Public Law 98-612
98th Congress

Oct. 31, 1984
[H.R. 5361]

An Act

To amend the Internal Revenue Code of 1954 to extend for one year the exclusion from gross income with respect to group legal services plans, and for other purposes.

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

SECTION 1. AMENDMENTS RELATING TO QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) 1-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 120 of the Internal Revenue Code of 1954 (relating to amounts received under qualified group legal services plans) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1985".

(b) REPORTING AND RECORDKEEPING REQUIREMENTS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after section 6039C the following new section:

26 USC 6039D.

"SEC. 6039D. RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFIT PLANS.

"(a) IN GENERAL.—Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

"(1) the number of employees of the employer,

"(2) the number of employees of the employer eligible to participate under the plan,

"(3) the number of employees participating under the plan,

"(4) the total cost of the plan during the year, and

"(5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

"(b) RECORDKEEPING REQUIREMENT.—Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

"(c) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

"(1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

"(2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe.

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"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means—

"(A) any qualified group legal services plan (as defined in section 120), and

"(B) any cafeteria plan (as defined in section 125).

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means—

"(A) section 120, in the case of a qualified group legal services plan, and

"(B) section 125, in the case of a cafeteria plan."

(2) PENALTY.—Subsection (f) of section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "125(h) (relating to information with respect to cafeteria plans)" and inserting in lieu thereof "6039D (relating to returns and records with respect to certain fringe benefit plans)". 26 USC 6652.

(3) CONFORMING AMENDMENTS.—

(A) Section 120 of such Code is amended by adding at the end thereof the following new subsection: 26 USC 120.

"(f) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(B) Section 125 of such Code (relating to cafeteria plans) is amended by striking out subsection (h) and inserting in lieu thereof the following: 26 USC 125.

"(h) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D."

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039C the following new item:

"Sec. 6039D. Returns and records with respect to certain fringe benefit plans."

(c) EXCLUSION FROM RAILROAD RETIREMENT TAXES FOR AMOUNTS WHICH MAY BE EXCLUDED UNDER SECTION 120.—Subsection (e) of section 3231 of such Code (defining compensation for purposes of the railroad retirement taxes) is amended by adding at the end thereof the following new paragraph: 26 USC 3231.

"(6) The term 'compensation' shall not include any contribution, payment, or service provided by an employer which may be excluded from the gross income of an employee, his spouse, or his dependents, under the provisions of section 120 (relating to amounts received under qualified group legal services plans)."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (A).—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1984. 26 USC 120 note.

(2) SUBSECTION (B).—The amendments made by subsection (b) shall take effect on January 1, 1985. 26 USC 6039D note.

(3) SUBSECTION (C).—The amendment made by subsection (c) shall apply to remuneration paid after December 31, 1984. 26 USC 3231 note.

SEC. 2. TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES.

Ante, p. 559.

Subsection (b) of section 44 of the Tax Reform Act of 1984 (relating to effective date for treatment of debt instruments received in exchange for property) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULES FOR SALES BEFORE JULY 1, 1985.—

"(A) IN GENERAL.—In the case of any sale or exchange before July 1, 1985, of property other than new section 38 property—

"(i) sections 483(c)(1)(B) and 1274(c)(3) of the Internal Revenue Code of 1954 shall be applied by substituting the testing rate determined under subparagraph (B) for 110 percent of the applicable Federal rate determined under section 1274 (d) of such Code, and

"(ii) sections 483(b) and 1274(b) of such Code shall be applied by substituting the imputation rate determined under subparagraph (C) for 120 percent of the applicable Federal rate determined under section 1274(d) of such Code.

"(B) TESTING RATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The testing rate determined under this subparagraph is the sum of—

"(I) 9 percent, plus

"(II) if the borrowed amount exceeds $2,000,000, the excess determined under clause (ii) multiplied by a fraction the numerator of which is the borrowed amount to the extent it exceeds $2,000,000, and the denominator of which is the borrowed amount.

