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REPEAL OF FEDERAL COMMUNICATIONS EXCISE TAX

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

REPORT

[To accompany H.R. 3916]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (H.R. 3916) to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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I. LEGISLATIVE BACKGROUND

Committee markup

The Senate Committee on Finance marked up H.R. 3916 on June 14, 2000, and ordered the bill, as amended, favorably reported by a voice vote.

Committee hearing

No Committee hearings have been held on the Federal communications excise tax.

II. EXPLANATION OF THE BILL

A. PRESENT LAW

In general

A three-percent Federal excise tax is imposed on amounts paid for communications services (Code sec. 4215).¹ Communications services are defined as “local telephone service,” “toll telephone service,” and “teletypewriter exchange service.”² The person paying for the service (i.e., the consumer) is liable for payment of the tax. Communications service providers are required to collect the tax; however, if a consumer refuses to pay, the service provider is not liable for the tax and is not subject to penalty for failure to collect if reasonable efforts to collect have been made. Instead, the communications service provider must report the delinquent consumer’s name and address to the Treasury Department, which then must attempt to collect the tax.

Local telephone service is defined as the provision of voice quality telephone access to a local telephone system that provides access to substantially all persons having telephone stations constituting a part of the local system. Toll telephone service is defined as voice quality communication for which (1) there is a toll charge that varies with the distance and elapsed transmission time of each individual call and payment for which occurs in the United States, or (2) a service (such as a “WATS” service) which, for a flat periodic charge, entitles the subscriber to an unlimited number of telephone calls to or from an area outside the subscriber’s local system area.

Special rules, enacted in 1997, apply to the sale of “prepaid telephone cards.” These cards are subject to tax when they are sold by a telecommunications carrier to a non-carrier for re-sale or use (rather than when communication services are provided to the consumer). The base to which the tax is applied is the face amount of the card.

Exemptions

Present law provides for the following exemptions:

- Public coin-operated service from the tax on local telephone service, and to the extent that the charge is less than 25 cents, from the toll telephone service tax.³

¹The tax base does not include State or local taxes on the same service provided that the amount of the State or local tax is separately stated on the customer’s bill.

²Teletypewriter exchange service refers to a data system that is understood to be no longer in use.

³If coin-operated toll service is taxable, the tax is computed to the nearest multiple of five cents.

- Service for the collection of news by the public press, news ticker, or radio broadcasting services (providing a news service as part of or similar to that of the public press), from the toll telephone service tax. (Local telephone service provided to the press is subject to tax.)
- Private communication service for which a separate charge is made, from the local telephone service tax.⁴
- Service provided to international organizations and the American Red Cross.
- Toll telephone service provided to members of the Armed Services who are stationed in combat zones.
- Certain toll telephone service to common carriers, telephone or telegraph companies, or radio broadcasting stations or networks in the conduct of these businesses.
- Installation charges (including wires, poles, switchboards, or other equipment).
- Telephone service provided to non-profit hospitals.
- Telephone service provided to State and local governments.
- Telephone service provided to nonprofit educational organizations.

B. OVERVIEW OF HISTORY OF THE COMMUNICATIONS EXCISE TAX⁵

The first tax on telephone service was enacted in 1898 to help finance the Spanish-American War. That tax was repealed in 1902 and was not re-enacted until World War I required additional revenues. The World War I telephone tax was repealed in 1924 and was re-enacted in 1932. All of these initial telephone taxes applied only to toll (long distance) service. In 1941, with the advent of World War II, the tax was extended to general local service.

An excise tax on telephone service has been in effect in every year since 1941, despite enactment of periodic legislation to repeal or phase-out the tax. In the Excise Tax Reduction Act of 1965, Congress scheduled a phase-out, beginning with a reduction in the then 10-percent rate⁶ for both local and toll service to three percent after 1965. Additional reductions of one percentage point per year were scheduled thereafter until there would have been no tax effective on January 1, 1969. However, the scheduled reductions were repealed in 1966 (effective April 1, 1966), and the 10-percent rate was reinstated. A delayed phase-out schedule was enacted in 1968, to begin in 1970. This phase-out schedule also was postponed, with a one-percentage point per year phase-out finally going into effect on January 1, 1973.

