

In the Senate of the United States,

March 24 (legislative day, March 23), 1995.

Resolved, That the bill from the House of Representatives (H.R. 831) entitled “An Act to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. PERMANENT EXTENSION AND INCREASE OF DE-***
2 ***DUCTION FOR HEALTH INSURANCE COSTS OF***
3 ***SELF-EMPLOYED INDIVIDUALS.***

4 *(a) PERMANENT EXTENSION.—Subsection (l) of sec-*
5 *tion 162 of the Internal Revenue Code of 1986 (relating to*
6 *special rules for health insurance costs of self-employed in-*
7 *dividuals) is amended by striking paragraph (6).*

1 (b) *INCREASE IN DEDUCTION.*—Paragraph (1) of sec-
2 tion 162(l) of the Internal Revenue Code of 1986 is amended
3 by striking “25 percent” and inserting “30 percent”.

4 (c) *EFFECTIVE DATES.*—

5 (1) *EXTENSION.*—The amendment made by sub-
6 section (a) shall apply to taxable years beginning
7 after December 31, 1993.

8 (2) *INCREASE.*—The amendment made by sub-
9 section (b) shall apply to taxable years beginning
10 after December 31, 1994.

11 **SEC. 2. REPEAL OF NONRECOGNITION ON FCC CERTIFIED**

12 **SALES AND EXCHANGES.**

13 (a) *IN GENERAL.*—Subchapter O of chapter 1 of the
14 Internal Revenue Code of 1986 is amended by striking part
15 V (relating to changes to effectuate FCC policy).

16 (b) *CONFORMING AMENDMENTS.*—Sections 1245(b)(5)
17 and 1250(d)(5) of the Internal Revenue Code of 1986 are
18 each amended—

19 (1) by striking “section 1071 (relating to gain
20 from sale or exchange to effectuate polices of FCC)
21 or”, and

22 (2) by striking “1071 AND” in the heading there-
23 of.

1 (c) *CLERICAL AMENDMENT.*—*The table of parts for*
2 *such subchapter O is amended by striking the item relating*
3 *to part V.*

4 (d) *EFFECTIVE DATE.*—

5 (1) *IN GENERAL.*—*The amendments made by*
6 *this section shall apply to—*

7 (A) *sales and exchanges on or after January*
8 *17, 1995, and*

9 (B) *sales and exchanges before such date if*
10 *the FCC tax certificate with respect to such sale*
11 *or exchange is issued on or after such date.*

12 (2) *BINDING CONTRACTS.*—

13 (A) *IN GENERAL.*—*The amendments made*
14 *by this section shall not apply to any sale or ex-*
15 *change pursuant to a written contract which was*
16 *binding on January 16, 1995, and at all times*
17 *thereafter before the sale or exchange, if the FCC*
18 *tax certificate with respect to such sale or ex-*
19 *change was applied for, or issued, on or before*
20 *such date.*

21 (B) *SALES CONTINGENT ON ISSUANCE OF*
22 *CERTIFICATE.*—*A contract shall be treated as not*
23 *binding for purposes of subparagraph (A) if the*
24 *sale or exchange pursuant to such contract, or*
25 *the material terms of such contract, were contin-*

1 *gent, at any time on January 16, 1995, on the*
2 *issuance of an FCC tax certificate. The preceding*
3 *sentence shall not apply if the FCC tax certifi-*
4 *cate for such sale or exchange is issued on or be-*
5 *fore January 16, 1995.*

6 (3) *FCC TAX CERTIFICATE.*—*For purposes of*
7 *this subsection, the term “FCC tax certificate” means*
8 *any certificate of the Federal Communications Com-*
9 *mission for the effectuation of section 1071 of the In-*
10 *ternal Revenue Code of 1986 (as in effect on the day*
11 *before the date of the enactment of this Act).*

