penalties—Willful Evasion or Avoidance of Tax on Interest, Dividends, or Patronage Dividends

Present Law

Under present law, any person who willfully attempts to evade or avoid any tax, or the payment thereof, is guilty of a felony and may be fined not more than $100,000 ($500,000 in the case of a corporation) or imprisoned for not more than 5 years, or both.

Any person who willfully files a false or fraudulent exemption certificate with a payor claiming to be exempt from mandatory withholding on interest, dividends, or patronage dividends is sub-

ject to a criminal penalty of not more than $500, or not more than one year in jail, or both.

Any person who willfully makes a declaration under penalty of perjury which he does not believe to be true and correct as to any material matter is guilty of a felony and may be fined not more than $100,000 ($500,000 in the case of a corporation) or imprisoned for not more than 3 years, or both.

If any part of an underpayment of tax is attributable to negligence or intentional disregard of rules and regulations, a penalty equal to 5 percent of the entire underpayment plus 50 percent of the interest payable on the portion of the underpayment attributable to negligence or intentional disregard is imposed.

House Bill

No provision.

Senate Amendment

Explanation.—Under the Senate amendment, any taxpayer who fails to include any amount of interest, dividends, or patronage dividends on a return when required to do so is subject to a penalty if the Secretary establishes that the taxpayer willfully attempted to evade or avoid the Federal income tax on such income. The penalty is equal to $1,000 for such taxable year.

Effective date.—This provision is effective with respect to taxable years beginning after 1982.

Conference Agreement

The conference agreement adopts a Treasury recommendation that, a failure to report interest, dividend or patronage dividend income that is subject to information reporting be treated, for purposes of the negligence penalty, as resulting from negligence in those cases in which the Internal Revenue Service receives the relevant information return from the payor of the taxpayer-payee in the absence of clear and convincing evidence to the contrary. The conferees believe such a presumption of negligence is proper in such cases because the taxpayer has received the income and, under present law, is required to maintain books and records adequate to assure that this income is not overlooked in filing his or her income tax return. In addition, the fact that such payments are subject to information reporting justifies the further conclusion that, even if the taxpayer had not maintained adequate records, he or she did receive a reminder of the income from the payor.

The amendment is made to encourage the Internal Revenue Service to assert the negligence penalty when it detects an underreporting of interest, dividends, or patronage dividends that are subject to information reporting and no convincing explanation of the underreporting is offered. No inference is to be drawn that negligence does not exist in the failure to report other types of income subject to information reporting. Similarly, the statutory presumption of negligence in no way prevents the Secretary from proving fraud in an appropriate case.

The presumption of negligence established under the conference agreement can be rebutted by the taxpayer in appropriate cases but only by clear and convincing evidence.

When the Internal Revenue Service asserts the negligence penalty under this provision, the entire penalty (both the 5 percent and the interest related element) will apply only to the portion of the underpayment attributable to the underreporting of interest, dividends, or patronage dividends. That portion is the amount of underpayment which would have existed if the interest, dividends, or patronage dividends, were the only items not properly reported.

This provision of the conference agreement would apply with respect to payments made after December 31, 1983.

10. Speedup for Processing of Information Returns; Appropriations

Present Law

Not applicable.

House Bill

No provision.

Senate Amendment

Speedup of processing and notice.—To make the backup withholding provision of the Senate amendment more effective, the Secretary is required to implement a program with respect to taxable years beginning after 1982 which will result in the processing of information returns received by the Secretary with respect to the payments of interest, dividends, or patronage dividends in such time as it is necessary to notify taxpayers within 15½ months of the close of the calendar year, with respect to which the returns are received, of any disparities revealed by the returns. To provide for the implementation of this requirement, the Senate amendment authorizes such amounts as may be necessary to carry out the provisions of the Senate withholding repeal, and contains a sense of the Congress statement that such appropriations as may be necessary to carry out the provisions of such Senate amendment should be appropriated by Congress. The Secretary is required to report promptly on any additional appropriations necessary to carry out this processing and notification speedup.

Appropriations.—However, the Secretary is not obligated to carry out the accelerated matching program with respect to information returns if sufficient funds for that program are not specifically appropriated for any fiscal year. In such case, the Secretary must implement the program only to the extent warranted by a decision as to the costs and benefits of alternative programs, and the Secretary must notify the Congress for that fiscal year of his determination and the reasons therefor.

