

BRIEF ANALYSIS OF
COMMITTEE AGREEMENTS

ON

H. R. 8381



Printed for the use of the Committee on Finance

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FOREWORD

The Committee on Finance has completed its consideration of the bill H. R. 8381, amending the Internal Revenue Code to correct unintended benefits and hardships, and to make certain technical amendments. The bill has been approved with amendments and ordered reported favorably to the Senate. It will take 2 or 3 weeks for completion of the report and drafting of amendments. A brief analysis of the changes in the bill, and amendments approved follow:



BRIEF ANALYSIS OF COMMITTEE AGREEMENTS ON H. R. 8381

BRIEF ANALYSIS OF AGREEMENTS IN NUMERICAL ORDER BY SECTIONS

1. General effective date..... Approved.
2. Retirement income credit.... House provision disapproved and substitute provision approved allowing residents of common-law States to have privilege now afforded community property States.
3. Dealers in tax-exempt securities. Approved with amendments not requiring dealers in tax-exempt bonds to be required to amortize bonds sold at a gain where the bonds are (1) held for more than 30 days, and (2) the maturity, or earliest call, date is more than 5 years from the date of acquisition. Effective date December 31, 1957.
4. Statutory subsistence allowance of police. Approved with amendment moving effective date up to July 1, 1958.
5. Definition of dependent..... Approved.
6. Payments for municipal services in atomic energy communities. Approved changing effective date to taxable years beginning after December 31, 1957.
7. Worthless securities in affiliated corporations. Approved.
8. Nonbusiness bad debts..... Do.
9. Remainders to related persons in case of certain charitable trusts. Disapproved.
10. Charitable contribution carryover for corporations. Approved.
11. Limitations upon charitable contribution deduction. Approved advancing effective date to December 31, 1957.
12. Amortizable bond premium. Approved advancing effective date to December 31, 1957.
13. Net operating loss deduction—transitional years. Approved with amendment that the statute of limitations be kept open for claiming refunds for these years until 6 months after the date of the passage of the bill.

14. Improvements on leased property. Approved with amendments (1) advancing effective date to December 31, 1957, (2) making the new rule apply only in case the initial term of the lease in question is a period shorter than 60 percent of the estimated useful life of the improvement, and (3) with respect to the cost incurred in acquiring a lease applying the new rule only where the value of the initial term of the lease is less than 75 percent of the cost of acquiring the lease including the renewal periods.
15. Medical, dental, et cetera, expenses in case of decedents. Approved.
16. Deductions by corporations for dividends received. Approved advancing the effective date to December 31, 1957, and extending the 10-day rule to 15 days.
17. Property received in certain corporate reorganizations. Disapproved.
18. Certain acquisitions of stock. Approved advancing termination date to January 1, 1959.
19. Taxation of employee annuities. Approved with amendments: (1) Making the retirement payments of schools and colleges, publicly supported charities and religious organizations, to the extent they meet the 20 percent test already in section 19, eligible for the \$5,000 exclusion for death benefits, the estate-tax exclusion for contributions of the employer, and the gift-tax exemption provided by this bill for joint and survivor elections; (2) making the new rule for forfeitable annuities of exempt organizations apply only to amounts paid after December 31, 1957; and (3) providing for committee report statement making it clear that the new 20 percent rule is a substitute for the rule now in the regulations where the work by the employee has not already been performed.

