SUMMARY OF TAX PROVISIONS CONTAINED IN THE WAGE AND EMPLOYMENT GROWTH ACT OF 1999 (H.R. 3081)

Scheduled for Markup

by the

HOUSE COMMITTEE ON WAYS AND MEANS

on October 21, 1999

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

October 19, 1999
JCX-75-99

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the tax provisions contained in H.R. 3081, the "Wage and Employment Growth Act of 1999." Certain of the pension provisions in H.R. 3081 also amend Titles I and IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). The House Committee on Ways and Means has scheduled a markup of these provisions on October 21, 1999.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Summary of Tax Provisions Contained in the Wage and Employment Growth Act of 1999 (H.R. 3081)* (JCX-75-99), October 19, 1999.

SUMMARY OF TAX PROVISIONS CONTAINED IN THE WAGE AND EMPLOYMENT GROWTH ACT OF 1999 (H.R. 3081)

A. Small Business Provisions

1. Deduction for 100 percent of health insurance costs of self-employed individuals (sec. 201 of the bill)

Beginning in 2001, the proposal would increase the deduction for health insurance expenses (and qualified long-term care insurance expenses) of self-employed individuals to 100 percent. The proposal also would provide that the deduction is not available in any month in which the taxpayer participates in an employer-subsidized health plan.

The proposal is similar to section 801 of the conference agreement to H.R. 2488 (except that section 801 would have been effective for taxable years beginning after December 31, 1999).

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

2. Increase section 179 expensing (sec. 202 of the bill)

Present law provides that, in lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $19,000 (for taxable years beginning in 1999) of the cost of qualifying property placed in service for the taxable year (sec. 179). In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $19,000 amount is increased to $25,000 for taxable years beginning in 2003 and thereafter. The increase is phased in.

The proposal would provide that the maximum dollar amount that may be deducted under section 179 is increased to $30,000 for taxable years beginning in 2001 and thereafter, without the present-law phase-in rule.

The proposal is similar to section 802 of the conference agreement to H.R. 2488 (except that section 802 would have been effective for taxable years beginning after December 31, 1999).

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

3. Increased deduction for business meal expenses (sec. 203 of the bill)

The proposal would increase the business meals deduction, only for small businesses, from the present-law 50 percent to 55 percent for taxable years beginning in 2001 and 60 percent for taxable years beginning in 2002 and thereafter.

This proposal is similar to that contained in section 804 (a) and (b) of the conference report on H.R. 2488, except that this proposal would accelerate those increases and, under this proposal, the increases would only be available to small businesses.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

4. Increased deduction for business meals while operating under Department of Transportation hours of service limitations (sec. 204 of the bill)

The proposal would accelerate the increase in the business meals deduction for individuals subject to Department of Transportation hours of service limitations. Under present law, the deduction is scheduled to increase from 55 percent in 1999 to 80 percent in 2008. The bill would increase the deduction to 80 percent in 2001 and thereafter.

This proposal is similar to that contained in section 804(c) of the conference report on H.R. 2488, except that this proposal would accelerate those increases.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

5. Repeal special occupational taxes on producers and marketers of alcoholic beverages (sec. 205 of the bill)

Under present law, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. These excise taxes are imposed as part of a broader Federal tax and regulatory engine governing the production and marketing of alcoholic beverages. The special occupational taxes are payable annually, on July 1 of each year. The present tax rates are as follows:

Producers:[2]

Distilled spirits and wines (sec. 5081)	$1,000 per year, per premise
Brewers (sec. 5091)	$1,000 per year, per premise

Wholesale dealers (sec. 5111):

Liquors, wines, or beer	$500 per year

[2] Tax is $500 per year premise for businesses with gross receipts of less than $500,000 in the preceding taxable year. Certain small alcohol fuel producers are exempt from the tax. (See secs. 5081(c) and 5181(c)(4).)

Retail dealers (sec. 5121):

Liquors, wines, or beer . . . . $250 per year

Nonbeverage use of distilled spirits (sec. 5131) . . . . $500 per year

Industrial use of distilled spirits (sec. 5276) . . . . $250 per year

The proposal would repeal the special occupational taxes on producers and marketers of alcoholic beverages.

Effective date.--The proposal would be effective on the first July 1 after the date of enactment.

B. Pension Provisions

Except as otherwise indicated, the provisions are the same as included in the conference agreement for H.R. 2488.[3]

1. Expanding coverage (secs. 301-310 of the bill)

Increase contribution and benefit limits

Beginning in 2001, the proposal would increase the dollar limit on annual elective deferrals under section 401(k) plans, section 403(b) annuities and salary reduction SEPs in $1,000 annual increments until the limits reach $15,000 in 2005. Beginning in 2001, the proposal would increase the maximum annual elective deferrals that may be made to a SIMPLE plan in $1,000 annual increments until the limit reaches $10,000 in 2004. The $15,000 and $10,000 dollar limits would be indexed in $500 increments, as under present law. The proposal would increase the dollar limit on deferrals under a section 457 plan to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, $14,000 in 2004, and $15,000 in 2005. After 2005, the limit would be indexed in $500 increments. The limit would be twice the otherwise applicable dollar limit in the three years prior to retirement.

