RSC
Republican Study Committee

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Legislative Bulletin…………………….…………………..March 27, 2007

Contents:

H.R. 1562—Katrina Housing Tax Relief Act—*as amended* (*Rangel, D-NY*)

Order of Business: The bill is scheduled to be considered on Tuesday, March 27th, under a motion to suspend the rules and pass the bill, as amended. **NOTE**: because of conservative concerns on this legislation, the bill has been amended prior to its consideration on the House floor later today. The primary negotiators for such changes, Rep. Sam Johnson (R-TX) and Rep. Tom Reynolds (R-NY), are happy with the changes and are now urging a yes vote on the legislation.

Changes from the committee-reported version of the bill summarized in this morning's RSC Legislative Bulletin are indicated in red-bold below.

Summary: H.R. 1562 would extend and expand certain tax laws applicable to the areas affected by Hurricane Katrina, which were enacted in the Gulf Opportunity Zone Act of 2005. H.R. 1562 would also raise revenue by changing the "collection due process procedures" for employment taxes. Highlights of the bill are as follows:

- Extends the special low-income housing credit rules that were implemented for the areas devastated by Hurricanes Katrina, Rita, and Wilma in 2005. The cap on low-income housing credits had been increased for the hurricane-affected states for 2006 through 2008. H.R. 1562 would extend the higher cap for two years (through the end of 2010). The bill would extend to the end of December 2010 the time by which the housing must be completed to still qualify for the credit (and the usual requirement that 10% of expected costs be expended in the first year would be waived for projects in 2006, 2007, and 2008). And the bill would extend the Gulf Opportunity Zone's designation as a "difficult to develop area" through the end of 2010 (which has implications for increasing the amount of credits available for investors in projects in the area).

- Allows the proceeds of Mortgage Revenue Bonds to be used to refinance an existing mortgage if repairs or reconstruction costs total at least 25% of the owner's adjusted basis in the property. (Generally, current law does not allow the proceeds of Mortgage Revenue Bonds to be used to refinance existing mortgages.)

- Allows low-income (Community Development Block Grant—CDBG) housing projects to receive additional categories of federally-subsidized loans without facing a reduction in tax credits. (Under current law, low-income housing projects which receive certain federally-subsidized loans must either accept a lower credit rate or make an offsetting reduction in the property's basis).

- Directs the Comptroller General to report to Congress on the practices employed by state and local governments in allocating and using tax incentives provided by this bill and the Gulf Opportunity Zone Act of 2005.

- Raises revenue by changing "collection due process procedures" with regards to employment tax liabilities. Currently, the IRS is allowed to seize a taxpayer's physical property given a federal tax lien (for underpayments of employment taxes). Prior to seizing the property, however, the IRS has to notify the taxpayer that they have a right to a collection due process (CDP) hearing. **H.R. 1562 would allow the IRS to seize property without *first* giving the taxpayer a CDP hearing—but only for taxpayers who have requested a CDP hearing within the prior two years. Taxpayers who have NOT requested a CDP hearing within the prior two years would NOT be subject to the new requirements allowing pre-hearing seizures of property.** The IRS would still have to send warning notices, and the hearing would still have to be offered—but not necessarily before the property seizure. **Taxpayers' right to a CDP hearing would be extended from September 30, 2015 to February 29, 2016.**

- Increases the corporate estimated tax payments due in the summer of FY2012 for corporations with assets of at least $1 billion. This provision does not yield a net tax increase; it merely requires a higher quarterly payment of corporate estimated taxes in the summer of 2012, and a correspondingly lowered estimated payment thereafter. Last year's tax reconciliation bill (Public Law 109-222) included a similar tax-payment shift. That is, under current law, the estimated payments due in the summer of FY2012 have to be 106.25% of what would otherwise be paid (100% = one quarter of the year's estimated tax payment due). H.R. 1562 would increase that amount from 106.25% to 106.45%, requiring businesses to pay even more of their taxes early. (Note: a larger tax shift for these same large corporations was included as part of the small business tax bill last month—H.R. 976—as well as the supplemental appropriations bill this month—H.R. 1591.)

Additional Background: To see the RSC Legislative Bulletin for the Gulf Opportunity Zone Act of 2005, as it was signed into law, see this webpage: http://www.house.gov/hensarling/rsc/doc/LB_121605_gulfopptax.pdf.

Committee Action: On March 19, 2007, the bill was referred to the Ways & Means Committee, which, two days later, marked up the bill and ordered it reported to the full House by voice vote.

<u>Possible Conservative Concerns</u>: ~~Some conservatives have expressed concerns about the provision allowing the IRS to seize property (related to delinquent employment tax payments) *before* the taxpayer has a chance to present his case at a hearing. Rep. Sam Johnson (R-TX) and Rep. Tom Reynolds (R-NY) wrote that, "In our view, the proposed modification to the collection due process ("CDP") procedures for employment tax liabilities removes an important layer of formal due process protection by eliminating the guarantee that taxpayers receive a statutory CDP hearing <u>before</u> the IRS can issue a levy. In our view, this elimination of a guaranteed pre-levy hearing constitutes an inappropriate and unfair erosion of taxpayer rights, denying 'mom-and-pop' stores along Main Street, USA a formal opportunity to correct inadvertent errors or bring to light possible IRS mistakes before any government seizure of their property."~~

Some conservatives may also be concerned at the inclusion, once again, of a provision shifting corporate estimated tax payments, forcing some corporations to pay more of their tax burden earlier, and masking the true revenue increase in the 5-year window for the PAYGO rule.

<u>Administration Position</u>: A Statement of Administration Policy (SAP) was not available at press time.

<u>Cost to Taxpayers</u>: The Joint Committee on Taxation estimates that the bill, as reported from committee, would reduce revenues by $1 million in FY2007, increase revenues by ~~$43~~ **$34** million over the FY2008-FY2012 period, and increase revenues by $5 million over the FY2008-FY2017 period. CBO estimates that the bill would authorize less than $500,000 for a study.

<u>Does the Bill Expand the Size and Scope of the Federal Government?</u>: The bill would allow the federal seizure of private property in certain cases, without first allowing the taxpayer to present his case at a certain type of hearing, **but only in cases of repeated requests for such hearings.**

<u>Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?</u>: No.

<u>Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?</u>: Although an earmarks/revenue benefits statement required under House Rule XXI, Clause 9(a) was not available at press time, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

<u>Constitutional Authority</u>: House Report 110-66 is still not available.

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