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BY THE STAFF OF THE

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INTRODUCTION

This pamphlet contains descriptions of the various tariff and revenue bills listed for public hearings by the Committee on Finance for August 24, 1976. Several bills which are pending before the committee have been excluded from the scope of the hearings because action has previously been taken with respect to the subject matter of those bills. Thus, descriptions of those bills have not been included in this pamphlet.

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TARIFF BILLS

H.R. 1386

For the Relief of Smith College, Northampton, Mass.

Present law.—Carillons containing more than 22 bells are dutiable at 7 percent ad valorem under item 725.36 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) unless they are produced in a beneficiary developing country eligible for duty-free treatment under the Generalized System of Preferences.

House bill.—Directs the Secretary of the Treasury to admit duty free a carillon for the use of Smith College. If the duty has already been paid, the bill requires a refund to be paid.

Effective date.—Date of enactment.

Revenue effect.—A one time loss of approximately $2,550.

Administration position.—No objection to the bill.

H.R. 2177

To Exempt From Duty Certain Aircraft Components and Materials Installed in Aircraft Previously Exported From the United States Where the Aircraft Is Returned Without Having Been Advanced in Value or Improved in Condition While Abroad

Present law.—Airplanes are dutiable at 5 percent ad valorem under item 694.40 TSUS unless they are produced in a beneficiary developing country eligible for duty-free treatment under GSP. Any item wholly produced in the United States which is exported and then reimported into the United States is eligible for duty-free treatment under item 800 TSUS if the item has not been advanced in value abroad.

House bill.—Provides that the duty under item 694.40 shall be assessed on the full value of the plane minus the value of U.S. produced components if—

(1) The plane was previously exported from the United States:

(2) The components were installed in the United States after the plane was operational;

(3) The plane has not been advanced in value while abroad; and

(4) The plane was entered into the United States for consumption before 1970 but the entry has not been liquidated as of the date of enactment of this act.

Effective date.—Date of enactment. Any request for liquidation of the entry of a plane under this act must be filed with Customs within 30 days after the date of enactment.

Revenue effect.—A one-time loss of approximately $24,640.

Administration position.—No objection to the bill.

H.R. 2181

To Amend the Tariff Schedules of the United States to Provide Duty-Free Treatment of Any Aircraft Engine Used as a Temporary Replacement for an Aircraft Engine Being Overhauled Within the United States if Duty Was Paid on Such Replacement Engine During a Previous Importation

Present law.—Piston type aircraft engines are dutiable at 4 percent ad valorem under item 660.44 TSUS and nonpiston aircraft engines are dutiable at 5 percent ad valorem under item 660.46 TSUS.

House bill.—Provides a new item 801.20 TSUS permitting duty-free entry of an aircraft engine if—

(1) The engine was previously imported and duty was paid on the importation;

(2) The engine was used abroad as a temporary replacement for an aircraft engine being repaired in the United States; and

(3) The engine is imported by the person who previously exported the engine.

Effective date.—Date of enactment.

Revenue effect.—An annual loss of approximately $2.5 million.

Administration position.—Department of Commerce favors the bill. Other agencies have no objection.

H.R. 4047

For the Relief of Jack R. Misner

Present law.—Under item 864.05 T.S.U.S., foreign articles may be entered duty free for repairs upon the posting of a bond guaranteeing the articles will be exported within 1 year. The bond may be extended for not more than 2 additional years. Yachts are dutiable at 2 percent ad valorem under item 696.05 T.S.U.S. or, if their value exceeds $15,000, 5 percent ad valorem under item 696.10 T.S.U.S.

House bill.—Directs the Secretary of the Treasury to extend the expiration date of the temporary import bond posted by Jack R. Misner on the schooner *Panda* until September 18, 1977.

Effective date.—Date of enactment.

Revenue effect.—No loss.

Administration position.—No objection.

H.R. 8656

To Amend the Tariff Schedules of the United States in Order to Provide Duty-Free Importation of Loose Glass Prisms Used in Chandeliers and Wall Brackets.

Present law.—Prisms for use in chandeliers are dutiable at 12 percent ad valorem under item 545.57 T.S.U.S. unless they are produced in a beneficiary developing country eligible for duty free treatment under GSP.

House bill.—Deletes item 545.57 and adds items 545.58 and 545.59. Under item 545.58, loose glass prisms for use in chandeliers would be duty free. Under item 545.59, other prisms would be dutiable at 12 percent ad valorem.

Effective date.—Date of enactment.

Revenue effect.—Annual loss of approximately $60,000.

Administration position.—No objection.

H.R. 11259

To Lower the Duty on Levulose Until the Close of June 30, 1978

Present law.—Levulose is dutiable at 20 percent ad valorem, if exported from a country receiving nondiscriminatory or most-favored-nation tariff treatment, and 50 percent ad valorem, if exported from a non-MFN country, under item 493.66 T.S.U.S.

House bill.—Adds a new item 907.90 to the T.S.U.S. establishing an MFN duty of 0.6625 cents per pound of levulose and a non-MFN duty of 1.9875 cents per pound.

Effective date.—Date of enactment through June 30, 1978.

Revenue effect.—An annual loss of less than $100,000.

Administration position.—No objection.

H.R. 11321

To Suspend Until July 1, 1978, the Duty on Certain Elbow Prostheses if Imported for Charitable Therapeutic Use, or for Free Distribution, by Certain Public or Private Nonprofit Institutions

Present law.—Externally powered electric elbow prosthetic devices are dutiable at 10 percent ad valorem under item 709.57 T.S.U.S. unless they are produced in a beneficiary developing country eligible for duty free treatment under GSP.

House bill.—Adds a new item 912.05 to the T.S.U.S. providing for duty free entry of externally powered electronic elbow prosthetic devices for juvenile amputees if imported solely for distribution free of charge by any public or private nonprofit institution.

Effective date.—Date of enactment through June 30, 1978.

Revenue effect.—An annual loss of approximately $75,000.

Administration position.—No objection.

H.R. 11605

To Suspend for a Temporary Period the Rate of Duty on Mattress Blanks of Rubber Latex

Present law.—Mattress blanks of latex rubber are dutiable at 15 percent ad valorem under item 727.86 T.S.U.S. unless they are produced in a beneficiary developing country eligible for duty free treatment under GSP.

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House bill.—Adds a new item 912.08 to the T.S.U.S. providing for duty free entry of mattress blanks of rubber latex.

Effective date.—Date of enactment through June 30, 1978. In addition, entries made after March 31, 1975, and before the date of enactment would be eligible for duty free treatment upon request.

Revenue effect.—An annual loss of no more than $7,500.

Administrative position.—No objection.

H.R. 12254

To Suspend the Duties on Certain Bicycle Parts and Accessories Until the Close of June 30, 1978

Present law.—Generator lighting sets for bicycles enter duty free under item 912.05 T.S.U.S. which expires on December 31, 1976. Parts of generator lighting sets are currently dutiable at 19 percent ad valorem under item 653.39 T.S.U.S. unless they are produced in beneficiary developing countries which are eligible for duty free treatment under GSP.

Derailleurs, caliper brakes, drum brakes, three-speed hubs incorporating coaster brakes, click-twist grips, click stick levers, and multiple freewheel sprockets enter duty free under item 912.10 T.S.U.S. which expires on December 31, 1976. Coaster brakes, alloy butted frame tubing, frame lugs, alloy cotterless crank sets, alloy rims, and parts thereof are dutiable at 15 percent ad valorem under item 732.36 T.S.U.S.

House bill.—Adds parts of generator lighting sets to item 912.05 T.S.U.S. and coaster brakes, alloy butted frame tubing, frame lugs, alloy cotterless crank sets, alloy rims, and parts thereof to item 912.10 T.S.U.S. making all those goods duty free. The bill extends the termination date of items 912.05 and 912.10 to June 30, 1978.

Effective date.—Date of enactment through June 30, 1978.

Revenue effect.—An annual loss of aproximately $3.6 million.

Administration position.—No comment.

HOUSE PASSED REVENUE BILLS

H.R. 2984

Treatment of Payment or Reimbursement of Government Officials for Expenses of Foreign Travel by Private Foundations

Present law.—The Tax Reform Act of 1969 added a provision to the Internal Revenue Code of 1954 (sec. 4941) which in general prohibits enumerated acts of "self-dealing" between private foundations and certain designated classes of persons, commonly referred to as "disqualified persons," by imposing a graduated series of excise taxes on the self-dealer (and also on the foundation manager who willfully engages in acts of self-dealing). Under this provision, the payment or reimbursement of expenses of a Government official by a private foundation generally is classified as an act of self-dealing.

A limited exception to this provision permits a private foundation to pay or reimburse certain expenses of Government officials for travel

solely within the United States. Under this exception, it is not an act of self-dealing for a private foundation to pay or reimburse a Government official for actual transportation expenses, plus an amount of other traveling expenses not to exceed 125 percent of the maximum per diem allowed for like travel of employees of the United States for travel solely within the United States. However, no such payment or reimbursement is permissible for travel to or from a point outside the United States.

House bill.—The House bill amends present law (sec. 4941(d)(2)(G)) to provide an exception to the self-dealing provisions of the Code for payment or reimbursement of a limited amount of foreign travel expenses of a government official by a private foundation. The travel expenses which are eligible to be reimbursed are for travel between a point in the United States and a point outside the United States. The amount which can be reimbursed for any one trip by a government official is the sum of (1) the lesser of (a) the actual cost of the transportation involved, or (b) $2,500, plus (2) an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702(a) of title 5, United States Code (relating to like travel by U.S. employees) for a maximum of 4 days, or the number of actual days if less. Under section 5702(a), in the case of travel outside the continental United States, the President or his designee has the authority to establish the maximum per diem allowance for the locality where the travel is performed.

