

public celebration that kicks off a 16-week 150th Anniversary Season that culminates in the Second Annual Art & Soul Festival over Labor Day Weekend:

Now, therefore, be it Resolved by the House of Representatives That Congress congratulates the City of Oakland on its 150th anniversary.

INTRODUCTION OF THE INSTALLMENT SALE PROTECTION ACT OF 2002

**HON. WALLY HERGER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 2, 2002*

Mr. HERGER. Mr. Speaker, I am today introducing legislation that would restore effective use of the installment method of accounting to long-term service business owners who sell their business interests.

The installment method of accounting allows a seller to pay tax on the gain from a sale as the seller receives the sale proceeds. This tax treatment matches the time for paying the tax to when the seller has the cash with which to pay that tax.

As many Members are aware, in the last Congress, we acted on a recommendation from the Clinton Administration to repeal the installment method of accounting for accrual basis taxpayers. Only after such change became law did we discover that we had effectively eliminated the installment method of accounting for many small business owners and, as a result, made it much more difficult for those business owners to sell their businesses. These business owners were forced to pay the entire federal income tax due on the sale of their business in the year of sale, even though the proceeds of the sale would be received over several years. This up-front demand by the government forced business owners to borrow to pay the tax or to accept lower sale prices in order to induce buyers to pay enough up-front to cover the seller's tax. To its credit, the Congress admitted its mistake and retroactively restored the installment method to accrual basis taxpayers in the Installment Tax Correction Act of 2000 (P.L. 106-573), which was enacted on December 28, 2000.

While restoring the installment method for accrual method taxpayers in 2000 was the right thing to do, it did not go far enough in remedying the installment sale problems of business owners. Despite the clear policy decision by Congress in 2000 to permit sellers of businesses to use the installment method, some long-term business owners continue to be required to pay a significant portion of total taxes upon entering into an installment sale of their business, even though they have not yet received any significant part of the sale proceeds.

An exception to the installment sale method of accounting requires taxpayers to pay all tax attributable to depreciation recapture in the year of a sale. This depreciation recapture rule was adopted in 1984 in order to prevent taxpayers from engaging in "churning" transactions, sale/leasebacks, and other tax shelter transactions involving real estate and equipment. However, the recapture provision was expanded well beyond its original purpose in

1993 in connection with legislation relating to the treatment of intangibles. Unfortunately, Congress may not have fully appreciated the consequences to sellers of business interests.

In 1993, the Congress adopted rules to clarify the amortization of acquired intangibles (e.g., goodwill, going concern value). The 1993 change required intangibles to be written off over a 15-year period, but specified that any gain on the sale of the intangibles attributable to previous amortization deductions would be treated as depreciation recapture. As a result, tax on this gain must be paid immediately in the year of sale. Because these new rules generally applied to intangibles acquired after August, 1993, business owners are now only just beginning to feel the effects of the recapture rule. This rule is having a particularly adverse effect on service businesses, because intangibles such as goodwill and going concern value represent a major portion of the value of those businesses.

For a simplified example, take the case of a business owner who purchased an interest in an architectural firm for \$ 100 in 1993, substantially all of the value of which was attributable to going concern value. The owner, who has actively participated in the business, retires in 2009 and sells the business for \$200, payable in ten equal annual installments. This sale would produce \$100 of capital gain (at an assumed tax rate of 20 percent) and \$100 of ordinary income (at an assumed tax rate of 33 percent), generating a total tax of \$53. Because of the intangibles recapture rule, the seller will have to pay \$35, or 66 percent of the total tax, in the first year, despite having received only 10 percent of the sale proceeds in that year. This result is clearly inequitable and defeats the purpose of allowing business owners to use the installment method of reporting gain from the sale of the business. Moreover, the result is especially harsh in cases where a business owner is retiring and selling the business.

My bill would allow a long-term active participant in a service business to report intangibles recapture gain on the installment basis along with other gain from the sale. The legislation would not change the character of any gain. As such, intangibles recapture gain would continue to be ordinary income to reflect the fact that it previously gave rise to an ordinary deduction. The bill is limited to long-term participants because they are the individuals who would otherwise be likely to suffer the greatest hardship under the recapture rule and who are most likely to be relying on installment sale payments to supplement their retirement income.

Specifically, my bill would allow an individual who has been an active participant for five of the prior seven years in a business in which capital is not a material income-producing factor (i.e., a service business) to report on the installment basis any intangibles recapture income resulting from the disposition of an interest in the business.

Because this proposal does not apply to depreciation recapture from tangible property, the proposal does not conflict with the original goals of Congress in adopting the depreciation recapture exception to the installment sale rules. Specifically, this is not a change that would permit tax sheltering through any sort of "churning" transactions.

While this proposal does not address all of the potential cases in which the installment

sale method is unavailable upon the sale of a business, it does go a long way towards addressing one of the most egregious situations. I urge my colleagues to support this worthy legislation.

