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DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

SEP 29 1976

Dear Sir:

This is in response to your request for the views of the Treasury Department on an enrolled bill, H.R. 10612, the "Tax Reform Act of 1976" (the "Act"). Pursuant to a telephone conversation with Mr. James MacRae of your office, we will limit our comments herein to those significant provisions of the Act which in our view are troublesome.

We previously have expressed our views on the specific provisions of the Act and attached hereto are copies of the following memoranda which describe the provisions and set forth our views:

- Memorandum dated September 9, 1976 entitled "Tax Reform Act of 1976 (H.R. 10612), Evaluation of Conference Committee Action."
- Memorandum dated September 20, 1976 entitled "Administration Positions and Conference Action on H.R. 10612."
- Fact sheet prepared for the White House which contains a summary of the major provisions of H.R. 10612.

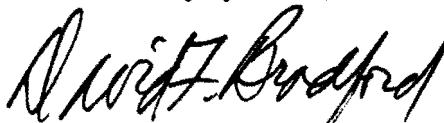
The following two significant provisions of the Act in our view, are troublesome:

- Title X, part VI of the Act (Denial of Certain Tax Benefits for Cooperation with or Participation in International Boycotts and in Connection With the Payment of Certain Bribes), the so-called "boycott" provisions, denies certain tax benefits to domestic corporations participating in prohibited boycott activities. We believe it is totally inappropriate to use tax laws to further this foreign policy objective. Furthermore, we believe the provisions constitute an inappropriate technique for imposing penalties on proscribed activities. In addition, enforcement of the provisions will impose an extreme administrative burden on taxpayers and the Internal Revenue Service.

-- Section 1205 of the Act allows taxpayers to contest in court a summons issued by the Internal Revenue Service for records of a taxpayer held by a third party. This provision could severely impair enforcement of tax laws by the Internal Revenue Service, since the only method to obtain certain needed information in a criminal tax investigation will be a judicial summons.

The Act contains a wide variety of provisions affecting virtually every taxpayer. While the Act does not contain most of the provisions which the Administration proposed and supported, and does contain certain provisions which we believe are undesirable it has many highly desirable provisions. These desirable provisions simplify the tax code, help assure that all taxpayers pay a fair share of federal income tax, and continue tax incentives necessary to stimulate the growth of our economy. Therefore, the Treasury Department believes that, on balance, the tax bill is meritorious and recommends that it be signed by the President.

Sincerely yours,



David Bradford  
Acting Assistant Secretary

Director, Office of Management and Budget  
Attention: Assistant Director for  
Legislative Reference, Legislative  
Reference Division Washington, D.C. 20503

Attachments

Tax Reform Act of 1976 (HR 10612)  
Evaluation of Conference Committee Action

Good: Significant (S) and Not Significant (NS) items  
Bad: Significant (S) and Not Significant (NS) items  
Indifferent: (Indif.)

	Good		Bad		Indif.
	S	NS	S	NS	
Titles I and II					
LAL and other tax shelter provisions					
A. Real Estate Provisions					
1. Capitalize construction period interest and taxes and amortize it over a 10 year period - Transition rules for residential real property and low-income housing Deleted from bill: Limitation on deductions (LAL) for real property	x				
2. Deleted from bill: limitation on deductible losses of limited partner in the case of real estate	-	-	-	-	-
3. Deleted from bill: include construction period interest and taxes in the minimum tax base	-	-	-	-	-
4. In the case of residential real estate, recapture depreciation in the same manner as commercial real estate	x				
5. Extension of special 5-year amortization rule for low-income housing	x				
B. Farming Provisions					
6. Deleted from bill: Limitation on deductions (LAL) for farms	-	-	-	-	-
7. Losses from farming operations except trees other than fruit or nut trees limited to amount at risk	x				
8. In the case of farm syndicates certain prepaid items and preproductive expenses must be capitalized	x				
9. Require farm corporations (other than subchapter S corporations, family corporations, and corporations whose gross receipts do not exceed \$1,000,000) to use the accrual method of accounting	x				

	Good		Bad		Indif.
	S	NS	S	NS	
10. Terminate additions to excess deductions accounts (EDA)		x			
<b>C. Oil and Gas Provisions</b>					
11. Deleted from bill: Limitation on deductions (LAL) of intangible drilling costs	-	-	-	-	-
12. Losses from oil and gas properties limited to amount at risk - Special rule that net fair market value of property used as collateral increases amount at risk			x		
13. Includes certain intangible drilling costs in the minimum tax base.			x		
14. Recapture deductions for intangible drilling costs on disposition of oil or gas property			x		
<b>D. Movie Provisions</b>					
15. Deleted from bill: Limitation on deductions (LAL) for movies	-	-	-	-	-
16. Losses from film purchase shelters and service company shelters limited to amount at risk	x				
17. Require capitalization of production costs in case of movies, books, records and similar property	x				
<b>E. Equipment Leasing Provisions</b>					
18. Deleted from bill: Limitation on deductions (LAL) for leased property	-	-	-	-	-
19. Losses from equipment leasing activity limited to amount at risk	x				
20. Includes accelerated depreciation on all personal property subject to a lease in the minimum tax base				x	
<b>F. Sports Franchises</b>					
21. Deleted from bill: Limitation on deductions (LAL) for certain depreciation deductions	-	-	-	-	-

	Good		Bad		Indif.
	S	NS	S	NS	
22. Require buyer and seller of a sports franchise to allocate to player contracts the same portion of the purchase price		x			
23. Recapture certain depreciation taken with respect to player contracts		x			
24. Deleted from bill: Include certain depreciation deductions for player contracts in the minimum tax base	-	-	-	-	-
<b>G. Partnership Provisions</b>					
25. Require capitalization of partnership syndication and organization expenses. Organization expenses may be expensed over a 60 month period	x				
26. Disallow retroactive allocation of income or deductions to newly admitted partners	x				
27. Clarify rules on special allocations of income or loss to partners	x				
28. Apply limitation on deductible losses of limited partners to all tax shelters other than those specifically dealt with in the bill.		x			
<b>H. Interest Provisions</b>					
29. Require capitalization of prepaid interest	x				
30. Limit the deduction for investment interest to investment income and \$10,000 - No limit on personal interest	x				
<b>Title III</b>					
<b>Minimum and Maximum Taxes</b>					
31. Minimum tax on individuals					
a. Tax rate 15%		x			
b-c. Exempts from the minimum tax the amount of preferences equal to the greater of \$10,000 or one-half regular taxes	x				

d. New Preferences

- itemized deductions (other than medical and casualty deductions) in excess of 60% of adjusted gross income
- certain intangible drilling cost deductions
- accelerated depreciation on all leased property

32. Minimum tax on corporations

a. Tax rate 15%

b-c. Exempts from the minimum tax the amount of preferences equal to the greater of \$10,000 or regular taxes

d. Eliminates the carryover of regular taxes that are not previously used to offset preferences

e. Deleted from bill: include construction period interest and certain intangible drilling costs in the minimum tax base

f. Exempts timber from the increase in the minimum tax

33. Modifies the maximum tax to conform with the minimum tax amendments

	Good		Bad		Indif.
	S	NS	S	NS	
- itemized deductions (other than medical and casualty deductions) in excess of 60% of adjusted gross income				X	
- certain intangible drilling cost deductions			X		
- accelerated depreciation on all leased property				X	
32. Minimum tax on corporations					
a. Tax rate 15%			X		
b-c. Exempts from the minimum tax the amount of preferences equal to the greater of \$10,000 or regular taxes	X				
d. Eliminates the carryover of regular taxes that are not previously used to offset preferences				X	
e. Deleted from bill: include construction period interest and certain intangible drilling costs in the minimum tax base	-	-	-	-	-
f. Exempts timber from the increase in the minimum tax	X				
33. Modifies the maximum tax to conform with the minimum tax amendments		X			

Title IV Individual Tax Reductions

- 34 Per capita tax credit of \$35 through 1977
- 35 Standard deduction - Revenue Adjustment Act of 1975 increases made permanent
- 36 Earned income credit extended through 1977
- 37 Refunds from earned income credit are to be disregarded in determining eligibiliy for assistance benefits

Title V  
Tax Simplification

- 38 Alimony is made an above-the-line deduction
- 39 Converted to a nonrefundable credit the present deduction for child care expenses - Substantially broadened the eligibility for the credit
- 40. Reveals the sick pay exclusion, except for certain low-income, elderly persons who are totally disabled
- 41 Moving expenses - increases from \$2,500 to \$3,000 deduction for househunting expenses. Special rules for military
- 42 Tax simplification study by Joint Committee
- 43 Deleted from bill. Treasury simplification study

	Good		Bad		Indif.
	S	NS	S	NS	
34			X		
35	X				
36			X		
37					X
38		X			
39	X				
40	X				
41		X			
42					X
43	-	-	-	-	-

Title VI

Business-related individual provisions

- 44 Deduction for business use of homes - tightened
- 45 Deduction for expenses of rented vacation homes - tightened
- 46 Deduction for attending foreign conventions - tightened
- 47 Repeal qualified stock option rules
- 48 Ordinary loss treatment of nonbusiness loan guarantees
- 49 Rules for determining the tax home of State legislators and their deduction for travel expenses

Title VII

Accumulation trusts

- 50 Accumulation trusts - Improvement of throwback rules

Title VIII

Capital formation

- 51 Investment credit - used property limit of \$100,000 extended through 1980 (The Administration urged a permanent extension.)
- 52 10 percent investment credit extended through 1980 (The Administration urged a permanent extension.)
- 53 FIFO use of investment credit carryovers
- 54 Deleted from bill: Extension of expiring investment credits
- 55 ESOP - 1 percent investment credit plus 0.5% if employees contribute equal amount - apply through 1980
- 56 Deleted from bill: prohibition of certain ESOP regulations
- 57 Task force to study stock ownership expansion

	Good		Bad		Indif.
	S	NS	S	NS	
44		x			
45		x			
46		x			
47		x			
48		x			
49					x
50		x			
51	x				
52	x				
53	x				
54	-	-	-	-	-
55				x	
56	-	-	-	-	-
57					x

	Good		Bad		Indif.
	S	NS	S	NS	
58 Investment credit for movies		x			
59 5 percent investment credit for vessels constructed with money from tax-free capital construction fund					x
60 Eligibility for capital construction fund benefits extended from 5 ton to 2 ton commercial fishing vessels					x
61 Net operating losses: election to use for seven years forward or for three years back and seven years forward		x			
62 Tighten rules to prevent trafficking in operating loss carryovers	x				
63 Deleted from bill: credit for artist's donation of art works to charity	-	-	-	-	-
<b>Title IX</b>					
Small Business provisions					
64 Continues corporate tax rate reduction and surtax exemption increase through 1977 (The Administration urged a permanent extension.)	x				
<b>Title X</b>					
Changes in the treatment of foreign income					
65 Exemption of income earned abroad - tightened and reduced from \$20,000 to \$15,000		x			
66 Joint returns may be filed by U.S. citizen married to nonresident alien		x			
67 Foreign trust income taxed to grantor where beneficiary is U.S. person	x				
68 Accumulation distribution of foreign trust bears additional tax equivalent to interest		x			
69 Unrecognized appreciation in assets transferred to foreign entities subject to increased excise tax or, at taxpayer's option, to income tax on the gain		x			
70 Investment in U.S. property by controlled foreign corporations: permits portfolio investments and investments in certain drilling rigs		x			

- 71 Shipping profits of foreign corporations - provisions eased
- 72 Deleted from bill: would have changed and made difficult to administer rules re base company sales income derived from sales of agricultural products not grown in the U.S.
- 73 Foreign tax credit determined on overall basis - per country limitation repealed; Transition rule for possession source income
- 74 Permits recapture of foreign losses; Transition rules for U.S. possessions and Puerto Rico
- 75 Refinement of foreign tax credit computation in the case of capital gains
- 76 Foreign oil and gas extraction income - 48 percent cap on foreign tax credit
- 77 The source of underwriting income is the place of risk
- 78 Foreign tax credit rules of 2nd tier subs apply also to 3rd tier subs
- 79 Tax exemption is made permanent for interest on bank deposits of foreign owners
- 80 Transfers to foreign corporations no longer require advance IRS ruling
- 81 Income from contiguous country branches of domestic life insurance companies not taxed until repatriated
- 82 Improve tax treatment of corporations conducting business in Puerto Rico and U.S. possessions
- 83 Repeal provisions relative to China Trade Act corporations - 3 year phase out
- 84 Denies benefits of DISC, deferral and foreign tax credit to taxpayers participating in Arab boycott of Isreal  
Foreign bribes deemed a distribution to U.S. parent company and may not reduce earnings and profits of foreign subsidiary.