This new exception to the self-dealing rules does not apply where the private foundation making the payment or reimbursement normally receives more than one-half of its total support from any business enterprise, trade association, or labor organization, whether such support takes the form of interest, dividends, other income, grants, or contributions.

Effective date.—This provision is to apply with respect to travel beginning after the date of enactment of this bill.

Revenue effect.—It is not expected that this bill will have any direct revenue effect.

Administration position.—The Treasury Department supports this legislation.

H.R. 3052

Treatment of Option Lapse Income of Exempt Organizations

Present law.—With the exception of social clubs and employees' beneficiary associations,[1] the investment income of exempt organizations generally is not subject to the tax on unrelated business income. The types of investment income sources listed as being free of this tax include dividends, interest, annuities, royalties, and capital gains from the sale of investments.

The tax treatment of income which an exempt organization receives from writing options to buy or sell securities generally depends on whether the option is exercised, lapses, or is terminated. If an option

[1] In this description of H.R. 3052 further references to "exempt organizations" do not include these two categories (secs. 501(c)(7) and (9)).

written by an exempt organization on a security is exercised and the security is required to be sold (a "call") by the exempt organization, the premium received for the option is treated as part of the gain or loss from the sale. In this case the entire gain on the sale—including the premium on the option—realized by the exempt organization is free of tax since under present law (sec. 512(b)(5)) the term "unrelated business taxable income" excludes all gains or losses from the sale, exchange, or other disposition of property (except in the case of inventory and property held for sale to customers). Similarly, if the option written on a security is exercised and the security is required to be purchased (a "put") by the exempt organization, the premium income received for the option is treated as reducing the purchase price of the security. Subsequently, if the security is sold, this reduced purchase price means a larger capital gain on the sale of the security, which as noted above is excluded from the tax base of the exempt organization (except in the case of inventory and property held for sale to customers).

On the other hand, if an option is not exercised by the exempt organization (in the case of either a put or a call) and the option lapses, the premium which the exempt organization receives generally is treated as ordinary income rather than as income from the sale of property.[2] As a result, the premium received by an exempt organization on a lapsed option generally is subject to the unrelated business income tax.

In some cases, the writer of an option may "buy in" an option which he has previously written (or an option identical to one which he has previously written) and which has not yet been exercised. This offsetting transaction, known as a closing purchase, terminates his obligation under the first option. The option writer would receive a gain in the amount of the excess of the premium received for the original option over the amount paid for the second option purchased to terminate the first. As in the case of lapsed options, the gain from terminated options (which are necessarily unexercised options) is also generally ordinary income.

House bill.—The bill amends present law (sec. 512(b)(5)) to exclude from the term "unrelated business taxable income" all gains on the lapse or termination of options to buy or sell securities, when the options have been written in connection with the exempt organization's investment activities. Thus, the term "unrelated business taxable income is to exclude all premiums received by an exempt organization on options which it writes under these circumstances, regardless of whether the option is exercised, lapses, or is terminated. This bill has

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[2] Present law (sec. 1234(a)) provides that gain or loss in the case of the sale or exchange of an option is to be given the same treatment as would the gain or loss on the sale of the property to which the option relates. However, in the case of the failure to exercise an option, this provision indicates that only in the case of a loss is the failure to be treated as having the same character as the underlying property. On the basis of this, where there is a gain on the failure to exercise an option, the regulations provide (sec. 1.1234-1(b)) that this gain represents ordinary income to the writer of the option (even though the payment of the premium by the holder of the lapsed option results in a capital loss to that holder).

Under present law (sec 1234(c)) gain from the lapse of an option written as part of a "straddle" (a simultaneously granted combination of an option to buy and an option to sell the same quantity of security at the same price during the same period of time) is treated as gain from the sale or exchange of a capital asset held for not more than 6 months on the date that the option expired (see regulation sec. 1-1234-2(f), example (3)). Consequently, option lapse income from "straddles" is already excluded from unrelated business taxable income of exempt organizations (other than the social clubs and employees' beneficiary associations referred to above).

the effect of overriding for the future a 1966 Internal Revenue Service ruling that income realized from unexercised call options is subject to the unrelated business income tax.

Effective date.—This amendment applies to gains from options which lapse or are terminated on or after January 1, 1976.

Revenue effect.—It is estimated that this bill will have no effect, or at most a negligible effect (under $1 million) on the revenues.

Administration position.—The Treasury Department has no objection to this bill.

H.R. 3055

To Amend Certain Provisions of the Internal Revenue Code of 1954 Relating to Distilled Spirits and For Other Purposes

Present law.—Under present law, the manufacture, bottling, storage, transportation, and sale of distilled spirits are subject to regulations promulgated by the Secretary of the Treasury, pursuant to provisions of the Internal Revenue Code. For example, under present law (sec. 5233(c)), no trademark may be placed on any bottle of distilled spirits bottled in bond unless the name of the actual distiller or of the company in whose name the spirits were produced and warehoused is also placed on the bottle. Also, for example, a drawback equal to the amount of the tax determined or paid on wines or distilled spirits that are exported is allowed if the wines or distilled spirits were manufactured or produced in the United States (sec. 5062(b)). Another provision of present law allows distilled spirits withdrawn from bond on payment or determination of tax to be returned to bonded premises for various specific purposes (sec. 5215). Present law also allows distilled spirits to be withdrawn, without payment of tax, from the bonded premises of distilled spirits plants for exportation, but there is no comparable provision allowing withdrawal without payment of tax for transfer to customs bonded warehouses for storage pending exportation (sec. 5214(a)(4)). Similarly, under present law (sec. 5214(a)(9)), distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant free of tax for use as samples in making tests or laboratory experiments, but the permitted uses are very narrowly defined. Under present law (sec. 5234(a)(2)), distilled spirits mingled on bonded premises must be returned to the same packages (barrels) from which removed and the mingling must be for the purpose of further storage in bond. Present law (sec. 5025(b)) allows an exemption from the rectification tax (in general, a tax on redistilling to achieve a different product) in the case of the production of gin by redistillation of a pure spirit over juniper berries and other natural aromatics, but does not allow such an exemption where natural oils are used. Present law (sec. 5008) also provides for abatement or refund of tax in the case of distilled spirits lost or destroyed under certain circumstances, but by oversight the abatement of taxes does not apply in the case of distilled spirits from Pureto Rico or the Virgin Islands.

House bill.—The House bill consists of a series of amendments to present law. The House bill—

(1) eliminates the requirement that the name of the distiller be placed upon gin or vodka bottled in bond for export;

(2) extends to distilled spirits that are imported and then packaged or bottled in the United States for export the same tax drawback benefits given to domestically produced spirits that are packaged or bottled for export;

(3) allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, etc., for storage pending exportation and certain other preferred dispositions (e.g., use on vessels and aircraft transfer to foreign-trade zones);

(4) allows spirits bottled in bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation;

(5) allows spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development, or testing;

(6) relaxes the conditions under which bonded spirits may be mingled;

(7) allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax:

(8) enables taxes on distilled spirits brought into this country from Puerto Rico or the Virgin Islands to be abated, remitted, credited, or refunded in appropriate cases of loss or voluntary destruction just as are the taxes imposed on domestic distilled spirits; and

Effective date.—The amendments contained in the House bill take effect on the first day of the first calendar month which begins more than 90 days after the bill's enactment.

Revenue effect.—The Ways and Means Committee estimated that sections 3 and 4 of the bill would result in a one-time revenue loss of $3 to $5 million; the other sections of the bill were estimated to have little or no revenue effect. The Treasury Department concurred with the estimates.

Administration position.—The Treasury Department has no objection to this bill. However, it recommends one change. Section 1 of the bill would amend section 5233(c) of the Code to eliminate, in the case of gin and vodka for export, the requirement that the label show the real name of the distiller in whose name the spirits were produced if the label contains a trademark. This label requirement is now applicable to all spirits bottled in bond. While Treasury has no objection to this change, it recommends that comparable treatment be accorded all distilled spirits exported, not just gin and vodka. Moreover, as the name of the actual distiller is not required to be shown on distilled spirits not bottled in bond, it believes that the label requirement for spirits bottled in bond serves no useful purpose; and it recommends complete repeal of section 5233(c) in lieu of the amendment proposed by section 1 of the bill.

H.R. 5071

Maintenance of Common Trust Fund by Affiliated Banks

Present law.—Under existing law a bank may maintain a "common trust fund" which fund itself is neither subject to Federal income taxation nor considered a corporation. A fund qualifies as a common trust fund if it is (1) maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed by the bank in its fiduciary capacity, and (2) maintained in conformity with rules and regulations of the Comptroller of Currency pertaining to the collective investment of trusts. The income (including gains and losses from the sale of property) from the fund, representing amounts contributed from various separate trusts, is included in the gross income of each participant in the common fund on the basis of its proportionate share of the income.

The purpose of the common trust fund provision is to permit diversification in the investment of trust funds for which a bank has fiduciary responsibility.