In 1973, the tax rate declined from 10 percent to 9 percent as the first step in this phase-out, which was to be completed begin-

⁴Private communication service is defined as (1) service that entitles the customer to exclusive or priority use of a communication channel or group of channels, or an intercommunication system for the customer's stations; (2) switching capacity, extension lines and stations, or other associated services provided in connection with services described in (1); and (3) channel mileage connecting a telephone outside a local service area with a central office in the local area.

Unlike the other exemptions, the special treatment for private communication service is accomplished by means of an exclusion from the definition of local telephone service rather than as a stated exemption.

⁵For a more complete discussion of the history of the communications excise tax, see Congressional Research Service (Louis Alan Talley), *The Federal Excise Tax on Telephone Service*, A History, May 9, 2000 (RL30553).

⁶At their highest, the tax rates were 15 percent on general local service and 25 percent on toll service costing more than 24 cents per message. These rates were in effect from 1944 until 1954.

ning in 1982. However, the Omnibus Reconciliation Act of 1980 delayed the repeal by one year (until 1983); and the Economic Recovery Tax Act of 1981 further delayed repeal for two additional years. After reaching a rate of one percent, the rate was increased again to three percent in 1983, and after being extended at that rate several times, the three percent rate was made permanent by the Revenue Reconciliation Act of 1990.

C. REASONS FOR CHANGE

The non-social security portion of the Federal budget is in surplus. Therefore, the Committee believes that it is appropriate to return some of the taxpayers' money to the taxpayers. The excise tax on telephone service is unfair to consumers, and further is outdated relative to current technology, thereby creating unnecessary complexity for communications service providers and the IRS who must administer the tax.

The communications excise tax was enacted as a wartime revenue measure targeted at a service that was a luxury for many households. Today telephone service is not a luxury, but a necessity. As such, the burden of the excise tax on telephone service is regressive. Moreover, communications services provide the basis for much of the growth of the digital economy. Because the Committee wants to encourage this continued growth, it sees no legitimate policy grounds for taxing such services.

D. EXPLANATION OF PROVISIONS

The Federal communications excise tax is repealed, effective for amounts due with respect to bills first rendered after August 31, 2000.

This legislation is designed to reduce the net amount paid by consumers for telephone and similar services. The Committee strongly believes that all savings resulting from the elimination of the communications excise tax should be fully passed on to consumers. The Committee does not intend for the benefit of the repeal to be reduced or eliminated by increases in communication service provider charges (whether regulated or unregulated) or by increases in other Federal or State fees or taxes related to such service. Accordingly, the General Accounting Office ("GAO"), after consultation with the Federal Communications Commission, is directed to complete a study detailing (1) the extent to which the benefit of repealing the excise tax is passed through to consumers (individuals and businesses) and (2) any actions taken by communication service providers or others that diminish the benefit of repealing the excise tax, including any increases in charges or taxes. The Committee expects that in completing this study, the GAO will include an econometric analysis of the incidence of the economic burden of the Federal communications excise tax to businesses and consumers. The study is to be submitted to the Senate Committee on Finance and the House Committee on Ways and Means no later than September 1, 2001.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the provisions of the bill, as reported.

The bill, as reported, is estimated to have the following budget effects for fiscal years 2000–2010.

ESTIMATED BUDGET EFFECTS ON H.R. 3916, AS REPORTED BY THE COMMITTEE ON FINANCE
 [By fiscal years, in [millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
Repeal the Federal Communications Excise Tax (1)		- 125	- 4,328	- 4,562	- 4,799	- 5,043	- 5,303	- 5,578	- 5,868	- 6,174	- 6,502	- 6,852	- 24,160	- 55,134

¹ Effective for amounts paid for telephone bills first rendered after 8/31/00.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the provisions of the bill as reported involve no new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the bill as reported involves no increased tax expenditures.

C. CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office (“CBO”) has submitted the following statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 16, 2000.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3916, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Hester Grippando.

Sincerely,

BARRY B. ANDERSON
(For Dan. L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3916—To amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services

Summary: H.R. 3916 would repeal the federal telecommunications excise tax. The Joint Committee on Taxation (JCT) estimates that the bill would reduce federal revenues by \$125 million in fiscal year 2000, by \$24 billion over the 2000–2005 period, and by \$55 billion over the 2000–2010 period. Because the bill would affect receipts, pay-as-you-go procedures would apply.

H.R. 3916 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3916 is shown in the following table.