12 **SEC. 3. SPECIAL RULES RELATING TO INVOLUNTARY CON-**
13 **VERSIONS.**

14 (a) *REPLACEMENT PROPERTY ACQUIRED BY COR-*
15 *PORATIONS FROM RELATED PERSONS.*—

16 (1) *IN GENERAL.*—*Section 1033 of the Internal*
17 *Revenue Code of 1986 (relating to involuntary conver-*
18 *sions) is amended by redesignating subsection (i) as*
19 *subsection (j) and by inserting after subsection (h) the*
20 *following new subsection:*

21 “(i) *NONRECOGNITION NOT TO APPLY IF CORPORA-*
22 *TION ACQUIRES REPLACEMENT PROPERTY FROM RELATED*
23 *PERSON.*—

24 “(1) *IN GENERAL.*—*In the case of a C corpora-*
25 *tion, subsection (a) shall not apply if the replacement*

1 *property or stock is acquired from a related person.*
2 *The preceding sentence shall not apply to the extent*
3 *that the related person acquired the replacement prop-*
4 *erty or stock from an unrelated person during the pe-*
5 *riod described in subsection (a)(2)(B).*

6 *“(2) RELATED PERSON.—For purposes of this*
7 *subsection, a person is related to another person if the*
8 *person bears a relationship to the other person de-*
9 *scribed in section 267(b) or 707(b)(1).”*

10 *(2) EFFECTIVE DATE.—The amendment made by*
11 *paragraph (1) shall apply to involuntary conversions*
12 *occurring on or after February 6, 1995.*

13 *(b) APPLICATION OF SECTION 1033 TO CERTAIN SALES*
14 *REQUIRED FOR MICROWAVE RELOCATION.—*

15 *(1) IN GENERAL.—Section 1033 of the Internal*
16 *Revenue Code of 1986 (relating to involuntary conver-*
17 *sions), as amended by subsection (a), is amended by*
18 *redesignating subsection (j) as subsection (k) and by*
19 *inserting after subsection (i) the following new sub-*
20 *section:*

21 *“(j) SALES OR EXCHANGES TO IMPLEMENT MICRO-*
22 *WAVE RELOCATION POLICY.—*

23 *“(1) IN GENERAL.—For purposes of this subtitle,*
24 *if a taxpayer elects the application of this subsection*
25 *to a qualified sale or exchange, such sale or exchange*

1 *shall be treated as an involuntary conversion to which*
2 *this section applies.*

3 “(2) *QUALIFIED SALE OR EXCHANGE.*—*For pur-*
4 *poses of paragraph (1), the term ‘qualified sale or ex-*
5 *change’ means a sale or exchange before January 1,*
6 *2000, which is certified by the Federal Communica-*
7 *tions Commission as having been made by a taxpayer*
8 *in connection with the relocation of the taxpayer from*
9 *the 1850–1990MHz spectrum by reason of the Federal*
10 *Communications Commission’s reallocation of that*
11 *spectrum for use for personal communications serv-*
12 *ices. The Commission shall transmit copies of certifi-*
13 *cations under this paragraph to the Secretary.”*

14 (2) *EFFECTIVE DATE.*—*The amendment made by*
15 *paragraph (1) shall apply to sales or exchanges after*
16 *March 14, 1995.*

17 ***SEC. 4. DENIAL OF EARNED INCOME CREDIT FOR INDIVID-***
18 ***UALS HAVING MORE THAN \$2,450 OF INVEST-***
19 ***MENT INCOME.***

20 (a) *IN GENERAL.*—*Section 32 of the Internal Revenue*
21 *Code of 1986 is amended by redesignating subsections (i)*
22 *and (j) as subsections (j) and (k), respectively, and by in-*
23 *serting after subsection (h) the following new subsection:*

24 “(i) *DENIAL OF CREDIT FOR INDIVIDUALS HAVING*
25 *MORE THAN \$2,450 OF INVESTMENT INCOME.*—

1 “(1) *IN GENERAL.*—No credit shall be allowed
2 under subsection (a) for the taxable year if the aggregate
3 amount of disqualified income of the taxpayer
4 for the taxable year exceeds \$2,450.