The Internal Revenue Service has taken the position (Rev. Rul. 70-302) that a fund maintained by a member bank of a bank holding company will not qualify as a "common trust fund" if it accepts contributions to the fund by other member banks (or trust companies) acting in a fiduciary capacity. The Internal Revenue Service holds that under present law the common trust fund must be "maintained" by the bank which contributes the moneys to the fund for investment. The staff also understands that the Internal Revenue Service holds that a fund maintained by various members of a bank holding company will not qualify even if each member bank acts as a cotrustee of the common fund.

House bill.—The bill amends the provision of the code dealing with common trust funds (sec. 584) to provide that when banks are members of the same affiliated group (within the meaning of sec. 1504) they are, for purposes of this provision, to be treated as one bank for the period of their affiliation. Consequently, if banks are affiliated (as defined in sec. 1504) they may contain a common trust fund to which they can contribute funds held in their capacity as trustee, executor, administrator or guardian.

It is not necessary under the bill that banks contributing money to the fund act as cotrustees of the common trust fund. The affiliated group of banks may maintain a common trust fund if any member of the group serves as trustee. (Of course, one or more members of the affiliated group may serve as cotrustees, but this is not required.)

Effective date.—The bill would apply to taxable years beginning after December 31, 1975.

Revenue effect.—This bill is estimated to have a negligible revenue effect.

Administration position.—The Treasury Department supports this bill. The Comptroller of the Currency urges favorable action on the bill.

H.R. 5161

Tax Treatment of Magazines Used for Display Purposes

Present law.—Generally, taxpayers using the accrual method of accounting for income must include sales in income for the taxable year when all the events have occurred which fix the right to receive the income and the amount can be determined with reasonable accuracy. Generally, the method used by the taxpayer in determining when income is to be accounted for is accepted by the Internal Revenue Service if it accords with generally accepted accounting principles consistently used by the taxpayer from year to year. As an example, the income tax regulations (Regs. § 1.446–1(c)(1)) provide that a taxpayer engaged in a manufacturing business may account for sales of the product when the goods are shipped, when the product is delivered or accepted, or when title to the goods passes to the customer, whether or not billed, depending upon the method regularly employed in keeping books. When products are returned to a taxpayer during a taxable year the return is generally treated as a reduction from gross sales for purposes of financial and tax accounting.

Tax accounting differs from financial accounting in that tax accounting does not permit deductions for estimates of future costs. Thus, tax accounting does not permit an offset in the year in which the sale is made for the return of magazines in the following year.

Magazine publishers and distributors often distribute to retail outlets more copies of a magazine than it is anticipated the retailer can sell. The extra copies are distributed to assure the retailers an adequate number of copies for display purposes. When the next issue of the magazine is published and shipped to the retailer, the earlier issue is treated as being "off-sale" and the retailer returns the unsold copies of the magazine to the publisher.

Many publishers have for a number of years accounted for their returns of magazines on a net basis (by calculating the estimated returns) at the time of shipment. The Internal Revenue Service has taken the position that accrual basis publishers and distributors must include the sales of the magazine in income when the magazines are shipped to the retailers and may only exclude from income returns of the magazines when the copies are returned by the retailer during the taxable year.

House bill.—The bill provides that in the case of sales of magazines or other periodicals for display purposes, a taxpayer may elect not to include in gross income for the taxable year in which the magazines or other periodicals are shipped the income attributable to the sale of any magazine or other periodical which is returned not later than the 15th day of the third month after the close of the taxpayer's taxable year (i.e., the date on which the corporate tax return is generally due). The election applies only to taxpayers using an accrual method of accounting for the trade or business for which the election is made.

A sale is for display purposes under this provision if the sale is made in order to permit an adequate display of the magazine or other periodical and if at the time of sale the taxpayer has a legal obligation to accept returns of the magazine or other periodical.

These provisions apply to sales for display purposes if and only if the taxpayer makes an election under this provision with respect to the trade or business in connection with which the sales are made. An election under this provision may be made only with respect to taxable years beginning after December 31, 1975, and only with the consent of the Secretary or his delegate. The election is to be made in the time or manner as the Secretary may by regulations prescribe.

An election of this provision applies to all sales of magazines and other periodicals made for display purposes in connection with the trade or business with respect to which taxpayer has made the election. However, the election does not apply to sales made for display purposes before the first taxable year for which the election is made. Once an election is made, it is effective for the taxable year with respect to which it is made and for all subsequent taxable years unless the taxpayer secures the consent of the Secretary or his delegate to the revocation of the election. The computation of taxable income under an election under this provision is treated as a method of accounting. Thus, the provisions of the code relating to adjustments required by changes in method of accounting (sec. 481) apply to the making and the revocation of the election.

Effective date.—The bill is to apply to taxable years beginning after December 31, 1975.

Revenue effect.—It is estimated that this provision will result in a decrease of $10 million in tax liabilities in the first year that it is effective.

Administration position.—The Treasury Department has no objection to this legislation.

H.R. 7228

Devices Other Than Stamps on Distilled Spirits Containers as Evidence of Tax Payment

Present law.—Under present law, evidence of the payment of the Federal excise tax on distilled spirits is required to be demonstrated by attaching to the container what is commonly known as a "strip stamp." This is a paper stamp that is attached to the container in such a manner that it will be broken (thereby voiding it) on opening the container. Present law restricts the preparation and distribution of the strip stamps to the Secretary of the Treasury or his delegate. The stamps are now made by the Bureau of Engraving and Printing.

Recent developments in the technology of bottle container closures indicate that it may become simpler and less costly in the future to use devices other than paper stamps as evidence of payment of the excise tax on distilled spirits. For example, the evidence of this tax-payment may be printed on a metallic strip used to form the closure of a bottle; this strip also will be broken and thereby voided when the bottle is opened.

House bill.—The bill amends present law to allow the Treasury Department to authorize the use of forms or devices (other than paper stamps) as evidence of payment of the excise tax on distilled spirits. The bill further allows the Secretary of the Treasury to authorize the preparation and distribution by persons outside of the Federal Government of stamps and other forms of evidence of tax payment. In

addition, the Secretary is to prescribe whatever controls are necessary for the protection of the Federal revenues involved when persons outside of the Federal Government are authorized to prepare and distribute stamps or other devices for evidence of excise tax payment.

Effective date.—The amendments made by this bill would become effective upon the date of enactment.

Revenue effect.—The staff estimates that this bill will have no effect on Federal revenues.

Administration position.—The Treasury Department favors enactment of this bill. In 1972 and 1973, the Treasury Department sent identical bills to the Congress asking for their consideration and enactment.

H.R. 8283

Types of Flavors Permitted To Be Used in the Production of Special Natural Wines

Present law.—Under present law, for purposes of the code provisions relating to cellar treatment and classification of wines (secs. 5381–5388), special natural wines may be made with the addition (before, during or after fermentation) of "natural" flavorings and natural herbs, spices, fruit juices, aromatics, or essences. Flavors other than natural are not permitted to be used in producing special natural wines.

House bill.—The bill amends present law (sec. 5386(a)) to permit flavors other than natural to be used in producing special natural wines. This change means that the addition of flavors other than natural to "special natural wines" would have to be approved in advance by the Secretary of the Treasury or his delegate before they could be used in the making of such wines. The bill does not affect the circumstances under which natural herbs, spices, fruit juices, aromatics, and other natural flavorings may be used in producing these wines.

Effective date.—The bill is effective upon the date of enactment.

Revenue effect.—It is estimated that the enactment of the bill would have no effect on tax revenues, and, further, that the additional costs to be incurred by the Government under the proposed change would be negligible.

Administration position.—The Treasury Department has no objection to the bill.

H.R. 10101

Exemption From Fuel and Use Excise Taxes for Certain Aircraft Museums

Present law.—Under present law (secs. 4041 and 4081 of the code) gasoline and special fuels used in noncommercial aviation, including use by aircraft museums, are subject to manufacturers and retailers excise taxes totaling 7 cents per gallon of gasoline or special fuel. Exemptions from the gasoline and special fuels taxes are presently provided where the aircraft is used by commercial airlines, for farming, or as supplies for vessels or aircraft engaged in foreign trade, by

a State or local government, or a nonprofit educational organization.[1] In those cases where the manufacturers excise taxes have been paid, a mechanism is provided for refunds of these taxes if the gasoline or special fuel is consumed by an exempt user.

There is also imposed an annual excise tax upon the use of civil aircraft. This tax (under sec. 4491) is based largely upon the weight of the aircraft.[2]

House bill.—This bill exempts aircraft museums (of the type specified below) from the retailers and manufacturers excise taxes which apply to gasoline and special fuels used for noncommercial aviation purposes. A mechanism is also provided for refunds or credits of manufacturers excise taxes where they have already been paid on gasoline used by an aircraft museum. In addition, aircraft operated by an aircraft museum are exempted from the use tax on civil aircraft. An aircraft museum is defined, for these purposes, as an organization described in code section 501(c)(3) which is exempt from Federal income taxes under section 501(a). Also, the organization must be operated as a museum under State (or District of Columbia) charter and must be operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

For the exemption or refund to be available, the fuel must be used in an aircraft or vehicle (such as a ground servicing vehicle for aircraft) which is owned by an aircraft museum and is used exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

Effective date.—The amendments pertaining to exemptions from and refunds of the gasoline and special fuels taxes apply to fuel sold or used on or after October 1, 1976. The exemption from the aircraft use tax would take effect on July 1, 1976.

Revenue effect.—It is estimated that these amendments will result in a revenue loss of approximately $50,000 per year.