If sufficient funds are not specifically appropriated to carry out the provisions of the Act for any fiscal year (including imposition of backup withholding on failure to report or underreport more than $50, or such lesser amount as may be specified by the Secretary), then the Secretary of the Treasury must implement the Act in accordance with his managerial decisions of the costs and benefits to

be derived therefrom. In any such case, the Secretary must report to the Congress with respect to the allocation of the Internal Revenue Service's resources.

CONFERENCE AGREEMENT

Speedup of processing and notice.—The conference agreement follows the House bill. Thus, no speedup of processing of information by the Internal Revenue Service is required.

Appropriations.—The conference agreement contains a Sense of the Congress Resolution that the minimum Internal Revenue Service resources needed to increase compliance with respect to interest and dividends is $15 million in fiscal year 1984 and $300 million over the fiscal years 1984 through 1988. The resolution also states that not less than $600 million would be the preferable appropriation to be provided over that period. This additional funding above current levels is needed to achieve greater tax compliance with respect to interest and dividends and will be used primarily to hire essential in-house, IRS staff personnel to complete matching, to analyze returns, to contact taxpayers, and to respond to taxpayer inquiries with regard to underreported interest and dividends of filers and nonfilers. Some additional personnel will also be needed to assist in identifying non-filers. The conferees anticipate that these appropriations will permit the Internal Revenue Service to substantially expand the number of taxpayers contacted by the Internal Revenue Service who may have underreported income or failed to file income tax returns.

The conferees further believe that the funds so appropriated to enforce the Internal Revenue Code with respect to the collection of income tax on reportable payments of interest, dividends and patronage dividends should be used in the most cost effective manner.

The conference agreement does not contain a specific separate authorization since that authorization is implied by the substantive provisions of present law and the conference agreement.

11. Revenue Effect

It is anticipated that the repeal of withholding on interest and dividends will reduce fiscal year budget receipts by $0.3 billion in 1983, $2.5 billion in 1984, $2.5 billion in 1985, $2.5 billion in 1986, $2.7 billion in 1987, $2.9 billion in 1988, with a total of $13.4 billion for years 1983 through 1988.

It is anticipated that, if appropriations are enacted for the period fiscal years 1984–1988, the compliance provisions of the conference agreement will increase fiscal revenues by $0.4 billion in 1986, $0.9 billion in 1987, and $1.1 billion in 1988.

If appropriations of $600 million are enacted for fiscal years 1984–1988, it is anticipated that the compliance provisions will increase fiscal year revenues by $0.2 billion in 1985, $0.6 billion in 1986, $1.3 billion in 1987, and $1.6 billion in 1988.

II. CARIBBEAN BASIN INITIATIVE

(Title II of the Conference Agreement)

1. Eligible Beneficiary Countries (Section 212(b))

Present Law

No provision. However, certain products originating in all of the potential beneficiary countries except Cuba are currently eligible for preferential, duty-free entry into the United States pursuant to the Generalized System of Preferences (GSP). The GSP imposes several restrictions on the types and total value of imports of articles that are entitled to its benefits. Authority for the program, set forth in Title V of the Trade Act of 1974 (19 U.S.C. 2461–2465) expires January 3, 1985. Countries not qualifying for eligibility under the Caribbean Basin Economic Recovery Act could still receive GSP treatment if they meet the criteria of that law. In addition, many products from eligible countries enter duty-free because of zero-duty most-favored-nation tariff rates.

House Bill

The House bill authorizes the President, upon notification of Congress, to designate beneficiary countries from among a list of 28 countries and territories or successor political entities.

Senate Amendment

The Senate amendment is identical to the House bill except that Cuba is not included in the list of potential eligible countries.

Conference Agreement

The conference agreement follows the Senate amendment.

2. Mandatory Designation Criteria (Section 212(b)(1)–(b)(7))

Present Law

No provision.

House Bill

The House bill provides that the President shall not designate a country if: (1) it is a communist country; (2) it fails to meet certain specified criteria regarding expropriation or nationalization; (3) it fails to act in good faith in recognizing an arbitral award; (4) it affords reverse preferences to products of developed countries other than the U.S. and the adverse effects of those preferences are not neutralized; (5) a government-owned entity is broadcasting without

consent material belonging to U.S. copyright owners; and (6) it is not a party to an agreement with the U.S. regarding extradition.

SENATE AMENDMENT

The Senate amendment is identical to the House bill except for added requirement that a country must cooperate with U.S. efforts to interdict unlawful narcotics imports.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Waiver of Mandatory Designation Criteria (Section 212(b))

PRESENT LAW

No provision.

HOUSE BILL

The House bill allows the President to waive the first three mandatory designation criteria if he determines and reports to Congress that the designation is in the U.S. national economic or security interest.

