

A motion to reconsider was laid on the table.

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CLARIFYING TREATMENT OF SELF-EMPLOYMENT FOR PURPOSES OF LIMITATION ON STATE TAXATION OF RETIREMENT INCOME

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4019) to amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income, as amended.

The Clerk read as follows

H.R. 4019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF SELF-EMPLOYMENT FOR PURPOSES OF THE LIMITATION ON STATE TAXATION OF RETIREMENT INCOME.

(a) *IN GENERAL.*—Section 114(b)(1)(I) of title 4, United States Code, is amended—

(1) by inserting “(or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins)” after “section 3121(v)(2)(C) of such Code”,

(2) by inserting “which may include income described in subparagraphs (A) through (H)” after “(not less frequently than annually”,

(3) by adding at the end the following: “The fact that payments may be adjusted from time to time pursuant to such plan, program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic payments provided under such plan, program, or arrangement to fail the ‘substantially equal periodic payments’ test.”, and

(4) by adding at the end the following:

“(4) For purposes of this section, the term ‘retired partner’ is an individual who is described as a partner in section 7701(a)(2) of the Internal Revenue Code of 1986 and who is retired under such individual’s partnership agreement.”.

(b) *APPLICATION.*—The amendments made by this section apply to amounts received after December 31, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4019 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4019, a bill to amend title 4 of the

United States Code to clarify the treatment of self-employment for the purposes of the limitation on State taxation of retirement income.

This bill makes technical and clarifying amendments to the legislation enacted in 1996 to restrict the ability of States to tax certain pension income received by their former residents and nonresidents who earned income in that State.

Virtually every State correctly interpreted the law to encompass all retired individuals as Congress intended, and adjusted their tax systems accordingly. However, after 10 years, at least one State has sought to promote an interpretation of the law at odds with congressional intent by taxing the retirement income of partners who no longer live in the State or who may never even have ever lived there.

H.R. 4019 clarifies and reiterates the policy Congress wrote into Public Law 104–95, that States are prohibited from taxing the retirement income of all nonresident retirees, whether the individual is a retired employee, partner or principal.

Mr. Speaker, this bill, which enjoys bipartisan support, merely restores fairness and the original intent of Congress by reaffirming that States should treat all retirees equally.

I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4019, and I support the measure which is intended to clarify current law that prohibits States from taxing the retirement income of any nonresident, whether the individual is a retired employee, partner or a principal, and says that the benefits reduction calculations under the bill include components from both qualified and non-qualified plans.

Now, since 1996, States have adjusted their tax system to reflect the policy and to allow several different interpretations. The policy would upset expectations and reliance upon the law. And what we are doing is eliminating that possibility. This would also, without this change, further confuse the tax system and certainly lead to unnecessary litigation.

It should be noted that the States affected by Public Law 104–95 have adjusted their tax schemes to comply with the law as they understood it. However, there is one State presently that construes the statute in contravention of the original intent, and if this State, New York, is permitted to implement its interpretation of the bill, other States may follow. This, in turn, would most definitely spur an unlimited amount of needless litigation. So it is essential that for consistency

and uniformity that this legislation be enacted.

We should note that neither the Federation of Tax Administrators nor the National Governors Association are opposing this clarification.

This clarification is needed to protect the current State taxation policies, and I am proud to support it and urge my colleagues to do as well.

Mr. CANNON. Mr. Speaker, I would like to thank Chairman SENSENBRENNER, Ranking Member CONYERS and Representatives WATT for their work and leadership on this legislation.

H.R. 4019 is a technical amendment to Public Law 104–95. This legislation clarifies that all retirees should be treated the same with regard to how States may tax retirement payments.

In 1996, Congress passed Public Law 104–95 to prohibit States from taxing the retirement income of nonresident retirees. Essentially, if retirees, most of whom are on fixed incomes, are not living in the State, then no State except the State where the individual resides should tax the retirees’ incomes.