Administration position.—The Treasury Department opposes this bill. Treasury notes that an argument presented in support of the bill is that the planes of the museum do not use the expensive electronic facilities of the airway system and points out that the cost allocation studies of the Department of Transportation indicate that noncommercial aviation is greatly undertaxed. In the case of the annual use tax, the tax is actually a charge for the availability of facilities, and a similar situation exists with the highway use tax in the trucking industry for seasonal operators and those who drive a limited number of miles each year. Finally, Treasury points out that the only exemption from the airway user taxes is for aircraft fuel used by state and local governments and private nonprofit schools. The state and local governments, and the private schools, pay all the other taxes, including the annual aircraft use tax.

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[1] An educational organization for these purposes is, in general, one which maintains a faculty and curriculum to conduct onsite educational activities.

[2] The annual tax rate is $25 plus 2 cents per pound of takeoff weight over 2,500 pounds in the case of a non-turbine-powered aircraft, and 3½ cents per pound in the case of a turbine-powered aircraft

H.R. 11997

Bank Holding Company Tax Act of 1976

Present law.—In general, the Bank Holding Company Act Amendments of 1970 require a bank holding company (generally any company controlling a bank) to divest either its banking or nonbanking properties on or before December 31, 1980. At the time of enactment, it was anticipated that the Congress would later consider the need for legislation to provide relief from any tax burden resulting from the divestitures required under the 1970 Amendments.

With respect to distributions previously required under the Bank Holding Company Act of 1956 (and its amendment in 1966), bank holding companies which controlled two or more banks were permitted to make tax-free distributions (referred to as "spinoffs") of either their bank or nonbank assets, as the case may have been. This special treatment provided for the nonrecognition of any gain to the shareholders, upon the distribution to them of banking or nonbanking property, including stock of a subsidiary. The tax on any gain realized by shareholders, or on any property received by them, would be imposed upon their later disposition of stock or other property received in the spinoff.

House bill.—The House bill provides two possible methods in which tax relief may be obtained by individuals and corporations for divestitures made by a bank holding company of either bank or nonbank property pursuant to the Bank Holding Company Act Amendments of 1970.

First, the bill provides that a bank holding company may distribute either the bank or nonbank assets to its own shareholders (or, in some cases, security holders) without inclusion in income or recognition of gain by these stock (or security) holders. However, any loss realized by a shareholder (or security holder) as a result of a distribution may be recognized. This "spinoff" approach is generally the same as that adopted with respect to divestitures under the bank holding company legislation enacted in 1956 and 1966.

Second, the House bill permits a bank holding company to sell its banking or nonbanking assets in a taxable sale or exchange and to pay the income tax incurred at the corporate level in installments over at least a 10-year period with respect to sales or exchanges made under the divestiture requirements of the Bank Holding Company Amendments of 1970.

The methods of tax relief for divestitures permitted by the House bill are not intended, however, to be exclusive. As a result they do not limit the availability of any tax relief for dispositions covered specifically by other provisions of the code. For example, a bank holding company could make a required divestiture by means of a spinoff covered at the shareholder level by section 355 of present law (distribution of stock of a controlled corporation) if the specific requirements of that provision are otherwise fully satisfied.

With respect to the spinoff approach, the bill generally adopts the provisions contained in present law (secs. 1101-1103), which applied to divestitures made pursuant to the 1956 and 1966 bank holding company legislation.

In general, a corporation coming within the terms of the bank holding company legislation of 1970 is given its choice of two alternative routes—to remain a bank holding company and divest its prohibited nonbanking assets, or to dispose of its interest in banks and, as a result, cease to be a bank holding company.

If a corporation decides to remain a bank holding company, subject to supervision by the Federal Reserve Board, it must divest itself of any "prohibited property" (that is, nonbank property). Under the "spinoff" approach, nonbanking property (including stock) may be distributed to a bank holding company's shareholders without recognition of gain by them on the distribution.

The distribution of "prohibited property" may be made either directly to the shareholders of the corporation which is a bank holding company (with or without a surrender by the shareholders of some of their stock in the holding company) or may be transferred, together with other nonbank property, to a wholly owned subsidiary created expressly for purposes of receiving the prohibited property.[7] In the latter situation, the stock of the subsidiary must be immediately distributed to the shareholders of the corporation which is a bank holding company if the distribution is to qualify for nonrecognition of gain to (or noninclusion in income of) the shareholders.

If a corporation which qualifies as a bank holding company decides to cease to be a bank holding company (that is, if it wants to continue its nonbank activities), it must divest itself of its bank property. Under the "spinoff" approach, it may distribute to its shareholders any bank stock or other property of a kind which causes it to be a bank holding company, without the recognition of gain to the distributee shareholders (if they exchange some of their stock in the holding company) or without current inclusion in their income (if they retain their stock in the holding company). As in the case where a bank holding company divests its nonbanking property, as indicated above, nonrecognition is available whether the bank stock or other similar property is distributed directly to shareholders or whether it is first transferred to a wholly owned subsidiary expressly created for that purpose and the stock of the subsidiary is then immediately distributed to the shareholders of the parent company.

The spinoff provisions will not apply to a distribution of prohibited property if the bank holding company has made distributions of bank property or has made an election under the installment payment provision with respect to the sale of bank property. Conversely, the spinoff provisions will not apply with respect to distributions of bank property if distributions of prohibited property have been made by the bank holding company under the spinoff provisions, or if it has made an election to pay the tax in installments with respect to prohibited property.

In general, distributions must be pro rata either with respect to all shareholders of the distributing bank holding company or with respect to all holders of common stock of the company. In the case of distribu-

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[7] In case where a wholly owned subsidiary is created to receive the prohibited property, certain amounts of working capital may be transferred in addition to the prohibited property. However, the nonrecognition provisions of this bill would not apply if the subsidiary receives a greater amount of working capital than is necessary under the circumstances or if other evidence indicates the existence of a plan one of the principal purposes of which is to distribute earnings and profits of a corporation.

tions to several classes of shareholders, the determination of whether the distributions are pro rata is to be made on the basis of the respective fair market values of classes of stock.

A limited exception is provided in the bill to permit non pro rata distributions where the Federal Reserve Board requires it in order to effectively separate banking and nonbanking businesses, e.g., if the result of a pro rata distribution would be that the same small group of shareholders would continue their respective interests in two corporations rather than one. This exception applies only in the case of a qualified bank holding corporation which does not have more than 10 individual shareholders (other than an estate) at any time during the period beginning on July 7, 1970, and ending after the final distribution required under the Bank Holding Company Act is made. Further, this exception is to apply only if the Board certifies that a pro rata distribution is not appropriate to effectuate the policies of the Bank Holding Company Act and that a disproportionate distribution is necessary or appropriate to effectuate such policies. In this case, the Board is to make such certification only after consultation with the Secretary of the Treasury or his delegate.

Where distributions of divestiture property (banking or nonbanking property as the case may be) are made directly by a qualified bank holding corporation, the distributions may be pro rata with respect to common shareholders without the surrender of shares of the distributing company held by them. In the case where the divestiture property is transferred to a wholly owned subsidiary and then the stock of the subsidiary is distributed, the common stock of the subsidiary may be distributed to all shareholders or only to the common shareholders of the distributing corporation without the surrender of shares in the distributing corporation. In addition, preferred stock or common stock in the subsidiary may be distributed in redemption of the holding company's own common and preferred stock (subject, however, to the tender offer requirement under the pro rata rule in the bill). In addition, if the exception to the pro rata requirements applies, the holding company may distribute preferred or common stock or securities of the subsidiary in exchange for the holding company's own securities.

If shareholders of a bank holding company do not recognize gain on a distribution of property to them in exchange for stock or securities held by them in the holding company, the basis of the property received by a shareholder is the same as the basis of the stock securities exchanged. If property is received by such shareholders without an exchange of stock by them, the shareholder is required to allocate his basis in the stock of the bank holding company between such stock and the property distributed to him. Thus, the tax which would have otherwise been incurred by a shareholder with respect to a distribution is generally postponed until the shareholder disposes of the stock or property which is received.

As a result of the Tax Reform Act of 1969, present law taxes any gain to a corporation which distributes appreciated property in redemption of its own stock (sec. 311(d)). However, a number of exceptions

were provided to this rule at that time.[8] The bill adds another additional exception providing that gain will not be recognized by a corporation distributing appreciated stock of a pre-existing banking or nonbanking subsidiary in redemption of its own stock.

This additional exception to section 311(d) is not to be available for distributions of assets other than stock. Moreover, the exception is to be available only for distributions made directly by the holding company (under new secs. 1101(a)(1) or (b)(1)) and does not apply to distributions of stock of any newly created subsidiary.[9] This exception is not to apply where the distributee is a tax-exempt organization.

The second form of tax relief provided by the bill permits the taxpayer to make installment payments of the tax attributable to a divestiture accomplished by a sale of bank or nonbank property, as the case may be. Under the installment payment provision, a bank holding company selling bank property or nonbank property, after July 7, 1970, may elect to pay the tax attributable to this sale in equal annual installments. The first installment is to be due on the due date of the taxpayer's return of taxes for the taxable year in which the sale occurred. The installments are to be paid annually thereafter with the last installment payable on the due date of the taxpayer's return in 1985 or, if later, on the corresponding date 10 years after the due date for the year in which the sale occurred. If the taxpayer makes more than one sale under the 1970 bank holding company legislation, the tax attributable to each sale may be paid on an installment basis beginning in the year after each sale was made.