Effective in 2001, the proposal would (1) increase the $130,000 annual benefit limit for defined benefit plans to $160,000 (indexed in $5,000 increments) and lower the early retirement age to 62 and the normal retirement age to 65 for purposes of applying the limit; (2) increase the $30,000 annual contribution limit for defined contribution plans to $40,000 (indexed in $1,000 increments); and (3) increase the limit on compensation that may be taken into account under a plan to $200,000 (indexed in $5,000 increments).

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Plan loans for subchapter S shareholders, partners, and sole proprietors

The proposal generally would eliminate the special present-law rules relating to plan loans made to an owner-employee. Thus, the general statutory exemption would apply to such transactions. Present law would apply with respect to IRAs.

Effective date.--The proposal would be effective with respect to loans made in years beginning after December 31, 2000.

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[3] The proposal includes provisions from the conference agreement for H.R. 2488 that amend applicable provisions of Title I or IV of the Employee Retirement Income Security Act of 1974, as amended.

Modification of top-heavy rules

The proposal would provide that a safe-harbor section 401(k) plan is not a top-heavy plan and that matching contributions may be taken into account in satisfying the minimum contribution requirements. In addition, the proposal would simplify the definition of key employee and the determination of top-heavy status, and repeal the family attribution rule used to determine whether an individual is a key employee by reason of being a 5-percent owner of the employer.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Elective deferrals not taken into account for purposes of deduction limits

Elective deferral contributions would not be subject to the qualified plan deduction limits, and the application of a deduction limitation to any other employer contribution to a qualified retirement plan would not take into account elective deferral contributions.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations

The proposal would repeal the rules coordinating the section 457 dollar limit with contributions under other types of plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Eliminate IRS user fees for determination letter requests regarding small employer plans

Under the proposal, an employer with no more than 100 employees would not be required to pay a user fee for any determination letter request made during the first 5 plan years with respect to the qualified status of a retirement plan that the employer maintains.

Effective date.--The proposal would be effective for determination letter requests made after December 31, 2000.

Definition of compensation for purposes of deduction limits

For purposes of the qualified plan deduction limit the compensation otherwise paid or accrued during the employer's taxable year to the beneficiaries under the plan would include elective deferrals under a section 401(k) plan or a section 403(b) annuity, elective contributions under a section 457 plan, and salary reduction contributions under a section 125 cafeteria plan.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Option to treat elective deferrals as after-tax contributions

The proposal would provide that a section 401(k) plan or a section 403(b) annuity may permit a participant to elect to have all or a portion of the participant's elective deferrals under the plan treated as designated plus contributions. Designated plus contributions are elective deferrals that a participant designates as not excludable from the participant's gross income. A qualified distribution from a participant's designated plus contributions account would not be includible in the participant's gross income. Designated plus contributions would generally otherwise be treated the same as elective deferrals for purposes of the qualified plan rules.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

Reduce PBGC premiums for small and new plans

Under the proposal, for the first five plan years of a new single-employer plan of a small employer, the flat-rate Pension Benefit Guaranty Corporation ("PBGC") premium would be $5 per plan participant. The proposal also would provide that the variable premium is phased in for new defined benefit plans over a six-year period starting with the plan's first plan year. In addition, the proposal would provide that, in the case of any plan (not just a new plan) of an employer with 25 or fewer employees, the variable-rate premium is no more than $5 multiplied by the number of plan participants.

Effective date.--The proposals relating to new plans would be effective for plans established after December 31, 2000. The proposal reducing the PBGC premium for small plans would be effective for years beginning after December 31, 2000.

2. Enhancing fairness for women (secs. 321-326 of the bill)

Additional catch-up contributions

The proposal would permit individuals who are age 50 or older to make additional contributions to a section 401(k) (or similar plan). The maximum permitted additional contribution would be the applicable percent of the otherwise applicable dollar contribution limitation. The applicable percent would be 10 percent in 2001, and would increase by 10 percentage points until the applicable percent is 50 in 2005 and thereafter. Catch-up contributions to a section 401(k) (or similar) plan would not be subject to any other contribution limits, would not be taken into account in applying other contribution limits, and would not be subject to nondiscrimination rules.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Equitable treatment for contributions of employees to defined contribution plans

The proposal would (1) increase the 25 percent of compensation limitation on annual additions under a defined contribution plan to 100 percent, (2) conform the limits on contributions to a section 403(b) annuity to the limits applicable to tax-qualified plans, and (3) increase the 33-1/3 percent of compensation limitation on deferrals under a section 457 plan to 100 percent of compensation.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Simplify and update the minimum distribution rules

The proposal would apply the present-law rules applicable if the participant dies before distribution of minimum benefits has begun to all post-death distributions. The proposal would reduce the excise tax on failures to satisfy the minimum distribution rules to 10 percent of the amount that was required to be distributed but was not distributed. The Treasury would be directed to update, simplify, and finalize the regulations relating to the minimum distribution rules. The proposal would repeal the special minimum distribution rules applicable to section 457 plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Clarification of tax treatment of division of section 457 plan benefits upon divorce

The proposal would apply the taxation rules for qualified plan distributions pursuant to a QDRO to distributions made pursuant to a domestic relations order from a section 457 plan. In addition, a section 457 plan would not be treated as violating the restrictions on distributions from such plans due to payments to an alternate payee under a QDRO.

