

STATE AND LOCAL SALES TAX DEDUCTION FAIRNESS
 ACT OF 2015

APRIL 6, 2015.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means,
 submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 622]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. SUMMARY AND BACKGROUND	2
A. Purpose and Summary	2
B. Background and Need for Legislation	2
C. Legislative History	3
II. EXPLANATION OF THE BILL	3
A. Deduction for State and local sales taxes (sec. 2 of the bill and sec. 164 of the Code)	3
III. VOTES OF THE COMMITTEE	4
IV. BUDGET EFFECTS OF THE BILL	5
A. Committee Estimate of Budgetary Effects	5
B. Statement Regarding New Budget Authority and Tax Expendi- tures Budget Authority	7
C. Cost Estimate Prepared by the Congressional Budget Office	7
V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE	10
A. Committee Oversight Findings and Recommendations	10
B. Statement of General Performance Goals and Objectives	10

C. Information Relating to Unfunded Mandates	10
D. Applicability of House Rule XXI 5(b)	10
E. Tax Complexity Analysis	10
F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	11
G. Duplication of Federal Programs	11
H. Disclosure of Directed Rule Makings	11
VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED	11
A. Text of Existing Law Amended or Repealed by the Bill, as Reported	11
B. Changes in Existing Law Proposed by the Bill, as Reported	15
VII. DISSENTING VIEWS	20

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “State and Local Sales Tax Deduction Fairness Act of 2015”.

SEC. 2. PERMANENT EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES.

(a) **IN GENERAL.**—Section 164(b)(5) of the Internal Revenue Code of 1986 is amended by striking subparagraph (I).

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2014.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 622, reported by the Committee on Ways and Means, provides a permanent itemized deduction for State and local government sales taxes in lieu of the itemized deduction for State and local income taxes. A temporary deduction for sales taxes paid to State and local governments expired for tax years beginning after December 31, 2014.

B. BACKGROUND AND NEED FOR LEGISLATION

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide individuals and small businesses with certainty concerning tax provisions like the itemized deduction for State and local sales taxes. In the context of comprehensive tax reform that simplifies the tax code and lowers rates for all taxpayers, policymakers might consider repealing or reducing the deduction for all types of State and local taxes in return for lower rates. Outside of tax reform, however, allowing an itemized deduction for State and local income taxes, but not for State and local sales taxes, discriminates against residents of States that impose a sales tax rather than an income tax. The itemized deduction for sales taxes in lieu of the deduction for income taxes has been a temporary provision of the tax code since 2004, having now been extended for an entire ten-year budget window. Instead of repeatedly extending this provision on a temporary basis, the Committee believes the itemized deduction for State and local sales taxes should be made permanent to provide taxpayers much-needed certainty in the tax code while Congress works to enact comprehensive tax reform.

C. LEGISLATIVE HISTORY

Background

H.R. 622 was introduced on January 30, 2015, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 622, the “State and Local Sales Tax Deduction Fairness Act of 2015” on February 12, 2015, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for permanent rules regarding State and local sales taxes was discussed at two hearings during the 112th and 113th Congresses:

- Select Revenue Measures Subcommittee Hearing on Certain Expiring Tax Provisions (April 26, 2012); and
- Full Committee Hearing on the Benefits of Permanent Tax Policy for America’s Job Creators (April 8, 2014).

II. EXPLANATION OF THE BILL**A. DEDUCTION FOR STATE AND LOCAL SALES TAXES (SEC. 2 OF THE BILL AND SEC. 164 OF THE CODE)****PRESENT LAW**