As indicted above, the bill provides for a minimum installment period of 10 years. Thus, in the case of a sale in 1980, the installment period would be available until 1990 (rather than 1985). However, interest is not imposed upon the deferred tax in the case of installments due through 1985, but is payable with respect to installment payments due after 1985.

The installment payment of tax is not to be available for a sale of nonbank property if the bank holding company elects to apply the provision to the sale of bank property or if the company has distributed bank property under the spinoff provisions. Conversely, the installment payment of tax is not to apply with respect to a sale of bank property if the bank holding company elects to pay the tax in installments with respect to nonbank property or has distributed nonbank property under the spinoff provisions. If the bank holding company elects to report gain on a sale under the regular installment method (section 453), it is not to be entitled also to elect for this sale the special installment method provided here.

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[8] The rule does not apply to (1) a distribution in partial or complete liquidation of a corporation, (2) a distribution of stock or securities in a divisive reorganization, (3) certain complete redemptions of a 10-percent shareholder, (4) certain distributions of a stock of a 50-percent controlled corporation, (5) certain distributions of stock or securities pursuant to the terms of a judgment requiring divestiture under the antitrust laws, (6) certain distributions in redemption of stock to pay death taxes, (7) certain distributions to a private foundation in redemption of stock, and (8) certain distributions by a regulated investment company in redemption of its stock.

[9] If stock of a newly created subsidiary could be distributed under the protection of the new exception to sec. 311(d), the rule limiting the exception to stock distributions could be circumvented by transferring business assets to a newly created subsidiary and then distributing the stock of that subsidiary to the shareholders of the bank holding company.

If the company elects to pay the tax in installments, the payments are to be accelerated and the tax paid in full if (i) an installment is not paid on or before its due date; or (ii) the Federal Reserve Board fails to make a certification, within the time prescribed that the company has disposed of all the property the disposition of which is necessary to effectuate the policies of the Bank Holding Company Act or that the company has ceased to be a bank holding company.

If the company elects to pay the tax in installments, the Secretary of the Treasury or his delegate may, if he feels that it is necessary to ensure payment of the tax, require the company to furnish a bond. The provision relating to bonds (sec. 6165) where the time to pay the tax has been extended, is to apply as though the Secretary is extending the time for the payment of tax. The running of the period of limitations for the collection of the tax attributable to a sale is to be suspended for the period during which there are any unpaid installments.

The tax relief provided under the bill is available for divestitures occurring from July 7, 1970, through December 31, 1980. In general, a bank holding company must be qualified as such and the property being divested must have been held as July 7, 1970. This date is the date upon which the Senate Banking and Currency Committee announced that it was reporting out a bill dealing with one-bank holding companies. This restriction is considered necessary to preclude tax relief for acquisitions made after it became clear that the separation of banking and nonbanking businesses was to be required of the one-bank holding companies.

Since the Bank Holding Company Act of 1970 requires all divestitures to be made by December 31, 1980, the tax relief is made available only for those divestitures which will have taken place by that date.

Effective dates.—The "spinoff" amendments made by the bill are to be effective with respect to distributions after July 7, 1970. The bill, however, is to take effect on October 1, 1977. The effective date of the bill is postponed until October 1, 1977, so that there will be no revenue loss until fiscal year 1978.[10]

In the case of distributions occurring before enactment of the bill, the period of limitations for refunds or credits is extended for one year following the October 1, 1977.

The provision relating to nonrecognition of gain by a corporation using appreciated property to redeem its stock is to apply to distributions made after December 31, 1975. However, the bill also provides that this provision is not to take effect until October 1, 1977.

The installment payment of tax provision is to apply to sales made after July 7, 1970. The bill, however, is not effective until October 1, 1977. As in the case of the spinoff approach, the postponement of the effective date of the bill is provided so that there will be no revenue loss until fiscal year 1978.

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[10] In the case of any distribution which takes place on or before 90 days after the date of the enactment of this bill, the requirement that the Federal Reserve Board certify that the distribution is necessary or appropriate to effectuate the purposes of the Bank Holding Company Act is to be treated as made before the distribution if an application for certification is made before the close of the 90th day after the date of enactment. The final certification (required by section 1101(e)) is to be treated as made before the close of the calendar year following the calendar year in which the last distribution occurred if application for that certification is also made before the close of the 90th day after the date of enactment.

In the case of any sale which takes place on or before 90 days after the date of enactment, a certification by the Federal Reserve Board is to be treated as made before the sale if application for the certification is made within 90 days after the date of enactment.

In the case of a sale occurring before enactment of the bill, refunds or credits are to be available for the portion of the tax attributable to the sale not yet due on October 1, 1977 under the installment payment provision. Under the bill, no refund may be made or credit allowed under the provision before October 1, 1977.

Any refund due under this provision may be used by the Internal Revenue Service as an offset to any outstanding deficiencies as provided under present law (sec. 6402). In the case of refunds attributable to sales, in two or more taxable years the refunds attributable to the sales are to be used in the order of time as offsets to the deficiencies arising in the order of time and in the manner provided under present law where the taxpayer does not specify the liability being satisfied (first as to interest, second as to penalties, and third as to tax liabilities).

In the case of an overpayment arising from the installment provisions interest to the taxpayer is to be allowed for only for periods 6 months or more after the later of the date of enactment, the date on which application for refund is filed, or the due date for filing the income tax return for the taxable year in which the sale occurs.

Revenue effect.—The bill would become effective on October 1, 1977, so that there would be no revenue effect for fiscal year 1977. Thereafter, the revenue loss is estimated to be approximately $50 million in fiscal year 1978, $25 million in fiscal year 1979, $50 million in fiscal year 1980, and $60 million in fiscal year 1981. Of this amount, $125 million would be returned to the Treasury during the period 1981 through 1990 as installment payments are made with respect to the taxes deferred under the installment payment method.

Administration position.—The Treasury Department supports this legislation. With respect to the spinoff provisions, however, it recommends that non-pro-rata distributions be generally permitted rather than being limited as in the bill, to cases where a non-pro-rata distribution is required by the Federal Reserve Board.

REVENUE BILLS PENDING ON HOUSE CONSENT CALENDAR

H.R. 1142

Tax Treatment of Cemetery Perpetual Care Fund Trusts

Present law.—The position of the Internal Revenue Service is that perpetual care fund trusts established by a taxable cemetery are subject to tax.[1] The Service also has held that the deduction for income distributed to beneficiaries of trusts (under secs. 651 and/or 661) is not to be allowed to perpetual care funds because they do not have any specific beneficiaries. The Service's position in this regard is that

[1] In Rev. Rul. 64-217 (1964-2 C.B. 153), the Service held that a perpetual care fund, the income of which is turned over to a profitmaking cemetery company for use in connection with the maintenance of cemetery sites and burial lots, is not entitled to exemption from Federal tax.

the benefit of the trust is diffused among the owners of the lot, the cemetery companies, and the public in general.

However, in a recent and related case, *Graceland Cemetery Improvement Fund* v. *U.S.*, 515 F. 2d. 762 (Ct. Cl. 1975), the Court of Claims held that a corporation formed for the perpetual care of a taxable cemetery was entitled to deduct as ordinary and necessary business expenses all payments made for cemetery care and upkeep.

House bill.—The bill amends the trust provisions (sec. 642) of present law to provide a deduction for those amounts expended by perpetual care fund trusts for the care and maintenance of gravesites. The deduction allowed is to the lesser of the amount actually distributed during the year for such care and maintenance or $5 per gravesite. Since perpetual care funds are established for the care of gravesites that have been previously sold by cemetery corporations, the deduction is to apply only for amounts expended for the care of gravesites sold before the taxable year in question. For the same reason, the deductions are to be available only with respect to the care and maintenance of gravesites with respect to which the fund actually has an obligation of care.

The bill would have the effect of eliminating the taxable income of substantially all of these perpetual care fund trusts since the deduction provided by the bill in almost all cases is more than is usually needed to provide for the care and maintenance of the gravesites.

Effective date.—The amendment is retroactive and applies to amounts distributed during taxable years ending after December 31, 1963, which is when the Service first gave public notice of its position regarding the tax treatment of perpetual care funds of profit-making cemeteries.

Revenue effect.—The estimated annual revenue loss is $10 million. The revenue effect pertaining to taxable years ending after December 31, 1963, and beginning before January 1, 1976, cannot be estimated with any degree of accuracy. In any event, it is understood that the Internal Revenue Service has not been imposing any tax in these cases in the past which means that the bill in effect would forestall any revenue collections for the prior years.

Administration position.—The Treasury Department supports this legislation.

H.R. 1144

Tax Treatment of Social Clubs and Other Membership Organizations

Present law.—

Income from nonmembers and investment sources.—Among the present law categories of exempt organizations are social clubs and other somewhat similar nonprofit organizations, such as national organizations of college fraternities and sororities. Present law (sec. 501(c)(7)) provides that these organizations must be organized and operated exclusively for pleasure, recreation, and other nonprofit purposes with no part of the net earnings inuring to the benefit of any private shareholder. The regulations under this provision state that a club which engages in business is not organized and operated exclusively for nonprofitable purposes and, therefore, is not exempt.

