Joint Committee on Taxation
December 22, 1983
JCX-58-82

SUMMARY OF H.R. 5470 ("THE PERIODIC PAYMENT SETTLEMENT ACT OF 1982") AS PASSED BY THE HOUSE AND THE SENATE

H.R. 5470, as passed by the House and the Senate contains five tax provisions relating to (1) the tax treatment of periodic damage payments, (2) the tax treatment of certain foster care payments, (3) the taxation of Indian tribal governments, (4) the waiver of preemption by ERISA in the case of the Hawaii Prepaid Health Care Act, and (5) the waiver by preemption by ERISA in the case of certain multiple employer welfare arrangements.

The Conference Report (H. Rep. No. 97-984, Dec. 21, 1982) was passed by the House and the Senate on December 21, 1982.

1. Exclusion for periodic damage payments

Present law generally excludes from gross income damages received by an individual on account of personal injuries or sickness. Furthermore, the IRS has ruled that damages for personal injuries are excludible from gross income whether paid as a lump sum, or paid in periodic payments out of a fund invested and owned by the tortfeasor or an insurer.

The Act expressly excludes from gross income damage payments for injuries or sickness whether paid as lump sums or as periodic payments. Furthermore, the Act also generally excludes amounts received by an assignee for agreeing to undertake an assignment to make periodic payments of personal injury damages. Specifically, any amount so received will not be included in gross income to the extent it is used to purchase an annuity contract issued by a company licensed to do business as an insurance company under the laws of any State or an obligation of the United States.

Effective date.--The provision is effective for taxable years beginning after 1982.

Revenue effect.--The provision is expected to have a negligible impact on fiscal year budget receipts.

2. Exclusion from gross income for certain foster care payments

Under present law, except as otherwise provided, gross income means all income from whatever source derived. Under IRS guidelines, foster parents who are rendering gratuitous services to child-placing agencies may exclude from gross income payments that do not exceed the expenses incurred for the care of foster children. Payments in excess of the amounts necessary to care for foster children generally are treated as compensation to the foster parents and are includible in gross income.
The Act excludes from the gross income of a foster parent (1) amounts paid to reimburse the foster parent for the expense of caring for a foster child (under the age of 19) in the foster parent's home and (2) difficulty of care payments; provided that the foster child has been placed by a State or local agency or by a State-licensed tax-exempt agency.

Effective date.--The provision applies to taxable years beginning after December 31, 1978.

Revenue effect.--The provision is expected to reduce fiscal year budget receipts by less than $5 million annually.

3. Taxation of Indian tribal governments

Under present law, Indian tribal governments are not treated as State governments.

The Act generally provides that, for a series of specified purposes under the Internal Revenue Code, Indian tribal governments are to be treated the same as State governments. Under the Act, Indian tribal governments are permitted to issue public activity bonds, the proceeds from which are used in an essential governmental function. Tribal governments, however, are not permitted to issue private activity bonds (i.e., industrial development bonds, scholarship bonds, and mortgage subsidy bonds). Additionally, the excise tax exemptions available for articles sold for the exclusive use of State governments is available for articles sold for the exclusive use of Indian tribal governments in performing an essential governmental function.

Effective date.--In general, the provision applies to taxable years beginning after 1982. The provision will terminate after December 31, 1984.

Revenue effect.--The provision is expected to reduce fiscal year budget receipts by less than $5 million in 1983 and 1984, and to have a negligible budget impact thereafter.

4. Waiver of preemption by ERISA in the case of the Hawaii Prepaid Health Care Act

The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. That Act generally supersedes State laws insofar as they relate to employee benefit plans. The Hawaii Prepaid Health Care Act provides for a program of health insurance for employees. As a result of litigation, it was determined that the Hawaii Act was preempted by ERISA.

The Act generally exempts the Hawaii Prepaid Health Care Act from preemption by ERISA.

Effective date.--The provision is effective upon enactment.

Revenue effect.--The provision is expected to reduce fiscal year budget receipts by less than $5 million annually.

5. Waiver of preemption by ERISA in the case of multiple employer welfare arrangements

The Employee Retirement Income Security Act of 1974 (ERISA) provides comprehensive rules relating to employee benefit plans, including plans providing health benefits to employees. That Act generally supersedes State laws insofar as they relate to employee benefit plans.

The Act generally exempts certain multiple employer welfare arrangements from the ERISA preemption provision. Accordingly, these arrangements generally will be subject to regulation by the States. Under the provision, a multiple employer welfare arrangement is any plan or other arrangement established to offer welfare benefits, such as health insurance, to the employees of two or more employers. However, the Act continues preemption with respect to State law applying to any plan maintained pursuant to a collective bargaining agreement or maintained by a tax-exempt rural electric cooperative.

Effective date.--The provision is effective upon enactment.

Revenue effect.--The provision is expected to have a negligible impact on fiscal year budget receipts.