SENATE AMENDMENT

The Senate amendment is identical to the House bill except for the inclusion of the criterion regarding unauthorized broadcast of film or television transmissions in the list of waivable conditions.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment. In agreeing to make the broadcast piracy condition subject to a national interest waiver by the President, the conferees do not intend to permit any lessening of efforts to ensure that Caribbean nations cease unauthorized interception of satelling signals embodying programs owned by U.S. copyright owners. The conferees believe that beneficiaries of assistance under this Act should terminate any unauthorized use of such programs. The waiver should only be exercised where the interests of American copyright holders will be protected in regard to both the permissible scope of acquisitions and compensation.

4. Discretionary Designation Criteria (Section 212(c))

PRESENT LAW

No provision.

HOUSE BILL

In designating a particular country, the House bill provides that the President is required to take into account certain factors, including: the extent to which such country affords reasonable access to U.S. products and observes international trading rules; economic conditions in the country; the degree to which workers enjoy rea-

sonable workplace conditions and collective bargaining rights; the extent to which the country is prepared to cooperate in the administration of the CBI; the extent to which a country prohibits its nationals from broadcasting copyrighted materials without permission; and the extent to which the country provides adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property.

Senate Amendment

The Senate amendment is identical to the House bill except that there is no criterion concerning intellectual property rights.

Conference Agreement

The conference agreement follows the House bill.

5. Exclusion from Duty-Free Treatment (Section 213(d))

Present Law

No provision.

House Bill

The House bill provides that duty-free treatment "shall not apply" to textile and apparel articles which are subject to textile agreements; petroleum products; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not eligible for GSP; and canned tuna.

Senate Amendment

The Senate amendment is identical to the House bill except for additional exclusions on:

(1) rum valued at below $3 per proof gallon, except that the first 200,000 gallons of such rum from any eligible country may enter duty-free, and this volume may be increased by 10 percent annually unless rum shipments to the U.S. from the Virgin Islands fall below 95 percent of their 1982 level; and

(2) watches or watch parts of whatever type containing any material which is the product of countries not receiving MFN tariff treatment (certain communist countries).

Conference Agreement

The conference agreement follows the House bill with respect to unlimited duty-free treatment for rum and follows the Senate amendment with respect to watches and watch parts.

6. Import Relief (Section 213(e))

Present Law

Section 201 of the Trade Act of 1974 (19 U.S.C. 2251) authorizes the International Trade Commission, upon petition by an entity that is representative of an industry, to conduct an investigation into whether an article is being imported in such increased quantities as to be a substantial cause of serious injury, or the threat

thereof, to the domestic industry producing a like or directly competitive article. Upon an affirmative ITC determination, the President may proclaim temporary import relief measures, including higher duties.

House Bill

The House bill authorizes the President to suspend duty-free treatment for any article and set new rates under the standard import relief provisions of the Trade Act of 1974 (sections 201-203) or for national security reasons under section 232 of the Trade Expansion Act. Specific findings regarding CBI imports will be made during the course of normal import relief proceedings to allow a range of Presidential action concerning such imports. An "emergency relief" procedure is established for "perishable products" which would allow restoration of normal duties within 21 days pending a final determination on import relief.

Senate Amendment

The Senate amendment is identical to the House bill except for:

(1) minor differences in organization of import relief provisions; and

(2) addition of citrus concentrate to the list of products eligible for emergency relief.

Conference Agreement

The conference agreement follows the Senate amendment.

7. Section 22 Applicability (Section 213(g))

Present Law

Under section 22 of the Agricultural Adjustment Act of 1933 (AAA) (7 U.S.C. 624), the President may, on the basis of an investigation and report by the U.S. International Trade Commission, impose fees or quotas on imports whenever he finds that such imports tend to render ineffective or materially to interfere with commodity price support programs of the United States. Section 22 fees, which are not U.S. duties for the purpose of international obligations of the United States, may not exceed 50 percent ad valorem of imports during a representative period; section 22 quotas are subject to the same limitation.

House Bill

The House bill provides that no proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the AAA.

Senate Amendment

The Senate amendment is identical to the House bill except for reference to quotas as well as fees.

Conference Agreement

The conference agreement follows the House bill. This difference is technical, since the intent of both Houses was that CBI sugar quotas not undermine restraints on sugar imports under any other authority. Nothing in this Act affects the President's quota authority under section 22 of the AAA, and under section 213(d)(4) the more restrictive quotas would apply.