Effective date.--The proposal would be effective for transfers, distributions, and payments made after December 31, 2000.

Modification of safe harbor relief for hardship withdrawals from 401(k) plans

The Secretary of the Treasury would be directed to revise the applicable regulations to reduce from 12 months to 6 months the period during which an employee must be prohibited from making elective contributions and employee contributions in order for a distribution to be deemed necessary to satisfy an immediate and heavy financial need.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Faster vesting of employer matching contributions

Under the proposal, employer matching contributions would have to vest at least as rapidly as under 3-year cliff vesting or under 6-year graded vesting that provides for a nonforfeitable right to 20 percent of employer matching contributions for each year of service beginning with the participant's second year of service and ending with 100 percent after 6 years of service.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000, with a delayed effective date for plans maintained pursuant to a collective bargaining agreement.

3. Increasing portability for participants (secs. 331-339 of the bill)

Rollovers of retirement plan and IRA distributions

The proposal would provide that eligible rollover distributions from qualified retirement plans, section 403(b) annuities, IRAs and governmental section 457 plans generally can be rolled over to any of such plans or arrangements. The direct rollover and withholding rules would be extended to distributions from a governmental section 457 plan. The proposal would provide that employee after-tax contributions can be rolled over into another qualified plan or a traditional IRA. In the case of a rollover of after-tax contributions from a qualified plan to another qualified plan, the rollover could be accomplished only through a direct rollover. The proposal would provide that surviving spouses can roll over distributions to a qualified plan, section 403(b) annuity, or governmental section 457 plan in which the spouse participates.

Effective date.--The proposal would be effective for distributions made after December 31, 2000.

Waiver of 60-day rule

The proposal would provide that the Secretary may waive the 60-day rollover period if the failure to waive such requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Effective date.--The proposal would apply to distributions made after December 31, 2000.

Treatment of forms of distribution

If certain requirements are satisfied, a defined contribution plan would be permitted to eliminate optional forms of benefit (1) in connection with certain transfers of benefits, or (2) if a single sum distribution is offered. In addition, the Secretary would be directed to provide for circumstances under which early retirement benefits, retirement-type subsidies, or an optional form of benefit may be reduced or eliminated if the rights of participants are not materially affected.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Rationalization of restrictions on distributions

The proposal would modify the distribution restrictions applicable to section 401(k) plans, section 403(b) annuities, and section 457 plans to provide that distribution may occur upon severance from employment rather than separation from service.

Effective date.--The proposal would be effective for distributions after December 31, 2000.

Purchase of service credit under governmental pension plans

A participant in a State or local governmental plan would not be required to include in gross income a direct trustee-to-trustee transfer to a governmental defined benefit plan from a section 403(b) annuity or a section 457 plan if the transferred amount is used (1) to purchase permissive service credits under the plan, or (2) to repay certain contributions with respect to amounts previously forfeited.

Effective date.--The proposal would be effective for transfers after December 31, 2000.

Employers may disregard rollovers for purposes of cash-out rules

A plan would be permitted to disregard benefits attributable to rollover contributions for purposes of the cash-out rules.

Effective date.--The proposal would be effective for distributions after December 31, 2000.

4. Strengthening Pension Security and Enforcement (secs. 341-352 of the bill)

Phase in repeal of 150 percent of current liability funding limit; deduction for contributions to fund termination liability

Under the proposal, the current liability full funding limit would be 160 percent of current liability for plan years beginning in 2001, 165 percent for plan years beginning in 2002, and 170 percent for plan years beginning in 2003. The current liability full funding limit would be repealed for plan years beginning in 2004 and thereafter. The special rule allowing a deduction for unfunded current liability generally would be extended to all defined benefit pension plans covered by the PBGC and would be modified to allow a deduction for unfunded termination liability.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Extension of PBGC missing participants program

The proposal would extend the PBGC missing participant program to multiemployer plans, defined contribution plans, and defined benefit plans that are not covered by the PBGC.

Effective date.--The proposal would be effective for distributions from terminating plans that occur after the PBGC adopts final regulations implementing the proposal.

Periodic pension benefit statements

The proposal generally would require a plan administrator of a defined contribution plan to furnish a benefit statement to each participant at least once annually and to a beneficiary upon written request. In addition to providing a benefit statement to a beneficiary upon written request, the proposal generally would require the plan administrator of a defined benefit plan either (1) to furnish a benefit statement at least once every 3 years to each vested active participant, or (2) to annually furnish written, electronic, telephonic, or other appropriate notice to each participant of the availability of and the manner in which the participant may obtain the benefit statement.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

The proposal was not included in the conference agreement for H.R. 2488.

Civil penalties for breach of fiduciary responsibility

The proposal would be make assessment of civil penalties for breach of fiduciary responsibility under ERISA discretionary with the Secretary of Labor.

Effective date.--The proposal generally would be effective for breaches of fiduciary responsibility occurring on or after the date of enactment.