For purposes of determining regular tax liability, an itemized deduction is permitted for certain State and local taxes paid, including individual income taxes, real property taxes, and personal property taxes. The itemized deduction is not permitted for purposes of determining a taxpayer’s alternative minimum taxable income. For taxable years beginning before 2015, at the election of the taxpayer, an itemized deduction may be taken for State and local general sales taxes in lieu of the itemized deduction provided under present law for State and local income taxes. As is the case for State and local income taxes, the itemized deduction for State and local general sales taxes is not permitted for purposes of determining a taxpayer’s alternative minimum taxable income. Taxpayers have two options with respect to the determination of the sales tax deduction amount. Taxpayers may deduct the total amount of general State and local sales taxes paid by accumulating receipts showing general sales taxes paid. Alternatively, taxpayers may use tables created by the Secretary of the Treasury (“Secretary”) that show the allowable deduction. The tables are based on average consumption by taxpayers on a State-by-State basis taking into account number of dependents, modified adjusted gross income and rates of State and local general sales taxation. Taxpayers who live in more than one jurisdiction during the tax year are required to pro-rate the table amounts based on the time they live in each jurisdiction. Taxpayers who use the tables created by the Secretary may, in addition to the table amounts, deduct eligible general sales taxes paid with respect to the purchase of motor vehicles, boats, and other items specified by the Secretary. Sales taxes for items

that may be added to the tables are not reflected in the tables themselves.

A general sales tax is a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.¹ No deduction is allowed for any general sales tax imposed with respect to an item at a rate other than the general rate of tax. However, in the case of food, clothing, medical supplies, and motor vehicles, the above rules are relaxed in two ways. First, if the tax does not apply with respect to some or all of such items, a tax that applies to other such items can still be considered a general sales tax. Second, the rate of tax applicable with respect to some or all of these items may be lower than the general rate. However, in the case of motor vehicles, if the rate of tax exceeds the general rate, such excess is disregarded and the general rate is treated as the rate of tax.

A compensating use tax with respect to an item is treated as a general sales tax, provided such tax is complementary to a general sales tax and a deduction for sales taxes is allowable with respect to items sold at retail in the taxing jurisdiction that are similar to such item.

REASONS FOR CHANGE

The Committee believes that parity should exist between taxpayers who live in States and localities that choose to fund their operations through the use of income taxes, and those who live in States and localities that choose to fund their operations through the use of a sales tax.

EXPLANATION OF PROVISION

The provision extends permanently the provision allowing taxpayers to elect to deduct State and local sales taxes in lieu of State and local income taxes.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2014.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 622, the “State and Local Sales Tax Deduction Fairness Act of 2015” on February 12, 2015.

The bill, H.R. 622, was ordered favorably reported to the House of Representatives as amended by a roll call vote of 22 yeas to 14 nays (with a quorum being present). The vote was as follows:

¹ Sec. 164(b)(5)(B).

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan	✓			Mr. Levin		✓	
Mr. Johnson	✓			Mr. Rangel		✓	
Mr. Brady	✓			Mr. McDermott		✓	
Mr. Nunes	✓			Mr. Lewis		✓	
Mr. Tiberi	✓			Mr. Neal		✓	
Mr. Reichert	✓			Mr. Becerra		✓	
Mr. Boustany	✓			Mr. Doggett		✓	
Mr. Roskam	✓			Mr. Thompson		✓	
Mr. Price				Mr. Larson		✓	
Mr. Buchanan	✓			Mr. Blumenauer		✓	
Mr. Smith (NE)	✓			Mr. Kind		✓	
Mr. Schock	✓			Mr. Pascrell		✓	
Ms. Jenkins	✓			Mr. Crowley		✓	
Mr. Paulsen	✓			Mr. Davis		✓	
Mr. Marchant	✓			Ms. Sanchez			
Ms. Black	✓						
Mr. Reed	✓						
Mr. Young	✓						
Mr. Kelly	✓						
Mr. Renacci	✓						
Mr. Meehan	✓						
Ms. Noem							
Mr. Holding	✓						
Mr. Smith (MO)	✓						

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 622, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2015–2025:

FISCAL YEARS
[Millions of dollars]

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-20	2015-25
	-148	-3,332	-3,462	-3,656	-3,872	-4,074	-4,298	-4,539	-4,772	-5,021	-5,267	-18,543	-42,440

NOTE: Details do not add to totals due to rounding.

Pursuant to clause 8 of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not "major legislation" for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX
EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 19, 2015.

