Joint Committee on Taxation
August 4, 1989
JCX-41-89

CHAIRMAN ROSTENKOWSKI'S MODIFICATION TO REVENUE OFFSET PROVISIONS OF THE CHAIRMAN'S MARK DATED JULY 18, 1989*

1. Excise tax on ozone-depleting chemicals

The proposed excise tax on ozone-depleting chemicals (JCX-31-89, p. 32) would be modified to provide rates of tax such that the following net tax receipts would be obtained: (a) for fiscal year 1990, $370 million; (b) for fiscal year 1991, $550 million; (c) for fiscal year 1992, $730 million; (d) for fiscal year 1993, $1,180 million; and (e) for fiscal year 1994, $1,480 million.

In addition, the provision would not apply to those chemicals not designated under the Montreal protocol. This would remove HCFC-22 (chlorodifluoromethane), carbon tetrachloride, methyl chloroform, and methylene chloride from the list of taxable chemicals. It is expected that the Secretary would exercise his regulatory authority to modify ozone-depleting factors or to alter the list of taxable chemicals to conform to the list of ozone-depleting factors and chemicals covered by the Montreal protocol.

For the period beginning October 1, 1989, and ending December 31, 1990, the provision would not apply in the case of the manufacture or sale of halons or the sale or use by a manufacturer of ozone-depleting chemicals for the purpose of manufacturing or selling rigid foam insulation, or the import into the United States of chemicals or products containing such chemicals for such purposes. For calendar years 1991, 1992, and 1993, a credit against the excise tax would be provided for halons and rigid foam insulation in a credit percentage that equates the tax per pound of qualifying chemical to a net tax of 25 cents per pound of ozone-depleting chemical, prior to any adjustment for inflation indexing.

The provision would be effective for ozone-depleting chemicals produced in or imported into the United States after September 30, 1989. In addition, a floor stocks tax would be imposed on ozone-depleting chemicals held by a dealer for sale on October 1, 1989. However, collection of the tax would not begin until April 1, 1990.

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* See Joint Committee on Taxation staff documents: JCX-31-89 (description of Chairman's proposal) and JCX-32-89 (revenue table).

2. Policyholder dividend deductions

The proposal relating to the treatment of policyholder dividends of mutual life insurance companies (JCX-31-89, p. 33) would be deleted.

3. Extension of telephone excise tax and collection period for air passenger transportation ticket excise tax

The proposals relating to the permanent extension of the telephone excise tax (JCX-31-89, p. 35) and the collection period for the excise tax on air passenger transportation tickets (JCX-31-89, p. 36) would be retained.

4. Indexing of capital assets

The proposal would adopt the following provision relating to the indexing of basis of capital assets:

a. In general.--In the case of individuals (but not corporations), the basis of eligible assets acquired after July 31, 1989, would be the greater of (i) the indexed basis or (ii) the minimum basis.

b. Indexed basis.-- In the case of an eligible asset held for more than 1 year, the basis of the asset would be adjusted for inflation for purposes of determining gain (but not loss) on the disposition of the asset. Indexing would be made for inflation occurring after July 31, 1989. Inflation would be measured by changes in the consumer price index (CPI) for the years the taxpayer held the asset. The inflation adjustments for assets disposed of in any year would be set forth in a table published by the IRS. Special rules would apply to pass-through entities. Short sales would be indexed. The indexing adjustment would not reduce the amount included in income as a result of the recapture of the entire amount of depreciation, amortization, or depletion deductions previously taken with respect to a property.

c. Minimum basis.--In the case of an eligible asset held 5 years or less, the minimum basis would be zero. In the case of an eligible asset held more than 5 years but not more than 10 years, the minimum basis would be 25 percent of the sales price of the asset. In the case of an eligible asset held more than 10 years, the minimum basis would be 50 percent of the sales price of the asset. This minimum basis rule would not reduce the amount included in income as a result of the recapture of the entire amount of depreciation, amortization, or depletion deductions previously taken with respect to a property, but could be used to offset additional gain.

d. Eligible assets.--Assets eligible for indexing

and the minimum basis rule would include corporate stock (other than certain preferred stock and certain stock in foreign corporations), real property, timber, and other tangible assets which are capital assets or assets used in a trade or business. Collectibles, intangible assets (other than corporate stock), debt instruments, and options would not be eligible assets.

e. Elective mark-to-market.--On a timely filed return for taxable year 1989, an individual would be permitted to elect to mark-to-market, as of August 1, 1989, a security for which there was a market on an established securities market on August 1, 1989. If this election is made, the individual would include any gain resulting from the election in income for taxable year 1989 and would be entitled to index the basis of the security and to apply the minimum basis rule as if the security had been acquired on August 1, 1989.

f. Minimum tax.--For purposes of the minimum tax, the basis of an eligible asset would be indexed for inflation but the minimum basis rule would not apply.

g. Investment interest limitation.--Gain on assets whose basis is indexed would not be treated as investment income in computing the investment interest limitation. A taxpayer could elect to forego indexing the basis of an asset and instead treat the gain as investment income.

5. Payroll tax deposits

The system under which employers deposit income taxes withheld from employees' wages and FICA taxes would be modified. Under Treasury regulations, employers are required to deposit these taxes as frequently as eight times a month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days of the end of each eighth-monthly period.

Under the proposal, employers who are on this eighth-monthly system would be required to make a deposit by the close of the next banking day (instead of by the close of the third banking day) after any day on which the business accumulates an amount to be deposited equal to or greater than $1 million (regardless of whether that day is the last day of an eighth-monthly period). This proposal would be effective for deposits required to be made after December 31, 1989, but the application of the rule would be phased in over five years. Under the phase in, for deposits required to be made during 1990, 20 percent of the deposits otherwise required to be accelerated under the provision would actually be required to be accelerated. The phase-in percentages would 70 percent for 1991, 80 percent for 1992, 90 percent for 1993, and 100 percent for 1994 and subsequent years.