

Wildlife Reserve in the Department of Defense Appropriations conference report.

I find it outrageous—and unacceptable—that after failing in their budget reconciliation ploy to open the Arctic wilderness to oil drilling, drilling proponents would now try to tamper with the Defense spending bill at a time when we have troops in combat in Iraq and Afghanistan. Drilling in the Arctic National Wildlife Refuge is bad policy and dragging this controversy into the Senate's conscientious efforts to ensure that our military effort is adequately funded at a time of war does not do right by our fighting men and women. It is equally outrageous that drilling proponents are attempting to exploit the Katrina-relief package included in the bill. Congress has an obligation to care for the victims of that devastating natural disaster and our fellow citizens deserve better than to have congressional efforts to provide for their needs undercut by such a desperate procedural scheme.

INTERNAL REVENUE CODE SECTION 664(G)

Mr. JOHNSON. Mr. President, I have a question for the chairman and ranking democrat of the Finance Committee with respect to one special kind of retirement plan that is defined in Internal Revenue Code section 664(g) and involves qualified gratuitous transfers of employer securities. That section of the code was added in 1997 and later amended in 2001. It provides certain rules and requirements for a business owner who wants to bequeath his company to its employees through the company retirement plan.

One of the limitations in section 664(g) is that the maximum allocation that would be permitted to any participant each year is the lesser of \$30,000 or 25 percent of compensation. That limitation, which is contained in code section 664(g)(7) was intended to ensure for an orderly and fair allocation of shares received by a plan in a gratuitous transfer from a charitable remainder trust.

A question has been raised with me as to the appropriate timing of valuation of the stock that is transferred to the accounts of participants for purposes of the unique section 664(g)(7) limitation. Should the stock be valued at the time the shares are transferred to the plan or on the date the shares are allocated to the accounts of participants? It is my understanding, that the clear intent of the limitation of section 664(g)(7) was to measure the value of the stock on the date it is actually allocated to the account of the participant. Any other reading could result in potential circumvention of the statutory limitation if the value of the stock were to increase during the period between the actual transfer of the stock to the plan and the subsequent allocation to the account of the participant. Put differently, when the

statute says no participant shall receive more than the lesser of \$30,000 or 25 percent of compensation each year, that is precisely what was intended. To be clear, this is a unique rule that is specific to section 664(g). It has no bearing on any other rules involving plans, including employee stock ownership plans (ESOPs), that are not described in section 664(g).

Mr. GRASSLEY. I thank the Senator for his careful explanation of the law. I agree completely that the intent of the Finance Committee in including the limitation of section 664(g)(7) was to provide for an orderly and fair transfer of stock received in a gratuitous transfer and that we intended the value of the stock to be determined upon allocation to the participant's account and not upon some earlier date.

Mr. BAUCUS. Yes, I agree. In applying the unique limit of Internal Revenue Code section 664(g)(7), the valuation should be determined upon allocation to the participant's account.

TECHNICAL DESCRIPTION FOR GULF OPPORTUNITY ZONE ACT OF 2005

Mr. GRASSLEY. Mr. President, I wish to submit for the record the Joint Committee's technical explanation of the Gulf Opportunity Zone Act of 2005. This explanation is of the Senate amendment to H.R. 4440. This legislation was passed by the Senate on Friday, December 16, 2005. Let me make it clear that this technical explanation was actually submitted to the Senate at the time the bill was passed to be printed in the CONGRESSIONAL RECORD. Unfortunately, due to a clerical error this did not happen. Therefore, I ask unanimous consent that the technical explanation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

The bill provides tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma. It also includes tax and trade technical corrections. Finally, the bill provides that any of its provisions causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

A. TAX BENEFITS FOR GULF OPPORTUNITY ZONE

1. Definitions of "Gulf Opportunity Zone," "Rita GO Zone," "Wilma GO Zone," and other definitions (new sec. 1400M of the Code)

GENERAL DEFINITIONS

Gulf Opportunity Zone

For purposes of the bill, the "Gulf Opportunity Zone" is defined as that portion of the Hurricane Katrina Disaster Area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Hurricane Katrina disaster area

The term "Hurricane Katrina disaster area" means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

Rita GO Zone

The term "Rita GO Zone" means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Rita.

Hurricane Rita disaster area

The term "Hurricane Rita disaster area" means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, by reason of Hurricane Rita.

Wilma GO Zone

The term "Wilma GO Zone" means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Wilma.

Hurricane Wilma disaster area

The term "Hurricane Wilma disaster area" means an area with respect to which a major disaster has been declared by the President before November 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, by reason of Hurricane Wilma.

2. Tax-exempt bond financing for the Gulf Opportunity Zone (new sec. 1400N(a) of the Code)

PRESENT LAW

Rules governing issuance of tax-exempt bonds

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Private activities eligible for financing with tax-exempt bonds

The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)). The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).