The proposal was not included in the conference agreement for H.R. 2488.

Excise tax relief for sound pension funding

If an employer elects, contributions in excess of the current liability full funding limit would not be subject to the excise tax on nondeductible contributions.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Notice of significant reduction in plan benefit accruals

The proposal would require the plan administrator of a defined benefit plan (other than governmental plans and certain church plans) with more than 100 participants to notify plan participants of an amendment that significantly reduces the rate of future benefit accruals. The notice would be required to include sufficient information to allow participants to understand how the amendment would affect different classes of employees. An excise tax would apply if the required notice is not provided.

Effective date.--The proposal would be effective for plan amendments taking effect on or after the date of enactment.

Investment of employee contributions in 401(k) plans

The proposal would modify the effective date of the rule excluding certain elective deferrals (and earnings thereon) from the definition of individual account plan.

Effective date.--The proposal would be effective as if included in the Taxpayer Relief Act of 1997.

Modifications to section 415 limits for multiemployer plans

Under the proposal, the 100 percent of compensation defined benefit plan limit would not apply to multiemployer plans.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Technical corrections to Saver Act

The proposal would make certain technical corrections to the provisions of ERISA concerning the National Retirement Summit on Retirement Savings.

Effective date.--The proposal would be effective on the date of enactment.

The proposal was not included in the conference agreement for H.R. 2488.

Model spousal consent language and qualified domestic relations order

The proposal would direct the Secretary of Labor to develop not later than January 1, 2001, model language for (1) the spousal consent required for waivers of the qualified joint and survivor annuity and the qualified preretirement survivor annuity forms of distribution, and (2) qualified domestic relations orders.

Effective date.--The proposal would be effective on the date of enactment.

The proposal was not included in the conference agreement for H.R. 2488.

Elimination of ERISA double jeopardy

The proposal generally would bar the Secretary of Labor from litigating any claim under ERISA if such claim is the subject of an action maintained under the Federal Rules of Civil Procedure, the action is resolved by a court-approved settlement agreement, the complaint with respect to such action is served upon the Secretary at least 90 days prior to final court approval of the settlement agreement, and the Secretary receives a copy of the settlement agreement.

Effective date.-- The proposal would be effective with respect to all actions or claims commenced by the Secretary that are pending on or after the date of enactment.

The proposal was not included in the conference agreement for H.R. 2488.

5. Reducing regulatory burdens (secs. 361-377 of the bill)

Modification of timing of plan valuations

The proposal would modify the rules regarding the timing of plan valuations in the case of a defined benefit plan with assets of at least 125 percent of current liability.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

ESOP dividends may be reinvested without loss of dividend deduction

Under the proposal, an employer would be entitled to deduct dividends that, at the election of plan participants or their beneficiaries, are paid to the plan and reinvested in employer securities.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 2000.

Repeal transition rule relating to certain highly compensated employees

The proposal would repeal the special definition of highly compensated employee under the Tax Reform Act of 1986.

Effective date.--The proposal would be effective for plan years beginning after December 31, 1999.

Employees of tax-exempt entities

The Treasury Department would be directed to revise its regulations under section 410(b) to provide that, if certain requirements are satisfied, employees of a tax-exempt charitable organization who are eligible to make salary reduction contributions under a section 403(b) annuity may be treated as excludable employees for purposes of testing a section 401(k) plan.

Effective date.--The proposal would be effective as if included in section 1426(b) of the Small Business Job Protection Act of 1996.

Treatment of employer-provided retirement advice

Under the proposal, qualified retirement planning services provided to an employee and his or her spouse by an employer maintaining a qualified plan would be generally excludable from income and wages.

Effective date.--The proposal would be effective with respect to taxable years beginning after December 31, 2000.

Reporting simplification

The Secretary of the Treasury would be directed to provide for an exemption from the annual return requirement for a plan that covers only the sole owner of a business that maintains the plan (and such owner's spouse), or partners in a partnership that maintains the plan (and such partners' spouses), if the total value of the plan assets as of the end of the plan year and all prior plan years does not exceed $250,000 and the plan meets certain other requirements. In addition, the Secretary of the Treasury would be directed to provide for the filing of a simplified annual return substantially similar to the Form 5500-EZ by a plan that covers less than 25 employees and meets certain other requirements.

Effective date.--The proposal would be effective on January 1, 2001.

Improvement of employer plans compliance resolution system

The Secretary of the Treasury would be directed to continue to update and improve

EPCRS, giving special attention to (1) increasing the awareness and knowledge of small employers concerning the availability and use of EPCRS, (2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures, (3) extending the duration of the self-correction period under APRSC for significant compliance failures, (4) expanding the availability to correct insignificant compliance failures under APRSC during audit, and (5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

Effective date.--The proposal would be effective on the date of enactment.

Rules for substantial owner benefits in terminated plans

The proposal would increase the PBGC guarantee for certain substantial owners.

Effective date.--The proposal would be effective for plan terminations with respect to which notices of intent to terminate are provided, or for which proceedings for termination are instituted by the PBGC, after December 31, 2000.

Modification of exclusion for employer-provided transit passes

The proposal would repeal the rule providing that cash reimbursements for transit benefits are excludable from income only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer.