5 “(2) *DISQUALIFIED INCOME.*—For purposes of
6 paragraph (1), the term ‘disqualified income’
7 means—

8 “(A) interest which is received or accrued
9 during the taxable year (whether or not exempt
10 from tax),

11 “(B) dividends to the extent includible in
12 gross income for the taxable year, and

13 “(C) the excess (if any) of—

14 “(i) gross income from rents or royalties
15 not derived in the ordinary course of a
16 trade or business, over

17 “(ii) the sum of—

18 “(I) expenses (other than interest)
19 which are clearly and directly allocable
20 to such gross income, plus

21 “(II) interest expenses properly
22 allocable to such gross income.”

23 (b) *EFFECTIVE DATE.*—The amendments made by this
24 section shall apply to taxable years beginning after Decem-
25 ber 31, 1995.

1 **SEC. 5. REVISION OF TAX RULES ON EXPATRIATION.**

2 (a) *IN GENERAL.*—Subpart A of part II of subchapter
3 N of chapter 1 of the Internal Revenue Code of 1986 is
4 amended by inserting after section 877 the following new
5 section:

6 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

7 “(a) *GENERAL RULE.*—For purposes of this subtitle,
8 if any United States citizen relinquishes his citizenship
9 during a taxable year—

10 “(1) except as provided in subsection (f)(2), all
11 property held by such citizen at the time immediately
12 before such relinquishment shall be treated as sold at
13 such time for its fair market value, and

14 “(2) notwithstanding any other provision of this
15 title, any gain or loss shall be taken into account for
16 such taxable year.

17 Paragraph (2) shall not apply to amounts excluded from
18 gross income under part III of subchapter B.

19 “(b) *EXCLUSION FOR CERTAIN GAIN.*—The amount
20 which would (but for this subsection) be includible in the
21 gross income of any individual by reason of subsection (a)
22 shall be reduced (but not below zero) by \$600,000.

23 “(c) *PROPERTY TREATED AS HELD.*—For purposes of
24 this section, except as otherwise provided by the Secretary,
25 an individual shall be treated as holding—

1 “(1) all property which would be includible in
2 his gross estate under chapter 11 were such individual
3 to die at the time the property is treated as sold,

4 “(2) any other interest in a trust which the indi-
5 vidual is treated as holding under the rules of sub-
6 section (f)(1), and

7 “(3) any other interest in property specified by
8 the Secretary as necessary or appropriate to carry
9 out the purposes of this section.

10 “(d) EXCEPTIONS.—The following property shall not
11 be treated as sold for purposes of this section:

12 “(1) UNITED STATES REAL PROPERTY INTER-
13 ESTS.—Any United States real property interest (as
14 defined in section 897(c)(1)), other than stock of a
15 United States real property holding corporation
16 which does not, on the date the individual relin-
17 quishes his citizenship, meet the requirements of sec-
18 tion 897(c)(2).

19 “(2) INTEREST IN CERTAIN RETIREMENT
20 PLANS.—

21 “(A) IN GENERAL.—Any interest in a
22 qualified retirement plan (as defined in section
23 4974(c)), other than any interest attributable to
24 contributions which are in excess of any limita-

1 tion or which violate any condition for tax-
2 favored treatment.

3 “(B) FOREIGN PENSION PLANS.—

4 “(i) IN GENERAL.—Under regulations
5 prescribed by the Secretary, interests in for-
6 eign pension plans or similar retirement
7 arrangements or programs.

8 “(ii) LIMITATION.—The value of prop-
9 erty which is treated as not sold by reason
10 of this subparagraph shall not exceed
11 \$500,000.