"(ii) EXCESS.—For purposes of clause (i), the excess determined under this clause is the excess of 110 percent of the applicable Federal rate determined under section 1274(d) of such Code over 9 percent.

"(C) IMPUTATION RATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The imputation rate determined under this subparagraph is the sum of—

"(I) 10 percent, plus

"(II) if the borrowed amount exceeds $2,000,000, the excess determined under clause (ii) multiplied by a fraction the numerator of which is the borrowed amount to the extent it exceeds $2,000,000, and the denominator of which is the borrowed amount.

"(ii) EXCESS.—For purposes of clause (i), the excess determined under this clause is the excess of 120 percent of the applicable Federal rate determined under section 1274(d) of such Code over 10 percent.

"(D) BORROWED AMOUNT.—For purposes of this paragraph, the term 'borrowed amount' means the stated principal amount.

"(E) AGGREGATION RULES.—For purposes of this paragraph—

"(i) all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as one sale or exchange, and

"(ii) all debt instruments arising from the same transaction (or a series of related transactions) shall be treated as one debt instrument.

"(F) CASH METHOD OF ACCOUNTING.—In the case of any sale or exchange before July 1, 1985, of property (other than new section 38 property) used in the active business of farming and in which the borrowed amount does not exceed $2,000,000—

"(i) section 1274 of the Internal Revenue Code of 1954 shall not apply, and

"(ii) interest on the obligation issued in connection with such sale or exchange shall be taken into account by both buyer and seller on the cash receipts and disbursements method of accounting.

The Secretary of the Treasury or his delegate may by regulation prescribe rules to prevent the mismatching of interest income and interest deductions in connection with obligations on which interest is computed on the cash receipts and disbursements method of accounting.

"(5) GENERAL RULE FOR ASSUMPTIONS OF LOANS.—Except as provided in paragraphs (6) and (7), if any person—

"(A) assumes, in connection with the sale or exchange of property, any debt obligation, or

"(B) acquires any property subject to any debt obligation, sections 1274 and 483 of the Internal Revenue Code of 1954 shall apply to such debt obligation by reason of such assumption (or such acquisition).

"(6) EXCEPTION FOR ASSUMPTIONS OF LOANS MADE ON OR BEFORE OCTOBER 15, 1984.—

"(A) IN GENERAL.—If any person—

"(i) assumes, in connection with the sale or exchange of property, any debt obligation described in subparagraph (B) and issued on or before October 15, 1984, or

"(ii) acquires any property subject to any such debt obligation issued on or before October 15, 1984,

sections 1274 and 483 of the Internal Revenue Code of 1954 shall not be applied to such debt obligation by reason of such assumption (or such acquisition) unless the terms and conditions of such debt obligation are modified in connection with the assumption (or acquisition).

"(B) OBLIGATIONS DESCRIBED IN THIS SUBPARAGRAPH.—A debt obligation is described in this subparagraph if such obligation—

"(i) was issued on or before October 15, 1984, and

"(ii) was assumed (or property was taken subject to such obligation) in connection with the sale or exchange of property (including a deemed sale under section 338(a)) the sales price of which is greater than $100,000,000.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to effect the purpose of this paragraph and paragraph (5), including regulations relating to tax-exempt obligations, government subsidized loans, or other instruments.

"(D) CERTAIN EXEMPT TRANSACTIONS.—The Secretary shall prescribe regulations under which any transaction shall be exempt from the application of this paragraph if

such exemption is not likely to significantly reduce the tax liability of the purchaser by reason of the overstatement of the adjusted basis of the acquired asset.