Effective date.--The proposal would be effective for taxable years beginning after December 31, 1999.

Repeal of the multiple use test

The proposal would repeal the multiple use test.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

Flexibility in nondiscrimination, coverage, and line of business rules

The proposal would provide for circumstances under which plans may use facts and circumstances to satisfy the nondiscrimination, coverage, and line of business rules.

Effective date.-- The proposal would be effective on the date of enactment.

Extension to international organizations of moratorium on application of certain

nondiscrimination rules applicable to State and local government plans

A plan maintained by a tax-exempt international organization would be exempt from the nondiscrimination and minimum participation rules.

Effective date.--The proposal would be effective for plan years beginning after December 31, 2000.

Notice and consent period regarding distributions

The proposal would require a qualified retirement plan to provide the applicable distribution notice no less than thirty days and no more than six months before the date distribution commences. The Secretary of the Treasury would be directed to modify the applicable regulations to reflect the extension of the notice period to six months and to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

Effective date.--The proposal would be effective for years beginning after December 31, 2000.

The proposal is the same as included in H.R. 2488 as passed by the House of Representatives.

Annual report dissemination

The proposal would require retirement plan administrators to make available for examination, within 9 months after the end of each plan year, a summary of the annual report filed with the Secretary of Labor for the plan year. In addition, the plan administrator would be required to furnish the summary to a participant, or to a beneficiary receiving benefits under the plan, upon request.

Effective date.--The proposal would be effective for reports for years beginning after December 31, 1998.

The proposal was not included in the conference agreement for H.R. 2488.

Excess benefit plans

The proposal would expand the definition of "excess benefit plan" to include any plan that provides benefits in excess of the limits imposed by any applicable provision of the Code.

Effective date.--The proposal would be effective for years beginning after December 31, 1999.

The proposal was not included in the conference agreement for H.R. 2488.

Benefit suspension notice

The proposal would direct the Secretary of Labor to modify the applicable regulations regarding benefit suspension notice to permit inclusion of the notice in a summary plan description without including a copy of the relevant plan provisions.

Effective date.--The proposal would be effective for plan years beginning after December 31, 1999.

The proposal was not included in the conference agreement for H.R. 2488.

Clarification of church welfare plan status under State insurance law

The proposal would provide that any church welfare benefit plan that (1) reimburses costs from general church assets, or (2) purchases insurance coverage with general church assets, or both, would be deemed a single-employer plan for purposes of determining the status of the plan under State insurance law.

Effective date.--The proposal would be effective on the date of enactment.

The proposal was not included in the conference agreement for H.R. 2488.

6. Plan amendments (sec. 381 of the bill)

Any amendments to a plan or annuity contract required to be made by the proposal would not be required to be made before the last day of the first plan year beginning on or after January 1, 2003. In the case of a governmental plan, the date for amendments would be extended to the first plan year beginning on or after January 1, 2005.

Effective date.--The proposal would be effective on the date of enactment.

C. Extension of Work Opportunity Tax Credit and Welfare-to-Work Credit (sec. 401 of the bill)

The proposal would extend the work opportunity tax credit ("WOTC") and the welfare-to-work credit for 30 months (through December 31, 2001). The proposal also would clarify the definition of first year of employment for purposes of the WOTC.

H.R. 2488 included an identical provision.

Effective date.--Generally, the proposal would be effective for wages paid to, or incurred with respect to, qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

D. Estate Tax Relief

1. Reduction of estate, gift, and generation-skipping transfer taxes (secs. 501 and 511 of the bill)

The proposal would repeal the 5-percent surtax (which phases out the benefit of the graduated rates), the unified credit is converted into a unified exemption, and the rates in excess of 53 percent are repealed beginning in 2001. In 2002, the rates in excess of 50 percent are repealed. In 2003 and 2004, all estate and gift tax rates are reduced by 1 percentage point each year, after which the rates will remain as in effect in 2004. There is a proportionate reduction in the state death tax credit rate in 2003 and 2004, after which the state death tax credit will remain as in effect in 2004.

These provisions are similar to those included in sections 611-621 of the conference agreement to H.R. 2488.

<u>Effective date.</u>–The unified credit is replaced with a unified exemption, and the 5-percent surtax and rates in excess of 53 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2000. The rates in excess of 50 percent are repealed for estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001. All estate and gift tax rates are reduced by 1 percentage point, and there is a proportionate reduction in the state death tax credit, in 2003 and 2004, which applies to estates of decedents dying after and gifts made after December 31, 2002.

2. Modify generation-skipping transfer tax rules

a. Deemed allocation of the generation-skipping transfer ("GST") tax exemption to lifetime transfers to trusts that are not direct skips (sec. 521 of the bill)

Under the proposal, GST tax exemption is automatically allocated to transfers made during life that are "indirect skips." An indirect skip is any transfer of property (that is not a direct skip) subject to the gift tax that is made to a GST trust. A GST trust is defined as a trust that could have a generation-skipping transfer with respect to the transferor (e.g., a taxable termination or taxable distribution), unless certain the trust meets certain requirements.