Generally, the Internal Revenue Service has not challenged the exempt status of these organizations if the income derived from providing goods and services to persons other than members and their guests is small in relation to the total activities of the organization. Thus, as an audit standard (Rev. Proc. 71-17, 1971-1 C.B. 683) the Service has indicated that it generally will not disturb a social club's exempt status solely on the basis of its nonmember activities if the club's annual income from outside sources is not more than the higher of $2,500 or 5 percent of the total gross receipts of the organization. Where gross receipts from nonmember dealings exceed this 5-percent figure, all facts and circumstances are taken into account in determining whether the organization continues to qualify for exempt status. In the case of investment income, the Service applies no percentage rule, but instead looks to whether a substantial part of the club's income is from investment sources (Rev. Rul. 66-149, 1966-1 C.B. 146).

In the Revenue Act of 1950, Congress imposed the regular income tax on the income certain tax-exempt organizations receive from active business enterprises which are unrelated to their exempt purposes in order to prevent such tax-exempt organizations from enjoying a competitive advantage over other businesses. Social clubs, national organizations of college fraternities and sororities and certain other tax-exempt organizations were not subjected to the unrelated income tax imposed at that time.

In the Tax Reform Act of 1969, however, Congress extended the unrelated business income tax to virtually all of the exempt organizations not already subject to that tax because many of the exempt organizations not subject to the unrelated business income tax were engaging in substantial business activity. As a result, social clubs and national organizations of college fraternities and sororities are subject to tax on all of their unrelated business income.

In addition, the 1969 act extended the unrelated business income tax in the case of these social clubs and employees' beneficiary associations to cover investment income as well as the unrelated business income. Investment income was made taxable in the case of these membership organizations because not to do so would have permitted them to provide recreational or social facilties and services out of income other than membership fees, and as a result, would have allowed individuals to devote investment income, free of tax, to personal activities.

Dividends received deduction for exempt social clubs, etc.—Generally, under present law the tax on unrelated business income does not apply to investment income. However, in the case of social clubs and employee beneficiary associations, "investment income" is included in the tax base. This result is accomplished in the case of these organizations by defining their unrelated business taxable income (sec. 512(a)(3)) as gross income (other than exempt function income) less allowable deductions directly connected with the production of gross income (again excluding exempt function income).

One of the deductions allowed corporations in the computation of the regular corporate income tax is the dividends received deduction. Generally, this allows corporations a deduction equal to 85 percent of dividends received from taxable domestic corporations. The proposed Treasury regulations on social clubs and employee beneficiary associations provide that the dividends received deduction is not

allowed for purposes of computing the unrelated business taxable income for social clubs and employee beneficiary associations, because it is not an expense directly connected with the production of income.

Dividends received deduction for nonexempt membership organizations.—The third section of the bill also relates to the dividends received deduction in the case of investment income, but in this case where the dividends are received by nonexempt membership organizations. The Tax Reform Act of 1969 (sec. 277 of the code) provided that in the case of taxable membership organizations the deduction for expenses incurred in supplying services, facilities, or goods to the members was to be allowed only to the extent of the income received from these members. This was provided in order to prevent taxable membership organizations from escaping tax on business or investment income by using this income to provide services, facilities, or goods to its members at less than cost and then deducting the loss from the membership activity against the investment income.

House bill.—

Income from nonmembers and investment sources.—The first amendment made by the bill (subsection (a) of the bill) substitutes for the present law requirement that clubs which are exempt from tax under section 501(c)(7) must be organized and operated "exclusively" for pleasure, recreation, and other nonprofitable purposes, the requirement that "substantially all" of such a club's activities must be for these purposes.[1]

The effect of this change is twofold. First, it is intended to make clear that these organizations may receive some outside income, including investment income, without losing their exempt status. Second, it is intended that the level of income a social club can derive from the use of its facilities or services by nonmembers be somewhat higher than was previously the case, without the organization losing its exempt status.

Dividends received deduction for exempt social clubs, etc.—The second amendment made by this bill (subsection (b) of the bill) denies a corporate dividends received deduction to tax-exempt social clubs and voluntary employees beneficiary associations (described in secs. 501(c) (7) and (9)) in computing their "unrelated business taxable income." Under present law the unrelated business taxable income of these organizations is defined as their gross income (excluding any exempt function income) less the deductions under this chapter "which are directly connected with the production of the gross income" (again excluding exempt function income). The bill provides that the corporate dividends received deduction is not to be considered as a deduction which is "directly connected with the production of gross income."

Dividends received deduction for nonexempt membership organizations.—The third amendment made by this bill (subsection (c) of the bill) denies a corporate dividends received deduction to taxable social clubs or other membership organizations operated primarily to furnish services or goods to members (referred to in section 277 of the code). These organizations, with certain exceptions set forth in

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[1] The bill continues the present law requirement that no part of the net earnings of the organization may inure to the benefit of any private shareholder.

present law, are permitted deductions attributable to furnishing services, insurance, goods or other items of value to their members only to the extent of the income derived from members or transactions with members. The bill provides that the corporate dividends received deduction (secs. 243, 244, and 245 of the code) is not to be allowed to corporations to which this provision of law applies.

Prohibition of discrimination.—The House bill also provides that an organization otherwise exempt from income tax under section 501 (c)(7) is to lose its exempt status for any taxable year if, any time during that year, its governing instruments or written policy statements contain a provision which provides for the discrimination against any person on the basis of race, color, or religion.

Effective date.—The amendment with respect to the changes in the requirement for exempt status of clubs under section 501(c)(7) is to apply retroactively to taxable years beginning after December 31, 1969, the effective date of the provision in the Tax Reform Act of 1969 extending the unrelated business income tax to social clubs, college fraternities, etc.

The amendment denying the corporate dividends received deduction to tax exempt social clubs and voluntary employees beneficiary associations applies retroactively to taxable years beginning after December 31, 1969, the effective date of the provision of the 1969 act taxing unrelated business taxable income (including investment income) of social clubs and voluntary employees beneficiary associations.

The amendment denying the corporation dividends received deduction to taxable social clubs and other membership organizations operated primarily to furnish services or goods to members applies to taxable years beginning after December 31, 1970, the effective date of the provision of the 1969 act limiting the deductions of taxable membership organizations.

Revenue effect.—It is estimated that the revenue effect of this bill will be a small revenue gain, probably less than $100,000 a year.

Administration position.—The Treasury supports the provisions of H.R. 1144 which would allow social clubs, including college fraternities and sororities, to earn limited income from nonmember sources and investments without losing their general tax exemption. The Treasury also supports the provisions of the bill which would deny the dividend received deduction in computing taxable investment income of social clubs as well as taxable membership organizations. Section 2(a) of the bill provides that organizations which have a written policy of discrimination on the basis of race, color, or religion would lose their exempt status under section 501(c)(7) of the Internal Revenue Code. Since about one-quarter of the 40,000 social clubs, which are exempt under section 501(c)(7), are organized on the basis of a common bond of religion or ethnic origin, the Treasury opposes section 2(a) of the bill. There is no apparent reason for discouraging social clubs organized on the basis of such a common bond. The practical consequences of denying tax exempt status to section 501(c)(7) social clubs would be that they would have to file corporate tax returns. Since such clubs would seldom, if ever, have any taxable net income, paperwork burdens would be imposed on both the clubs and the Internal Revenue Service.

H.R. 6521

Exemption From Tax for Farm Trailers and Horse or Livestock Trailers

Present law.—Section 4061(a)(1) of the Internal Revenue Code imposes a 10-percent tax on the sale by the manufacturer, producer, or importer of enumerated articles including truck trailer and semitrailer bodies and chassis.

Section 4061(a)(2) provides an exclusion from the tax, however, for sales of bodies and chassis of "light-duty" trucks, buses, and truck trailers, and semitrailers. To qualify for the exemption, the truck trailer and semitrailer chassis and bodies must be suitable for use with a trailer or semitrailer having a "gross vehicle weight" of 10,000 pounds or less (determined according to Treasury regulations). In addition, the truck trailer or semitrailer itself must be suitable for use with a towing vehicle with a gross vehicle weight of 10,000 pounds or less.

House bill.—The bill would provide an exemption from the manufacturers excise tax in the case of trailers, semitrailers, and bodies and chassis for trailers or semitrailers that are suitable for use with a towing vehicle with a gross vehicle weight of 10,000 pounds or less. To qualify for the exemption, however, the trailer or semitrailer must be designed for use for farming purposes or for transporting horses or livestock. In addition, parts or accessories suitable for use with an exempt trailer, semitrailer, or trailer or semitrailer body or chassis are also to be exempt.

To avoid creating competitive disadvantages because of the relative size of dealers' inventories, and in conformity with prior practice, the bill would provide for floor stocks refunds with respect to all articles exempted by the bill that are still in dealers' inventories on the day after the bill's enactment.

Effective date.—The exemptions proposed by the bill would apply with respect to articles sold on or after the date of enactment.

Revenue effect.—The revenue loss from this provision is expected to be less than $2 million annually.

Administration position.—The Treasury Department opposes this legislation because of the resulting discrimination against single-unit trucks (that is, without trailers or semitrailers) and non-farm trailers and semitrailers. The argument is made that heavy-duty trailers and semitrailers designed to be used on a farm or for transporting horses or livestock make infrequent use of the highways and, therefore, should be exempted from the highway use tax. But there are many types of vehicles (electric company trailers, construction equipment, etc.) that may be in a similar situation. The highway use taxes are appropriately a combination of taxes that seek to recover the costs of making highway facilities available (e.g. highway vehicle excise taxes and annual use) and taxes that reflect highway usage (e.g. the gasoline tax). It is impractical to differentiate vehicles by the extent of highway usage for purposes of the vehicle excise taxes and annual use taxes.