20. Contributions of an employer to employees' trust or annuity plan. Approved.
21. Employee stock options granted by parent or subsidiary corporation. Do.
22. Variable price restricted stock option. Approved with amendment advancing effective date to first quarter beginning after the enactment of the bill.
23. Transfers of installment obligations to controlled life-insurance companies. Approved advancing effective date to December 31, 1957.
24. Adjustments required by changes in method of accounting. Approved with amendments: (1) giving taxpayers who have already changed an opportunity to reverse their election; (2) granting a 10-year spread forward in all cases; (3) granting taxpayers the right to determine their additional tax liability by seeing what it would have been if they had been on the new method before 1954; and (4) making it clear that where 1954 is a closed year and a change was made in that year, the remaining nine-tenths of any adjustment in subsequent years will still be required.
25. Denial of exemption to organizations engaged in prohibited transactions. Approved with amendment eliminating the requirement of a so-called negative pledge clause in the terms of the debenture.
26. Corporations improperly accumulating surplus. Approved.
27. Undistributed personal holding company income. Approved advancing to December 31, 1957, the effective date with respect to net operating losses.
28. Foreign personal holding companies. Approved advancing effective date to taxable years ending after December 31, 1957.
29. Bond, et cetera, losses of banks. Approved.
30. Depletion allowance in case of estates. Do.
31. Percentage depletion rates for certain taxable years ending in 1954. Do.

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32. Retention of 1939 code rights with respect to treatment of mineral interests. Approved with respect to oil and gas properties. With respect to mineral properties, a substitute was adopted for both the 1954 and 1939 code rules for the future which in general provides that in the case of operating properties: (1) an aggregation can be made at the mine level for any number of mines; (2) one or more aggregations may be made of mines within an operating unit; (3) large area mineral interests may be broken down into operating units or into separate mines; (4) the election as to what is to be treated as a property can be deferred until the development stage but any prior tax benefit from a larger percentage depletion deduction is to result in a comparably smaller deduction after the development. For 1954 to 1957 the rules set out above for mineral are to be available as an alternative to the 1954 code rules. For royalty mineral interests aggregations of "adjacent," rather than only "contiguous," tracts are to be permitted if the primary purpose of the aggregation is not tax avoidance and separate aggregations are to be permitted for different kinds of mineral deposits.
33. Investment companies furnishing capital to development corporations. Approved.
34. Transactions in regulated investment company shares around time of distributing capital gain dividend. Approved advancing effective date to taxable years after December 31, 1957.
35. Tax on nonresident aliens. Approved.
36. Credits for dividends received and for partially tax-exempt interest in case of nonresident aliens. Approved advancing effective date to taxable years beginning after December 31, 1957.
37. Carryback and carryover of foreign tax credit. Disapproved.

38. Property acquired in tax-free exchange. Approved.
39. Involuntary conversions. Do.
40. Property acquired before March 1, 1913. Do.
41. Postponement of gain from sale or exchange to effectuate Federal Communications Commission's policy. Approved changing effective date making section applicable only to sales or exchanges occurring after December 31, 1957.
42. Bonds issued at a discount. Approved substitute applying ordinary income treatment only where there was collusion between the issuer and the bondholder and advancing effective date to bonds issued after December 31, 1957.
43. Bonds with coupons detached. Approved making new rule apply only with respect to purchases after December 31, 1957.
44. Short sales. Approved with amendments making it inapplicable to bonds and advancing the effective date to December 31, 1957.
45. Options to buy or sell. Approved.
46. Sales or exchange of patents. Disapproved part of amendment reducing from 50 percent to 25 percent the stock in a corporation which can be held by an inventor receiving capital gains treatment on sale of invention to corporation. Approved part of amendment treating stock ownership of a brother or sister the same as the ownership of stock by a stranger.
47. Real property subdivided for sale. Approved.
48. Gain from sale of certain property between spouses, etc. Do.
49. Mitigation of effect of limitations. Do.
50. Computation of tax where taxpayer restores substantial amount held under claim of right. Do.
51. Claims against United States involving acquisitions of property. Approved advancing effective date to December 31, 1957.