If any individual makes an indirect skip during the individual's lifetime, then any unused portion of such individual's GST tax exemption is allocated to the property transferred to the extent necessary to produce the lowest possible inclusion ratio for such property.

An individual may elect not to have the automatic allocation rules apply to an indirect skip, and such elections will be deemed timely if filed on a timely-filed gift tax return for the calendar year in which the transfer was made or deemed to have been made or on such later date or dates as may be prescribed by the Treasury Secretary. An individual may elect not to have the automatic allocation rules apply to any or all transfers made by such individual to a particular trust and may elect to treat any trust as a GST trust with respect to any or all transfers made by the individual to such trust, and such election may be made on a timely-filed gift tax return for the calendar year for which the election is to become effective.

This provision is identical to the deemed allocation provision included in section 631 of the conference agreement to H.R. 2488.

Effective date.–The provision applies to transfers subject to estate or gift tax made after December 31, 1999, and to estate tax inclusion periods ending after December 31, 1999.

b. Retroactive allocation of the GST tax exemption (sec. 521 of the bill)

Under the proposal, GST tax exemption may be allocated retroactively when there is an unnatural order of death. If a lineal descendant of the transferor predeceased the transferor, then the transferor may allocate any unused GST tax exemption to any previous transfer or transfers to the trust on a chronological basis. The provision allows a transferor to retroactively allocate GST tax exemption to a trust where a beneficiary (a) is a non-skip person, (b) is a lineal descendant of the transferor's grandparent or grandparent of the transferor's spouse, (c) is a generation younger than the generation of the transferor, and (d) dies before the transferor. Exemption is allocated under this rule retroactively, and the applicable fraction and inclusion ratio under this provision are determined based on the value of the property on the date that the property was transferred to the trust.

This provision is identical to the retroactive allocation provision included in section 631 of the conference agreement to H.R. 2488.

Effective date.–This provision applies to deaths of non-skip persons occurring after the date of enactment.

c. Severing of trusts holding property having an inclusion ratio of greater than zero (sec. 522 of the bill)

Under the proposal, a trust may be severed in a "qualified severance." A qualified severance is defined as the division of a single trust and the creation of two or more trusts if (1) the single trust was divided on a fractional basis, and (2) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust. If a trust has an inclusion ratio of greater than zero and less than one, a severance is a qualified severance only if the single trust is divided into two trusts, one of which receives a fractional share of the total value of all trust assets equal to the applicable fraction of the single trust immediately before the severance. In such case, the trust receiving such fractional share shall have an inclusion ratio of one. Under the provision, a trustee may elect to sever a trust in a qualified severance at any time.

This provision is identical to section 632 of the conference agreement to H.R. 2488.

Effective date.–This provision is effective for severances of trusts occurring after the date of enactment.

d. Modification of certain valuation rules (sec. 523 of the bill)

Under the proposal, in connection with timely and automatic allocations of GST tax exemption, the value of the property for purposes of determining the inclusion ratio shall be its finally determined gift tax value or estate tax value depending on the circumstances of the transfer. In the case of a GST tax exemption allocation deemed to be made at the conclusion of an estate tax inclusion period, the value for purposes of determining the inclusion ratio shall be its value at that time.

This provision is identical to section 633 of the conference agreement to H.R. 2488.

Effective date.–This provision is effective as though included in the amendment made by section 1431 of the Tax Reform Act of 1986.

e. Relief from late elections (sec. 524 of the bill)

Under the proposal, the Treasury Secretary is authorized and directed to grant extensions of time to make the election to allocate GST tax exemption and to grant exceptions to the time requirement. If such relief is granted, then the value on the date of transfer to a trust would be used for determining GST tax exemption allocation.

In determining whether to grant relief for late elections, the Treasury Secretary is directed to consider all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems relevant. For purposes of determining whether to grant relief, the time for making the allocation (or election) is treated as if not expressly prescribed by statute.

This provision is identical to section 634 of the conference agreement to H.R. 2488.

Effective date.–The provision applies to requests pending on or filed after the date of enactment.

f. Substantial compliance (sec. 524 of the bill)

Under the proposal, substantial compliance with the statutory and regulatory requirements for allocating GST tax exemption will suffice to establish that GST tax exemption was allocated to a particular transfer or a particular trust. If a taxpayer demonstrates substantial compliance, then so much of the transferor's unused GST tax exemption will be allocated to the extent it produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances will be considered, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Treasury Secretary deems appropriate.

This provision is identical to section 634 of the conference agreement to H.R. 2488.

Effective date.–The provision is effective on the date of enactment and applies to allocations made prior to such date for purposes of determining the tax consequences of generation-skipping transfers with respect to which the period of time for filing claims for refund has not expired.

3. Expand estate tax rule for conservation easements (sec. 531 of the bill)

The proposal expands the availability of qualified conservation easements by modifying the distance requirements. Under the proposal, distance within which the land must be situated from a metropolitan area, national park, or wilderness area is increased from 25 to 50 miles, and the distance from which the land must be situated from an Urban National Forest is increased from 10 to 25 miles. The proposal also clarifies that the date for determining easement compliance is the date on which the donation was made.

This provision is identical to section 641 of the conference agreement to H.R. 2488.