H.R. 2474

Refunds in the Case of Certain Uses of Tread Rubber and Tires

Present law.—Present law (sec. 4071) imposes a tax of 5 cents per pound on tread rubber used for retreading tires of highway-type vehicles and a tax of 10 cents per pound on new tires used on highway vehicles.[1]

In the case of new tires, a credit or refund of tax is provided where the tire is exported, is sold for use as supplies for vessels or aircraft engaged in foreign trade, or is sold for exclusive use by a State or local government or by a nonprofit educational organization (sec. 6416(b)).

There are several instances under present law where a manufacturers tax is imposed on tread rubber when in a similar situation a manufacturers tax would not be imposed (or a credit or refund would be allowed) on a new tire.

First, rubber wasted in manufacturing new tires is not subject to tax since the tax is imposed when the completed tire is sold and is imposed only upon the material actually in the completed tire. The tax on tread rubber is imposed before the completion of a major manufacturing process—the recapping or retreading of a used tire. Wastage of tread rubber in that process occurs after the tread rubber tax liability has been determined, and under present law no refund or credit is provided for any portion of the tax imposed on tread rubber which is wasted.

Second, under present law, where the sale of a new tire is adjusted on account of a tread mileage or road hazard guarantee or other similar arrangement, a credit is allowed for a portion of the tax in accordance with the amount of the adjustment in price. However, if the sale of a retreaded tire is adjusted under the same circumstances, no credit or refund of the tread rubber tax is provided.

Third, a credit or refund of the tax on new tires is available when the tire is exported, sold to a State or local government, sold to a nonprofit educational organization, or used or sold for use as supplies for a vessel or aircraft. A credit also is available where a new tire is mounted on a new automobile that is then disposed of in any of the above ways. However, no credit or refund is available for the tread rubber tax when a recapped or retreaded tire (or the car on which it is mounted) is disposed of in any of those ways.

In addition, the present credit or refund of tax which is permitted in cases of new tire guaranty or warranty adjustments may be computed incorrectly because the amount of the refund is based on the price of the replacement tire (not the original tire) and because the refund is not available where an individual other than the original buyer receives the adjustment.

House bill.—The bill would make a credit or refund of the tread rubber tax available in three situations. These changes are intended to

[1] The tax is scheduled to be eliminated for tread rubber and to be reduced to 5 cents per pound for new tires on October 1, 1977 (sec. 4071(d)).

permit a credit or refund of the tax on the tread rubber used on a recapped or retreaded tire, under the circumstances where a credit or refund would be available for the tax on a new tire.

First, the credit or refund is to be available where rubber is destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process.

Second, the credit or refund is to be available where the tread rubber is used in the recapping or retreading of a tire if the sales price of the tire is later adjusted because of a warranty or guarantee.

Third, a credit or refund of the tread rubber tax is to be available to the manufacturer for the tread rubber on a recapped or retreaded tire if the tire is by any person (1) exported, (2) sold to a State or local government for the exclusive use of a State or local government, (3) sold to a nonprofit educational organization for its exclusive use, or (4) used or sold for use as supplies for a vessel or aircraft.

Where a retreaded tire is sold by a second manufacturer on or in connection with another article (for example, a truck) manufactured by him, the bill provides that a credit or refund of the tread rubber tax is to be allowed to the further manufacturer if the article is exported or sold for any of the above purposes. Also, a credit or refund of the tread rubber tax is to be available to the manufacturer of the recapped or retreaded tire if that retreader sells the tire on or in connection with any other article manufactured by him, and that other article is exported or sold by any person for one of the purposes described above.

In addition, the bill makes it clear that present credit or refund for any tire tax paid in cases of guaranty or warranty adjustments is to be based on the adjusted price of the tire being returned (not the replacement tire) and is to be available whether or not any replacement tire is made by the same manufacturer as the tire being returned and whether or not a replacement tire is obtained. The bill also modifies the statute of limitations so that a credit or refund of the tread rubber or new tire tax can be obtained for a period of 1 year after the warranty or guaranty adjustment is made. Finally, the bill imposes a tax on tread rubber used in recapping or retreading tires abroad, if those tires are then imported into the United States

Effective date.—The amendments made by this bill are to take effect on the first day of the first calendar month which begins more than 10 days after the date of the bill's enactment.

Revenue effect.—The bill is expected to result in a negligible revenue loss, less than $200,000 annually.

Administration position.—The Treasury Department favors enactment of the bill, but recommends elimination of the provision, in new section 6414(b)(2)(ii), which permits a deemed overpayment of tax to be computed on the basis of advanced price adjustments in lieu of warranty adjustments based on actual loss.

H.R. 8046

Exclusion From Income of Rental Value of Parsonage Furnished to Surviving Spouse of Minister

Present law.—Under present law (sec. 107 of the code), a minister of the gospel is entitled to exclude from his gross income the rental value of a home furnished to him as part of his compensation or the allowance paid to him for housing.

This provision applies to anyone who is an ordained, licensed, or commissioned minister of the gospel and performs such services as normally considered functions of such a person. The exclusion does not apply to the surviving spouse of a deceased minister.

Under present law, if the surviving spouse of a deceased minister continues to receive the same housing benefits which were provided tax-free to the minister during the performance of his ministerial duties, then these amounts are included in the gross income of the surviving spouse. However, the housing benefits furnished a minister of the gospel during his lifetime were a part of his compensation and if furnished to his surviving spouse after his death could be considered to be furnished because of the prior services rendered by the minister.

House bill.—The bill provides, generally, that if the widow or widower of a deceased minister of the gospel continues to be furnished a home after the death of the minister and if the rental value of the same home was excludable by the minister under present law (sec. 107), then the widow or widower may likewise exclude from gross income this amount. The exclusion by the widow or widower, however, is to apply only with respect to the 1-year period beginning on the date of the minister's death. The exclusion is to apply only if the home is furnished to the surviving spouse, and not to any allowance which might be furnished in lieu of the home. Also, remarriage by the surviving spouse terminates eligibility for the exclusion.

Effective date.—The amendments made by this bill are to apply with respect to taxable years ending on or after the date of enactment.

Revenue effect.—It is estimated that enactment of this bill will result in a decrease in tax liability of approximately $500,000 a year.

Administration position.—The Treasury Department opposes enactment of this bill. It sees no justification for extending the section 107 exclusion, which has itself been the subject of criticism.

H.R. 10155

Tax Treatment of Certain Income of Political Organizations

Present law.—Under present law (sec. 527 of the code) political organizations (such as political parties or committees) are generally subject to Federal income taxation on income from investments and income from any trade or business. However, the exempt function income of such organizations is not taxable.

Under present law, "exempt function income" includes contributions of money or other property and membership fees, dues, or assessments from members of the organization. Exempt function income also

includes proceeds received from political fund raising or political entertainment events, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or busines. Thus, proceeds received from casual sporadic fundraising events or political entertainment events, such as political dinners, receptions, or an annual athletic exhibition, are to be treated as exempt function income. However, in all of these cases the income is exempt function income only if the event is a political event and is not carried on in the ordinary course of a trade or business. Factors to be taken into account in determining whether an activity is a trade or business, for purposes of this section, include the frequency of the event, the manner in which the event is conducted, and the span of time over which the event is carried on. Whether an event is a political fund raiser or a political entertainment event will depend upon the facts and circumstances of the particular event, taking into account the extent to which the event is related to a political activity aside from the need of the organization for income or funds.

In addition, amounts received on the sale of campaign materials are eligible for exempt function income treatment under present law if the sale is not in the ordinary course of a trade or business, and is substantially related to the political activities of the organization. Thus, proceeds from the sale by a political organization of political items such as political memorabilia, bumper stickers, campaign buttons, hats, shirts, political posters, stationery, jewelry, or cookbooks are generally not to be taxable to the political organization where the sale is closely related to other political activity such as distributing political literature, organizing voters, etc. However, where these materials are sold in the regular course of a trade or business, the income derived from the sale is to be taxable.

House bill.—The bill provides that income received by a political organization from any trade or business which is regularly carried on would not be taxable if substantially all the work in carrying on the trade or business is performed for the political organization without compensation. Thus, the bill provides that a political organization would not ordinarily be taxed on income from political fund-raising or entertainment events, or from the sale of political campaign materials, even if the events or sales are regularly carried on, if substantially all the work performed in connection with the events and sales is normally performed by unpaid volunteers. This would have the effect of treating political organizations in a manner similar to tax exemption organizations (under sec. 501), since these other organizations are not generally subject to the tax on income with respect to any trade or business regularly carried on "in which substantially all the work in carrying on such trade or business is performed for the organization without compensation" (sec. 513(a)(1)).

Effective date.—The bill applies to taxable years beginning after December 31, 1975.

Revenue effect.—It is estimated that the bill will have a negligible effect on revenues, a loss of less than $100,000 annually.

Administration position.—The Treasury Department has no objection to this bill.

H.R. 10902

Tax Treatment of Securities Acquired for Business Reasons and Not as an Investment

Present law.—Under present law, the treatment of gain or loss on a sale or exchange of a stock or other security depends on whether the security is a capital asset in the hands of the taxpayer. Any stock or other security which is held for investment is treated as a capital asset and if held for more than 6 months is accorded the more favorable long-term capital gain treatment (that is, only one-half of the gain is subject to tax). Capital losses, however, are limited for both individuals and corporations as to the amount that may be deducted in a year. If a stock or other security is held for business purposes, generally it would not be treated as a capital asset and, therefore, any gain would be treated as ordinary income and any losses would be treated as ordinary losses (which could be deducted in full in the current year). As a result, if a taxpayer has a gain on the sale of a stock or other security, he would prefer to have capital gain treatment. However, if there is a loss from the sale, he would prefer to have ordinary loss treatment.