12 “(e) RELINQUISHMENT OF CITIZENSHIP.—For pur-
13 poses of this section, a citizen shall be treated as relinuish-
14 ing his United States citizenship on the earliest of—

15 “(1) the date the individual renounces his
16 United States nationality before a diplomatic or con-
17 sular officer of the United States pursuant to para-
18 graph (5) of section 349(a) of the Immigration and
19 Nationality Act (8 U.S.C. 1481(a)(5)),

20 “(2) the date the individual furnishes to the
21 United States Department of State a signed statement
22 of voluntary relinquishment of United States nation-
23 ality confirming the performance of an act of expa-
24 triation specified in paragraph (1), (2), (3), or (4) of

1 *section 349(a) of the Immigration and Nationality*
2 *Act (8 U.S.C. 1481(a)(1)–(4)),*

3 *“(3) the date the United States Department of*
4 *State issues to the individual a certificate of loss of*
5 *nationality, or*

6 *“(4) the date a court of the United States cancels*
7 *a naturalized citizen’s certificate of naturalization.*

8 *Paragraph (1) or (2) shall not apply to any individual un-*
9 *less the renunciation or voluntary relinquishment is subse-*
10 *quently approved by the issuance to the individual of a cer-*
11 *tificate of loss of nationality by the United States Depart-*
12 *ment of State.*

13 *“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
14 *INTERESTS IN TRUST.—*

15 *“(1) DETERMINATION OF BENEFICIARIES’ INTER-*
16 *EST IN TRUST.—For purposes of this section—*

17 *“(A) GENERAL RULE.—A beneficiary’s in-*
18 *terest in a trust shall be based upon all relevant*
19 *facts and circumstances, including the terms of*
20 *the trust instrument and any letter of wishes or*
21 *similar document, historical patterns of trust*
22 *distributions, and the existence of and functions*
23 *performed by a trust protector or any similar*
24 *advisor.*

1 “(B) *SPECIAL RULE.*—*In the case of bene-*
2 *ficiaries whose interests in a trust cannot be de-*
3 *termined under subparagraph (A)—*

4 “(i) *the beneficiary having the closest*
5 *degree of kinship to the grantor shall be*
6 *treated as holding the remaining interests*
7 *in the trust not determined under subpara-*
8 *graph (A) to be held by any other bene-*
9 *ficiary, and*

10 “(ii) *if 2 or more beneficiaries have the*
11 *same degree of kinship to the grantor, such*
12 *remaining interests shall be treated as held*
13 *equally by such beneficiaries.*

14 “(C) *CONSTRUCTIVE OWNERSHIP.*—*If a ben-*
15 *eficiary of a trust is a corporation, partnership,*
16 *trust, or estate, the shareholders, partners, or*
17 *beneficiaries shall be deemed to be the trust bene-*
18 *ficiaries for purposes of this section.*

19 “(D) *TAXPAYER RETURN POSITION.*—*A tax-*
20 *payer shall clearly indicate on its income tax re-*
21 *turn—*

22 “(i) *the methodology used to determine*
23 *that taxpayer’s trust interest under this sec-*
24 *tion, and*

1 “(ii) if the taxpayer knows (or has rea-
2 son to know) that any other beneficiary of
3 such trust is using a different methodology
4 to determine such beneficiary’s trust interest
5 under this section.

6 “(2) *DEEMED SALE IN CASE OF TRUST INTER-*
7 *EST.—If an individual who relinquishes his citizen-*
8 *ship during the taxable year is treated under para-*
9 *graph (1) as holding an interest in a trust for pur-*
10 *poses of this section—*

11 “(A) the individual shall not be treated as
12 having sold such interest,

13 “(B) such interest shall be treated as a sep-
14 arate share in the trust, and

15 “(C)(i) such separate share shall be treated
16 as a separate trust consisting of the assets alloca-
17 ble to such share,

18 “(ii) the separate trust shall be treated as
19 having sold its assets immediately before the re-
20 linquishment for their fair market value and as
21 having distributed all of its assets to the individ-
22 ual as of such time, and

23 “(iii) the individual shall be treated as hav-
24 ing recontributed the assets to the separate trust.