Effective date.–The provision that clarifies the date for determining easement compliance is effective for estates of decedents dying after December 31, 1997. The provisions that modify the distance rules are effective for estates of decedents dying after December 31, 1999.

E. Tax Relief for Distress Communities and Industries

1. American Community Renewal Act of 1999 (secs. 601-605 of the bill)

The proposal would authorize the Secretary of Housing and Urban Development to designate up to 15 areas as renewal communities (of which at least three areas must be rural) that would receive certain tax benefits for a seven-year period beginning January 1, 2001 and ending December 31, 2007. The tax benefits include: a zero percent capital gains tax rate on the sale of qualified community assets held for more than five years; family development accounts for qualified higher educational expenses, qualified first-time homebuyer costs, qualified business capitalization costs, and qualified medical expenses; a commercial revitalization deduction for qualified revitalization buildings located in a renewal community; $35,000 in additional section 179 expensing; expensing of environmental remediation costs (for brownfields); and an extension of the work opportunity tax credit to qualified individuals who live in a renewal community.

The proposal is similar to the proposal included in sections 701-705 of the conference agreement to H.R. 2488 (except for a reduction in the number of renewal communities).

<u>Effective date</u>.–The tax benefits would be available beginning January 1, 2001 and ending December 31, 2007.

2. Temporary suspension of maximum amount of amortizable reforestation expenditures (sec. 611 of the bill)

The proposal increases the amount of reforestation expenditures eligible for 7-year amortization and the reforestation credit from $10,000 to $25,000 per taxable year (from $5,000 to $12,500 in the case of a separate return by a married individual), effective for taxable years beginning after 2000.

For taxable years beginning in 2001 through 2003, the proposal would remove the limitation on the amount eligible for 7-year amortization. Thus, for taxable years beginning in 2001 through 2003, the amount of reforestation expenditures eligible for the credit is limited to $25,000 and no limit applies to the amount eligible for 7-year amortization.

The proposal is similar to section 731 of the conference agreement to H.R. 2488 (except that section 731 would have been effective for taxable years beginning after December 31, 1999).

<u>Effective date</u>.--The proposal would be effective for taxable years beginning after December 31, 2000.

F. Real Estate Provisions

1. Increase the low-income housing tax credit cap and make other modifications (secs. 701-707 of the bill)

The low-income housing tax credit may be claimed over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent qualified expenditures.

The amount of the credit is limited by a credit cap. The aggregate credit authority provided annually to each State is $1.25 per resident, except in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit and certain carry-over amounts.

The proposal would phase-in an increase in the $1.25 per capita cap to $1.75 per capita. The $1.75 per capita credit cap would be indexed for inflation beginning in 2004. The proposal would also make several programmatic changes to the credit.

The proposal is identical the low-income housing credit provisions included in the conference agreement of H.R. 2448.

<u>Effective date</u>.--The provision generally would be effective for calendar years beginning after December 31, 1999, and buildings placed-in-service after such date in the case of projects that also receive financing with proceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued after such date.

2. Real estate investment trust provisions (secs. 711-716, 721, 731, 741, and 751 of the bill)

The bill generally limits a real estate investment trust (REIT) to ownership of no more than 10 percent of the value (in addition to the present law limit of 10 percent of the vote) of securities of another entity. There is an exception for certain interests in "taxable REIT subsidiaries". Such subsidiaries may conduct activities that would produce disqualified income for a REIT under present law, including operation of lodging facilities through an independent contractor, as defined for this purpose.

The bill also provides that a REIT may operate a health care facility under certain circumstances.

The bill also provides rules for computing the permitted ownership of a REIT in an independent contractor where stock is publically traded.

In addition, the bill conforms certain REIT and regulated investment company earnings and profits rules.

The bill is the similar to the House version of H.R. 2488.

Effective date.-- The provisions are generally effective for taxable years beginning after December 31, 2000. Transition relief is provided for certain arrangements in existence on July 12, 1999.

3. Accelerate the scheduled increase in state volume limits on tax-exempt private activity bonds (sec. 761 of the bill)

Interest on bonds issued by governmental units to finance activities carried out and paid for by private persons ("private activity bonds") is taxable unless the activities are specified in the Internal Revenue Code. The volume of tax-exempt private activity bonds that States and local governments may issue for most of these purposes in each calendar year is limited by State-wide volume limits.[4] The current annual volume limits are $50 per resident of the State or $150 million, if greater and are scheduled to increase to $75 per resident of each State or $225 million, if greater, beginning in calendar year 2007. The increase would be ratably phased in beginning with $55 per capita or $165 million, if greater, in calendar year 2003.

The proposal would accelerate the scheduled increase in the present-law annual State private activity bond volume limits to $75 per resident of each State or $225 million (if greater) beginning in calendar year 2004. The increase would be phased-in as follows, beginning in calendar year 2000:

[4] The volume limits do not apply to private activity bonds to finance airports, docks and wharves, certain governmentally owned, but privately operated solid waste disposal facilities, certain high speed rail facilities, and to certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain "new" empowerment zone and enterprise community bonds).