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
CHANGES IN REVENUES						
Estimated revenues	-125	-4,328	-4,562	-4,799	-5,043	-5,303

Basis of estimate: The estimate of H.R. 3916 was provided by JCT.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
(10) not applicable											
Changes in outlays.											
Changes in receipts	-125	-4,328	-4,562	-4,799	-5,043	-5,303	-5,578	-5,868	-6,174	-6,502	-6,852

Intergovernmental and private-sector impact: H.R. 3916 contains on intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Hester Grippando.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of the bill.

A roll call vote was conducted on an amendment by Senators Graham and Robb. The amendment would have delayed the effective date of the bill until provisions are enacted extending the solvency of the Social Security trust fund through 2075 and the Medicare Part A program through 2025. The amendment was defeated by a roll call vote of 9 yeas and 11 nays. The vote was as follows:

Yeas—Senators Moynihan (proxy), Baucus, Rockefeller, Breaux (proxy), Conrad, Graham, Bryan, Kerrey, and Robb.

Nays—Senators Roth, Grassley, Hatch, Murkowski (proxy), Nickles (proxy), Gramm (proxy), Lott (proxy), Jeffords (proxy), Mack, Thompson (proxy), and Coverdell (proxy).

Motion to report the bill

The bill was ordered favorably reported by a voice vote on June 14, 2000. A quorum was present.

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as reported.

Impact on individuals and businesses

The bill repeals the Federal communications excise tax. Repeal of this tax will reduce tax burdens on individuals, businesses, and others.

Impact on personal privacy and paperwork

The bill should not have any impact on personal privacy, and will reduce paperwork burdens on communications service providers (collectors of the current tax).

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill as reported does not contain any Federal mandates on the private sector or any Federal intergovernmental mandates on State, local, or tribal governments.

C. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service (“IRS”) and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to address the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has identified repeal of the communications excise tax as having such an effect, and has included a summary description of the provision, along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS regarding each of the provisions included in the complexity analysis, including a discussion of the likely effect on IRS forms and any expected impact on the IRS.

Summary description of the provision

The bill repeals the three-percent Federal communications excise tax, beginning with amounts due with respect to bills first rendered after August 31, 2000.

The communications excise tax is collected by communications service providers as part of their regular bills for service to consumers. However, consumers are liable for payment of the tax.

Number of affected taxpayers

It is estimated that the provision will affect approximately 93 million households and approximately 23 million business service customers. There may be some overlap in these categories because some businesses are located in private residences.

Discussion

Because the present communications excise tax is collected as part of telecommunications service provider bills, consumers (individuals and businesses) are not required to keep separate records of the tax under present law. Repeal of the tax will not result in any additional recordkeeping requirements for consumers. Repeal of the tax will eliminate current recordkeeping and tax payment requirements imposed on communications service providers.

Repeal of the tax will eliminate any potential for disputes related to the scope of the tax between the IRS and either consumers or communications service providers. No consumers' tax preparation costs will be affected because, as described above, those individuals and businesses do not file communications tax returns under present law. Further, communications service providers will be relieved of the responsibility of collecting and depositing the tax and filing quarterly tax returns.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, June 14, 2000.

Ms. LINDY L. PAULL,
Chief of Staff, Joint Committee on Taxation,
Washington, DC.

DEAR MS. PAULL: Following are the Internal Revenue Service's (IRS) comments on the Senate Committee on Finance markup of H.R. 3916 (Repeal of the Federal Communications Excise Tax), which you identified for complexity analysis in your letter of June 13, 2000. Our comments reflect the Proposed Chairman's Amendment to the bill described in JCX 57-00, June 12, 2000. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the bill.

Provision: The three-percent Federal communications excise tax would be repealed, effective for amounts paid with respect to bills first rendered after August 31, 2000.

IRS comments: The instructions for Form 720, Quarterly Federal Excise Tax Return, will need to be revised for the 3rd quarter of 2000 to advise filers of the repeal of the tax. However, since service providers will continue to collect tax on bills rendered through August 31, 2000, long after that date, the entry line for reporting the tax will remain on Form 720 through 2001. This bill will reduce the reporting burden for approximately 4,700 taxpayers who currently report the tax. Minimal programming changes will be re-

quired to reflect the elimination of the tax. No regulatory guidance is anticipated.

Sincerely,

BOB WENZEL,
(Acting for Charles O. Rossotti, Commissioner).

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

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

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