1 *Subsection (a)(2) shall apply to any income, gain, or*
2 *loss of the individual arising from a distribution de-*
3 *scribed in subparagraph (B)(ii).*

4 *“(g) TERMINATION OF DEFERRALS, ETC.—On the date*
5 *any property held by an individual is treated as sold under*
6 *subsection (a), notwithstanding any other provision of this*
7 *title—*

8 *“(1) any period during which recognition of in-*
9 *come or gain is deferred shall terminate, and*

10 *“(2) any extension of time for payment of tax*
11 *shall cease to apply and the unpaid portion of such*
12 *tax shall be due and payable at the time and in the*
13 *manner prescribed by the Secretary.*

14 *“(h) RULES RELATING TO PAYMENT OF TAX.—*

15 *“(1) IMPOSITION OF TENTATIVE TAX.—*

16 *“(A) IN GENERAL.—If an individual is re-*
17 *quired to include any amount in gross income*
18 *under subsection (a) for any taxable year, there*
19 *is hereby imposed, immediately before the indi-*
20 *vidual relinquishes United States citizenship, a*
21 *tax in an amount equal to the amount of tax*
22 *which would be imposed if the taxable year were*
23 *a short taxable year ending on the date of such*
24 *relinquishment.*

1 “(B) *DUE DATE.*—The due date for any tax
2 imposed by subparagraph (A) shall be the 90th
3 day after the date the individual relinquishes
4 United States citizenship.

5 “(C) *TREATMENT OF TAX.*—Any tax paid
6 under subparagraph (A) shall be treated as a
7 payment of the tax imposed by this chapter for
8 the taxable year to which subsection (a) applies.

9 “(2) *DEFERRAL OF TAX.*—The provisions of sec-
10 tion 6161 shall apply to the portion of any tax attrib-
11 utable to amounts included in gross income under
12 subsection (a) in the same manner as if such portion
13 were a tax imposed by chapter 11.

14 “(i) *REGULATIONS.*—The Secretary shall prescribe
15 such regulations as may be necessary or appropriate to
16 carry out the purposes of this section, including regulations
17 providing appropriate adjustments to basis to reflect gain
18 recognized by reason of subsection (a) and the exclusion pro-
19 vided by subsection (b).

20 “(j) *CROSS REFERENCE.*—

**“For termination of United States citizenship for
tax purposes, see section 7701(a)(47).”**

21 (b) *DEFINITION OF TERMINATION OF UNITED STATES*
22 *CITIZENSHIP.*—Section 7701(a) of the Internal Revenue
23 Code of 1986 is amended by adding at the end the following
24 new paragraph:

1 “(47) *TERMINATION OF UNITED STATES CITIZEN-*
2 *SHIP.—An individual shall not cease to be treated as*
3 *a United States citizen before the date on which the*
4 *individual’s citizenship is treated as relinquished*
5 *under section 877A(e).”*

6 (c) *CONFORMING AMENDMENT.—Section 877 of the In-*
7 *ternal Revenue Code of 1986 is amended by adding at the*
8 *end the following new subsection:*

9 “(f) *APPLICATION.—This section shall not apply to*
10 *any individual who relinquishes (within the meaning of*
11 *section 877A(e)) United States citizenship on and after Feb-*
12 *ruary 6, 1995.”*

13 (d) *CLERICAL AMENDMENT.—The table of sections for*
14 *subpart A of part II of subchapter N of chapter 1 of the*
15 *Internal Revenue Code of 1986 is amended by inserting*
16 *after the item relating to section 877 the following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”

17 (e) *EFFECTIVE DATE.—*

18 (1) *IN GENERAL.—The amendments made by*
19 *this section shall apply to United States citizens who*
20 *relinquish (within the meaning of section 877A(e) of*
21 *the Internal Revenue Code of 1986, as added by this*
22 *section) United States citizenship on or after Feb-*
23 *ruary 6, 1995.*

24 (2) *DUE DATE FOR TENTATIVE TAX.—The due*
25 *date under section 877A(h)(1)(B) of such Code shall*

- 1 *in no event occur before the 90th day after the date*
- 2 *of the enactment of this Act.*

Attest:

Secretary.

HR 831 EAS—2

HR 831 EAS—3

HR 831 EAS—4

HR 831 EAS—5

104TH CONGRESS
1ST SESSION

H. R. 831

AMENDMENT