8. Rum Stillage Exemption (Section 214(g))

Present Law

Provisions of the Federal Water Pollution Control Act apply to discharges from sources in the insular possessions.

House Bill

No provision.

Senate Amendment

The Senate amendment exempts nontoxic rum stillage discharges in the Virgin Islands from certain provisions of the Federal Water Pollution Control Act if the discharges are 1500 feet from the shore and are determined by the Virgin Islands Governor not to constitute a health or environmental hazard.

Conference Agreement

The conference agreement follows the Senate amendment.

9. Impact Study by the Secretary of Labor (Section 216)

Present Law

No provision.

House Bill

The House bill requires the Secretary of Labor, in consultation with appropriate agencies, to undertake a continuing review and analysis of the impact of the Act on U.S. labor and make an annual written report to Congress on the results of such review and analysis.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

10. Feasibility Study Regarding a Caribbean Trade Institute (Section 217)

Present Law

No provision.

House Bill

The House bill requires the Secretary of State to prepare a study regarding the feasibility of establishing a Caribbean Trade Institute in Harlem, New York City, supported by a combination of Federal and private funds. The study shall include an assessment of several enumerated factors. The study must be submitted to Congress within six months of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

11. Deductions for Attending Caribbean Conventions

Present Law

The Internal Revenue Code generally disallows deductions for business expenses incurred while attending a convention held outside the North American area (the United States, the U.S. possessions, the Trust Territory of the Pacific Islands, Canada and Mexico). Deductions for attending conventions held outside the North American area are allowable only if the taxpayer can show that it was as reasonable to hold the convention outside the North American area as within it. The income tax treaty with Jamaica allows such deductions for attending conventions held in Jamaica.

The United States has significant problems obtaining from some Caribbean Basin countries information needed to enforce U.S. tax laws.

House Bill

The House bill allows business expense deductions for attending conventions held in certain Caribbean countries, but only if the country met the following criteria.

First, the country would have to be a "beneficiary country" designated by the President as provided in the trade portion of the bill. In addition, a deduction would be provided for conventions held in Bermuda provided that Bermuda met the other criteria.

Second, the country would have to enter into an executive agreement with the United States to provide, on a reciprocal basis, for information relating to U.S. tax matters to be made available to U.S. tax officials. The agreement would have to apply to both civil and criminal tax matters. It would have to override any local rules requiring secrecy about the ownership of bank accounts or bearer shares. The agreement would impose on the officials of each country a duty not to disclose this information other than to those involved in its tax administration.

Third, no deduction would be available for attending a convention in a country found by the Secretary of the Treasury to discriminate in its tax laws against conventions held in the United States.

This provision would apply to conventions beginning after June 30, 1983, but only if an exchange of information agreement were in effect on the day the convention began.

Senate Amendment

The Senate amendment is the same as the House bill, except as to the second criterion—relating to the exchange of tax information—for convention treatment. Under the Senate amendment, exchange of bearer share and bank account information for civil tax purposes would not be a necessary part of the agreement if the President determines that such an exception to the standards for an exchange of information agreement is in the security interest of the United States and if the Secretary of the Treasury determines that such an agreement satisfying the modified standards would assist the administration and enforcement of U.S. tax laws. The Senate amendment retains, as a prerequisite to convention treatment, the requirement that the Caribbean country agree to exchange bearer share and bank account information for criminal tax purposes.

Conference Agreement

The conference agreement follows the Senate amendment, with technical amendments.

12. Report with Respect to Use of Caribbean Basin Tax Havens (Section 223)

Present Law

The Internal Revenue Code provides rules specifically aimed at use of tax havens by U.S. persons. U.S. persons who seek to evade or avoid taxes, however, may be able to do so through the use of tax havens.

House Bill

The House bill requires the Secretary of the Treasury to report on the level at which Caribbean Basin tax havens are being used to evade or avoid Federal taxes and the effect on Federal revenues of such use, on any information he may have on the relationship of such use to drug trafficking and other criminal activities, and on current anti-tax haven enforcement activities of the Department of the Treasury. This report is due 90 days after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

13. Sense of the Congress Regarding Sugar Imports (Section 231)

PRESENT LAW

Under present law, imports of sugar from Cuba are subject to embargo.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment declares it the sense of the Congress that sugar from any communist country in the Caribbean Basin or in Central America should not be imported into the United States.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

III. ENTERPRISE ZONES

PRESENT LAW

Present law contains no provisions relating to tax treatment of enterprise zones.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment allows the Secretary of Housing and Urban Development to designate 75 areas as enterprise zones, after these areas have been nominated by State and local governments. The areas must satisfy various economic and demographic criteria, and the State and local governments must commit themselves to a course of action designed to reduce burdens borne by employers in the area.

