

REDUCTION IN RATE OF EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS

MAY 9 (legislative day, APRIL 24), 1978.—Ordered to be printed

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

REPORT

[To accompany H.R. 112]

The Committee on Finance, to which was referred the bill (H.R. 112) relating to reduction in rate of excise tax on investment income of private foundations, having considered the same, reports favorably thereon without amendment, and recommends that the bill do pass.

I. SUMMARY

The bill reduces from 4 percent to 2 percent the rate of the excise tax imposed under present law on the investment income of domestic private foundations.

II. GENERAL STATEMENT

Present law

The Tax Reform Act of 1969 imposed a 4-percent excise tax on the net investment income of all private foundations (sec. 4940 of the Internal Revenue Code of 1954).¹ A private foundation's net investment income is the sum of (1) its gross investment income and (2) the full amount of its net capital gains, this sum being reduced by the expenses paid or incurred in earning the gross investment income. Gross investment income includes interest, dividends, rents, and royalties, but does not include unrelated business income which is taxed under section 511.

¹ A private foundation that is not exempt from tax under section 501(a) is taxed on the basis of the greater of (1) the regular income tax imposed on the foundation or (2) the 4-percent excise tax on investment income plus the unrelated business income tax (imposed under sec. 511).

Reasons for change

The 4-percent excise tax on investment income of private foundations was enacted 8 years ago. This tax has produced more than twice the revenue needed to finance the operations of the Internal Revenue Service with respect to tax-exempt organizations.

Because of the operation of the private foundations charitable distribution provisions (sec. 4942(d)), this tax reduces the minimum amount that private foundations are required to spend or grant for charitable purposes. In many cases, the tax actually has reduced charitable expenditures.

This experience with the tax and its impact on charitable expenditures has led the committee to conclude that it is now appropriate to cut the tax rate in half.

The committee also is concerned that the Internal Revenue Service devote adequate resources to the administration of those provisions of the law. The tax was instituted in the Tax Reform Act of 1969 in order to assure the availability of such resources. In section 1052 of the Employee Retirement Income Security Act of 1974 the Congress established a separate office in the Internal Revenue Service to effectively deal with this area and made a permanent authorization of appropriations to further assure the availability of sufficient resources to administer these provisions. The change in tax rate made by this bill does not reduce the amount of that permanent authorization.

The committee expects and intends that the Internal Revenue Service report annually to the tax-writing committees on the extent to which audits are conducted as to the tax liabilities of exempt organizations, the extent to which examinations are made as to the continued qualification of such organizations for their respective exempt statuses, the extent to which Service personnel are given initial and refresher instruction in the relevant portions of the law and administrative procedures, the extent to which the Service cooperates with and receives cooperation from State officials with regard to supervision of charities and other tax-exempt organizations, the costs of maintaining such programs at levels which would produce proper compliance with the laws, the amounts requested by the Executive Branch for the maintenance of those programs, and the reasons for any difference between the needed funds and the requested amounts. Also, the Internal Revenue Service is to notify the tax-writing committees of any administrative problems that the Service experiences in the course of its enforcement of the internal revenue laws with respect to exempt organizations.

Explanation of the bill

The bill reduces the rate of tax imposed on the net investment income of domestic private foundations from 4 percent to 2 percent.

Effective date

The bill applies to taxable years beginning after September 30, 1977.

Revenue effect

The bill is estimated to result in a decrease in budget receipts of \$2 million in fiscal year 1978 and of \$27 million per year in fiscal years 1979-1983.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING H.R. 112

Revenue Cost

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out H.R. 112 as reported by the committee. The committee estimates that this bill will result in a decrease in budget receipts of \$2 million in fiscal year 1978 and a decrease in budget receipts of \$27 million per year in fiscal years 1979–1983.

The Treasury Department agrees with this statement.

Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill H.R. 112 was ordered reported by a voice vote.

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

Regulatory Impact

Pursuant to Rule XXIX of the Standing Rules of the Senate, as amended by S. Res. 4 (February 4, 1977), the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of H.R. 112 as reported by the committee.

A. Numbers of individuals and businesses who would be regulated.—The bill reduces the excise tax imposed on the investment income of domestic private foundations.

B. Economic impact of regulation on individuals, consumers, and businesses affected.—The bill reduces the amount of excise tax payable by private foundations on investment income.

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

D. Determination of the amount of paperwork.—The bill will not involve any additional paperwork for taxpayers.

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

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

Internal Revenue Code

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SUBTITLE D—MISCELLANEOUS EXCISE TAXES

Chapter 42.—Private Foundations

* * * * *

Sec. 4940. Excise tax based on investment income.

(a) Tax-exempt foundations.

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There is hereby imposed on each private foundation which is exempt from taxation under section 501(a) for the taxable year, with respect to the carrying on of its activities, a tax equal to **[4]** 2 percent of the net investment income of such foundation for the taxable year.

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