SUPPORTING NATIONAL BETTER HEARING AND SPEECH MONTH

SPEECH OF

**HON. BETTY McCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 30, 2002*

Ms. McCOLLUM. Mr. Speaker, I rise today in support of H. Con. Res. 358, Supporting the Goals of National Better Hearing and Speech Month.

Hearing loss is the most frequently occurring birth defect in the United States, affecting 3 of every 1,000 newborns. Newborn hearing loss is 20 times more prevalent than PKU, a condition for which all newborns are currently screened. Often, hearing loss is not detected until a child is 2 to 3 years old.

Fortunately, there is a quick procedure that can be used to test infant hearing before newborns leave the hospital. Starting in 2000, Congress made grants available to the states through Health Resources and Services Administration and Centers for Disease Control to help reach the goal of testing every infant for hearing loss. States use the federal grants to train audiologists to use screening equipment and educate parents on the need for hearing screening and follow-up care.

The federal dollars are important to the success of the newborn screenings. Nationally, 67 percent of babies are presently screened, up from 20 percent in 1999. In my home state of Minnesota, only 8 percent of hospitals screened newborns for hearing loss before the state received the federal grant money. Today, 85 percent of Minnesota hospitals perform the screenings.

We know that infants identified with hearing loss before 6 months have a significant academic and social advantage over those who are not in a program by 6 months. The average savings in special education costs per child if hearing loss is detected early enough is \$400,000. The UNHS program pays for itself in special education savings many times over.

Sadly, the \$13 million in HRSA grants were cut from the President's proposed FY 2003 budget. These cuts may undo the progress we have made in ensuring that every infant is screened for hearing loss before leaving the hospital.

I want to thank Congressman RYAN for bringing attention to such an important issue. Under this resolution recognizing Better Hearing and Speech Month, Congress commends the 41 States that have implemented routine hearing screenings for every newborn before they leave the hospital.

We still have work to do, however. I recently met with constituents who had to battle doctors to get hearing screening for their newborn, even though their older son suffered from hearing loss. As members of Congress we can do more to help parents. No parent should have to fight for basic infant health care.

Hearing screening in 41 states is not enough. We must continue this success in

every state. I have promised the people of the 4th District of Minnesota that I am committed to working in Congress for essential programs like newborn hearing screening. I hope my colleagues will join me in this commitment to improving the quality of life for our nation's children, families, and communities.

QUOTES ABOUT MR. ALFRED  
MCKETHAN

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 2, 2002*

Mrs. THURMAN. Mr. Speaker, U.S. Sen. BOB GRAHAM: ". . . a legacy unmatched by any other."

U.S. Sen. BILL NELSON: "Alfred McKethan was not just a leader—he was a doer."

Gov. Jeb Bush, "Alfred McKethan was larger than life, . . . a monumental contributor to this state."—Hernando Today

Congresswoman KAREN THURMAN, "His mantle was sharing with everyone else. The mantle he left behind is the people he left behind."—Hernando Today

Mr. Hjalma Johnson, Dade City banker: "All of us will see farther because we stood on the shoulders of this giant. Mr. Chairman, you will be well missed and never forgotten."—Hernando Times

Mr. Colin Campbell of the Virginia Military Institute, where Mr. McKethan began his college career: "Mr. McKethan loved to empower young leaders."—Hernando Times

Rev. Don Lawson, pastor of Brooksville's First Presbyterian Church: "Alfred McKethan was a powerful man of insight and vision. But from my perspective, he had a humble heart."—Hernando Today

Former University of Florida President John Lombardi: "He represented the very best of the spirit of our alumni. . . . He's just one of our heroes."—St. Petersburg Times

Retired State Senator Ed Price Jr. from Bradenton: "He was a very friendly person, but he could get hard-nosed when the occasion allowed for it."—St. Petersburg Times

Banker Marion G. "Bubber" Nelson of Panama City: "He just had a good way of talking and enthusing somebody and developing ambition. There were no crazy things about him."—St. Petersburg Times

Former Brooksville State Rep. John Culbreath, now a Tallahassee lobbyist: "Alfred for his lifetime was really the pulse and the heartbeat of Hernando County."—St. Petersburg Times

Chuck Smith, a former state lawmaker from Brooksville: "Alfred McKethan was an excellent politician. You're not an excellent politician if you're mean to people or make them mad."—St. Petersburg Times

Jim Talley, editor of the defunct Brooksville Sun-Journal newspaper: Mr. McKethan "by style and demeanor symbolized Brooksville's yesteryear, caught in the mid 20th century, though he prided himself on always looking 'out yonder.' He left his mark, and it was a big one."—St. Petersburg Times

University of Florida's Athletic Director Jeremy Foley: "His passion for the university and this program . . . there was no bigger Gator. I'm going to miss him immeasurably. . . ."—St. Petersburg Times