	Good		Bad		Indif.
	S	NS	S	NS	
71		x			
72	-	-	-	-	-
73		x			
74		x			
75		x			
76		x			
77		x			
78		x			
79	x				
80	x				
81					x
82		x			
83		x			
84			x		

Title XI  
DISC

85 DISC - incremental approach adopted. About 2/3 of DISC benefits preserved. Only 1/2 military sales qualify. Agricultural products qualify

Title XII  
Administrative provisions

- 86 Publication of private IRS rulings. Taxpayers names not to be disclosed
- 87 Disclosure of tax return information restricted. Justice Department access prescribed in nontax criminal cases
- 88 Income tax return preparers - requirements imposed
- 89 Jeopardy assessment procedures modified - taxpayers afforded opportunity to contest
- 90 Administrative 3rd party summons: taxpayers are given right to contest. Justice Dept. objects
- 91 Tax abatement can be requested by taxpayer whose assessments due to math or clerical error
- 92 Requires Federal withholding of state income taxes from military personnel
- 93 Requires Federal withholding of state and local income taxes from National Guard or Ready Reserve
- 94 Permits Federal withholding of state income taxes from Federal employees so requesting
- 95 Definition of City for purposes of withholding - already enacted - PL 94-355
- 96 Withholding on winnings from state lotteries over \$5,000 and certain horse race winnings
- 97 Self employment status (no withholding) for crewmen on fishing boats with crew less than 10

	Good		Bad		Indif.
	S	NS	S	NS	
85			x		
86	x				
87		x			
88		x			
89	x				
90			x		
91		x			
92					x
93					x
94					x
95	-	-	-	-	-
96	x				
97			x		

	Good		Bad		Indif.
	S	NS	S	NS	
98 Deleted from bill: withholding of state income tax for certain legislative officers and employees					
99 Minimum amount exempt from levy - \$50/week plus \$15 per dependent		x			
100 Jurisdictional amount for Joint Committee referred cases raised from \$100,000 to \$200,000		x			
101 Social Security numbers can be used for state and local tax administration, drivers licences, motor vehicle registration and for locating runaway parents			x		
102 IRS has authority to waive interest on math errors on returns prepared by IRS		x			
103 Deleted from bill: award of costs and attorney fees (max, \$10,000) to taxpayers who win tax litigation					
Title XIII					
Miscellaneous provisions					
104 Cooperative housing corporation treated as tax-exempt with respect to its membership dues and assessments. Also, lending institutions which obtain stock in such a company through foreclosure treated as a tenant-stockholder for up to 3 years		x			
105 Defer due date of tax owed on certain 1972 disaster relief payments					x
106 Allows deduction for certain types of worthless debts owed by political parties		x			
107 Exemption from tax of interest on bonds issued to finance certain student loans				x	
108 Pre-publication expenses of publishers - overturns IRS ruling				x	
109 Income from intangible property leased with tangible property is rent, not royalty income for personal holding company purposes		x			
110 Accelerates and expands work incentive credit (WIN)				x	
111 Repeal excise tax on certain parts for light duty trucks		x			

	Good		Bad		Indif.
	S	NS	S	NS	
112 Exemption from manufacturers' excise tax for certain articles resold after certain modifications		x			
113 Apply to partnerships the same tax rule applied to proprietorships on transfer of franchises		x			
114 Deleted from bill: Reversal of IRS ruling on employer reporting of tip income (IRS to defer for 2 yrs enforcement of this ruling)	-	-	-	-	-
115 Pollution control facilities - 5 year amortization and 50% investment credit - improved definition of "pollution control property"				x	
116 Defines as "agricultural" the harvesting of aquatic resources, thus permitting a fishing organization to be a tax exempt agricultural organization and to receive lower postal rates					x
117 Subchapter S corporation maximum stockholders increased from 10 to 15. See also item 248		x			
118 Innocent spouse relief provision enacted in 1971 would be made retroactive to 1962 (Relief afforded to one taxpayer)				x	
119 Ease the limitations on percentage depletion in the case of certain retail sales and intra-family transfers - The 1975 statute left these items unclear		x			
120 Make it easier for states to "piggyback" the federal tax provisions		x			
121 Discharge of certain student loans will not be taxed as income					x
122 Tax benefit of 1 year corporate liquidation extended to simultaneous liquidation of controlled subsidiary		x			
123 Deleted from bill: Prohibits state taxation of barges using navigable waters	-	-	-	-	-
124 Contributions to water and sewer utilities in aid of construction will not be taxable to them			x		
125 Prohibits states from taxing generation or transmission of electricity if it is discriminatory - against out-of-state users					x

	Good		Bad		Indif.
	S	NS	S	NS	
126 Provides deduction for cost of removing architectural and transportational barriers to handicapped and elderly (Senator Dole proposal)				x	
127 Statistics of Income published by Treasury must show adjusted gross income and economic income					x
128 Deleted from bill: report on tax increases resulting from inflation	-	-	-	-	-
129 Historic structures - tax benefits provided for rehabilitation of, and tax advantages denied to taxpayers who demolish, historic structures		x			
130 Supplemental Security Income is continued unreduced for an additional 12-months for certain disaster victims					x
131 Exclusion of countries which aid and abet international terrorists from preferential tariff treatment				x	
132 Extends net operating loss carryover period for 5 additional years (to total of 20 years) in case of losses attributable to Cuban expropriation				x	
133 Deleted from bill: study of tax treatment of married and single persons	-	-	-	-	-
Title XIV					
Capital Gains and Losses					
134 Increase from \$1,000 to \$2,000 in 1977 and to \$3,000 in 1978 the amount of ordinary income against which capital losses may be offset		x			
135 Increase holding period for long-term capital gains to 9 months in 1977 and to 12 months in 1978. The 6 month period continues for farm commodity futures contracts. (The sliding scale provision was not in conference; was in neither the House nor Senate bill)				x	
Title XV-					
Pension and Insurance Taxation					
136 Individual retirement account (IRA) made available for spouse: \$1,750 for worker and spouse jointly		x			

	Good		Bad		Indif.
	S	NS	S	NS	
137 HR 10 plan percentage limitations will not apply where adjusted gross income does not exceed \$15,000					x
138 Deleted from bill: IRA for persons inadequately covered by an employer plan; and for certain participants in a government plan	-	-	-	-	-
139 Members of Armed Forces Reserves and National Guard may qualify for an IRA		x			
140 Contributions for tax-sheltered annuities can be made to closed-end investment companies as well as to open-end mutual funds					x
141 Allows a pension fund to invest in a segregated asset account in lieu of a trust					x
142 Extend to 1978 a Congressional study of salary reduction plans; meanwhile freeze status quo for plans established before June 27, 1974					x
143 Permit life insurance companies to file consolidated returns with non-life companies - 5 year delayed effective date		x			
144 For taxation of life insurance companies, the time for which a policy is issued or renewed includes the period for which the insurer guarantees renewability					x
145 No provision - separate legislation (PL 94-267). Pension Plan rollover to IRA	-	-	-	-	-
<b>Title XVI</b>					
Real Estate Investment Trusts					
146-					
155 Real estate investment trusts - technical amendments - no controversy		x			
<b>Title XVII</b>					
Railroad Provisions					
156 Deleted from bill: 10-year amortization of railroad track materials and installation costs.	-	-	-	-	-
157 Special expensing rules for improved railroad ties		x			

	Good		Bad		Indif.
	S	NS	S	NS	
158 Railroads may use investment credits up to 100 percent of tax liability (instead of 50 percent under current law) for 1976 and 1977, declining 10 percent per year after 1977 until returned to 50 percent in 1982			x		
159 Airlines, same use of investment credit as #158 for railroads			x		
Title XVIII					
Tax Credit for Home Garden Tools					
160 Deleted from bill: 7 percent investment credit for first \$100 of garden tool expenses	-	-	-	-	-
Title XIX					
Repeal of Obsolete Provisions					
161 "Deadwood" provisions adopted, including clarified definition of "Secretary or his delegate"					x
Title XX					
Energy Related Provisions					
162-					
176 Energy-related provisions were deleted from the bill. To be the subject of a separate bill	-	-	-	-	-
Title XXI					
Tax Exempt Organizations					
177 Technical easing of self-dealing rules of private foundations relating to property leased to certain disqualified persons					x
178 Permits private foundation "set-asides" without prior IRS approval under temporary, relaxed rules					x
179 Reduces to 5 percent the mandatory payout requirement of private foundations - "Blockage" discount limited to maximum of 10% of value			x		
180 Extends from December 31, 1975 to December 31, 1977 time in which to modify charitable bequests to qualify for charitable remainder deduction					x
181 Deleted from bill: reduce from 4 percent to 2 percent excise tax on investment income of private foundations	-	-	-	-	-

	Good		Bad		Indif.
	S	NS	S	NS	
182 Exempts from unrelated business income tax the income from fairs and expositions which promote certain public entertainment activities; also exempts income from certain conventions and trade shows		x			
183 Charitable organization may bring suit to determine its right to tax exemption as a charity	x				
184 Deleted from bill: establishment of alcoholism trust fund	-	-	-	-	-
185 Deleted from bill: babysitters as independent contractors and not employees of placement agency	-	-	-	-	-
186 Deleted from bill: private foundation qualifying distributions could include \$200 to unincorporated groups for charitable, civic or community activities	-	-	-	-	-
Title XXII					
Estate and Gift Tax Provisions					
187 Unified credit against estate and gift tax of \$47,000 (equivalent to exemption of \$175,000) phased in over 5 years.	x				
188 Makes gift tax rates the same as the estate tax rates, ranging from 30% to 70%.					x
189 Subjects all transfers made within 3 years of death to the estate tax.		x			
190 Requires the gift tax paid on gifts made within 3 years of death to be included in the transferor's gross estate.		x			
191 Increases the estate tax marital deduction to the greater of \$250,000 or 50% of the decedent's adjusted gross estate.	x				
192 Increases the gift tax marital deduction to \$100,000 plus 50% of the cumulative transfers in excess of \$200,000.	x				
193 Allows a joint tenancy to be treated as 50% owned by each spouse for estate tax purposes, regardless of who furnishes what portion of the consideration.		x			

	Good		Bad		Indif.
	S	NS	S	NS	
194 Allows real property used for farming or closely-held business purposes to be specialty valued on the basis of its current use.	x				
195 Allows the estate tax attributable to farming and closely-held business interests to be paid over 15 years at 4% interest.	x				
196 Allows capital gains treatment on redemptions of closely-held stock, to pay the estate tax, only if the shareholder bears the burden of the tax.		x			
197 Provides that the decedent's basis in property is "carried over" to his heirs, but with a step-up to the property's value on 12/31/76.			x		
198 Taxes generation-skipping transfers, with \$250,000 exclusion for grandchildren.			x		
199 Excludes transfers to an orphan of \$5000 for each year he is under 21.		x			
200 Requires IRS to disclose the basis of its valuation for estate, gift and generation-skipping tax purposes.		x			
201 Eliminates requirement that donor file quarterly gift tax returns if his annual gifts are \$25,000 or less.		x			
202 Requires IRS to keep public file of liens and do its best to have them publicly indexed by local authorities.		x			
203 Includes stock in the decedent's gross estate if he retained the voting rights.		x			
204 Provides uniform rule for when disclaimers are effective for tax purposes.		x			
205 Exempts survivor's interest in H.R. 10 plans and IRAs, but removes exemption for lump-sum distributions from qualified plans.		x			
206 Provides uniformity of gift tax treatment for spouse's interest in qualified plan in community property and common law states.		x			

	Good		Bad		Indif.
	S	NS	S	NS	
207 Prevents sale expenses that are taken as estate tax deduction from offsetting sales price for income tax purposes.		x			
208 Allows estate tax credit for transfer of Lake Tahoe area property from an estate to the Forest Service.					x

**Title XXIII  
Other Amendments**

209 Gain on condemnation of outdoor advertising displays need not be recognized if proceeds are reinvested in real property					x
210 Changes bracket system to an ad valorem excise tax on certain cigars					x
211 Broadens the circumstances denying capital gain treatment on sales between related parties: includes commonly controlled corporations; parents; adult children; trusts, estate or partnership in which taxpayer is a beneficiary or partner		x			
212 Excludes from income through 1979 amounts received under Armed Forces Health Professions Scholarship Program by members participating in program in 1976					x
213 Deleted from bill: tax counseling for the elderly	-	-	-	-	-
214 Deleted from bill: Commission on value added tax	-	-	-	-	-

	Good		Bad		Indif.
	S	NS	S	NS	
215 Exchange funds - Tax-free transfers to partnership and trust funds prohibited	x				
216 Allows distributions of previously taxed income to shareholders of subchapter S corporations before such shareholders will have taxable income from distributions attributable to E & P arising from accelerated depreciation		x			
Title XXIV U.S. International Trade Commission					
217 International Trade Commission voting procedure clarified - not tax policy issue					
218-					
221 Deleted from bill: These items to be in separate bill	-	-	-	-	-
Title XXV Additional Miscellaneous Amendments					
222 Government publications received by taxpayers without charge will not be treated as capital assets					x
223 Permits lobbying by public charities (other than churches), subject to certain expenditure tests		x			
224 Exempt organizations: "acquisition indebtedness" does not include indebtedness for state and local taxes secured by a lien on the property until due and payable and the organization has had the opportunity to pay them					x
225 Extends transitional rule for sale of certain non-excess business holdings to disqualified persons					x
226 Excludes from a private foundation's net income amounts of imputed interest on sales made before January 1, 1970					x
227 Joint Committee and Treasury to study tax incentives					x
Title XXVI Other Miscellaneous Amendments					
228 Deleted from bill: credit for college tuition expenses	-	-	-	-	-
229 Deleted from bill: \$5 million small issue exemption increased to \$20 million for private hospitals.	-	-	-	-	-



	Good		Bad		Indif.
	S	NS	S	NS	
241 Deleted from bill: establishment of Commission on Tax Simplification and Modernization	-	-	-	-	-
242 Extends common trust fund treatment to custodial accounts, such as uniform gifts to minors act accounts		x			
243 Permits depletion to be retained on property transferred between certain controlled groups		x			
244 Allows noncustodial parent to receive exemption for child if he or she contributes at least \$1,200 for such child					x
245 Extends to 3 years (previously 2 years) period within which replacement real property can be purchased to prevent recognition of gain on involuntary conversion of real property. Deleted proposal to remove the "like kind" requirement for such replacement property					x
246 Increases to \$35,000 (previously \$20,000) amount of gain elderly taxpayers can exclude from income on sale of principal residence		x			
247 Deleted from bill: exemption from tax for certain mutual deposit guarantee funds	-	-	-	-	-
248 In counting the permitted number of shareholders for subchapter S corporations, a spouse and estate of deceased spouse will be one if both would have counted as one before spouse's death. Grantor trusts and voting trusts are eligible shareholders. Eases present law on termination of subchapter S election. See also item 117.		x			
249 Extends IRA availability to members of voluntary fire departments if their pension benefit from private plans does not exceed \$150 per month					x
250 Permits cash method farmers to defer for one year income from livestock sold on account of drought conditions				x	

September 20, 1976

Administration Positions and  
Conference Action on  
H.R. 10612

Titles I and II - LAL and Other Tax Shelter Provisions

Real Estate Provisions

1. Limitation on Deductions (LAL)

1. Support House bill.

No objection to alternative approaches which seek to match expenses with the income related thereto.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

Conference Action: A compromise was agreed to. In lieu of LAL, construction period interest and taxes are to be capitalized and expensed over a period of 10 years.