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| 52. Election permitting certain proprietorships and partnerships to be taxed as corporations. | Approved with amendments striking that part of section which would have repealed section 1361 of the 1954 code which permits certain proprietorships and partnerships to be taxed like corporations; but retaining the requirement that part of the section providing that a valid election may be revoked at any time after the enactment of this bill and a period ending 3 months after the final regulations are published on section 1361. Added new sections in same part to permit shareholders of a small-business corporation with 10 or fewer stockholders by unanimous consent to elect partnership type tax treatment, (similar to sec. 3 of H. R. 12084 but passing losses through to stockholders as they occur). |
| 53. Period of limitation for filing claim for credit for State death taxes. | Approved. |
| 54. Estate tax in case of reversionary or remainder interest in property. | Do. |
| 55. Retirement annuities excluded from gross estate for estate tax. | Do. |
| 56. Gift tax not to apply to election of survivor benefits under certain qualified plans. | Approved with amendment adding a statement to effective date to the effect that this section is being enacted without inference as to the law prior to its enactment. |
| 57. OASI coverage for employees of foreign subsidiaries. | Approved. |
| 58. Federal service----- | Do. |
| 59. Acts to be performed by agents. | Do. |
| 60. Persons required to make returns. | Approved advancing the effective date to December 31, 1957. |
| 61. Election to make joint return after filing separate return. | Approved. |
| 62. Returns treated as declarations of estimated tax. | Do. |
| 63. Publicity of exempt organization information. | Approved advancing the effective date to December 31, 1958, on requirement for additional information in the annual information returns. |

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| 64. Address for notice of deficiency. | Approved. |
| 65. Release of lien on partial discharge of property. | Do. |
| 66. Correction of references to United States attorneys. | Do. |
| 67. Conveyance of title----- | Do. |
| 68. Request for prompt assessment. | Do. |
| 69. Limitations on assessment and collection. | Do. |
| 70. Limitations on credit or refund. | Do. |
| 71. Correlation of interest where overpayment of tax is credited against underpayment. | Approved with effective date change making the general correlation of interest apply only in respect to overpayments credited after Dec. 31, 1957. |
| 72. Interest on underpayments-- | Approved. |
| 73. Failure to file certain information returns. | Do. |
| 74. Definition of underpayment. | Do. |
| 75. Termination of taxable year in case of departing aliens. | Do. |
| 76. Bankruptcy and receivership proceedings. | Do. |
| 77. Use of certified mail----- | Do. |
| 78. Reproduction of returns and other documents. | Do. |
| 79. Seals for Office of Treasury Department. | Do. |
| 80. Income taxes paid by lessee. | Approved with amendment making pre-1952 rule applicable to contracts between corporations in the same manner as to leases for 1952 and 1953. |
| 81. Change from retirement to straight line method of computing depreciation in certain cases. | Approved with a technical amendment. |
| 82. Amendments to 1954 code with respect to property acquired from retirement method corporation. | Approved with an amendment making section inapplicable in certain cases where taxpayers have successfully maintained their position in the Tax Court. |

RECORD OF ACTION TAKEN THROUGH JUNE 19, 1958, BY COMMITTEE ON FINANCE ON PRINTED AMENDMENTS PROPOSED TO H. R. 8381

Amendment	Author	Subject	Action
2-3-58-A	Williams.....	Reduce depletion allowance on oil and gas.	Rejected.
2-13-58-A	do.....	Denial of deduction for improper payments to officials or employees of foreign countries.	Approved.
2-13-58-B	Hayden.....	Liberalizing statute of limitations relative to certain claims for credit or refund.	Approved with modification.
2-17-58-B	Curtis.....	Amounts received by certain motor carriers in settlement of claims against the United States.	Do.
2-24-58-C	Case (South Dakota)...	23 percent depletion allowance on gold (context of S. 2005).	Approved with modification limiting 23 percent to cases where gold is principal product.
2-28-58-A	Flanders.....	Re special method of taxation for real-estate investment trusts (context of S. 1876).	Approved with amendments similar to H. R. 8810, providing that regulated investment companies, the bulk of whose investments are in tax-exempt State and local bonds, may pass this tax exemption through to their stockholders.
3-6-58-D	Martin (Pennsylvania)...	Re equity invested capital in case of recapitalization of a railroad corpo-	Approved.