After passage of the 1996 law, most States interpreted the law, as it was intended, to apply to all retirees, including employees and partners. One State, however, has recently taken the position that it can treat retired employees of a company and retired partners in partnership differently. This State’s interpretation is contrary to the original intent of the law and would allow for a State to tax the retirement payments of a person who retires from a partnership, no matter where that retiree is living. This was not the intent of Congress when the bill was passed, as was emphasized at our hearing by our former colleague Mr. Gekas, who was chair of the subcommittee when Public Law 104–95 was enacted. Congress intended for all retirees to be treated the same under the law, and H.R. 4019 simply clarifies that intent. States must treat all retirees similarly.

I have worked with the State tax administrators and crafted a manager’s amendment that passed the full committee by voice vote in order to alleviate their initial concerns, an appreciate their efforts in coming to the table to reach agreement.

I urge all of my colleagues to support H.R. 4019.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4019, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 38 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 6 o'clock and 30 minutes p.m.

COMMUNICATION FROM THE HON. CHARLIE NORWOOD, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Charlie Norwood, Member of Congress:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 17, 2006.

Hon. J. Dennis Hastert,
Speaker, House of Representatives, Washington DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a civil deposition subpoena, issued by the Superior Court of Fulton County, GA, for documents and testimony.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

CHARLIE NORWOOD,
Member of Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3085, by the yeas and nays;

H.R. 3496, by the yeas and nays;

H.R. 3729, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

TRAIL OF TEARS STUDY ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3085, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 3085, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 356, nays 5, not voting 71, as follows

[Roll No. 375]

YEAS—356

Ackerman	Doggett	Kolbe
Aderholt	Doyle	Kucinich
Akin	Drake	Kuhl (NY)
Alexander	Dreier	Langevin
Allen	Duncan	Larsen (WA)
Baca	Edwards	Larson (CT)
Bachus	Ehlers	Latham
Baird	Emanuel	LaTourette
Baker	Emerson	Leach
Baldwin	Engel	Levin
Barrett (SC)	English (PA)	Lewis (CA)
Barrow	Eshoo	Lewis (GA)
Bartlett (MD)	Etheridge	Lewis (KY)
Barton (TX)	Everett	Linder
Bass	Farr	LoBiondo
Bean	Feeney	Lofgren, Zoe
Becerra	Ferguson	Lowey
Berkley	Filner	Lucas
Berman	Foley	Lungren, Daniel
Berry	Forbes	E.
Biggert	Fortenberry	Lynch
Bilbray	Fossella	Mack
Bishop (GA)	Frank (MA)	Maloney
Bishop (NY)	Franks (AZ)	Manzullo
Bishop (UT)	Gerlach	Marchant
Blackburn	Gibbons	Markey
Blunt	Gilchrest	Marshall
Boehlert	Gillmor	Matsui
Boehner	Gingrey	McCarthy
Bonner	Gohmert	McCaul (TX)
Bono	Gonzalez	McCollum (MN)
Boren	Goode	McCotter
Boswell	Goodlatte	McCrery
Boucher	Gordon	McDermott
Boustany	Granger	McGovern
Boyd	Graves	McHenry
Bradley (NH)	Green, Al	McHugh
Brady (PA)	Green, Gene	McIntyre
Brady (TX)	Grijalva	McKeon
Brown (SC)	Gutknecht	McMorris
Brown-Waite,	Hall	McNulty
Ginny	Harman	Meehan
Burton (IN)	Hart	Meek (FL)
Butterfield	Hastings (FL)	Meeke (NY)
Buyer	Hastings (WA)	Melancon
Camp (MI)	Hayworth	Mica
Campbell (CA)	Hefley	Michaud
Cantor	Hensarling	Millender-
Capito	Herger	McDonald
Capps	Herseth	Miller (FL)
Capuano	Higgins	Miller (MI)
Cardin	Hinchey	Miller (NC)
Cardoza	Hinojosa	Miller, Gary
Carnahan	Hobson	Mollohan
Carson	Hoekstra	Moore (KS)
Carter	Holden	Moore (WI)
Castle	Holt	Moran (KS)
Chabot	Honda	Moran (VA)
Chandler	Hooley	Murphy
Chocoma	Hostettler	Murtha
Clay	Hoyer	Musgrave
Cleaver	Hunter	Myrick
Clyburn	Hyde	Napolitano
Cole (OK)	Inslee	Neal (MA)
Conaway	Israel	Neugebauer
Conyers	Issa	Ney
Cooper	Jackson (IL)	Norwood
Costa	Jackson-Lee	Nunes
Crenshaw	(TX)	Oberstar
Crowley	Jefferson	Obey
Cubin	Jenkins	Olver
Cuellar	Johnson (CT)	Ortiz
Culberson	Johnson (IL)	Osborne
Cummings	Johnson, E. B.	Otter
Davis (AL)	Jones (OH)	Pallone
Davis (CA)	Kanjorski	Pastor
Davis (KY)	Kaptur	Payne
Davis (TN)	Keller	Pearce
Davis, Jo Ann	Kelly	Pelosi
Davis, Tom	Kennedy (MN)	Peterson (MN)
DeFazio	Kennedy (RI)	Petri
DeGette	Kildee	Pickering
DeLahunt	Kilpatrick (MI)	Pitts
DeLauro	King (IA)	Platts
Dent	King (NY)	Poe
Diaz-Balart, L.	Kirk	Pombo
Diaz-Balart, M.	Kline	Pomeroy
Dicks	Knollenberg	Porter