Hon. PAUL RYAN,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 622, the State and Local Sales Tax Deduction Fairness Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf).

Enclosure.

H.R. 622—State and Local Sales Tax Deduction Fairness Act of 2015

H.R. 622 would amend the Internal Revenue Code to permanently extend the provision allowing taxpayers who itemize their tax deductions to elect to deduct state and local sales taxes in lieu of state and local income taxes. That provision expired at the end of tax year 2014.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 622 would reduce revenues, thus increasing federal deficits, by about \$42 billion over the 2015–2025 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct

spending and revenues. Enacting H.R. 622 would result in revenue losses in each year beginning in 2015. The estimated increases in the deficit are shown in the following table.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 622 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. APPLICABILITY OF HOUSE RULE XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have

“widespread applicability” to individuals or small businesses, within the meaning of the rule.

F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

SECTION 164 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 164. TAXES.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued:

- (1) State and local, and foreign, real property taxes.
- (2) State and local personal property taxes.
- (3) State and local, and foreign, income, war profits, and excess profits taxes.
- (4) The GST tax imposed on income distributions.

In addition, there shall be allowed as a deduction State and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income). Notwithstanding the preceding

sentence, any tax (not described in the first sentence of this subsection) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) PERSONAL PROPERTY TAXES.—The term “personal property tax” means an ad valorem tax which is imposed on an annual basis in respect of personal property.

(2) STATE OR LOCAL TAXES.—A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(3) FOREIGN TAXES.—A foreign tax includes only a tax imposed by the authority of a foreign country.

(4) SPECIAL RULES FOR GST TAX.—

(A) IN GENERAL.—The GST tax imposed on income distributions is—

(i) the tax imposed by section 2601, and

(ii) any State tax described in section 2604 (as in effect before its repeal),

but only to the extent such tax is imposed on a transfer which is included in the gross income of the distributee and to which section 666 does not apply.

(B) SPECIAL RULE FOR TAX PAID BEFORE DUE DATE.— Any tax referred to in subparagraph (A) imposed with respect to a transfer occurring during the taxable year of the distributee (or, in the case of a taxable termination, the trust) which is paid not later than the time prescribed by law (including extensions) for filing the return with respect to such transfer shall be treated as having been paid on the last day of the taxable year in which the transfer was made.

(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

(i) without regard to the reference to State and local income taxes, and

(ii) as if State and local general sales taxes were referred to in a paragraph thereof.

(B) DEFINITION OF GENERAL SALES TAX.—The term “general sales tax” means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the

general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term “compensating use tax” means, with respect to any item, a tax which—

(i) is imposed on the use, storage, or consumption of such item, and

(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer’s trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(H) AMOUNT OF DEDUCTION MAY BE DETERMINED UNDER TABLES.—

(i) IN GENERAL.—At the election of the taxpayer for the taxable year, the amount of the deduction allowed under this paragraph for such year shall be—

(I) the amount determined under this paragraph (without regard to this subparagraph) with respect to motor vehicles, boats, and other items specified by the Secretary, and

(II) the amount determined under tables prescribed by the Secretary with respect to items to which subclause (I) does not apply.

(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i)—

(I) shall reflect the provisions of this paragraph,

(II) shall be based on the average consumption by taxpayers on a State-by-State basis (as determined by the Secretary) of items to which clause (i)(I) does not apply, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation, and

(III) need only be determined with respect to adjusted gross incomes up to the applicable amount (as determined under section 68(b)).