The question of whether a security (or any asset) is a capital asset is factual and depends on the facts and circumstances of the particular case, i.e., whether the taxpayer acquired and held the security as an investment or whether he acquired and held it for sale to customers in the ordinary course of business or held the stock for use in his business. In some situations, individuals or corporations which have acquired stock in another company and later sold such stock at a loss have successfully argued that they purchased and held the stock to assure themselves a source of supply of the other company's products or for similar business reasons. As a result these taxpayers have often been upheld in treating their loss as ordinary rather than capital. Few, if any, situations have arisen, however, where in similar circumstances a gain on later sale of the stock or securities has been held to be ordinary income.

Under present law (sec. 165(g)(1)) a loss resulting from a security becoming worthless during the taxable year is a capital loss if the security is a capital asset. The loss is ordinary if the security is not a capital asset in the taxpayer's hands. A special statutory rule also provides ordinary loss treatment for a security held by a parent corporation in a controlled subsidiary where the security becomes worthless during the taxable year (sec. 165(g)(3)).

House bill.—The bill adds a new provision (sec. 1254) which requires a taxpayer (including individuals and corporations) to notify the Secretary within 30 days after initially acquiring a security that the acquisition was not made as an investment in order to obtain ordinary loss treatment on a sale or exchange of the "security" (as defined in present section 165(g)(2)). The bill authorizes the Service to issue regulations concerning how the notice must be given and the information it must contain. The giving of notice would not guarantee ordinary loss treatment for a taxpayer; he would still have to establish

that he did not acquire and hold the stock as a capital asset. The bill simply adds a threshold condition for ordinary loss treatment that. in any event. the taxpayer must have filed the required notice within the required period.

If a taxpayer filed the necessary notice and realizes a gain when he sells the security. the bill provides that his gain shall be ordinary income and not capital gain. In such a situation. ordinary income treatment is automatic; the bill does not permit the taxpayer to show that on the particular facts he held the stock as a capital asset.

These rules operate together to prevent a taxpayer from subsequently coloring his description of his original purposes in acquiring a security. depending on whether he suffers a loss or realizes a gain on sale of the security.

The bill also adds a notice requirement in order for a worthless security to be treated as producing an ordinary loss. Where a security becomes worthless during the year. the taxpayer may obtain an ordinary loss only if he establishes that the security was not a capital asset in his hands and also that. within 30 days after he initially acquired the security. he notified the Service that he held the security other than as an investment.

This notice requirement would not be imposed. however, in the case of a worthless security in an affiliated corporation (under the provisions of present section 165(g)(3)), but would be imposed in the case of a sale or exchange of a security in such a corporation.

The new section would also not apply to a securities dealer. Present law (sec. 1236) creates uniform treatment for securities dealers by providing capital gain or loss treatment on sale or exchange if, within 30 days after he acquires a security. the dealer clearly identifies it in his records as held for investment and also if he does not later hold the security for sale to customers. A dealer who does not identify his securities in this manner receives ordinary income or loss when he sells the security.

The new rule also would not apply to losses on stock in a small business investment company operating under the Small Business Investment Act of 1958. or to losses on certain other small business stock where ordinary loss treatment is prescribed by other provisions of present law (secs. 1242. 1243, and 1244). Finally. the new rule would not apply to losses on sales or exchanges of certain kinds of securities held by banks or other financial institutions if. and to the extent. such losses are governed by section 582(c) of present law.

Effective date.—The bill applies to taxable years ending after the date of enactment. However, the new rules would not apply to any sale or exchange occurring before the issuance of regulations under the new code provision.

The bill also contains a transition rule for securities acquired on or before the date of enactment of the provision. or acquired after that date but before the issuance of the first regulations under the new section. In such cases, the taxpayer's notice must be given to the Service within 30 days after such regulations have been issued (rather than within 30 days after he initially acquired the security).

Revenue effect.—It is estimated that enactment of this provision will not have a significant revenue effect during the first two years.

However, in the later years this provision could generate annual revenue gains in the range of $20–$30 million.

Administration position.—During the Ways and Means Committee consideration of this bill, the Treasury Department opposed the bill on the grounds that it would not entirely eliminate the problem (taxpayers might forget that they had filed the required notice or hope to escape detection on audit, and they might still claim an ordinary loss) and that the requirement of a notice would introduce some additional complexity and would tend to catch taxpayers who are ignorant of the rule. The Treasury Department has reconsidered that position and has now withdrawn its opposition. It believes that the bill would substantially eliminate an existing tax abuse.

H.R. 10936

Recapture as Ordinary Income of Property for Which a Business Expense Deduction Was Allowed

Present law.—Under present law (sec. 1245), gain realized upon the sale or exchange (or certain other dispositions) of section 1245 property (generally tangible personal property and certain other property subject to an allowance for depreciation or amortization) is subject to recapture as ordinary income (rather than as capital gain) to the extent of any depreciation or amortization allowed with respect to that property after December 31, 1961 (or, in certain cases, later effective dates). Also, in the case of the contribution of property to charity, the deduction otherwise allowable with respect to that contribution is to be reduced by the amount of ordinary income which would have been realized by the taxpayer had the property been sold for its fair market value (sec. 170(e)). This has the effect of disallowing the deductions for any amounts which are subject to recapture under section 1245.

There is no provision under present law which provides that where the cost of property is deducted, instead of being depreciated or amortized, the amount deducted is to be subject to recapture as ordinary income if the property is later sold or otherwise disposed of at a gain.

House bill.—Under the bill, in the case of property acquired after December 31, 1975, if the purchase price of the property was deducted as an expense (and the deduction was not disallowed), the purchase price is to be subject to recapture under section 1245. Thus, for example, if the taxpayer purchases a professional periodical which has a useful life of less than one year, and deducts the purchase price as a trade or business expense, any gain (up to the amount of the deduction) realized on the later sale of the property would be treated as ordinary income. Also, if the property were contributed to a charitable or educational instituton, a charitable deduction would be allowed only to the extent of the sum of (1) the remaining basis and (2) the excess of the unrealized appreciation over the trade or business deduction claimed previously.

The bill does not apply with respect to research and development expenses allowed as a deduction under section 174 or to intangible

drilling and development costs allowed as a deduction under section 263(c).

Effective date.—This provision would apply to property acquired after December 31, 1975, and disposed of after the date of enactment of this bill.

Revenue effect.—It is estimated that the enactment of this bill will result in an increase in revenues of less than $5 million a year.

Administration position.—The Treasury Department supports this bill.

H.R. 7929

Interest on Corporate Debt To Acquire Another Corporation

Present law.—Under present law, a corporation generally is allowed to deduct interest paid or incurred on its indebtedness, but is not allowed a deduction for dividends paid on its stock or equity. However, under certain circumstances, a corporation is not allowed an interest deduction (either for stated interest or unstated interest such as original issue discount) for indebtedness which it issues as consideration for the acquisition of stock in another corporation, or for the acquisition of assets of another corporation (sec. 279).

A number of exceptions or modifications are provided under existing law to this interest disallowance rule. Generally the disallowance of the deduction for interest in the case of acquisition indebtedness applies to interest paid or incurred with respect to indebtedness incurred after October 9, 1969. However, this provision is inapplicable in certain cases where the issuing corporation had at least a 50-percent voting interest in another corporation on October 9, 1969, even though the obligation is issued after that date: this exception does not apply to indebtedness issued to acquire stock in excess of the amount necessary for control for tax purposes (i.e., 80 percent).

The interest disallowance provision was added to the Code in 1969 because of a Congressional concern over the increasing number of corporate mergers in which debt, rather than equity, was being exchanged for control of acquired corporations. This trend was thought to have adverse implications for the economic well-being of the companies involved (by increasing corporate debt to dangerous levels) as well as for the economy as a whole. The purpose of the exception for acquiring corporations having 50-percent or greater control of another corporation on October 9, 1969, was to permit such acquiring corporations to obtain the 80-percent control of the acquired corporation necessary for certain tax purposes.

House bill.—The House concluded that the 80-percent limitation imposed in connection with pre-October 10, 1969, control situations does not appear to serve the purpose of the interest disallowance provision (which is to discourage the future use of debt acquisitions under certain prescribed circumstances). This is so since the acquisition, in such cases, has already occurred. In addition, minority shareholders of a corporation which is 80-percent controlled may find themselves without a ready market for their stock, unless the controlling corporation is able and willing to purchase their shares.

Under the House bill, the provision denying a deduction for interest on corporate acquisition indebtedness is not to apply where a corporation which had acquired at least 50 percent of the total combined voting power of all classes of stock of another corporation by October 9, 1969, incurs acquisition indebetedness in increasing its control over the acquired corporation. Thus, the 80-percent limitation (contained in sec. 279(i) of the Code) which applies under present law in such situations, is to be removed.

Effective date.—The bill applies to taxable years ending after October 9, 1969.

Under the bill, any refund or credit resulting from the removal of the 80-percent limitation is not to be barred (by the statute of limitations, by *res judicata* in a litigated case, by a closing agreement, or otherwise) if the claim is filed within 1 year of the date of enactment.

Revenue effect.—It is estimated that this bill will result in a onetime revenue loss of less than $1 million.

Administration position.—The Treasury Department has no objection to this bill.