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Legislative Bulletin……………………………….………December 7, 2005

Contents:

H.R. 4440—Gulf Opportunity Zone Act (McCrery, R-LA)

Order of Business: The bill is scheduled to be considered on Wednesday, December 7th, under a motion to suspend the rules and pass the bill.

Summary by title: H.R. 4440 would provide tax benefits for investment in the areas devastated by Hurricanes Katrina, Rita, and Wilma in 2005, as follows:

Title I: Establishment of Gulf Opportunity Zone

- Creates a "Gulf Opportunity (GO) Zone," a "Rita GO Zone," and a "Wilma GO Zone," comprised of the disaster areas in Louisiana, Mississippi, Alabama, Texas, and Florida that were designated as warranting individual and/or public assistance by reason of Hurricanes Katrina, Rita, and Wilma, respectively.

- **None of the GO Zone tax incentives below would apply to any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.**

- Provides Louisiana, Mississippi, and Alabama and their subdivisions the authority to issue a special class of tax-exempt, private-activity bonds, called "Gulf Opportunity Zone Bonds," outside of the respective state volume caps, any time before January 1, 2011. The Ways & Means Committee reports that this bond authority would be approximately $7.9 billion for Louisiana, $4.8 billion for Mississippi, and $2.1 billion for Alabama.

- Allows GO Zone Bond proceeds to be used to pay for acquisition, construction, reconstruction, and renovation of nonresidential real property, qualified low-income residential rental housing, single-family residential housing, and public utility property located in the Zone. The bill would allow more rental housing to be classified as low-income (and therefore qualify for funding under these bonds).

- Allows up to $150,000 of GO Zone mortgage revenue bonds to be used to repair homes (as opposed to $15,000 under current law).

- Shields interest payments on the bonds from the Alternative Minimum Tax (AMT).

- Provides states and municipalities in the Zone with one additional advance refunding before January 1, 2011 (which allows the bond issuer to restructure eligible debt by refinancing at a lower rate or spreading interest payments over a longer period of time). The additional restructuring could be up to $4.5 billion for Louisiana, $2.25 billion for Mississippi, and $1.125 billion for Alabama.

- Sharply expands the size and allocation of the low-income housing tax credit in the Zone during 2006-2008, using a formula detailed in the legislation. The bill would also increase the size of this credit from 100% of qualifying project costs to 130% by designating the Zone as a "Difficult Development Area" for 2006, 2007, and 2008.

- Allows businesses to claim an *additional* first-year, AMT-exempt depreciation deduction equal to 50% of the cost of new property investments (in things such as leasehold improvements, real estate, etc.) made in the Zone since August 28, 2005, and before December 31, 2007 (December 31, 2008 for nonresidential real property and residential rental property).

- Provides enhanced section 179 small business expensing through the end of 2007 by:
  --Increasing for affected businesses the amount of annual capital investments necessary to qualify for section 179 expensing from $400,000 to $1 million (or $400,000 plus the cost of the qualified property placed in service during the applicable year, if less than $600,000);
  --Increasing the amount that may be expensed under section 179 from $100,000 to $200,000 (or $100,000 plus the cost of the qualified property placed in service during the applicable year, if less than $100,000).

- Permits businesses to expense 50% of certain cleanup and demolition costs in the Zone. The bill would also extend expensing for brownfield cleanup and expand it to include brownfield sites in the Zone that are contaminated by petroleum products. Both incentives expire at the end of 2007.

- Increases the rehabilitation tax credit (for restoring commercial buildings through the end of 2008) from 10% of qualified expenditures to 13% for qualified rehabilitated buildings in the Zone (and from 20% to 26% for certified historic structures). This provision applies to qualifying expenses incurred through December 31, 2008.

- Allows small timber owners (i.e. those owning less than 500 acres of timber in the GO Zone or the Rita GO Zone) to expense up to $20,000 (as opposed to $10,000 under current law) of reforestation costs incurred through the end of 2006. In addition, small timber owners could elect a five-year carryback of net operating losses occurred after August 27, 2005 and before the end of 2007.

- Allows Katrina-related casualty losses associated with public utility property in the Zone to be carried back ten years.

- Allows businesses a five-year carryback of net operating losses attributable to investment before the end of 2008 in the Zone.

- Authorizes GO Zone states to issue debt service tax credit bonds to help devastated communities meet their debt service requirements as a result of the hurricanes. Bonds would have to mature no more than two years after issuance and could only be issued before January 1, 2007. The allocation of bonds would be $200 million for Louisiana, $100 million for Mississippi, and $50 million for Alabama.

- Authorizes the Secretary of the Treasury to allocate up to $3 billion of bond authority to Louisiana, Mississippi, and Alabama, subject to each state meeting certain listed criteria. These bonds (which would have to be issued before January 1, 2008) would have a 50% federal government guarantee and would be required to mature within five years. Interest payments would be taxable to the bond holder.

Title II: Tax Benefits Related to Hurricanes Rita and Wilma

Background: The Katrina Emergency Tax Relief Act (Public Law 109-73) provided charitable giving incentives and tax relief for families affected by Hurricane Katrina. The following provisions from Public Law 109-73 are extended to families affected by Hurricanes Rita and Wilma in areas designated for individual and/or public assistance.

- Waives the 10% tax on up to $100,000 of early withdrawals from IRAs and pensions for individuals affected by the hurricanes. Distributed amounts could be repaid to the IRA or pension plan over the three-year period following the distribution and receive rollover treatment.

- Increases the limit on loans from pension plans from $50,000 to $100,000.

- Allows small businesses (i.e. those with less than 200 employees) in the respective GO Zones to claim an employee retention tax credit in 2005 of 40% of the first $6,000 of wages paid to the employee while the business is inoperable.

- Exempts cash donations to all charities from the 50% individual income limitation and the phase-out of itemized deductions, if the donation is made before January 2006. (Under current law, individuals can deduct charitable donations up to 50% of their adjusted gross income. Such deductions are further limited by the phase-out of itemized deductions.)

- Waives the 10% corporate income limitation for cash donations related to the three hurricanes, if the donation is made before January 2006. (Under current law, corporations can deduct charitable donations up to 10% of their taxable income.)

- Waives the 10% and $100 floors for personal casualty losses related to the three hurricanes (under current law, individuals who itemize their deductions may deduct personal casualty losses to the extent they exceed 10% of adjusted gross income and a $100 floor.).

- Authorizes the Secretary of the Treasury to adjust tax regulations so that individuals displaced by the three hurricanes do not lose any tax deduction or credit (or experience a change in filing status) by reason of temporary, hurricane-related relocations.

Title III: Other Provisions

- Grants Treasury the authority to extend by up to one year the period for deductibility of travel expenses in case of a major disaster.

- Expresses a sense of Congress that one or more series of savings bonds should be designated as "Gulf Coast Recovery Bonds."

Additional Background: H.R. 4440 is similar to H.R. 4155.

Committee Action: H.R. 4440 was referred to the Ways & Means Committee on December 6, 2005, which took no public action on it.

Cost to Taxpayers: The Ways & Means Committee reports that a preliminary estimate for H.R. 4440 shows the bill saving taxpayers $7 billion over five years and $8 billion over ten years. Early reports from the Budget Committee indicate that this bill would also have a spending component in it that would exceed the FY2006 budget resolution.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Although a committee report for this bill is unavailable, Article I, Section 8, Clause 1 of the Constitution gives Congress the power to "lay and collect Taxes." Additionally, the 16^{th} Amendment give Congress the power to "lay and collect taxes on incomes, from whatever source derived."

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