Businesses and workers in the designated enterprise zones are eligible for various tax incentives. These include tax credits for businesses for increasing total zone employment, employing certain disadvantaged workers in the zone, and investing in real and personal property located in the zone. Tax on net capital gains generally is eliminated for zone businesses, and a tax credit is allowed to zone employees. Tax-exempt small issue industrial development bonds continue to be available for zone investments after the December 31, 1986, date after which these bonds generally are no longer allowed, and certain restrictions on capital cost recovery deductions for property financed with industrial development bonds do not apply for zone investments. In addition to these tax incentives, certain regulations may be relaxed in enterprise zones, and priority is given to an application by an enterprise zone for a foreign trade zone designation.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment.

IV. INTERNATIONAL TRADE AND INVESTMENT ACT PROVISIONS

Present Law

Title III of the Trade Act of 1974 authorizes the President to take action against unreasonable or unfair foreign trade practices. There is no current tariff negotiating authority. Title I of the Trade Act of 1974 authorizes the President to negotiate to eliminate foreign non-tariff trade barriers.

House Bill

No provision.

Senate Amendment

The Senate amendment would amend Titles I and III of the Trade Act of 1974 by mandating new, specific sector negotiating objectives with respect to trade in services, high technology products, and restrictions on foreign direct investment, and further, by providing the President with tariff modification authority on certain high technology items.

The amendment also would require the United States Trade Representative to analyze and to report on significant barriers to trade in U.S. products and services and on restrictions imposed on foreign direct investment by U.S. persons, and it would clarify and improve the President's authority to retaliate against unfair trade practices.

Conference Agreement

The conference agreement does not contain the Senate amendment.

V. OTHER TAX PROVISIONS

1. Permanent Extension of Tax Exemption for Interest on Qualified Mortgage Bonds

Present Law

The Mortgage Subsidy Bonds Tax Act of 1980 imposed restrictions on the ability of State or local governments to issue bonds, the interest on which is tax-exempt, for the purpose of making mortgage loans on single-family residences. The 1980 Act provides that interest on mortgage subsidy bonds is exempt from taxation only if the bonds are "qualified veterans mortgage bonds" or "qualified mortgage bonds." One of the requirements of "qualified mortgage bonds" is that they be issued before January 1, 1984.

House Bill

No provision.

Senate Amendment

The Senate amendment makes permanent the tax exemption presently provided for interest on qualified mortgage bonds.

Conference Agreement

The conference agreement follows the House bill.

2. Discharge of Residential Mortgage Debt

Present Law

Under present law, the amount of any discharged indebtedness is includible in income in the year of the discharge. However, if the debt was incurred in connection with property used in a trade or business (or if the taxpayer is bankrupt or insolvent), certain of the taxpayer's tax attributes may be reduced in lieu of recognizing income.

In Revenue Ruling 82-202, the Internal Revenue Service ruled that a financially solvent taxpayer realizes income when he or she prepays the mortgage on a personal residence at less than the outstanding principal balance. The ruling involved a financial institution which offered a 10-percent discount for prepayment of existing low-interest mortgages.

House Bill

No provision.

Senate Amendment

For 1982 only, the Senate amendment provides for the exclusion from gross income of discharged mortgage indebtedness on an individual's principal residence. The taxpayer's basis in the residence would be reduced by the excluded amount. If the taxpayer subsequently disposes of the residence in a taxable sale or exchange, any gain recognized would be recaptured as ordinary income to the extent of the previously excluded amount (i.e., the amount of discharged mortgage indebtedness).

For 1983 and 1984, the amendment provides that the Internal Revenue Code shall be applied without regard to Revenue Ruling 82-202 or to any other ruling reaching the same or a similar result. The amendment further provides that it is the sense of Congress that permanent legislation be enacted which addresses the tax consequences of discharged mortgage indebtedness.

Conference Agreement

The conference agreement follows the House bill.

Dan Rostenkowski,
Sam Gibbons,
J. J. Pickle,
Charles B. Rangel,
Pete Stark,
Barber B. Conable, Jr.,
John J. Duncan,
Bill Archer,
Managers on the Part of the House.

Bob Dole,
Bob Packwood,
Bill Roth,
John C. Danforth,
Russell B. Long,
Spark M. Matsunaga,
Lloyd Bentsen,
Managers on the Part of the Senate.

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