Various transition rules are provided for:

Commercial real estate

1976	50% deductible; 50% amortized over 4 years
1977	100% amortized over 5 years

The amortization period increases 1 year each year to a maximum of 10 years in 1982.

Residential real estate

1978	100% amortized over 4 years
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The amortization period increases 1 year each year to a maximum of 10 years in 1984.

Low-income housing

1982	100% amortized over 4 years
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The amortization period increases 1 year each year to a maximum of 10 years in 1988.

2. Limitation on deductible losses of limited partners

2. Oppose the substantive provision and the effective date.

Discussion: The "at risk" limitation is not appropriate for real estate since real estate has value against which the bona fides of the financing can be established.

Conference Action: The Conferees deleted this provision in the case of real estate, farms, oil and gas, equipment leasing, and movies, which are dealt with directly in the bill.

3. Minimum Tax

3. Oppose, provided that LAL or other effective curbs on real estate tax shelters are enacted.

In addition, if LAL or other effective curbs on real estate shelters are enacted, delete existing preference.

Support Senate bill with respect to treatment of excess investment interest EXCEPT for low and moderate income housing provisions (Sparkman amendment) Prefer Finance Committee provisions.

Conference Action: The Conferees deleted the House and Senate provisions which have included construction period interest and taxes in the minimum tax base.

4. Recapture of depreciation on real property

4. Support House bill. Oppose Sparkman amendment for low and moderate income housing.

Discussion: Support provision in the House bill providing for a phase-out of recapture between 100 months and 200 months in the case of government subsidized low income housing.

Conference Action: The Conferees adopted the House provision which requires recapture of post-1975 depreciation in the case of residential real estate in the same manner as commercial real estate. In the case of low-income housing, the phase-out of recapture between 100 and 200 months is retained.

5. 5-year amortization for low-income housing

5. Support House bill.

Conference Action: The Conferees agreed to extend for two years the special 5-year depreciation rules for certain rehabilitation expenses. The definition of families and individuals of low and moderate income has been modified.

#### Farming Provisions

6. Limitation on Deductions (LAL)

6. Support House bill with certain modifications:

- LAL should not apply to timber generally,
- LAL should apply to pre-productive expenses of livestock and certain one year crops.

No objection to Senate farming provisions (items 7, 8) as an alternative solution.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

Conference Action: The Conferees deleted the House LAL provision.

7. Limitation on deductions to amount at risk

7. No objection to Senate provision as an alternative solution if combined with limitations on farming syndicates.

Discussion: The "at risk" limitation for farming would be an effective deterrent to sham transactions which generally present difficult enforcement problems for the Internal Revenue Service.

Conference Action: The Conferees adopted the Senate provision applying the at risk rule to all farm operations, except trees other than fruit or nut trees. The rule applies to amounts paid or incurred in taxable years beginning after December 31, 1975.

8. Limitations on deductions for farming syndicates

8. No objection to Senate provisions as an alternative approach.

Discussion: The Senate limitations deal directly with certain of the underlying deductions which result in tax abuse.

Conference Action: The Conferees adopted the Senate provision requiring farming syndicates to capitalize costs of poultry, capitalize the pre-productive costs of groves, orchards and vineyards and deduct expenses for prepaid farm expenses only when used or consumed. The Senate definition of farm syndicate is expanded to cover entities, more than 35% of which are owned by passive investors. The provision applies generally to taxable years beginning after December 31, 1975.

9. Accrual accounting for farm corporations

9. Support House bill, including the exception for family farm corporations.

Conference Action: The Conferees adopted the House provision requiring farm corporations (other than subchapter S corporations, family corporations and corporations with gross receipts of less than \$1,000,000) to use the accrual method of accounting. A special provision will recognize the "annual accrual method" used by Hawaiian pineapple growers as an accrual method of accounting.

10. Termination of additions to Excess Deductions Accounts under section 1251 (EDA)

10. Support, provided that limitations on farm tax shelters are enacted.

No objection to "D" reorganization provision.

Discussion: The "D" reorganization provision provides for the carryover of EDA to the surviving corporations on an aggregate basis and can be administratively complex.

Conference Action: The Conferees adopted the Senate provision.

#### Oil and Gas Provisions

11. Limitations on Deductions (LAL)

11. Support House bill effective at such time as the prices of oil and gas in interstate markets are deregulated.

No objection to alternative approaches which seek to more properly match income with expenses related thereto, effective upon complete deregulation.

Conference Action: The Conferees deleted the House LAL provision.

12. Limitation on deductions to amount at risk

12. Oppose both the House and the Senate provisions.

Conference Action: The Conferees adopted the Senate at risk provision, including the rule that the net fair market value of property used as collateral increases the amount at risk.

13. Minimum tax

13. Oppose both the House and the Senate provisions, provided that LAL or other effective curbs on oil and gas shelters - effective upon deregulation - are enacted.

Conference Action: The Conferees adopted the House provision including certain intangible drilling costs in the minimum tax base.

14. Recapture of intangible drilling costs

14. Support House bill effective at such time as the prices of oil and gas in interstate markets are deregulated.

Conference Action: The Conferees adopted the House provision.

Movie Provisions

15. Limitation on Deductions (LAL)

15.

a) Film purchase shelter

a) Support House bill.

No objection to alternative approaches which seek to more properly match expenses with income related thereto.

b) Service company shelter

b) Support House bill.

No objection to Senate provisions (items 16, 17) as alternative solutions.

Discussion: In 1973 the Administration introduced LAL and the minimum taxable income proposals to deal with high income taxpayers who pay little or no income tax.

Conference Action: The Conferees deleted the House LAL provision.

16. At risk rule

- a) Film purchase shelter
- b) Service company shelter

16. a-b) No objection to Senate provisions as an alternative solution.

Oppose the special exception for certain production companies.

Discussion: The "at risk" limitation for movies would be an effective deterrent to sham transactions which generally present difficult enforcement problems for the Internal Revenue Service.

Conference Action: The Conferees adopted the House provision limiting the deduction for farm purchase shelters and service company shelters to the amount at risk.

17. Capitalization--Service company shelter

17. No objection to Senate provisions as an alternative solution.

Discussion: The capitalization provision deals directly with the deductions which result in tax abuse.

Conference Action: The Conferees adopted the Senate provision requiring the capitalization of production costs in the case of motion pictures, books, records and similar property.

Equipment Leasing Provisions

18. Limitation on Deductions (LAL)

18. Support House bill with certain modifications:

- ADR variance in useful lives should not be treated as an accelerated deduction;
- LAL should not apply to operating - as opposed to net - leases.

No objection to alternative approaches which seek to more properly match expenses with income related thereto.

Conference Action: The Conferees deleted the House LAL provision.

19. Limitation on deductions to amount at risk

19. Oppose Senate provision.

Discussion: The "at risk" limitation is not appropriate for equipment leasing since equipment has value against which the bona fides of the financing can be established.

Conference Action: The Conferees adopted the Senate provision limiting the amount of losses a taxpayer may deduct from an equipment leasing activity to his investment at risk. A special grandfather rule was adopted for operating leases. The at risk rule would not apply to those operating leases which were binding on April 30, 1976.

20. Minimum tax

20. Oppose both the House and the Senate provisions, provided LAL or other effective curbs on equipment leasing shelters are enacted.

In addition, if LAL or other effective curbs on equipment leasing shelters are enacted, delete existing preference.

Conference Action: The Conferees adopted the House provision including accelerated depreciation on all leased personal property in the minimum tax base. Accelerated depreciation includes those attributable to the use of the ADR system and "bonus" depreciation.

### Sports Franchise Provisions

21. Limitation on deductions (LAL)

21. Oppose House bill.

Discussion: Application of LAL to sports franchises is an unwarranted extension of the Administration's 1973 proposal. Tax abuse in sports franchises can be handled administratively by the Internal Revenue Service.

Conference Action: The Conferees deleted the House LAL provision.

22. Allocation of Basis to  
Player Contracts

22. Prefer Senate bill.

Discussion: The Administration opposes any special rules applicable only to sports franchises as unnecessary.

Conference Action: The Conferees adopted the Senate provision, including the special rule for section 337 corporate liquidations. They also adopted the House provision providing a presumption in the case of the sale or exchange of a sports franchise.

23. Recapture of Depreciation  
on Player Contracts

23. Prefer Senate bill.

Conference Action: The Conferees adopted the Senate provision which provides a special rule for the recapture of depreciation attributable to player contracts on the sale of a sports franchise.

24. Minimum tax

24. Oppose House bill.

Conference Action: The Conferees deleted the House provision under which certain depreciation deductions attributable to player contracts would be subject to the minimum tax.

### Partnership Provisions

25. Partnership syndication and  
organization fees

25. Support Senate provision.

Discussion: Section 248 of the Internal Revenue Code presently allows a corporation to amortize its organizational expenses over a period of not less than 60 months.

Conference Action: The Conferees adopted the Senate provision which allows the amortization of partnership organization fees over a 5 year period.

26. Retroactive allocations of partnership income or loss

26. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision under which income and losses of a partnership must be allocated to a partner only for the portion of the year he is a partner.

27. Partnership special allocations

27. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision clarifying the treatment of special allocations of income, gain, loss, deductions or credits (or items thereof) among partners.

28. Deductible losses of limited partners - at risk

28. Oppose the substantive provision and the effective date.

Discussion: The provision restricts only the basis of limited partners of a partnership. It does not purport to generally repeal the long-established rule based on Crane v. United States, 331 U.S. 1 (1947) that nonrecourse financing is included in the cost, and thus the basis of property. Thus, other business arrangements may be used to circumvent the limitation.

The provision also leaves unanswered the issue of proper allocation to the various partners of the basis attributable to nonrecourse liabilities. The limited partners' share of the basis attributable to such liabilities may be suspended until principal is repaid. The subsequent increases in basis resulting from such a suspense account could raise serious administrative problems in enforcing the limitation.

Conference Action: The Conferees agreed to restrict application of the Senate provision to those tax shelter activities not specifically dealt with in the bill.

Interest

29. Treatment of prepaid interest

29. Support Senate provision, although do not object to House provision.

Conference Action: The Conferees adopted the Senate provision.

30. Limitation on deduction of nonbusiness interest

30. Oppose House bill.

Support Senate approach.  
(See Administration Position on treatment of interest in the minimum tax.)

Discussion: The \$12,000 limitation on nonbusiness interest is an arbitrary limit on the interest deduction which would deter individuals from purchasing assets with borrowed funds. Moreover, the limitation can have the effect of permanently disallowing deductions for home mortgage interest.

Conference Action: A compromise was agreed to. The deduction for interest on investment indebtedness is limited to:

- a. \$10,000 per year, plus
- b. the taxpayer's net investment income.

Title III - Minimum and Maximum Tax Changes

31. Minimum tax for individuals

- a) Tax rate
- b) Exemption
- c) Deduction for regular taxes
- d) Preferences included in minimum tax

31. a-c) Prefer Senate provision.

d) 1. Prefer Senate provision with 70% AGI.

2,3 and 4 (House bill)  
Oppose both the House and the Senate provisions and, in addition, delete existing preferences, provided LAL or other effective curbs on tax shelters are enacted.

4. (Senate amendment) Support Senate approach. Oppose House Limitation on Nonbusiness Interest.

5. Oppose House and Senate provisions.

Discussion: The Senate provision providing for a deduction for regular taxes paid tends to make the minimum tax more in nature of an alternative, rather than an add-on, tax. The Administration strongly supports an alternative minimum tax.

Conference Action: The Conferees adopted the following amendments to the minimum tax:

The tax rate was increased from 10% to 15%.

The exemption is \$10,000 or 1/2 regular taxes, whichever is greater.

New items of tax preference are:

- (1) itemized deductions (other than medical and casualty deductions) in excess of 60% of adjusted gross income;
- (2) intangible drilling costs in excess of the deduction allowed for such costs if capitalized; and
- (3) accelerated depreciation on all leased personal property (including ADR and bonus first year depreciation).

32. Minimum tax on corporations

- a) Tax rate
- b) Exemption
- c) Deduction for regular taxes
- d) Carryover of regular taxes
- e) Preferences included in minimum tax
- f) Exemption for timber

32. a-f) Oppose Senate provisions.

The amendments to the minimum tax for corporations were adopted on the Senate floor. No hearings were held on these changes which can impact adversely on many trades or businesses.

Conference Action: The following amendments to the minimum tax for corporations were adopted:

The tax rate was increased from 10% to 15%.

The exemption is \$10,000 or regular taxes, whichever is greater.

The carryover for regular taxes not used offset to preferences is eliminated.

No new preferences were added. However, timber is exempt from the increase in minimum tax. Also, special transition rules are provided for banks.

33. Maximum tax

33. No objection to conforming maximum tax with minimum tax provisions.

Conference Action: The Conferees adopted the Senate provision conforming the maximum with the minimum tax amendments. Also, they adopted the provision extending the maximum tax to pensions and annuities.

Title IV - Individual Tax Reductions

34. General tax credit

34. -----

Discussion: The Administration is disappointed by the form, duration and extent of the tax cut extension provisions in the House and Senate bills. It continues to support greater tax reductions coupled with a dollar-for-dollar reduction in federal expenditures.

Conference Action: The Conferees adopted the Senate provisions providing for a \$35 per capita tax credit for individuals. The tax credit was extended to January 1, 1978.

35. Standard deduction

35. -----

Conference Action: The Conferees adopted the Senate provisions providing for an increase in the standard deduction to a maximum of \$2400 for single returns and \$2800 for joint returns. The standard deduction changes were made permanent.

36. Earned income credit

36. -----

Conference Action: The Conferees extended the earned income credit to January 1, 1978.