Norm Carlson, a longtime UF assistant director of media relations: "He had the ear of everybody."—St. Petersburg Times

Former Gators football coach Steve Spurrier once said: "When you talk of Gator spirit and love for the university, Alfred McKethan embodies what that is all about."—St. Petersburg Times

Brooksville lawyer Joe Mason, Mr. McKethan's nephew: "His influence is everywhere you look. Probably no one in the last half-century has had as much of an impact on the community as he has had."—St. Petersburg Times

Jim Kimbrough, who married Mr. McKethan's daughter, then took over as head of SunTrust Bank/Nature Coast, said: "It's been a privilege to be at his side professionally."—St. Petersburg Times

County Commissioner Chairwoman Nancy Robinson: "Alfred McKethan was an icon and a visionary. He'll be missed."—St. Petersburg Times

Robert Buckner, Mr. McKethan's oldest grandson: "He kept up with what was going on in Hernando County."—St. Petersburg Times

Jane Padgett, an assistant principal at Hernando High and a distant relative: "I think he has always been keenly interested in the welfare of this county and its place in the state."—St. Petersburg Times

Oma Lee Vance, worked with McKethan at the bank for nearly 40 years: "His door was always open. He was just a very compassionate person, considering his standing in life and the community."—St. Petersburg Times

Gene Manuel, owner of Coastal Engineering: "He's one of the few people that I ever knew in my lifetime who would do something for you without expecting anything in return."—St. Petersburg Times

Dominick Cabriele, chairman of the Hernando County Democratic Party: "Mr. McKethan was a lifelong Democrat and a steadfast supporter of the Democratic Party and its principles. . . . His loss is irreplaceable."—St. Petersburg Times

Len Tria, vice president of Coastal Engineering and former Hernando County commissioner: "He never forgot his roots. His motto was, 'You build your community, you build your bank.'"—St. Petersburg Times

IN HONOR OF FRANK HARRIS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 2, 2002*

Mr. TOWNS. Mr. Speaker, I rise in honor of Frank Harris on the occasion of his 80th birthday.

Frank Harris was born and raised in Boston, MA. He left Boston when he joined the army. After completing his military service he moved to New York. He has served St. Barnabas Episcopal Church for 40 years. He is very active in his church. He has been an usher, he is on the vestry, and he is in the Brotherhood where he has worked as the secretary and treasurer for over 20 years. In addition to his work in the church, before retiring, Frank worked for Con Edison for over 20 years in Brooklyn and Buchanan, New York. He has been happily married to Annie Harris for 44 years.

As a proud father and a loving husband, he and his wife have three children, two adopted and their natural son, Kirby.

Mr. Speaker, Frank Harris has lived a life of hard work and dedication to his church, his family and community. As such he is more than worthy of receiving this recognition today and I urge my colleagues to join me in honoring this truly remarkable man on his 80th Birthday.

RECOGNIZING TAYLOR G. MARK  
WARD ON HIS APPOINTMENT TO  
THE U.S. MILITARY ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 2, 2002*

Mr. GILLMOR. Mr. Speaker, it is with great pride that I rise today to recognize my constituent, Taylor G. Markward of Middle Point, Ohio, who recently accepted his appointment to the U.S. Military Academy at West Point.

Taylor will soon graduate from Van Wert High School. During his high school career, he has maintained a high grade point average, and is a member of the National Honor Society. He is an accomplished athlete, earning varsity letters in football and basketball. And, he has clearly demonstrated his leadership ability, serving as Vice President of the Student Body, President of the Key Club and as a captain of the football and basketball teams.

Taylor Markward can be very proud of his many accomplishments. He is a credit to his family, his school, and his community. By accepting his appointment, Taylor is accepting a unique challenge.

The Academy is the pinnacle of leadership development for the United States Army. As a member of the U.S. Corps of Cadets, he will face a most demanding academic curriculum and physical regimen. He will live, study and prepare in an environment where strong leadership thrives, individual achievement is expected, and personal integrity is demanded.

Mr. Speaker, General John W. Vessey, Jr. once wrote, "The Nation's ability to remain free and at peace depends in no small measure on whether we will continue to inspire our youth to serve."

I am confident that Taylor Markward has the character and ability to excel at the U.S. Military Academy at West Point. I ask my colleagues to join me in wishing him well as he begins his very important service to our nation.

HONORING THE RETIREMENT OF  
SUPERINTENDENT SHARON  
JONES OF THE FREMONT UNIFIED  
SCHOOL DISTRICT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 2, 2002*

Mr. STARK. Mr. Speaker, I rise today to honor Sharon Jones on the day of her retirement as superintendent of the Fremont Unified School District in Fremont, California.

For 37 years, Sharon Jones has served the Fremont Unified School District and the community of Fremont as a teacher, vice principal,