Public Law 97-448
97th Congress

An Act

To make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislation.

Jan. 12, 1983
[H.R. 6056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical Corrections Act of 1982.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Technical Corrections Act of 1982". 26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

TITLE I—AMENDMENTS RELATED TO ECONOMIC RECOVERY TAX ACT OF 1981

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE ACT.

(a) AMENDMENTS RELATED TO SECTION 101.— 95 Stat. 176.

(1) EFFECTIVE DATE FOR AMENDMENT TO SECTION 21.—Paragraph (1) of section 101(f) of the Economic Recovery Tax Act of 1981 (relating to effective dates for rate cuts) is amended by inserting before the period at the end thereof the following: "; except that the amendment made by paragraph (3) of subsection (d) shall apply to taxable years ending after December 31, 1981". 95 Stat. 185. 26 USC 1 note.

(2) RATE REDUCTION TAX CREDIT.—Section 6428 (relating to 1981 rate reduction tax credit) is amended by adding at the end thereof the following new subsection: 26 USC 6428.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) INDIVIDUALS TO WHOM 50 PERCENT MAXIMUM RATE OR 20 PERCENT CAPITAL GAIN RATE APPLIES.—

"(A) IN GENERAL.—In the case of any individual to whom this paragraph applies, in determining the amount of the credit allowable under subsection (a)—

"(i) the portion of the tax imposed by section 1 determined under section 1348(a)(2) (as in effect before its repeal by the Economic Recovery Tax Act of 1981), and

"(ii) the portion of the tax imposed by section 1 determined under subsection (a)(2)(B) of section 102 of the Economic Recovery Tax Act of 1981,

shall not be taken into account. 95 Stat. 186. 26 USC 1201 note.

"(B) INDIVIDUALS TO WHOM PARAGRAPH APPLIES.—This paragraph applies to any individual if the tax imposed by section 1 for the taxable year is determined under—

"(i) section 1348 (as in effect before its repeal by the Economic Recovery Tax Act of 1981), or

[96 Stat. 2366–2397 omitted (32 pages)]

26 USC 1239.

(b) 80-PERCENT OWNED ENTITY DEFINED.—Subsection (c) of section 1239 (defining 80-percent owned entity) is amended to read as follows:

"(c) 80-PERCENT OWNED ENTITY DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term '80-percent owned entity' means, with respect to any person—

"(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for such person, and

"(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person.

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of subparagraphs (A) and (B) of paragraph (1), the principles of section 318 shall apply, except that—

"(A) the members of an individual's family shall consist only of such individual and such individual's spouse,

"(B) paragraph (2)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein, and

"(C) paragraph (3) of section 318(a) shall not apply."

SEC. 302. CORRECTION OF CLERICAL ERROR IN SECTION 453B(d)(2).

26 USC 453B.

Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "to the extent that under paragraph (1)" and inserting in lieu thereof "to the extent that under subsection (a)".

SEC. 303. CLARIFICATION OF INSTALLMENT SALE RULES WITH RESPECT TO LIKE-KIND EXCHANGES.

26 USC 453.

Subparagraph (C) of section 453(f)(6) (relating to like-kind exchanges) is amended by inserting ", when used in any provision of this section other than subsection (b)(1)," after "the term 'payment' ".

SEC. 304. TECHNICAL CORRECTIONS TO BANKRUPTCY TAX ACT OF 1980.

26 USC 443.

(a) CORRECTION OF CLERICAL ERROR RELATING TO CROSS REFERENCE.—The last sentence of subsection (e) of section 443 (relating to returns for a period of less than 12 months) is amended by striking out "section 1398(d)(3)(E)" and inserting in lieu thereof "section 1398(d)(2)(E)".

26 USC 368.

(b) CLARIFICATION OF CERTAIN TRANSFERS OF ASSETS IN SUBPARAGRAPH (G) REORGANIZATIONS.—The last sentence of subparagraph (C) of section 368(a)(2) (relating to special rules relating to definition of reorganization) is amended by striking out "or stock".

(c) TRANSFER OF ASSETS IN A TITLE 11 OR SIMILAR CASE.—Clause (i) of section 368(a)(3)(B) (relating to transfer of assets in a title 11 or similar case) is amended by striking out "such corporation" and inserting in lieu thereof "any party to the reorganization".

26 USC 108.

(d) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—Subparagraph (A) of section 108(e)(7) (relating to recapture of gain on subsequent sale of stock) is amended—

(1) by striking out "and" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and

(3) by inserting after clause (ii) the following new clause:

"(iii) an exchange of such stock qualifying under section 354(a), 355(a), or 356(a) shall be treated as an exchange to which section 1245(b)(3) applies."

SEC. 305. MISCELLANEOUS AMENDMENTS.