37. Disregard of earned income credit

37. No objection to House and Senate provisions.

Conference Action: The Conferees agreed to provision providing that refunds from the earned income credit are to be disregarded in determining eligibility for assistance benefits.

Title V - Tax Simplification

38. Alimony payments

38. Support provision with  
Senate effective date

Conference Action: The Committee voted to make the alimony deduction an above-the-line deduction for taxable years beginning after December 31, 1976.

39. Child care expenses

39. Oppose the refundable  
feature of the Senate  
provision.

Discussion: The credit for child care expenses may be considered a cost of earning income. The credit thereby performs a legitimate tax function in determining the proper amount of tax due. However, refundability has nothing to do with the determination of tax liability; it is simply an addition to the tax system which more properly serves a welfare function.

Conference Action: A compromise was agreed to. The deduction for child care expenses was converted into a nonrefundable credit. The present income limit of \$35,000 was eliminated and the maximum eligible expenses increased. Also, payment made to relatives, even to those who are members of taxpayer's household, are eligible for the credit.

40. Sick pay and certain military  
disability pensions

40. Support House provision.  
No objection to Senate  
provision for Federal  
employees injured as the  
result of acts of terrorism.

Discussion: The Senate floor amendment retaining sick pay provisions of current law for taxpayers with adjusted gross incomes of \$15,000 or less is contrary to the simplification purpose of Title V. Also, more fundamentally, no justification exists for treating sick pay any differently than other wages.

Conference Action: The Conferees adopted the House provision which repeals the sick pay exclusion except for certain low-income, elderly persons who are totally disabled.

41. Moving expenses

41. Support Senate provision.

Conference Action: The Committee adopted a December 31, 1976 effective date. The Conferees agreed to limit the increase in the maximum deduction for moving expenses from \$2,500 to \$3,000 (House provision) and to provide special rules (Senate provision) for members of the armed forces on active duty who are moved by military orders.

42. Tax study by Joint Committee

42. No objection to Senate provision.

Conference Action: The House accepted the Senate provision requiring a Joint Committee study on simplification.

43. Treasury report on tax simplification and integration of corporate and individual income taxes

43. No objection to Senate provision.

Discussion: Treasury is presently undertaking a study on basic tax reform.

Conference Action: The Committee deleted this provision on Treasury's assurance that it would attempt to submit its study by 12/31/76.

#### Title VI - Business Related Individual Provisions

44. Deductions for expenses attributable to business use of homes

44. Support Senate provision.  
Oppose Senate floor amendment of Senator Bartlett expanding definition of business use of home.

Conference Action: The Committee adopted the House provision which would permit the deduction of expenses attributable to the business use of a home only where such expenses are attributable to the portion of the home used exclusively on a regular basis as (a) the taxpayer's principle place of business, and (b) a place of business which is used for patients, clients, or customers in meetings or dealings with the taxpayer in the normal course of his business. The Committee also accepted the Senate modification which would allow a deduction for a separate structure not attached to the taxpayer's dwelling unit which is used exclusively on a regular basis in the taxpayer's trade or business.

45. Deduction for expenses attributable to rental of vacation homes

45. No objection to House and Senate provisions.

Discussion: It is appropriate to replace the present facts and circumstances test of current law with an objective mechanical rule. The Administration prefers the two week rule to the alternative tests of the House and Senate provisions.

Conference Action: The Committee adopted the Senate provision, which would limit the amount allowable for deductions attributable to the rental of a vacation home if the home is used by a taxpayer for personal purposes in excess of the greater of two weeks or 10% of its actual business use. They also accepted the Senate de minimus rule (with a modification) that no business deductions would be allowed if the vacation home was actually rented for less than 15 days.

46. Deductions for attending foreign conventions

46. Support Senate provision (as reported by the Finance Committee). Oppose Senate floor amendment retaining present law.

Discussion: The Senate provision would curb most of the abuse of the deduction allowed for attending foreign conventions. The House provision contains mechanical rules which would be difficult to administer. It also fails to deal with conventions on cruise ships.

The Administration believes that the deduction for attending foreign conventions has been abused and that current law is inadequate to deal with the problem. The Administration, therefore, opposes the Senate floor amendment which would make no change in present law.

Conference Action: The Committee adopted the House provision which would disallow a deduction for attending more than two conventions held outside the United States. The deduction for transportation expenses is also limited. Further, the taxpayer and the organization which conducts the convention must comply with certain reporting requirements.

47. Qualified stock options

47. Support House provision.

Conference Action: The Committee voted to accept the House provision (with the later Senate effective date) which generally repeals qualified stock option treatment and subjects such options to the same rules as presently apply in the case of nonqualified options. The Committee directed that the Statement of Managers should report that the IRS should value options granted during the lifetime of individuals on the same basis that such options would be valued for Federal estate tax purposes. This was prompted by the concern of Senator Haskell that the IRS always assign a value of options for estate tax purposes; however, for income tax purposes the IRS will often argue that such options cannot be valued.

48. Nonbusiness guaranties

48. Support House provision.

Discussion: Current law creates an arbitrary distinction in the treatment of guaranteed payments depending on whether the guarantor is an individual and on whether the obligation is that of a corporation.

Conference Action: The Senate Conferees accepted the House provision which would allow a taxpayer who has a loss from the guarantee of a loan to treat such loss in the same manner as if such loss arose out of the guarantor's trade or business.

49. Deduction for legislators travel expenses away from home

49. No objection to House provision with Senate modification that the Secretary of Labor (rather than IRS) establish the daily amount of allowable living expenses.

Conference Action: The Conferees agreed to the Senate provision which establishes rules on the "tax home" of State legislators and their deduction for living expenses (to be determined by the Secretary of Labor). Provisions applicable to members of Congress were deleted.

Title VII - Accumulation Trusts

50. Revision of Method of Taxing  
Accumulation Distributions on  
Trusts

50. Support Senate provisions.

Discussion: The Senate provisions incorporate perfecting amendments to the House bill and thus are preferable.

Conference Action: The Conferees agreed to the Senate provision.

Title VIII - Capital Formation

51. Extension of \$100,000 limitation  
on used property

51. Support Senate provision.

Conference Action: The Senate Conferees receded from making this item permanent and, instead, adopted the House extension through December 31, 1980.

52. Extension of 10-percent investment  
credit

52. Support Senate provision.

Conference Action: The Senate Conferees receded from making this item permanent and, instead, adopted the House extension through December 31, 1980.

53. First-in-first-out treatment of  
investment credit amounts

53. Support Senate provision  
provided that present treat-  
ment retained for pre-1976  
carryovers.

Discussion: The FIFO rule improves the incentive to further capital investment. However, present law should be retained for investment credit carryovers from pre-1976 years to prevent wind-falls.

Conference Action: The House Conferees accepted the Senate provision providing for First-in-first-out treatment of investment credit carryovers. The Senate then receded on its provision extending for two additional years the carryover period for investment credits arising in 1966, which would expire (unless used) this year.

54. Extension of expiring investment tax credits

54. Oppose Senate provision.

Discussion: The provision provides a windfall for a limited number of taxpayers who have unused, expiring credits from 1966.

Conference Action: The Conferees deleted the Senate provision.

55. ESOP investment credit provision

55. Oppose Senate provision.

Discussion: The Administration supports tax incentives for broadened stock ownership which are available to all taxpayers. ESOPs are restricted to corporate employees and do not afford diversification and investment choice. In addition, as among corporate employees, ESOPs tied to the investment tax credit favor employees in capital intensive industries.

Conference Action: The Conferees accepted a compromise pursuant to which an additional investment credit of 1% would be allowed dollar-for-dollar for amounts contributed to an ESOP. An additional credit of up to 0.5% would be allowed to the employer for amounts contributed by employees to an ESOP. The special ESOP credit would apply to taxable years through 1980.

56. Retroactive regulations on Employee Stock Ownership Plans (ESOPs)

56. Oppose Senate provision.

Discussion: To the extent that Congress endorses different rules for ESOPs, it should set forth specific criteria in legislation developed after public hearings and comment.

Conference Action: The Conferees accepted a compromise concerning the Senate provision prohibiting retroactive regulations relating to ESOPs. Under the compromise, a provision would be added in the Statement of Managers detailing further the ESOP requirements.

57. Study of stock ownership expansion

57. Support Senate provision.

Conference Action: The Conferees decided that a broad based task force (rather than a Commission) should be convened to study broadening stock ownership.

58. Investment credit in the case of movie and television films

58. Support Senate provision except for "elect out".

Discussion: The provision provides a compromise investment credit for pre-'75 years in settlement of pending litigation. The "elect out" of the Senate provision frustrates the intent of the compromise to dispose of this litigation.

Conference Action: The House Conferees accepted the first two Senate provisions which delete a restriction on allowable investment credit carryovers in the case of taxpayers electing the compromise method only for pre-72 years and provides that the credit is available for educational, as well as entertainment films. The Conferees agreed to retain the Senate provision whereby certain taxpayers could "opt-out" of the legislative compromise of their investment credit dispute and continue their pending litigations. The Conferees also agreed to include participations in the investment credit base. However, a dispute arose concerning the proper amount of participations which should be included. The Conferees agreed to allow half allowed under the Senate provision.

59. Investment credit in the case of certain ships

59. Oppose Senate provision (including its retroactive effective date).

Discussion: The provision selectively overturns the general tax concept of "basis" underlying the allowance of depreciation and investment credit.

Conference Action: A compromise was agreed to pursuant to which a 5% investment tax credit (rather than the regular 10% credit) would be allowed prospectively from January 1, 1976 for vessels constructed with capital construction funds. However, taxpayers could continue to contest in court their eligibility for a full 10% credit for past and future years.

60. Small fishing vessel construction reserves

60. Oppose Senate provision.

Conference Action: The Conferees agreed to reduce the eligibility for the capital construction funds in the case of commercial fishing vessels from 5 tons to 2 tons.

61. Net operating loss carryover election

61. Support Senate provision provided that the election be made on an annual basis for the losses occurring in such year.

Conference Action: The Conferees accepted a compromise whereby taxpayers would have an election to deduct their net operating losses over two carryover periods: either three years back and then seven years forward; or seven years forward. The Conferees agreed that the carryforward period for regulated companies should be extended from the present period of seven years to nine years.

~~62. Limitation on trafficking in net operating loss carryovers~~

~~62. Oppose Senate provision.~~

Discussion: The provision would significantly alter the tax consequences of certain corporate acquisitions where one of the parties to the transaction has net operating loss carryovers. The Administration strongly recommends that no such basic changes be made without an opportunity for study and comment by the major professional associations and other interested parties. The Internal Revenue Service has indicated that the provision will be difficult to administer due to its uncertainty and complexity. These factors may also impede legitimate business transactions.

If the provision is adopted, the Administration recommends that its effective date be delayed for at least one year and that Congress invite comments and specifically undertake to make necessary substantive and technical modifications prior to its effective date.

Conference Action: The Conferees agreed to the Senate provision substantially revising the present limitations on acquisitions of corporations with net operating losses. A compromise was struck with respect to the effective date which would be delayed until January 1, 1978.

63. Credit for artist's donations of own work to charitable organizations

63. Oppose Senate provision.

Discussion: If a credit is allowed for artist's donations of his own work, the Administration prefers a 5 year holding period before the artist is eligible for such credit.

Conference Action: The Senate provision would provide a 30-percent credit for up to \$35,000 in value of such work. The House Conferees expressed concern about valuation problems, and that the provision might be a precedent for charitable deductions for the value of other personal services. The Senate Conferees agreed to drop this provision.

#### Title IX - Small Business Provisions

64. Continuation of changes in corporate tax rates and increase in surtax exemption.

64. Support Senate provision.

Discussion: Making the tax changes permanent is part of the President's deepened tax cut proposal. Also, the extension of the tax cuts to mutual insurance companies corrects a clear drafting oversight in the Tax Reduction Act.

Conference Action: The Conferees agreed to continue the changes in the corporate tax rate and the increase in the surtax exemption until December 31, 1977. In addition, these changes would apply to mutual insurance companies.

#### Title X -- Changes in the Treatment of Foreign Income

65. Income earned abroad by U.S. citizens living or residing abroad

65-1. Prefer the House bill, but do not object to the Senate version.

65-2. Do not oppose the Senate provision.

Conference Action: The Conferees agreed on a compromise which would reduce the exemption from \$20,000 to \$15,000 for all persons and tighten the eligibility for the exemption.

66. Income tax treatment of non-resident alien individuals who are married to citizens or residents of the United States

66-1. Support.

66-2. Support.

66-3. Support the Senate provision.

Effective date. Prefer Senate effective date.

Conference Action: The Senate provision was agreed to, effective for taxable years beginning after December 31, 1976. A U.S. citizen or resident married to a nonresident alien individual would now be allowed to file a joint return provided that an election is made by both individuals to be taxed on their worldwide income. Also, where the election to be taxed on worldwide income is not made, certain community property laws are to be made inapplicable for income tax purposes.

67. Foreign trusts having one or more United States beneficiaries to be taxed currently to grantor

67-1. Support. Prefer the Senate change.

67-2. Support.

Effective date. Prefer Senate effective date.

Conference Action: The Senate provision was agreed to but with the House effective date of taxable years ending after December 31, 1975. Grantors of foreign trusts will be taxed currently on the income of the trust if the trust has a U.S. beneficiary.

68. Interest charge on accumulation distributions from foreign trusts

68. Support. Prefer the Senate version.

Effective date. Prefer Senate effective date.

Conference Action: The Senate provision was agreed to. An interest charge in the form of an additional tax would be imposed on beneficiaries receiving taxable accumulation distributions from foreign trusts. No charge would be imposed for periods before January 1, 1977.

69. Excise tax on transfers of property to foreign persons to avoid Federal income tax

69. Support. Prefer the Senate version.

Conference Action: The Senate amendment was agreed to. An excise tax of 35% would be imposed on the amount of the unrecognized appreciation of all property transferred to foreign entities. An election to recognize gain in lieu of paying the excise tax would be permitted.