Calendar Year	Volume Limit
2000	$55 per resident ($165 million if greater)
2001	$60 per resident ($180 million if greater)
2002	$65 per resident ($195 million if greater)
2003	$70 per resident ($210 million if greater)

The proposal is identical to a provision contained in the conference agreement for H.R. 2488.

Effective date.--The proposal would be effective beginning in calendar year 2000 and would be fully effective in calendar year 2004 and thereafter.

4. Exclusion from gross income for certain forgiven mortgage obligations (sec. 771 of the bill)

Generally, gross income means all income from whatever source derived including income from the discharge of indebtedness. However, gross income does not include discharge of indebtedness income if: (1) the discharge occurs in a Title 11 case; (2) the discharge occurs when the taxpayer is insolvent; (3) the indebtedness discharged is qualified farm indebtedness; or (4) except in the case of a C corporation, the indebtedness discharged is qualified real property business indebtedness. No exclusion provided for qualified residential indebtedness.

In the case of an individual taxpayer, the proposal would provide an exclusion from discharge of indebtedness income to the extent such income is attributable to the sale of real property securing qualified residential indebtedness. Qualified residential indebtedness would be defined as indebtedness incurred or assumed by the taxpayer for the acquisition, construction, reconstruction, or substantial improvement of the taxpayer's residence and which is secured by such residence. The taxpayer would elect to have this exclusion apply. The exclusion would not apply to qualified farm indebtedness or qualified real property business indebtedness.

Effective date.--The proposal would be effective for discharges of indebtedness after the date of enactment.

G. Miscellaneous Provisions

1. Tax credit for modifications to inter-city buses required under the Americans with Disabilities Act of 1990 (sec. 801 of the bill)

Present law provides a tax credit for eligible access expenditures paid or incurred by an eligible small business so that such business may comply with the Americans with Disabilities Act of 1990, ("the disabled access credit"). The amount of the credit for any taxable year is equal to 50 percent of the eligible access expenditures for the taxable year that exceed $250 but do not exceed $10,250. Therefore the maximum annual credit is $5,000. An eligible small business is defined for any taxable year as a person that had gross receipts for the preceding taxable year that did not exceed $1 million or had no more than 30 full-time employees during the preceding taxable year. An employee is considered full-time is such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

Eligible access expenditures are defined as amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements of the Americans With Disabilities Act of 1990 (the "ADA"), as in effect on the date of enactment of the credit. Eligible access expenditures generally include amounts paid or incurred (1) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities; (2) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; (3) to provide qualified readers, taped texts and other effective methods of making visually delivered materials available to individuals with visual impairments; (4) to acquire or modify equipment or devices for individuals with disabilities; or (5) to provide other similar services, modifications, materials, or equipment. The expenditures must be reasonable and necessary to accomplish these purposes.

The proposal, which is identical to a provision in the Senate version of H.R. 2448, would extend the disabled access credit to a business without regard to the eligible small business limitation generally applicable under the credit for the cost of making certain inter-city buses comply with the ADA. For purposes of this provision, the allowable credit would be 50 percent of the eligible access expenditures for the taxable year that exceed $250 but do not exceed $30,250. Therefore the maximum credit would be $15,000 per bus.

<u>Effective date</u>.--The proposal would be effective for taxable years beginning after December 31, 1999 and before January 1, 2012.

2. Exclusion from gross income for education benefits provided by an employer to children of employees (sec. 802 of the bill)

Under the proposal, up to $2,000 per year of educational benefits provided by an employer to a child of an employee would be treated as a qualified scholarship excludable from gross income if (1) the benefits are provided pursuant to a plan that meets certain nondiscrimination requirements, (2) benefits provided under the plan are in addition to any other compensation payable to employees, and (3) the plan does not provide employees with a choice between such education benefits and any other benefit. In addition, the amount that is excludable for any taxable year could not exceed the excess of $5,250 (the maximum annual exclusion for employer-provided educational assistance under section 127) over the amount of employer-provided educational assistance benefits excluded from the employee's gross income.

Effective date.--The proposal would be effective for taxable years beginning after the date of enactment.

3. Tax incentives for qualified United States independent film and television production (sec. 803 of the bill)

The proposal would establish a credit equal to 20 percent of the first $20,000 of wages paid each year to an employee of a qualified United States independent film and television production. A qualified United States independent film and television production would be a production of any motion picture (whether released theatrically or directly to video cassette or any other format), a mini series, or a pilot production for a dramatic series if (1) the production is produced in whole or in substantial part within the United States, (2) the production is created primarily for use as public entertainment or for educational purposes, and (3) total production costs are less that $10 million.

A production will be considered to be produced in whole or in substantial part within the United States if a substantial number of the employees performing services with respect to the production do so within the United States. A production will be considered to be a public entertainment if it is intended for initial broadcast via the public broadcast spectrum or via cable distribution, or if it is submitted to a national organization that rates films for violent or adult content.

No deduction would be allowed for wages equal to the amount claimed as a credit under the proposal.

Wages of 5-percent owners and certain related individuals would not be eligible for the proposed credit. Wages that are otherwise eligible for a credit under the Code would not be considered in determining the proposed credit.

Effective date.-- The proposal would be effective for wages paid or incurred after the date of enactment.