A BILL TO REPEAL SECTION 809, WHICH TAXES POLICYHOLDER DIVIDENDS OF MUTUAL LIFE INSURANCE COMPANIES, AND TO REPEAL SECTION 815, WHICH APPLIES TO POLICYHOLDERS SURPLUS ACCOUNTS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 13, 2000

Mr. HOUGHTON. Mr. Speaker, I am pleased to join my colleague from Massachusetts, Mr. NEAL, together with a number of other colleagues, in introducing our bill, ''The Life Insurance Tax Simplification Act of 2000.'' The bill repeals two sections of the Internal Revenue Code which no longer serve valid tax policies goals.

This Congress has taken a major step forward in rewriting the regulatory structure of the financial services industry in the United States. This realignment is already having a positive impact on the way life insurance companies serve their customers, conduct their operations and merge their businesses to achieve greater market efficiencies. Unfortunately, the tax code contains several provisions which no longer represent valid tax policy goals, and in fact are carry-overs from the old tax and regulatory regimes that separated the life insurance industry from the rest of the financial world and differentiated between the stock and mutual segments of the life insurance industry. Today, the lines of competition are not between the stock and mutual segments of the life insurance industry. Rather, life insurers must compete in an aggressive, fast moving global financial services marketplace contrary to the premises underlying these old, outmoded tax rules.

In 1984 Congress enacted Section 809, which imposed an additional tax on mutual life insurers to guarantee that stock life insurers would not be competitively disadvantaged by what was then thought to be the dominant segment of the industry. Section 809 operates by taxing some of the dividends that mutual life insurers pay to their policyholders. When Section 809 was enacted, mutual life insurers held more than half the assets of U.S. life insurance companies. It is estimated that within a few years, life insurers operating as mutual companies are expected to constitute less than ten percent of the industry.

Section 809 has not been a significant component of the substantial taxes paid by the life insurance industry, including mutual companies. But it has been extremely burdensome because of its unpredictable nature and complexity. The tax is based on a bizarre formula under which the tax of each mutual life insurer increases if the earnings of its large stock company competitors rise—even when a mutual company's earnings fall. The provision has been criticized by the Treasury Department and others as fundamentally flawed in concept. The original rationale behind the enactment of Section 809 no longer exists, and mutual life insurers should not pay taxes based on the earnings of their competitors or solely because they exist in the mutual form. Accordingly, the bill would repeal Section 809.

Section 815 was added to the Code as part of the 1959 changes to the life insurance companies tax structure. Before 1959, life insurance companies were taxed only on their investment income. Underwriting (premium) income was not taxed, and underwriting expenses were not deductible. The change in 1959 provided that all life insurance companies paid tax on investment income not set aside for policyholders and on one-half of their underwriting income. The other half of underwriting income for stock companies was not taxed unless it was distributed to shareholders. The amount of that income was called a ''policyholders surplus account'' or ''PSA''. No money was set aside; a PSA was and is just a bookkeeping entry. Mutual companies were not required to establish PSAs. The 1959 tax structure sought to tax the proper amount of income of stock and mutual companies alike and the PSA mechanism helped implement that goal.

In 1984, Congress rewrote the rules again. Both stock and mutual companies were subjected to tax on all their investment and underwriting income. In this context, dividend deductions for mutuals were limited under Section 809, and the tax exclusion for a portion of stock company's underwriting income was discontinued. Congress made a decision not to tax the amount excluded between 1959 and 1984. Rather the amounts are only taxed if one of the specific events described in the current Section 815 occurs (principally dissolution of the company).

The bill would repeal the obsolete Section 815 provision. Since 1984, the Government has collected relative small amounts of revenue with respect to PSAs as companies avoid the specific events which trigger PSAs taxation. There is not a ''fund,'' ''reserve,'' ''provision'' or ''allocation'' on a life insurance company's books to pay PSA taxes because, under generally accepted accounting principles, neither the government nor taxpayers have ever believed that significant amounts of tax would be triggered. Nevertheless, the continued existence of the PSAs does result in a burden on the companies in today's changing financial services would—a burden based on bookkeeping entries made from fifteen to forty years ago to comply with Congress' then vision of how segments of the life insurance industry should be taxed. In addition, the Administration has made recent proposals to require that PSA balances be taxed, even though no triggering event has taken place—thus another cloud of uncertainty.

The repeal of these two provisions, Sections 809 and 815, would provide certainty, less complexity, and remove two provisions from the Internal Revenue Code, which no longer serve a valid tax policy goal in the life insurance tax structure of the Internal Revenue Code. We urge our colleagues to join us in cosponsoring this legislation.

TRIBUTE TO U.S. ATTORNEY GENERAL EDWARD LEVI

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 13, 2000

Mr. LAHOOD. Mr. Speaker, on behalf of myself and my colleague, ROBERT MATSUI, I would like to pay tribute today to the life of former U.S. Attorney General Edward Levi. It is with great sorrow that I acknowledge his passing, but it is with great privilege and honor that I speak about him today.

U.S. Supreme Court Justice John Paul Stevens recently said of Mr. Levi, ''Wisdom, wit, a quiet grace and tireless willingness to strive for excellence have seldom been combined in such measure in one individual.'' I could not have summed up a man who has meant so much, to so many, better myself.

Author, professor, devoted father, and husband, Edward Levi is remembered by most as the U.S. Attorney General who helped to rebuild the Justice Department after Watergate and the resignation of President Richard Nixon. But, moreover, he was a man who accomplished more in his lifetime than most people dream of.

Starting out during World War II as a special assistant in the U.S. Attorney General's office, Mr. Levi returned to his alma mater of the University of Chicago in 1945 to assume a professorship in their distinguished school of law. While at the university, Mr. Levi quickly rose through the ranks becoming the Dean of the Law School in 1950, provost in 1962, and president of the distinguished university in 1968, a position he held until 1975. He was the first member of the Jewish community to serve as a leader of a major U.S. university.

In 1975, Mr. Levi was praised for his even-handed response to the student uprising that culminated in the takeover of the school's administration building. His unique sense and display of leadership surrounding this incident did not go unnoticed. He was quickly appointed to the position of U.S. Attorney General, a post he served from 1975–1977. Former President Ford, said, ''Ed Levi, with his outstanding academic and administrative record at the University of Chicago, was a perfect choice. * * * When I assumed the Presidency in August 1974, it was essential that a new attorney general be appointed who would restore integrity and competence to the Department of Justice.'' Mr. Levi did just that.

Mr. Speaker, words certainly cannot do justice to the life of this fine individual. He was an exemplary individual, and it goes unsaid that his unmatchable leadership will be missed. I want to express my condolences to the Levi family, particularly his wife Kate, sons John, David, and Michael, and brother Harry. Let us not forget his impressive accomplishments, but above all, let us never forget the kind-hearted man behind the distinguished titles.