70. Amendment of provisions relating to investment in U.S. property by controlled foreign corporations

70. Support the change from present law, and prefer the Senate bill.

Effective date. Prefer Senate effective date.

Conference Action: The Senate provision was agreed to. There would be excluded from the definition of U.S. property in existing law (1) stock or debt of a domestic corporation (other than a U.S. shareholder) which is not 25% owned by the U.S. shareholders, and (2) movable drilling rigs when used on the U.S. continental shelf.

71. Shipping profits of foreign corporations

71-1. Support. Prefer the Senate version.

71-2. Oppose the House provision.

71-3. Do not oppose Senate provision.

Conference Action: The Senate provision was agreed to. There would be excluded from foreign base company income, income from shipping operations within one country if the ships are registered in that country and owned by a company which is incorporated in that country. The House provision which would have made it clear that debt obligations are taken into account in determining the amount invested in shipping assets, and the Senate provision which would have excluded from a point in a foreign country to a point offshore were not agreed to.

72. Agricultural products

72. Oppose the House provision and support the Senate bill which would make no change in present law.

Discussion: The House provision would change present law to make it more difficult to administer.

Conference Action: The Senate provision which retained current law was agreed to.

73. Requirement that foreign tax credit be determined on overall basis

73. Do not object to the elimination of the per-country limitation. Support the Senate version. Oppose the House provisions which would retain the per-country for possession source income, and delay the effective date for 3 years in the case of mining companies.

Discussion: The House provision would single out possession source income and mining companies for special treatment which discriminates against other taxpayers. The Administration cannot find any reason to single out these two classes of taxpayers for this kind of special treatment.

Conference Action: The House amendment was agreed to. The per-country limitation would be repealed and all taxpayers would be required to determine their foreign tax credit limitation on an overall basis. The House bill would have permanently retained the per-country limitation for possession source income and would have provided a three-year transitional rule for mining companies. The latter provision was accepted and the former provision was modified to a three year transition year.

74. Recapture of foreign losses

74. Support the recapture of foreign losses, and prefer the Senate version.

Conference Action: The Senate provision was agreed to. Foreign losses would be recaptured through the foreign tax credit mechanism when foreign operations become profitable. The taxpayer may have more than 50% of foreign source income recaptured in any taxable year, and the proportionate foreign tax credit disallowance rule is deleted. The 5 year delayed effective date in the case of losses incurred in U.S. possessions was also adopted.

75. Treatment of capital gains for purposes of foreign tax credit

75. Support and prefer the Senate version.

Conference Action: The Senate provision was agreed to. In general, the foreign tax credit limitation would be modified so that net U.S. capital losses would offset net foreign capital gains, in the case of corporations, only 30/48ths of the net foreign source gain would be included in the foreign tax credit limitation, and the gain from the sale or exchange of personal property outside the United States would be considered U.S. source income unless one of three exceptions applies.

16. Foreign oil and gas extraction income

- a. Transitional rule for foreign tax credit limit

76a. Oppose the House provision.

Discussion: Generally oppose retroactive relief granted by the House provision.

- b. Definition of foreign oil-related income

76b. No objection to Senate provision.

Discussion: The Senate provision is consistent with the inclusion of interest from foreign corporations and dividends in the definition of foreign oil related income.

- c. Foreign oil and gas extraction income earned by individuals

76c. Support Senate provision.

- d. Tax credit for production-sharing contracts

76d. Do not oppose the Senate provision.

- e. Reduction in amount allowed as foreign tax credit on oil extraction income

76e-1. Support the Senate provision, with modifications.

Discussion: The Administration supports limiting the credit for oil and gas extraction taxes to 48 percent. However, the Administration recommends that the limit be computed not on a country-by-country basis, but by applying the overall limitation separately with respect to oil extraction income and other income using the regular section 904 rules for carryovers, etc.; that the definition of oil and gas extraction income be narrowed to include dividends only when they are from a foreign corporation when taxes are deemed paid with respect to those dividends; that interest be excluded from the definition.

76e-2. Oppose the Senate provision.

Discussion: The Administration opposes the attempt to define the portion of the payment to a foreign government which is a royalty. A new definition would only confuse the issue. It would raise doubts as to the applicability and the effect of recent IRS statements concerning the creditability of taxes. It would cloud the applicability of the law in non-oil and gas areas.

76. Foreign oil and gas extraction income

Conference Action: A compromise was agreed to on the Hartke amendment. The amount of foreign taxes allowable as a credit with respect to foreign oil and gas extraction income would be reduced and limited to 48% on an overall, rather than a per country, basis. However, deductions for losses from extraction activities would be limited to the income from such activities.

77. Underwriting income

77. Support the Senate provision.

Conference Action: The Senate amendment was agreed to. The source of underwriting income would be the place where the risk is located.

78. Third-tier foreign tax credit when section 951 applies

78. Support Senate provision.

Conference Action: The Conferees agreed to the Senate provision providing the same foreign tax credit rules for third-tier subsidiaries as apply to second-tier subsidiaries.

79. Interest on bank deposits earned by nonresident aliens and foreign corporations

79. Support the House provision.

Discussion: The Administration strongly supports the permanent exemption which is contained in the House provision.

Conference Action: The Conferees agreed to make permanent the exemption from U.S. tax for interest earned by nonresident aliens and foreign corporations from deposits in United States banks.

80. Changes in ruling requirements under section 367; certain changes in section 1248

80-1. Strongly support the change in present law, and prefer the Senate version.

80-2. Support the change in present law, and prefer the Senate version.

80-3. Strongly support the change in present law, and prefer the Senate version.

Conference Action: The Senate provision was agreed to. The requirement of an advanced ruling in the case of foreign reorganizations would be eliminated and certain other technical changes in the treatment of the sale of stock of controlled foreign corporations was made.

81. Contiguous country branches of domestic life insurance companies

81. Do not object to either version.

Conference Action: The Senate provision was agreed to. A U.S. mutual life insurance company would be permitted to elect to account for contiguous country business separately from other business to avoid U.S. taxation on contiguous country income to the extent such income is not repatriated. The Senate provision extended this relief to stock companies selling, through contiguous country subsidiaries, policies which are similar to those sold by mutual companies.

82. Tax treatment of corporations conducting trade or business in Puerto Rico and possessions of the United States

82-1. Do not object to the change in present law. Prefer the Senate version.

82-2. Do not object.

Effective date. Prefer Senate effective date.

Conference Action: The Senate provision was agreed to. Under the provision, a qualified corporation would be entitled to a special foreign tax credit equal to the U.S. tax on gross income from sources within a possession. In addition, dividends from a possession's corporation would be eligible for the inter-corporate dividends received deduction.

83. Repeal of provisions relating to China Trade Act Corporations

83. Support the phaseout generally, and prefer the Senate version.

Conference Action: A compromise was adopted. Under the House bill, the China Trade Act Corporation provision would be phased out over a four-year period while the Senate provision provided for a two-year phase-out. The Conference action provides for three-year phase out.

84. Denial of certain tax benefits on international boycotts and bribe-produced income

84. Strongly oppose the Senate provision.

Discussion: The Senate provision is an inappropriate means of dealing with the problems of boycotts and bribes. Moreover, these provisions would create substantial administrative problems.

Conference Action: In the case of bribes the Conferees would provide for the amount of a bribe paid by a foreign corporation to be a deemed distribution to the U.S. shareholders of that corporation without any reduction in earnings and profits of the foreign corporation. A compromise on the boycott provision was accepted by the Conferees.

- The tax benefits would be disallowed only to the extent attributable to boycott activities,
- the limitations would only apply to secondary and tertiary boycotts, and
- no limitations would apply to taxpayers who comply with restrictions on exporting and importing to and from the Middle East belligerent countries.

Title XI -- Domestic International Sales Corporations (DISCs)

85. Amendments affecting DISC

85. Oppose both the House and Senate versions.

Discussion: In the context of the House and Senate bills, the Administration recommends the following compromise position:

1. Incremental rule limiting DISC benefits to the extent current export gross receipts exceed 60 percent of the average for 3 out of 4 base period years (initially 1972-1975);
2. Base period moves forward after 1980;
3. Exception to incremental rule contained in House and Senate versions for DISCs having taxable income of \$100,000 or less for a taxable year;
4. DISC benefits retained for agriculture;
5. DISC retained for military sales;
6. Technical changes with respect to disqualification recapture and producer's loans as in House version;
7. Senate provisions relating to distributions of DISC stock and double counting in the case of distribution to meet qualification requirements;
8. Effective date: for incremental rule - taxable years beginning after December 31, 1976.

Conference Action: A compromise was adopted providing as follows:

1. An incremental rule was adopted limiting DISC benefits to the extent the current export gross receipts exceed 67% of the average for four base period years (initially 1972, 1973, 1974, 1975) which moves forward after 1979.
2. Agricultural products would be eligible for DISC benefits and would be treated the same as other products.
3. DISC benefits would be permitted for military sales but only with respect to one-half of the income from those sales.
4. A small DISC exemption from the incremental rule would be provided for.
5. Upon disqualification of a DISC, the accumulated DISC income is recaptured over a period equal to twice the period that the DISC was in existence not to exceed 10 years.
6. Where DISC benefits with respect to products terminate, loans to a related supplier may still qualify as a producer's loan.

85. Amendments affecting DISC

7. Sale or distribution of DISC stock in certain nontaxable transactions will result in recapture of accumulated DISC income.

8. Certain problems relating to double counting in the case of distributions to meet qualification requirements are eliminated.

9. The provision will be effective with respect to taxable years beginning after December 31, 1975.

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Title XII - Administrative Provisions

86. Public inspection of written determinations by Internal Revenue Service

86. Support Senate provision.

Discussion: The Senate provision reflects a compromise worked out among representatives of the tax bar, the accounting profession, the Internal Revenue Service, the Treasury Department and public interest firms. Thus, the provision represents a publicly considered solution to a problem which has been the subject of extensive and costly litigation over the past several years. Certain technical matters, however, should be clarified by the Conference Committee.

Conference Action: The Conferees adopted the Senate provision under which determinations made by the IRS would be made public. However, unlike the House provision, the names of the requesting taxpayers would not be disclosed.

87. Disclosure of returns and return information

- a) In general
- b) Definition of returns and return information
- c) Disclosure to Congress
- d) White House (and other Federal agencies)
- e) Civil and Criminal tax cases
- f) Nontax criminal cases
- g) Nontax civil matters
- h) General Accounting Office
- i) Statistical use
- j) Other agencies - inspection on a general basis
- k) State and local governments
- l) Taxpayers with a material interest
- m) Miscellaneous disclosures
- n) Procedures and records concerning disclosure
- o) Safeguards
- p) Reports to Congress
- q) Enforcement

87. a-c. Support Senate provisions.

d-e. Support Senate provisions.

f. Oppose requirement of - "probable cause" for disclosure to Justice Department and other Federal agencies of taxpayer information in nontax criminal cases. Prefer Finance Committee amendment.

g-h. Support Senate provisions.

i-n. Support Senate provisions with following modification:  
- Tax information disclosed to Federal, State and local welfare agencies should be limited to the tax information available from the IRS individual master files.

o-q. Support Senate provisions.

90. Administrative summons

90. Prefer Senate provision.

Discussion: The Administration recommends that the effective date be February 28, 1977 to provide the IRS time to implement the new provision. Certain other technical matters should be clarified by the Conference Committee.

Conference Action: The Conferees adopted the Senate provision which provides the taxpayer with a course of action to contest administrative summons issued by the IRS.

91. Assessments in case of mathematical or clerical errors

91. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision providing a procedure under which a taxpayer may request abatement of an assessment attributable to mathematical or clerical errors.

92. Withholding State income taxes from military personnel

92. Support House or Senate provision.

Conference Action: The Conferees accepted the Senate provision.

93. Withholding of State or local income tax from members of the National Guard or ready reserve

93. Support Senate provision.

Conference Action: The Conferees accepted the Senate provision.

94. Voluntary withholding of State income taxes from Federal employees

94. Support Senate provision.

Conference Action: The Conferees accepted the Senate provision.

95. Definition of city for purposes of withholding

95. Enacted into law (Public Law 94-).

96. Withholding tax on certain gambling winnings

96. Support Senate provision but oppose Senate floor amendment excluding State lotteries from withholding requirements.

Conference Action: The Conferees agreed to a compromise under which a withholding tax would be imposed on winnings from State lotteries in excess of \$5,000 and certain horse race winnings. The effective date would be 60 days after enactment of the bill.

97. Withholding of Federal taxes on certain individuals engaged in fishing

97. Oppose Senate provision.

Discussion: The Administration recommends that the exemption be limited to one crewman (in addition to the operator) to deal with the problem of fishermen who own their own boats and hire crewmen on an intermittent basis.

Conference Action: The Conferees agreed to the Senate provision treating as self-employed for Federal tax purposes crewmen on fishing boats with an operating crew of less than 10.

98. Voluntary withholding of State income taxes in the case of certain legislative officers and employees

98. No objection to House provision.

Conference Action: The Conferees deleted the House provision.

99. Minimum exemption from levy for wages, salary, and other income

99. Support Senate provision.

Discussion: The Administration recommends that the effective date be February 28, 1977 to provide the IRS time to implement the new provision.

Conference Action: The Conferees adopted the Senate effective date of January 1, 1977 for the establishment of a minimum amount of income exempt from levy.

100. Joint Committee Refund Cases

100. Support Senate provision.

Discussion: The Administration recommends that the provision be made applicable to refunds submitted to Joint Committee after the date of enactment of H.R. 10612.

Conference Action: The Conferees adopted the Senate provision increasing the jurisdictional amount for Joint Committee refund cases and adding certain matters to its jurisdiction.

101. Use of Social Security numbers

101. Support House provision.

Discussion: The Administration recommends that the use of social security numbers be limited to Federal, State and local tax administrative purposes.

Conference Action: The Conferees adopted the Senate provision expanding the use of social security numbers to include state and local taxes, driver's licenses and motor vehicle registration as well as for the purpose of locating runaway parents.

