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THE WHITE HOUSE
WASHINGTON

September 15, 1976

MEMORANDUM FOR:

JIM LYNN

FROM:

JIM CONNOR *JEC*

SUBJECT:

Current Status of International
Boycott Provisions of Tax
Reform Bill of 1976

The attached memorandum from Secretary Simon on the above subject was returned in the President's outbox. A copy is sent to you for your information.

cc: Dick Cheney
Bill Hyland

Attachment:
Secretary Simon's letter dated 9/8/76

THE PRESIDENT HAS SEEN....


THE WHITE HOUSE

WASHINGTON

September 8, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: WILLIAM HYLAND



You asked this morning about the status of the Ribicoff Amendment in the Tax Bill. The provisions are still being drafted but attached is the latest information we have from Treasury representatives who have been observing the draft. Basically it is not different than our earlier understanding of the "compromise."



THE PRESIDENT HAS SEEN

THE SECRETARY OF THE TREASURY

WASHINGTON 20220

SEP 8 1976

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Current Status of International Boycott Provisions
of Tax Reform Bill of 1976

The Tax Reform Bill of 1976 includes provisions which would deny taxpayers, who participate in an international boycott, the benefits of the foreign tax credit, DISC, and deferral with respect to their boycott activity. These provisions are directed primarily at the Arab boycott of Israel. The House Bill had no such provisions; they were added in the Senate at the request of Senator Ribicoff.

Treasury has vigorously opposed the use of the tax laws in this area and rejected the Conferees' invitation to formulate an anti-boycott measure which would bear the Administration's stamp of approval.

As discussed in more detail below, the boycott provisions approved by the Conference are less restrictive than those of the Senate. The Conference staff has not yet produced a final draft of the boycott measure, but it appears that several key provisions will be left to the Treasury's administrative discretion. In addition, the Conference Committee itself may make further changes tonight or tomorrow.

Summary of Conference Measure

Under the Conference measure a taxpayer would be deemed to participate in boycott activity if he agreed to:

1. discriminate on the basis of nationality, religion, or race in hiring or selecting employees, managers or directors;
2. participate in a "secondary" boycott, i.e., refuse to do business with a specified country;
3. participate in a "tertiary" boycott, i.e., refuse to do business with other companies which do business with a specified country; or

4. ship products only on a carrier which is not on an international boycott list.

The Conference measure carves out two significant exceptions to the list of proscribed practices. First, the term "boycott activity" will not apply where a country prohibits bringing into that country goods produced in a specified second country. Presumably this would allow an Arab country to prohibit the importation of goods produced in Israel. Second, the term "boycott activity" will not apply where a country prohibits the export of products obtained in that country to any specified second country. This provision would appear to allow Saudi Arabia, for example, to specify that oil from Saudi fields not be sold to Israel.

The Conference measure denies a taxpayer the benefits of the foreign tax credit, DISC, and deferral with respect to a taxpayer's boycott activity. The Senate bill would have denied the various tax benefits with respect to all income from all countries participating in a particular boycott, even if a taxpayer were participating in the boycott in only one country. The Conference measure, however, would allow the taxpayer to obtain the various tax benefits attributable to non-boycott activity in boycott countries. For administrative purposes, the Conference measure assumes that, once it is established that a taxpayer has participated in a boycott, other transactions in the same or other countries participating in that boycott are boycott related. The taxpayer, however, is allowed to establish on an activity-by-activity basis that it is not participating in the boycott. The boycott provisions, as presently drafted, would require the Secretary of the Treasury to publish a list of countries participating in any international boycott.

The application of the activity-by-activity concept will determine to a significant extent the actual economic effect of the Conference measure. Present indications are that the statute will be vague in this regard, leaving the administration of the concept largely to Treasury's discretion. The draftsmen appear to have in mind differentiation on a country-by-country basis and along various lines of business. This might allow for an easing of the magnitude of the various tax sanctions. However, even if the measure is administered leniently, it will penalize many business transactions in the Arab world unless the Arabs modify the boycott.


William E. Simon