(a) Effective Date of Section 404A.—Subparagraph (E) of section 2(e)(2) of Public Law 96-603 is amended by striking out "was barred" and inserting in lieu thereof "was not barred". 26 USC 404A note.

(b) REDESIGNATION OF SECTION 194.—

(1) The section 194 which relates to contributions to employer liability trusts is hereby redesignated as section 194A. 26 USC 194, 194A.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to the section 194 which relates to contributions to employer liability trusts and inserting in lieu thereof the following:

"Sec. 194A. Contributions to employer liability trusts."

(c) AMENDMENT RELATED TO SECTION 421 OF THE REVENUE ACT OF 1978.—The last sentence of section 55(b)(1), as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) (and in determining the sum of itemized deductions for purposes of subparagraph (C)(i))". 26 USC 55. *Ante*, p. 324.

(d) AMENDMENTS RELATED TO SUBCHAPTER S REVISION ACT OF 1982.—

(1)(A) Section 6 of the Subchapter S Revision Act of 1982 is amended by adding at the end thereof the following new subsection: *Ante*, p. 1697. 26 USC 1361 note.

"(f) TAXABLE YEAR OF S CORPORATIONS.—Section 1378 of the Internal Revenue Code of 1954 (as added by this Act) shall take effect on the day after the date of the enactment of this Act. For purposes of applying such section, the reference in subsection (a)(2) of such section to an election under section 1362(a) shall include a reference to an election under section 1372(a) of such Code as in effect on the day before the date of the enactment of this Act."

(B) If— 26 USC 1361 note.

(i) after September 30, 1982, and on or before the date of the enactment of this Act, stock or securities were transferred to a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954 as amended by the Subchapter S Revision Act of 1982) in a transaction to which section 351 of such Code applies, and

(ii) such corporation is liquidated under section 333 of such Code before March 1, 1983,

then such stock or securities shall not be taken into account under section 333(e)(2) of such Code.

(2) Subsection (e) of section 1368 (relating to distributions) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 1680.

"(3) ELECTION TO DISTRIBUTE EARNINGS FIRST.—

"(A) IN GENERAL.—An S corporation may, with the consent of all of its affected shareholders, elect to have paragraph (1) of subsection (c) not apply to all distributions made during the taxable year for which the election is made.

[96 Stat. 2400–2410 omitted (11 pages)]

SEC. 310. TECHNICAL CORRECTION RELATING TO FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION PROGRAM.

(a) Section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended— 26 USC 3304 note.

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, multiplied by the number '6', '8', or '10', whichever is applicable under subsection (e)(2)(A)(ii) in the State in which such individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.". 26 USC 3304 note.

(b) The amendment made by subsection (a) shall be effective as if it had been originally included in section 602 of the Tax Equity and Fiscal Responsibility Act of 1982. Effective date. 26 USC 3304 note. *Ante*, p. 702.

SEC. 311. EFFECTIVE DATES.

(a) FOR SECTIONS 301, 302, AND 303.—The amendments made by sections 301, 302, and 303 shall apply to dispositions made after October 19, 1980, in taxable years ending after such date. 26 USC 453 note.

(b) FOR SECTION 304.—

(1) The amendment made by subsection (a) of section 304 shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980. 26 USC 443 note. 94 Stat. 3397.

(2) The amendment made by subsection (b) of section 304 shall take effect as if included in the amendments made by section 4 of such Act. 26 USC 368 note. 94 Stat. 3401.

(c) FOR SECTION 305.—

(1) The amendment made by subsection (a) of section 305 shall take effect on December 28, 1980. 26 USC 404A note.

(2) The amendments made by subsection (b) of section 305 shall take effect on October 14, 1980. 26 USC 194A note.

(3) The amendment made by subsection (c) of section 305 shall take effect as if included in the amendments made by section 421 of the Revenue Act of 1978. 26 USC 55 note. 92 Stat. 2871.

(4) The amendments made by subsection (d) of section 305 shall take effect on the date of the enactment of the Subchapter S Revision Act of 1982. 26 USC 221 note. *Ante*, p. 1669.

26 USC 7448 note.

(5) The amendment made by subsection (e) of section 305 shall take effect on the date of the enactment of the Miscellaneous Revenue Act of 1982.

Ante, p. 1726.

26 USC 31 note.

(d) FOR SECTION 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.

Ante, p. 324.

Approved January 12, 1983.

LEGISLATIVE HISTORY—H.R. 6056:

HOUSE REPORTS: No. 97-794 (Comm. on Ways and Means) and No. 97-986 (Comm. of Conference).
SENATE REPORT No. 97-592 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 128 (1982):
Sept. 14, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Dec. 13, House concurred in certain Senate amendments in others with amendments.
Dec. 21, House agreed to conference report.
Dec. 22, Senate agreed to conference report.