3-10-58-B	Martin (Iowa)-----	ration pursuant to receivership or bankruptcy. Definition of soil and water conservation expenditures.	Approved with amendment limiting deduction available in case of expenditures through the soil and conservation district to those which would be available and to the same extent as if made directly by the farmer.
3-12-58-F	Neuberger-----	Permits servicemen or employees of Federal Government serving abroad to claim dependents allowance for income-tax purposes for children adopted abroad who are residing with the taxpayer.	Approved with modification to cover all American citizens residing abroad if child is a member of household for an entire taxable year.
3-13-58-A	Bricker-----	Amending sec. 1341 of 1954 code re computation of tax where taxpayer restores substantial amount held under claim of right.	Approved with modification as to application for future years.
3-21-58-D	Flanders-----	Re unlimited deduction for charitable contributions by individuals (context of S. 3232).	Approved.
4-15-58-A	Payne-----	Relative to bequests to a surviving spouse (context of H. R. 8881).	Approved with amendment which has effect of applying 1954 code provision back to 1948.
4-22-58-J	Bennett-----	Relative to extension of time for filing claims for refunds of overpayments of income tax based upon education expenses paid or incurred in 1954.	Approved.
5-5-58-A	Saltonstall-----	Extension of time for certain employees' trusts to conform to technical requirements.	Rejected.

Amendment	Author	Subject	Action
5-21-58-A	Douglas	Income-tax rate reduced from 20 to 15 percent on 1st \$1,000 of taxable income for period of July 1, 1958, to June 30, 1959; and repeal of certain excise taxes.	Rejected.
5-21-58-B	do	Changes depletion allowance to 15 percent for those whose gross income from gas and oil wells is over \$5,000,000; 21 percent if between \$1,000,000 and \$5,000,000 and 27½ percent if under \$1,000,000.	Do;
5-21-58-C	do	Relative to collection of income tax at source on dividends.	Do.
5-21-58-D	do	Relative to repeal of provisions allowing credit against tax and exclusion from gross income for dividends received by individuals.	Do.
5-21-58-E	Beall	Relative to effective date on certain railroad reorganization.	Do.
5-26-58-A	Douglas	Re adjustment of corporate normal tax and surtax rates—surtax 30 percent.	Do.
5-27-58-A	Long	Context of his bill S. 3226 increasing in certain cases the limitation to \$20,000 on medical expense allowance.	Approved with amendment increasing limitation only to \$15,000.
5-28-58-A	Martin (Pennsylvania)	Relative to gain or loss on sales or exchanges in connection with certain liquidations.	Approved.

6-12-58-E	Fulbright.....	Provides ordinary loss deductions for investments in stock in small-business investment companies and for losses by such companies on convertible debentures acquired under the Small Business Investment Company Act of 1958. Also, such companies generally are to receive a 100 percent dividends received deduction.	Do.
6-16-58-E	Long.....	Spreading amounts received as treble damages for injuries under the anti-trust laws back over to the time in which the injury was first sustained.	Do.

OTHER AMENDMENTS TO H. R. 8381 ADOPTED BY THE SENATE FINANCE COMMITTEE

1. An amendment was adopted to make the involuntary conversion treatment of present law available where reinvestments are made in property of a "like kind." This would be available only in the case of real property, however, and would not include cases where the replacement took the form of the purchase of stock.

2. An amendment was adopted to increase the basis of property given to someone (for purposes of determining gain on subsequent sale, for example) by the amount of any gift tax paid by the donor with respect to the gift.

3. An amendment was adopted to permit the exclusion from income of reimbursed moving expenses in the case of new employees where the employer was a Federal Government corporation, where a representative of the corporation informed the new employees that such amounts were not includible in income, and where the income otherwise would have been reportable before 1958.

4. An amendment was adopted to section 1341 of the code relating to the computation of tax where a taxpayer restores a substantial amount held under a claim of right. The amendment provides that where a World War II excess-profits tax was paid with respect to an amount and that amount subsequently must be restored to another, the deduction available under one alternative provided by present law is to be the tax attributable in the past years to the income previously reported, including the excess-profits tax previously paid.

5. An amendment was made to section 1312 (4) of the code to permit a parent corporation to obtain a dividends-received credit with respect to payments made by an 80-percent subsidiary where the payments made by the subsidiary have been held to be dividends, rather than interest payments. Sections 1311 to 1315 relate to the mitigation of the effect of the statute of limitations in order to prevent the double inclusion of an amount in income or the double exclusion of an amount from income.