102. Interest on mathematical errors on returns prepared by IRS

102. Support Senate provision.

Conference Action: The Conferees agreed to a compromise under which the Service would be granted authority to waive interest on mathematical errors on returns it prepared.

103. Award of Costs and Attorneys' Fees to Prevailing taxpayer

103. Oppose Senate provision.

Discussion: With an opportunity for recovery of attorney's fees, which are not normally awarded the prevailing party in litigation, there will be a greater incentive for litigation, even though the amount involved may be small and the taxpayer's case may appear frivolous on its face.

Conference Action: The Conferees agreed to delete the Senate provision under which taxpayers, who prevailed in a civil tax litigation, could recover a maximum of \$10,000 costs and legal fees in certain instances.

Title XIII - Miscellaneous Provisions

104. Certain housing associations      104. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision including the Javits amendment treating lending institutions which obtain stock in a cooperative housing corporation as a tenant-stockholder for up to three years.

105. Tax treatment of certain      105. Support provision with  
1972 disaster loans      April 15, 1977 date (Senate  
provision) for payment of  
first annual installment of  
unpaid tax liability.

Conference Action: The Conferees adopted the provision with the April 15, 1977 date (Senate provision) for payment of the first annual installment of unpaid tax liability.

106. Worthless debts of political      106. Support provision with Senate  
parties      effective date.

Discussion: The Administration opposes the retroactive application of the provision provided by the House bill.

Conference Action: The Conferees adopted the provision with the Senate effective date.

107. Exemption from taxation of      107. Oppose Senate provision.  
interest on bonds issued to  
finance certain student loans

Discussion: The Senate provision creates an undesirable precedent for the issuance of tax-exempt bonds by private corporations having only a minimal connection with governmental units. The Treasury Department has proposed regulations dealing with this question and is working on them with state and local representatives.

Conference Action: The Conferees adopted the Senate provision.

108. Prepublication Expenditures

108. Oppose House provision.

Discussion: The tax treatment of prepublication expenses should not depend upon the particular past practice of an individual publisher but upon sound tax rules of general application.

Conference Action: The Conferees adopted the House provision with minor technical amendments.

109. Income from lease of intangible property as personal holding company income

109. Oppose Senate provision.

Discussion: The Senate provision (adopted as a floor amendment) extends retroactive relief to one taxpayer and reverses through legislation an adverse decision rendered against that taxpayer in the Court of Claims. The Treasury Department would not object to the provision as amended by the Senate Finance Committee on July 23, 1976, if the provision were made prospective only.

Conference Action: The Conferees agreed to apply the personal holding company amendments on a prospective basis only.

110. Work Incentive (WIN) and Federal Welfare Recipient Employment Tax Credits

110. Oppose Senate provision.

Conference Action: The Conferees adopted the Senate provision, but made it effective only through January 1, 1980.

111. Repeal of excise tax on certain parts for light-duty trucks

111. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

112. Exemption from manufacturers' tax for certain articles resold after certain modifications

112. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

113. Franchise Transfers

113. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

114. Clarification of an employer's duty to keep records and to record tips

114. Oppose Senate provision.

Discussion: Tip income has presented IRS with chronic compliance problems due to a lack of reliable records from which the correct amount of tips can be verified. The Senate provision obviates sound attempts by IRS to alleviate these problems.

Conference Action: The Conferees deleted the Senate provision and substituted therefor a two year moratorium on the enforcement of the Service's latest revenue rulings in this area.

115. Pollution Control Facilities: 5-year amortization and investment credit

115. Support Senate provision with certain modifications:  
- section 169 should be extended only until December 31, 1980; and  
- the present definition of pollution control facility and the requirement that a facility be added to a plant, etc., in operation by January 1, 1969 should be retained.

Discussion: As modified, the provision carries out the purpose of section 169 by accomodating further upgrading of pre-1969 plants.

Conference Action: A compromise was agreed to. Section 169 would be made permanent and a 50% (rather than 66 2/3%) investment credit allowed taxpayers who elect section 169 treatment. The definition of "pollution control facility" was modified to include certain property which prevents the creation of pollution.

116. Qualification of fishing organizations as tax-exempt agricultural organizations

116. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision providing that certain fishing organizations would be tax-exempt effective for taxable years after December 31, 1975.

117. Subchapter S corporation shareholder rules

117. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

118. Application of section 6013(e)

118. Oppose Senate provision.

Discussion: The Senate provision extends retro-active relief to a limited number of taxpayers.

Conference Action: The Conferees adopted the Senate provision.

119. Modifications in percentage depletion for oil and gas

119-1,2. No objection to Senate provision.

-3,4. Support Senate provision.

Discussion: The Administration believes that the provisions should apply to all similarly situated taxpayers. There is no justification for the exclusion of certain trusts from these provisions.

Conference Action: The Conferees agreed to accept the Senate provision modifying the limitations on percentage depletion for oil and gas wells to more properly conform the statute with the intent of Congress in enacting the Tax Reduction Act of 1975.

120. Implementation of Federal  
State Tax Collection Act of  
1972

120. No objection to Senate  
provision with certain  
modifications.

Discussion: The Administration opposes the  
provision precluding any user charge and opposes  
reducing from two States to one the number of  
States necessary to start the system.

Conference Action: The Conferees adopted the Senate provision without  
making the modifications recommended by the Administration.

121. Cancellation of certain student  
loans

121. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

122. Simultaneous liquidation of  
parent and subsidiary corpor-  
ations

122. Support Senate provision.

Discussion: The Senate provision eliminates a  
trap for the unwary.

Conference Action: The Conferees adopted the Senate provision.

123. Prohibition of State-Local  
Taxation of Certain Vessels,  
Barges, or Crafts Using  
Interstate Waterways

123. Oppose Senate provision.

Discussion: The Federal government has, over the  
years, imposed relatively few constraints on the  
power of States to impose taxes. The fact that  
current State practices impose record keeping and  
financial burdens upon barge operations is not a  
sufficient reason for the Federal government to  
prevent the States from imposing taxes on this  
form of transportation.

Conference Action: The Conferees deleted the provision. The Advisory  
Commission on Intergovernmental Affairs will be requested to study the  
provision.

124. Contributions in Aid of  
Construction for Certain  
Utilities

124. Oppose Senate provision.

Discussion: The Senate provision departs from the general tax principle that payments for services constitute taxable income.

Conference Action: The Conferees agreed to allow water and sewer utilities to treat as contributions to capital rather than as taxable income, the payment by third parties of the costs of installing water and sewer lines to new developments.

125. Prohibition of Discriminatory  
State or Local Taxes on  
Generation or Transmission  
of Electricity

125. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

126. Deduction for cost of removing  
architectural and transporta-  
tional barriers to handicapped  
and elderly

126. Oppose Senate provision.

Conference Action: The Conferees adopted the Senate (Senator Dole) provision.

127. Publication of statistics  
of income

127. No objection to Senate  
provision.

Conference Action: The Secretary of the Treasury is directed to publish statistics of income based on adjusted gross income and economic income.

128. Report on tax increases  
resulting from inflation

128. No objection to Senate  
provision.

Conference Action: The Conferees deleted this provision.

129. Taxation of certified historic structures

129. Support Senate provision.

Discussion: The Senate provision provides a variety of measures designed to equalize the tax treatment of new buildings and restored historic structures and has the Administration's full support.

Conference Action: The Conferees adopted this Senate provision which denies certain tax benefits (accelerated depreciation, demolition and loss deductions) to individuals who demolish historic structures.

130. Supplemental Security Income for victims of certain natural disasters

130. No objection to Senate provision.

Conference Action: The Conferees adopted this provision.

131. Exclusion of countries which aid and abet international terrorists from preferential tariff treatment

131. Oppose Senate provision.

Discussion: The trade laws are not an appropriate vehicle for solving complex foreign policy problems.

Conference Action: The Conferees adopted the Senate provision.

132. Net operating loss deduction for Cuban expropriation

132. Oppose Senate provision.

Conference Action: The Conferees adopted the Senate provision, with the proviso that this constitutes the very last extension of these net operating loss carryovers.

133. Study of tax treatment of married, single persons

133. No objection to Senate provision.

Conference Action: The Conferees deleted the Senate provision.

Title XIV - Capital Gains and Losses

134. Increase in amount of ordinary income against which capital loss may be offset      134. Support House provision.

Discussion: There has been no change in the \$1,000 offset since 1942, and the economic value of this deduction has decreased significantly since that time.

Conference Action: A compromise was adopted providing that:

1. In 1977 the maximum amount of ordinary income that could be offset by capital losses would be \$2,000.
2. In 1978 the maximum offset amount would rise to a permanent level of \$3,000.

135. Increase in holding period for long-term capital gains      135. Support House provision.

Discussion: The reasons for distinguishing between long-term and short-term capital gains - the "bunching" problem and the need to differentiate between assets held for investment and speculation - suggest that the distinction should be drawn on the basis of one full year.

Conference Action: A compromise substantially similar to the House provision was adopted providing that:

1. In 1977 the minimum required holding period necessary to qualify gain on the sale of most capital assets for long-term capital gains tax treatment would be 9 months.
2. In 1978 the holding period for long-term capital gains treatment would rise to a permanent period of 12 months.

An exception from these changes in holding period was made for farm commodity future contracts which the Conferees decided to leave at the same 6-month period applicable under current law.

Title XV - Pension and Insurance Taxation

136. Individual retirement account (IRA) for spouse      136. No objection to Senate provision.

Discussion: The Administration recommends a broad study of retirement security which would give consideration to the future protection of housewives.

Conference Action: A compromise was agreed to pursuant to which an individual could contribute up to \$1,750 to an IRA he and his spouse own jointly.

137. Limitation on contributions to certain H.R. 10 plans      137. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

138. Deduction for retirement savings of private and government employees - limited employee retirement accounts      138. Support House provision.  
No objection to Senate provision.

Conference Action: The Conferees deleted the House and Senate provisions.

139. Retirement deductions for members of Armed Forces Reserves and National Guard      139. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

140. Tax-exempt annuity contracts in closed end mutual funds      140. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

141. Pension fund investments in segregated asset accounts of life insurance companies

141. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

142. Extension of study of salary reduction and cash or deferred profit-sharing plans

142. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

~~143. Consolidated returns for life and mutual insurance companies~~

~~143. No objection to Senate provision.~~

Conference Action: A compromise was agreed to. Effective in 1982 life insurance and mutual insurance companies would be allowed to file consolidated returns with their non-life affiliated companies. However, the amount of non-life losses applied against life company income is limited to 25% of the loss or 25% of life company income, whichever is less. In 1984 the limit increases to 30% and in 1985 the limit increases to 35%.

144. Guaranteed renewal life insurance contracts

144. Support Senate provision.

Conference Action: The Conferees adopted on a retroactive basis the Senate provision which provides that the time for which a policy is issued includes the period for which the insurer guarantees that the policy is renewable.

145. Tax-free rollover in event of plan termination

145. Enacted into law (Public Law 94-267).

Conference Action: Open

#### Title XVI - Real Estate Investment Trusts

146. Deficiency dividend procedure

146. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

147. Failure to meet income source tests      147. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

148. Treatment of property held for sale to customers      148. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

149. Increase in 90-percent gross income requirement to 95 percent      149. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

150. Change in definition of "rents from real property"      150. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

151. Change in distribution requirements      151. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

152. Manner and effect of termination or revocation of election      152. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

153. Excise tax on distribution made after taxable year      153. Support.

Conference Action: The Conferees adopted the Senate provision.

154. Allowance of net operating  
loss carryover

154. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

155. Alternative tax in case of  
Capital Gains

155. Support Senate provision.

Discussion: The Senate provisions incorporate perfecting amendments to the House bill and thus are preferable.

Conference Action: The Conferees adopted the Senate provision.

Title XVII - Railroad Provisions

156. Amortization of track accounts 156. Oppose Senate provision.

Discussion: The retirement-replacement method of accounting for depreciation of track already provides significant advantages to railroads.

Conference Action: The Conferees agreed to delete the provision allowing railroads to write off their track costs faster (10 years) than under present law.

157. Railroad ties

157. Support Senate provision  
(other than the Senate floor  
amendment of Senator Stone).

Discussion: The Finance Committee amendment provides a more uniform application of the retirement-replacement method of accounting than the House provision or the Senate floor amendment.

Conference Action: The Conferees agreed to the Senate provision providing special expensing rules for certain improved railroad ties. They also adopted the Stone amendment allowing an immediate write-off for the full cost of certain replacement ties.

158. Investment credit for railroads 158. Oppose Senate provision.

Discussion: The problems of railroads and airlines are fundamental. Therefore, meaningful assistance to these industries should be provided by means other than special changes in long-established tax principles governing the investment credit.

Conference Action: The Conferees adopted in slightly modified form the Senate provisions which Treasury opposed. As adopted the provisions would:

1. Allow railroads and airlines investment credits up to 100% of tax liability (instead of 50% under current law) for 1976 and 1977.
2. The percentage would decline by 10% each year after 1977 until it returned to 50%.
3. The "flow through" of the investment credit to leasees would be prohibited.

159. Investment credit for airlines 159. Oppose Senate provision.

Discussion: See discussion under #158.

Conference Action: The Conferees adopted in slightly modified form the Senate provisions which Treasury opposed. As adopted the provisions would:

1. Allow railroads and airlines investment credits up to 100% of tax liability (instead of 50% under current law) for 1976 and 1977.
2. The percentage would decline by 10% each year after 1977 until it returned to 50%.
3. The "flow through" of the investment credit to leasees would be prohibited.

Title XVIII - Tax Credit for Home Garden Tools

160. Home garden tool credit

160. Oppose House provision.

Conference Action: The Conferees deleted the House provision.

Title XIX - Repeal and Revision of Obsolete,  
Rarely Used, Etc., Provisions of  
Internal Revenue Code of 1954

161. "Deadwood" provisions

161. Support provision.

Discussion: The Administration recommends a  
clarifying amendment to the definition of  
"Secretary or his delegate".