Putnam	Schmidt	Thompson (CA)
Radanovich	Scott (GA)	Thompson (MS)
Rahall	Scott (VA)	Thornberry
Ramstad	Sensenbrenner	Tiahrt
Rangel	Serrano	Tiberi
Regula	Shadegg	Tierney
Rehberg	Shaw	Turner
Reichert	Shays	Udall (CO)
Renzi	Sherman	Udall (NM)
Reyes	Sherwood	Upton
Reynolds	Shimkus	Van Hollen
Rogers (AL)	Simmons	Velázquez
Rogers (KY)	Simpson	Visclosky
Rogers (MI)	Skelton	Walden (OR)
Rohrabacher	Slaughter	Walsh
Ros-Lehtinen	Smith (NJ)	Wamp
Roach	Smith (TX)	Wasserman
Roybal-Allard	Smith (WA)	Schultz
Royce	Snyder	Waters
Ruppersberger	Sodrel	Watson
Rush	Solis	Watt
Ryan (OH)	Souder	Weldon (PA)
Ryan (WI)	Spratt	Westmoreland
Ryun (KS)	Stark	Whitfield
Sabo	Stearns	Wicker
Salazar	Stupak	Wilson (NM)
Sánchez, Linda	Sullivan	Wilson (SC)
T.	Tancredo	Wolf
Sanchez, Loretta	Tanner	Woolsey
Sanders	Tauscher	Wu
Saxton	Taylor (MS)	Wynn
Schakowsky	Taylor (NC)	Young (AK)
Schiff	Thomas	

NAYS—5

Coble	Foxx	Paul
Flake	Jones (NC)	

NOT VOTING—71

Abercrombie	Frelinghuysen	Owens
Andrews	Gallely	Oxley
Beauprez	Garrett (NJ)	Pascarella
Bilirakis	Green (WI)	Pence
Blumenauer	Gutierrez	Peterson (PA)
Bonilla	Harris	Price (GA)
Boozman	Hayes	Price (NC)
Brown (OH)	Hulshof	Pryce (OH)
Brown, Corrine	Inglis (SC)	Rothman
Burgess	Istook	Schwartz (PA)
Calvert	Jindal	Schwarz (MI)
Cannon	Johnson, Sam	Sessions
Case	Kind	Shuster
Costello	Kingston	Strickland
Cramer	LaHood	Sweeney
Davis (FL)	Lantos	Terry
Davis (IL)	Lee	Towns
Deal (GA)	Lipinski	Waxman
Dingell	Matheson	Weiner
Doolittle	McKinney	Weldon (FL)
Evans	Miller, George	Weller
Fattah	Nadler	Wexler
Fitzpatrick (PA)	Northup	Young (FL)
Ford	Nussle	

□ 1855

Mr. COBLE changed his vote from "yea" to "nay."

Messrs. BAKER, JOHNSON of Illinois, GOODE, and RUSH changed their vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL CAPITAL TRANSPORTATION AMENDMENT'S ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3496, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by