6. An amendment was adopted making the "prohibited transaction" provisions of present law inapplicable in the case of loans to an employer from a pension trust where the loan bears a reasonable rate of interest and the following three conditions are met: (1) the employer is prohibited by Federal law or regulation from pledging as security for one of these loans assets representing more than half of the value of all of its assets; (2) the loan is approved in writing as an investment which an independent trustee considers consistent with the exempt purpose of the trust (no previous trustee having refused approval); and (3) the total amount loaned by the trust to the employer without collateral is not in excess of 25 percent of the value of all of the assets of the trust. This is the same as H. R. 9049 which was passed last year by the House.

7. An amendment was adopted to carry out the intent of the Finance Committee last year to provide that the 5-year amortization provision is still to be available with respect to atomic energy facilities.

8. An amendment was adopted to provide that subscription income of newspapers and other periodicals may be spread forward over the period to which the subscriptions are attributable, but that as under present law, circulation expenditures can be deducted as they are incurred.

9. Revenue Rule 54-608 would have provided for the application of so-called strict accrual rules before permitting the deduction by employers of vacation pay. By administrative action the effective date of these rules has been postponed so as to apply first to taxable years beginning in 1959. The amendment adopted by the committee would further postpone the effective date of this revenue ruling for 2 years.

10. An amendment was adopted to section 1341 of the code relating to the computation of tax where a taxpayer restores a substantial amount held under a claim of right. Generally, section 1341 does not apply to deductions attributable to the disposition of inventory of the taxpayer although an exception to this is made by present law if the deduction arises out of refunds made by a regulated public utility, if the refunds are required to be made by a governmental unit. The committee amendment extends this same exception to refunds made by regulated public utilities by an order of the court or which are made in settlement of litigation or under the threat or imminence of litigation.

11. An amendment was adopted to section 341 of the code dealing with collapsible corporations. The amendment provides a new exclusion from the collapsible corporation provision of existing law applicable in the case of certain transactions. In general terms it provides that where the appreciation in "ordinary income assets" of a corporation does not exceed 15 percent of the fair market value of all of the assets of the corporation (less liabilities) a sale of stock in such corporation is not to result in ordinary income tax. Somewhat similar rules are also provided with respect to a complete liquidation of the type referred to in section 333 of the code and a sale or exchange in connection with certain liquidations of the type referred to in section 337.

12. An amendment was adopted to provide that a lease to a medical clinic by a scientific organization engaged in medical research of premises adjoining those occupied by the scientific organization is to result in "related" income if the medical clinic is used by the scientific organization for medical research purposes as shown by the use by scientific organizations of the clinic's case histories and by its utilization of the donated services of the clinic doctors. Treating this rental income as "related" income in the case of a tax-exempt medical research organization means that the so-called unrelated business income tax will be inapplicable in such cases even where the property is subject to indebtedness.

13. An amendment was adopted to section 106 of the 1939 code which specifies what constitutes reasonable cause for failure to file a return in cases involving certain claims against the United States. The amendment provides that this section is to apply with respect to taxable years ending after December 31, 1942 (instead of only taxable years ending after December 31, 1948), where the amount received in a taxable year ending after that date is in settlement of a claim arising under the same contract as a claim to which section 106 already applies.

14. An amendment was adopted to section 1231 providing that casualty losses (arising in a trade or business) are to be offset by gains taxed as capital gains under section 1231 only where the property is replaced by other property or money. As a result, those who insure themselves and thus have no replacement by others of the casualty losses will be eligible for ordinary loss treatment in such cases rather than having such losses offset against gains taxed as capital gains

15. A further amendment was agreed to with respect to section 24 of the bill relating to section 481 of the code which is concerned with adjustments arising from changes in methods of accounting. Where a change in method of accounting occurred prior to January 1, 1958, taxpayers are to be given the option to begin their 10-year spread forward beginning with the date of enactment of the bill.