Conference Action: The Conferees adopted the provision with the  
Administration recommendation.

FINAL EVALUATION: Acceptable/Significant

Title XX - Energy-Related Provisions

162-176 - The energy-related provisions were deleted from the bill.  
The provisions are to be the subject of a separate bill.

Title XXI - Tax Exempt Organizations

177. Modification of self-dealing  
transitional rules in 1969 Act  
relating to leased property

177. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

178. Private foundation set-asides

178. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

179. Mandatory payout rate for private foundations

179. Support Senate provision.

Discussion: The present fluctuating payout rate is steadily eroding the endowments of private foundations.

Conference Action: The Conferees accepted the Senate provision reducing the mandatory payout rate to 5%.

180. Extension of Time to Amend Charitable Remainder Trust Governing Instrument

180. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision, with the proviso that the extension is the very last.

181. Reduction of private foundation excise tax on investment income

181. Support Senate provision.

Discussion: The excise tax should be limited to the amount required to cover the cost of auditing exempt organizations. The 2% rate of the Senate provision will cover such costs.

Conference Action: The Conferees deleted the Senate provision which would have reduced the excise tax on private foundations from 4% to 2%.

182. Unrelated trade or business income of trade shows, State fairs, etc.

182. Oppose Senate provision.

Discussion: The Administration would have no objection to an exemption for trade shows that did not change the qualification requirements for exempt organizations.

Conference Action: The Conferees accepted the Senate provision exempting from the unrelated business income tax fairs and expositions and accepted a modified version of the Senate provision providing a similar exemption for conventions and trade shows. The latter provision would be effective on a prospective basis only.

183. Declaratory judgments regarding tax-exempt status as charitable etc., organization      183. Support Senate provision with House effective date.

Conference Action: The Conferees adopted the Senate provision, including the Senate effective date.

184. Provision for establishment of alcoholism trust fund      184. Oppose Senate provision.

Conference Action: The Conferees agreed to delete the Senate provision establishing an Alcoholism Trust Fund.

- ~~185. Exclusion of certain companion sitting placement services from employment tax requirements      185. No objection to Senate provision.~~

Conference Action: The Conferees agreed to delete the Senate provision with a comment in the Statement of Managers that the IRS should not enforce its revenue ruling on babysitters for one year to give it time to study the general problem of employer v. independent contractors.

186. Minimum distribution requirements to include miscellaneous distributions      186. Oppose Senate provision.

Discussion: The special rule for distributions of \$200 or less for "civic or community activities" should be clarified to cover only those activities in furtherance of charitable purposes.

Conference Action: The Conferees deleted the Senate provision.

Title XXII - Estate and Gift Tax Provisions

187. Allowance of credit against the estate tax      187. Support House provision.

Discussion: The Administration proposed an increase in the estate tax exemption to \$150,000 and the elimination of the lower bracket rates on the first \$100,000 of taxable estate, with both changes phasing in over five years. The House bill achieves substantially equivalent results.

Conference Action: A credit of \$47,000 (equivalent to an exemption of about \$175,000) would be allowed against the taxpayer's combined lifetime and deathtime transfers, and would be phased in over 5 years, starting at \$30,000 (equivalent to an exemption of about \$120,000) in 1977.

188. Unification of estate and gift tax rates

188. No objection to House provision.

Conference Action: House provision adopted (preferential gift taxes are made the same as estate taxes rates and effectively range from 32% to 70%).

189. Transfers made within 3 years of death

189. Support House provision.

Conference Action: House provision adopted (eliminates the presumption that transfers made within 3 years of death are made in contemplation of death in favor of rule that all transfers during that 3 year period are includable in the transferor's gross estate).

190. Gross up for gift taxes

190. Support House provision.

Conference Action: House provision adopted (requires the gift tax paid on gifts made within three years of death to be included in the transferor's gross estate).

191. Increase in estate tax marital deduction

191. Support House provision.

Discussion: The Administration proposed an unlimited marital deduction for estate and gift tax purposes.

Conference Action: House provision adopted (increases the estate tax marital deduction to the greater of \$250,000 or 50% of the decedent's adjusted gross estate).

192. Increase in gift tax marital deduction

192. Support House provision.

Discussion: See discussion for #191.

Conference Action: House provision adopted (increases the gift tax marital deduction to \$100,000 plus 50% of the cumulative transfers in excess of \$200,000).

193. Joint interests

193. Support House provision.

Conference Action: House provision adopted ( allows a joint tenancy to be treated as 50% owned by each spouse for estate tax purposes, regardless of who furnishes what portion of the consideration, provided that gift tax is paid upon the creation of joint tenancy).

194. Special valuation for certain types of property

194. Prefer House provision.

Discussion: The Administration prefers the House provision since it is more limited in scope and more tightly drafted. Both provisions will tend to lock elderly people and their heirs into potentially inefficient uses of the land.

Conference Action: House provision adopted (allows real property used for farming or closely-held business purposes to be specially valued on the basis of its current use, rather than on the basis of its highest invest use, as under current law).

195. Extension of time for payment of estate tax

195. Support House provision.

Discussion: The Administration supports the greater liberalization of the extension provisions in the House provision. It also supports the tightening of eligibility requirements although it is concerned that the House requirements may be too strict.

Conference Action: House provision adopted, with modifications:

1. Ten-year installment payment treatment allowed for interest in closely-held businesses that comprise 35% of the decedent's gross estate or 50% of his taxable estate is retained;

2. As an alternative interest in farms or closely-held businesses that comprise at least 50% of the decedent's adjusted gross estate, there is the House 15 year installment payment provision (allowing no principle payments for the first five years and 4% interest on the tax attributable to the first \$1,000,000 in qualifying interest); and

3. Change in the standard for other extensions from "undue hardship" to "reasonable cause".

196. Redemption of stock to pay  
estate tax

196. Support House provision.

Discussion: The Administration supports the limitation of the favorable treatment to shareholders whose interests in the estate are reduced by the payment of the taxes, etc., but it is concerned that the tougher qualifications for eligible closely-held business interests may be too strict.

Conference Action: House provision adopted, but qualifying stock need comprise only 50% of the decedent's adjusted gross estate, not 55%.

197. Carryover basis

197. Opposed to House provision.

Discussion: The Administration opposes any change in the present stepped-up basis rule, under which the heirs receive a new fair market value basis for property transferred from a decedent.

Conference Action: House provision adopted, but with a step-up to the property's value on December 31, 1976.

198. Generation-skipping transfers

198. Because of major technical deficiencies in both bills and the great complexity of the subject, the Administration recommends that the Conference take no action on this issue and delete both provisions.

Conference Action: House provision adopted, but with only a \$250,000 exclusion for transfers to grandchildren, and other technical changes.

199. Orphans' exclusion

199. No objection to House provision.

Conference Action: House provision adopted (excludes transfers to an orphan of \$5,000 for each year he is under age 21).

200. Requirement that IRS furnish  
a statement explaining estate  
or gift tax valuation

200. No objection to House  
provision.

Conference Action: House provision adopted.

201. Gift tax returns

201. Support House provision.

Conference Action: House provision adopted (eliminates requirement that  
the donor file quarterly gift tax returns if his annual gifts are \$25,000  
or less).

202. Public index of filed tax liens 202. Oppose House provision.

Conference Action: Requires IRS to keep public files of liens and do its  
best to have it publicly indexed by local authorities.

203. Inclusion of stock in decedent's estate where decedent retains  
voting rights 203. Support House provision.

Conference Action: House provision adopted.

204. Disclaimers

204. Support House provision.

Conference Action: House provision adopted (provides uniform rule for  
when disclaimers are effective for tax purposes).

205. Estate & gift tax exclusions for qualified retirement benefits      205. Support House provision.

Conference Action: House provision adopted (exempts survivor's interest in H.R. 10 plans and IRAs, but removes exemption for lump-sum distributions from qualified plans).

206. Gift tax treatment of certain community property      206. Support both provisions.

Conference Action: Both provisions adopted (provide uniformity of gift tax treatment for spouse's interest in qualified plan in community property and common law states).

207. Income tax treatment of certain selling expenses of estates and trusts      207. Support House provision.

Conference Action: House provision adopted (prevents sale expenses that are taken as estate tax deduction from offsetting sales price for income tax purposes).

208. Estate tax credit for payment in kind      208. No objection to Senate provision.

Conference Action: Senate provision adopted (allows estate tax credit for transfer of Lake Tahoe area property from estate to the Forest Service)

Title XXIII - Other Amendments

209. Outdoor advertising displays      209. No objection to Senate provision.

Conference Action: The Conferees agreed to the Senate provision providing an irrevocable election for taxpayers to treat certain outdoor advertising displays as real property for purposes of the condemnation provisions of the Internal Revenue Code.

210. Tax treatment of large cigars      210. Support Senate provision.

Discussion: If the bracket rate were changed to 10%, rather than 8-1/2% (the Senate provision), there would be no revenue loss and administration of the tax would be facilitated.

Conference Action: The Conferees adopted the Senate provision, but did not accept the Administration's recommendation.

211. Gain from sales or exchanges      211. Support Senate provision.  
between related parties

Conference Action: The Conferees adopted the Senate provision.

212. Uniformed Services Health      212. Support Senate provision.  
Professions Scholarships

Discussion: The Administration supports the floor amendment by Senator Ford which was adopted by the Senate.

Conference Action: The Conferees adopted the Senate provision.

213. Tax counseling for the elderly      213. Oppose Senate provision.

Discussion: Special tax assistance for the elderly is unnecessary in light of the IRS' current, effective taxpayer assistance program. Also, the provision for tax-free reimbursement of expenses furthers the proliferation of statutory exemptions in the tax code.

Conference Action: The Conferees deleted the Senate provision.

214. Commission on value added  
taxation

214. No objection to Senate  
provision.

Conference Action: The Conferees deleted the Senate provision.

215. Exchange funds

215. Support House provision.

Discussion: The Senate provision unnecessarily broadens the "grandfather" clause for partnership exchange funds and provides a special exception for certain family partnerships.

Conference Action: The Conferees accepted H.R. 11920 which prohibits the tax-free transfer of property to so-called exchange funds established as partnerships or trusts. However, they did not adopt the more liberal grandfather clause of the Senate provision.

216. Distributions by subchapter S  
corporations

216. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

#### Title XXIV

217. Voting by Commission on import  
relief

217. Oppose Senate provision.

Discussion: It is important for the U.S. International Trade Commission to reach definitive majority positions. The Administration therefore supports the objectives underlying the Senate provision. However, the Administration opposes this specific provision because it could have the effect of allowing the vote of a minority of the Commissioners to be binding on the President and the Congress. The problem could best be dealt with in a separate bill after full public hearings and discussion of the problems.

Conference Action: A compromise was agreed to under which a plurality vote of three Commissioners (rather than a majority of four) would be deemed the decision of the Commission. Also, commissioners would remain in office until the newly appointed commissioner was confirmed by the Senate.

218. Increase in number of  
Commissioners

218. Oppose the Senate  
provision.

Discussion: The Administration would support  
reducing the number of Commissioners from  
six to five.

Conference Action: The Conferees deleted the Senate provision.

219. Authorization of appropriations

219. No objection to Senate  
provision.

Conference Action: The Conferees deleted the Senate provision.

220. Administration of the Commission 220. Support Senate provision.

Conference Action: The Conferees deleted the Senate provision.

221. Continuation of reports with  
respect to synthetic organic  
chemicals

221. No objection to Senate  
provision.

Conference Action: The Conferees deleted the Senate provision.

#### Title XXV

222. Contributions of certain  
Government publications

222. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

223. Lobbying by public charities

223. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

224. Tax liens, etc., not to constitute "acquisition indebtedness"

224. No objection to Senate provision.

Discussion: The Administration recommends technical revisions to the Senate provision to ensure that it applies only to special assessments of a type normally made by a State or local governmental unit or instrumentality and cannot be utilized as a device for financing improvements to an exempt organization's property.

Conference Action: The Conferees adopted the Senate provision.

225. Extension of private foundation transitional rule for sale of business holdings

225. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

226. Private operating foundations; Imputed interest; Libraries and museums

226. No objection to Senate provision except for the exemption of libraries and museums from the section 4940 tax.

Discussion: The exemption for libraries and museums from the audit fee tax has no real justification. It creates another species of foundation which is especially difficult to define.

Conference Action: The Conferees agreed to the Senate provision excluding from net income amounts of imputed interest on sales made prior to January 1, 1970. They also agreed to delete the provision providing a 5% payout rule for libraries and museums and the reduction in the amount that a private operating foundation must spend for charitable purposes to 3 percent of its noncharitable assets.

227. Study of tax incentives

227. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate provision.

Title XXVI - Other Miscellaneous Amendments

228. Credit for certain education expenses                      228.

Conference Action: The Conferees agreed to drop this Senate provision which would have provided limited credits for expenses incurred by full-time students in undergraduate degree or vocational certification programs.

229. Interest on certain governmental obligations for hospital construction                      229. Oppose Senate provision.

Discussion: This selective expansion of current law is not warranted - private hospitals will invest only where a profit is expected. The precedent is bad - other private businesses will seek similar treatment, and such proliferation of tax-exempt industrial development bonds would adversely affect state and local borrowing.

Conference Action: The Conferees deleted the Senate provision.

230. Group prepaid legal services                      230. Oppose Senate provision.

Discussion: The Senate provision is contrary to the well-established tax principle that deductions for personal expenses are generally not allowed.

Conference Action: The Conferees adopted the Senate provision excluding from income employer contributions and benefits received under qualified group legal services plans. The provision would be prospective and extend for only five years with the Treasury and Labor required to report in four years on the provision.

231. Unrelated business income from services provided by a tax-exempt hospital to other tax-exempt hospitals      231. Oppose Senate provision.