"(7) EXCEPTION FOR ASSUMPTIONS OF LOANS WITH RESPECT TO CERTAIN PROPERTY.—

"(A) IN GENERAL.—If any person—

"(i) assumes, in connection with the sale or exchange of property described in subparagraph (B), any debt obligation, or

"(ii) acquires any such property subject to any such debt obligation,

sections 1274 and 483 of the Internal Revenue Code of 1954 shall not be applied to such debt obligation by reason of such assumption (or such acquisition) unless the terms and conditions of such debt obligation are modified in connection with the assumption (or acquisition).

"(B) SALES OR EXCHANGES TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to any of the following sales or exchanges:

"(i) RESIDENCES.—Any sale or exchange of a residence by an individual, an estate, or a testamentary trust, but only if—

"(I) either—

"(aa) such residence on the date of such sale or exchange (or in the case of an estate or testamentary trust, on the date of death of the decedent) was the principal residence (within the meaning of section 1034) of the individual or decedent, or

"(bb) during the 2-year period ending on such date, no substantial portion of such residence was of a character subject to an allowance under this title for depreciation (or amortization in lieu thereof) in the hands of such individual or decedent, and

"(II) such residence was not at any time, in the hands of such individual, estate, testamentary trust, or decedent, described in section 1221(1) (relating to inventory, etc.).

"(ii) FARMS.—Any sale or exchange by a qualified person of—

"(I) real property which was used as a farm (within the meaning of section 6420(c)(2)) at all times during the 3-year period ending on the date of such sale or exchange, or

"(II) tangible personal property which was used in the active conduct of the trade or business of farming on such farm and is sold in connection with the sale of such farm,

but only if such property is sold or exchanged for use in the active conduct of the trade or business of farming by the transferee of such property.

"(iii) TRADES OR BUSINESSES.—

"(I) IN GENERAL.—Any sale or exchange by a qualified person of any trade or business.

"(II) APPLICATION WITH SUBPARAGRAPH (B).—This subparagraph shall not apply to any sale or

exchange of any property described in subparagraph (B).

"(III) NEW SECTION 38 PROPERTY.—This subparagraph shall not apply to the sale or exchange of any property which, in the hands of the transferee, is new section 38 property.

"(iv) SALE OF BUSINESS REAL ESTATE.—Any sale or exchange of any real property used in an active trade or business by a person who would be a qualified person if he disposed of his entire interest.

This subparagraph shall not apply to any transaction described in the last sentence of paragraph (6)(B) (relating to transaction in excess of $100,000,000).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED PERSON DEFINED.—The term 'qualified person' means—

"(I) a person who—

"(aa) is an individual, estate, or testamentary trust,

"(bb) is a corporation which immediately prior to the date of the sale or exchange has 35 or fewer shareholders, or

"(cc) is a partnership which immediately prior to the date of the sale or exchange has 35 or fewer partners,

"(II) is a 10-percent owner of a farm or a trade or business,

"(III) pursuant to a plan, disposes of—

"(aa) an interest in a farm or farm property, or

"(bb) his entire interest in a trade or business and all substantially similar trades or businesses, and

"(IV) the ownership interest of whom may be readily established by reason of qualified allocations (of the type described in section 168(j)(9)(B), one class of stock, or the like).

"(ii) 10-PERCENT OWNER DEFINED.—The term '10-percent owner' means a person having at least a 10-percent ownership interest, applying the attribution rules of section 318 (other than subsection (a)(4)).

"(iii) TRADE OR BUSINESS DEFINED.—

"(I) IN GENERAL.—The term 'trade or business' means any trade or business, including any line of business, qualifying as an active trade or business within the meaning of section 355.

"(II) RENTAL OF REAL PROPERTY.—For purposes of this clause, the holding of real property for rental shall not be treated as an active trade or business."

Approved October 31, 1984.

LEGISLATIVE HISTORY—H.R. 5361:

HOUSE REPORT No. 98-1050 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 1, considered and passed House.
Oct. 11, considered and passed Senate, amended; House concurred in Senate amendment with an amendment; Senate concurred in House amendment with an amendment; House concurred in Senate amendment.