Discussion: The Senate provision will allow certain hospitals to engage in the business of selling services to other hospitals in competition with commercial operators. No provision is made for passing savings on to small hospitals who may be charged more than cost for the services provided. Thus, the Administration opposes this provision.

Conference Action: The Conferees accepted the Senate provision exempting from the unrelated trade or business tax the income of tax-exempt hospitals received for providing certain services to small hospitals. A modification that such services must be provided at cost was agreed to.

232. Clinical services of cooperative hospitals      232. No objection to Senate provision.

Conference Action: The Conferees agreed to the Senate provision allowing clinical services to be performed by a tax-exempt cooperative service organization.

233. Certain charitable contributions of inventory      233. No objection to Senate provision.

Discussion: The limitation of the maximum deduction to twice the manufacturer's basis for the property ensures that a company cannot profit by manufacturing solely to make charitable contributions.

Conference Action: The Conferees agreed to allow corporations a deduction when food, clothing, medical equipment, etc. is donated to charity.

Title XXVII - Additional Floor Amendments

234. Tax credit for expenses for  
certain amateur athletes

234. Oppose Senate provision.

Discussion: The President's Commission on Amateur Athletics has been requested by the President to study further the issue of incentives for amateur athletes. Any tax relief at this time is, therefore, premature.

Conference Action: A compromise was agreed to. The Conferees accepted the Senate provision making tax-exempt organizations whose primary purpose is to foster national and international sports competition and deleted the tax credit for certain costs incurred by individuals in participating in certain athletic competitions.

35. Exemption of certain amateur  
athletic organizations from tax

235. Oppose Senate provision.

Discussion: See discussion #234.

Conference Action: A compromise was agreed to. The Conferees accepted the Senate provision making tax-exempt organizations whose primary purpose is to foster national and international sports competition and deleted the tax credit for certain costs incurred by individuals in participating in certain athletic competitions.

36. Taxable Status of Pension  
Benefit Guaranty Corporation

236. Support Senate provision.

Discussion: The Senate provision rectifies an apparent oversight in the ERISA legislation.

Conference Action: The Conferees adopted the Senate provision.

37. Level premium plans covering  
owner-employees

237. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

238. Lump-sum distributions from pension plans

238. No objection to Senate provision.

Conference Action: The Conferees agreed to the Senate provision allowing taxpayers to treat certain lump sum distributions as ordinary income, with a 10 year income averaging rule.

239. Tax treatment of the grantor of certain options

239. Support H.R. 12224 with Senate September 1, 1976 - effective date.

Discussion: In order to avoid uncertainty for current transactions, it would be appropriate to adopt a date of enactment effective date.

Conference Action: The Conferees agreed to H.R. 12224, which provides that gain from the lapse of an option and gain or loss from a closing transaction in options should be treated as short term capital gain or loss, effective for options written after September 1, 1976.

240. Exempt-interest dividends of regulated investment companies

240. No objection to Senate provision.

Discussion: Will enable investors with limited funds to acquire tax-exempt bonds, thus helping to provide a more efficient market for state and local obligations.

Conference Action: The Conferees adopted this Senate provision which permits tax-exempt interest to "flow-through" mutual funds to their shareholders.

+1. Commission on tax simplification and modernization

241. No objection to Senate provision.

Conference Action: The Conferees agreed to delete the Senate provision.

+2. Common trust fund treatment of certain custodial accounts

242. Support Senate provision.

Conference Action: The Conferees adopted the Senate provision.

243. Oil and Gas Depletion Rules  
Relating to Transfers of Proven  
Property

243. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

244. Support test for dependent  
children of separated or  
divorced parents

244. No objection to Senate  
provision.

Conference Action: The Conferees adopted the Senate provision.

~~245. Deferral of gain on involuntary  
conversion of real property~~ ~~245. Oppose Senate provision.~~

Conference Action: A compromise was agreed to. The provision which would remove the "like kind" requirement for replacement real estate property was deleted. However, the Conferees agreed to extend the period to three years (from 2 years) within which replacement real property could be purchased to prevent the recognition of gain.

246. Exclusion from gross income of  
gain from sale of residence by  
taxpayer who has attained age 65

246. Support Senate provision.

Conference Action: The Conferees agreed to the Senate provision increasing from \$20,000 to \$35,000 the amount of gain elderly taxpayers could exclude from income on the sale of their principle residence.

247. Exemption from taxation for  
certain mutual deposit guarantee  
funds

247. Support Senate provision.

Discussion: The January 1, 1969 limitation should be deleted. Otherwise, the provision will have to be further amended for corporations organized after 1968. The Administration prefers the approach taken in H.R. 13532 (94th Cong., 2d Session).

Conference Action: The Conferees deleted the Senate provision and agreed to put the provision in a separate bill.

248. Additional changes in subchapter 248. Support Senate provision.  
S shareholder rules

Conference Action: The Conferees adopted the Senate provision.

249. Individual retirement accounts for volunteer firemen      249. No objection to Senate provision.

Conference Action: The Conferees adopted the Senate amendment, with a modification that the benefit from the private plan not exceed \$150 per month.

250. Optional taxable year of inclusion for sale of livestock on account of drought      250. Oppose Senate provision.

Discussion: The present tax deferral rules with respect to livestock provided by section 1033 of the Internal Revenue Code provide adequate relief for farmers in drought areas.

Conference Action: The Conferees agreed to the Senate provision pursuant to which cash method farmers could defer for one year income from livestock sold on account of drought conditions.

251. Sense of the Senate regarding revenue loss of bill in conference      251. -----

Conference Action: Open

The White House

## Fact Sheet

## The Tax Reform Act of 1976 (H.R. 10612)

President Ford today signed H.R. 10612, the Tax Reform Act of 1976. The bill is a major revision of the nation's tax code. It extends tax relief for low and moderate income taxpayers, seeks to increase the tax burden on those wealthy individuals who have used tax loopholes to greatly reduce their tax liability, provides incentives for investment by industry in new machinery and equipment, provides long desired revisions in estate and gift taxation, and revises the tax treatment of income earned abroad by United States taxpayers.

Background

Work on the tax bill commenced in 1973, when then Secretary of Treasury George P. Shultz testified before the House Ways and Means Committee on the need to revise our Federal income tax system to better provide tax equity and simplification, while encouraging the stable growth of our domestic economy. The tax bill represents the culmination of three years of continued deliberation in this regard. While the tax bill admittedly does not achieve major simplification of our tax laws, President Ford believes that the bill makes encouraging progress in this direction and will help assure that all persons pay their fair share of Federal income taxes and that the tax law continue to provide incentives for the improved productivity of our national economy.

Major Provisions in Brief

High Income, Low Tax Taxpayers. Many high-income individuals have used investments in so-called tax-shelter ventures to greatly reduce their Federal income tax liability. The tax bill contains various provisions which will largely eliminate the use of such tax shelters.

-- The "at risk" limitation prevents the deduction of losses where a taxpayer is protected against incurring an economic loss in a venture,

-- Certain deductions made use of in tax shelter ventures, such as real estate construction period interest and taxes are modified, and

-- The minimum tax is expanded and made applicable to more taxpayers.

These provisions will deal adequately with most tax shelter abuses and will reduce the investment in uneconomic activities

solely to receive favorable tax benefits. These provisions apply to investments by non-corporate taxpayers in real estate, farming, oil and gas, movies and equipment leasing. A general "catch-all" provision applicable only to partnerships will help to prevent the proliferation of innovative tax shelter techniques.

The tax bill also contains other significant provisions which serve to reduce the tax loopholes oftentimes employed by high income individuals. These include the capitalization of prepaid interest, a limitation on the amount of investment interest deductible, the capitalization of partnership syndication and organization expenses, the clarification of the tax treatment of an allocation of a full year's losses of a partnership to partners admitted at the year end and a special allocation of a disproportionate amount of losses to those partners who receive the greatest tax benefit from them, and special depreciation recapture rules for sports franchises.

Capital Formation. The tax bill contains provisions specifically designed to encourage industry to expand their investment in the most up-to-date machinery and equipment. These include:

-- The extension of the 10 percent investment tax credit through 1980.

-- A more liberal rule on the use of investment tax credit carryovers - the so-called First-in-First-out (FIFO) rule.

-- An additional 1 percent investment tax credit and an additional 0.5 percent credit for matching employee contributions to an employee stock ownership plan ("ESOP"). The provision applies through 1980.

-- Liberal investment tax credit provisions for the shipping, railroad and the airline industry.

-- Modification of the tax rules to prevent profitable companies from buying unprofitable companies to obtain net operating loss carryovers.

-- The treatment of contributions in aid of construction of water and sewage facilities as contributions to capital, rather than taxable income.

Estate and Gift Tax Provisions. The tax bill contains important modifications in the Federal estate and gift tax laws, which will provide taxpayers with much needed relief.

-- The present \$60,000 estate tax exemption is changed to a credit equivalent to a \$175,000 exemption. The increase will be phased-in over a 5 year period.

-- The marital deduction allowed for interspousal transfers is substantially increased.

-- An extended estate tax payment period is provided for estate taxes attributable to farms and small businesses.

-- Real property used for farming or closely-held business purposes may be specially valued on the basis of its current use, rather than its highest value.

-- The basis of property held by a decedent will be increased to its value on December 31, 1976 or \$60,000, whichever is greater. The "step-up" in basis to the value of the property at the time of the decedent's death as provided by present law is eliminated.

-- Generation-skipping transfers that occurred after April 30, 1976 are generally subject to estate tax. A \$250,000 exclusion is provided for transfers to grandchildren.

Individual Income Tax Cuts. The tax bill extends through December 31, 1977 the per capita tax credit - applicable to all taxpayers - and the refundable earned income credit - applicable only to low-income families - provided by the Revenue Adjustment Act of 1975. The tax bill also makes permanent the increase in the standard deduction to a maximum of \$2,400 for single returns and \$2,800 for joint returns provided by the Revenue Adjustment Act of 1975.

Corporate Tax Cuts. The tax bill extends through December 31, 1977 the reduction in the corporate tax rates and the increase in the surtax exemption to \$50,000, which provide the greatest benefit to small corporations.

Taxation of Foreign Income of United States Taxpayers. The tax bill substantially revises the tax provisions governing the taxation of income earned abroad by United States taxpayers.

-- The tax benefits of Domestic International Sales Corporations ("DISCs") are reduced by one-third. The DISC benefits are limited to export sales which exceed sales in a prescribed base period.

-- Foreign source income attributable to boycott related activity will lose the tax benefits of the foreign tax credit, DISC and the deferral of United States tax on foreign source income. Boycott related activity consists of:

o Discrimination on the basis of nationality, religion or race in terms of hiring or selecting employees, managers or directors;

o Participation in a "secondary" boycott, i.e., a company agrees to refuse to do business with a specified country; and

o Participation in a "tertiary" boycott, i.e., a company agrees to refuse to do business with other companies which do business with a specified country.

-- Foreign bribe payments are deemed distributions to the United States parent corporation and do not reduce the earnings and profits of the foreign subsidiary.

-- Present law is modified to allow a United States citizen married to a nonresident alien to file a joint return.

-- The exemption from United States tax of interest paid to a non-resident alien or a foreign corporation on United States bank deposits is made permanent.

-- The amount of foreign taxes allowable as a credit with respect to foreign oil and gas extraction income is limited to 48%, rather than 50% as provided by present law.

Social Security Account Numbers. The tax bill expands the use of social security numbers. They may now be used by any State or political subdivision for tax administration, drivers' licenses, motor vehicle registration or for locating runaway parents.

Disclosure of Tax Return Information. The tax bill prescribes specific limitations on the disclosure of tax information to Congress, the White House, and to Federal, State and local agencies.

Private Letter Rulings. The tax bill mandates that Internal Revenue Service determinations issued after November 1, 1976 be made public. However, names and other identifying details are not required to be disclosed.

Capital Gains and Losses. The tax bill increases from \$1,000 to \$3,000 the amount of ordinary income against which capital losses may be offset and also increases from 6 months to one year the minimum holding period necessary to qualify for capital gains treatment. Both modifications are to be phased-in over a two year period.

Minimum Tax for Corporations. The tax bill increases the corporate minimum tax to 15% and reduces the exemption to the greater of \$10,000 or regular taxes. The tax bill also eliminates the current provision that allows a corporation to carry forward for up to seven years any regular taxes that are not used to offset preferences in the current year.

Individual Income Tax Provisions. The tax bill contains desirable measures which will simplify the task of individuals in preparing their Federal income tax returns. The tax bill also expands certain individual tax benefits.

-- The optional tax tables for computing tax liability are simplified and made available to more taxpayers.

-- The retirement income credit is greatly simplified. The maximum amount on which the credit is computed is expanded, while the reduction in the eligible base attributable to earned income is reduced.

-- The present exclusion from income of certain sick pay payments is repealed.

-- Deductions for the business use of a taxpayer's home and the rental of a vacation home are restricted.

-- The deductibility of expenses for attendance at foreign conventions are subject to specific limitations.

-- The special tax rules of present law governing the tax treatment of qualified stock options are repealed.

-- The present deduction for child care expenses is converted to a credit and substantially expanded.

-- The present deduction for moving expenses is liberalized.

-- The deduction for alimony payments is converted to a deduction from gross income - a so-called "above-the-line" deduction.

Miscellaneous Provisions.

-- Employer contributions to and services received by an employee from a prepaid legal service plan are not taxable income to an employee.

-- Tax benefits are provided for the rehabilitation of, and tax advantages denied to taxpayers who demolish, certified historic structures.

-- The tax-free transfer of appreciated property to exchange funds established as partnerships or trusts is prohibited.

-- Public charities (other than churches) are permitted to lobby, provided that certain expenditure tests are satisfied.

-- The tax treatment of options is modified. Gain from the sale of an option and gain or loss from a closing transaction in options is treated as short-term capital gain or loss.

-- The tax rules governing the treatment of subchapter S corporations are liberalized to provide more flexibility in the organization of the corporation.

-- An accelerated deduction is provided companies for the cost of removing architectural or other barriers to handicapped or elderly persons.