- (I) APPLICATION OF PARAGRAPH.—This paragraph shall apply to taxable years beginning after December 31, 2003, and before January 1, 2015.
- (c) DEDUCTION DENIED IN CASE OF CERTAIN TAXES.—No deduction shall be allowed for the following taxes:
- (1) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not prevent the deduction of so much of such taxes as is properly allocable to maintenance or interest charges.
 - (2) Taxes on real property, to the extent that subsection (d) requires such taxes to be treated as imposed on another taxpayer.
- (d) APPORTIONMENT OF TAXES ON REAL PROPERTY BETWEEN SELLER AND PURCHASER.—
- (1) GENERAL RULE.—For purposes of subsection (a), if real property is sold during any real property tax year, then—
 - (A) so much of the real property tax as is properly allocable to that part of such year which ends on the day before the date of the sale shall be treated as a tax imposed on the seller, and
 - (B) so much of such tax as is properly allocable to that part of such year which begins on the date of the sale shall be treated as a tax imposed on the purchaser.
 - (2) SPECIAL RULES.—
 - (A) in the case of any sale of real property, if—
 - (i) a taxpayer may not, by reason of his method of accounting, deduct any amount for taxes unless paid, and
 - (ii) the other party to the sale is (under the law imposing the real property tax) liable for the real property tax for the real property tax year,
 then for purposes of subsection (a) the taxpayer shall be treated as having paid, on the date of the sale, so much of such tax as, under paragraph (1) of this subsection, is treated as imposed on the taxpayer. For purposes of the preceding sentence, if neither party is liable for the tax, then the party holding the property at the time the tax becomes a lien on the property shall be considered liable for the real property tax for the real property tax year.
 - (B) In the case of any sale of real property, if the taxpayer's taxable income for the taxable year during which the sale occurs is computed under an accrual method of accounting, and if no election under section 461(c) (relating to the accrual of real property taxes) applies, then, for purposes of subsection (a), that portion of such tax which—
 - (i) is treated, under paragraph (1) of this subsection, as imposed on the taxpayer, and
 - (ii) may not, by reason of the taxpayer's method of accounting, be deducted by the taxpayer for any taxable year,
 shall be treated as having accrued on the date of the sale.
- (e) TAXES OF SHAREHOLDER PAID BY CORPORATION.—Where a corporation pays a tax imposed on a shareholder on his interest as a

shareholder, and where the shareholder does not reimburse the corporation, then—

(1) the deduction allowed by subsection (a) shall be allowed to the corporation; and

(2) no deduction shall be allowed the shareholder for such tax.

(f) DEDUCTION FOR ONE-HALF OF SELF-EMPLOYMENT TAXES.—

(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 (other than the taxes imposed by section 1401(b)(2)) for such taxable year.

(2) DEDUCTION TREATED AS ATTRIBUTABLE TO TRADE OR BUSINESS.—For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee.

(g) CROSS REFERENCES.—

(1) For provisions disallowing any deduction for certain taxes, see section 275.

(2) For treatment of taxes imposed by Indian tribal governments (or their subdivisions), see section 7871.

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 164 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 164. TAXES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the following taxes shall be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes.

(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) The GST tax imposed on income distributions. In addition, there shall be allowed as a deduction State and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in section 212 (relating to expenses for production of income). Notwithstanding the preceding sentence, any tax (not described in the first sentence of this subsection) which is paid or accrued by the taxpayer in connection with an acquisition or disposition of property shall be treated as part of the cost of the acquired property or, in the case of a disposition, as a reduction in the amount realized on the disposition.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) **PERSONAL PROPERTY TAXES.**—The term “personal property tax” means an ad valorem tax which is imposed on an annual basis in respect of personal property.

(2) **STATE OR LOCAL TAXES.**—A State or local tax includes only a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(3) **FOREIGN TAXES.**—A foreign tax includes only a tax imposed by the authority of a foreign country.

(4) **SPECIAL RULES FOR GST TAX.**—

(A) **IN GENERAL.**—The GST tax imposed on income distributions is—

(i) the tax imposed by section 2601, and

(ii) any State tax described in section 2604 (as in effect before its repeal),

but only to the extent such tax is imposed on a transfer which is included in the gross income of the distributee and to which section 666 does not apply.

(B) **SPECIAL RULE FOR TAX PAID BEFORE DUE DATE.**— Any tax referred to in subparagraph (A) imposed with respect to a transfer occurring during the taxable year of the distributee (or, in the case of a taxable termination, the trust) which is paid not later than the time prescribed by law (including extensions) for filing the return with respect to such transfer shall be treated as having been paid on the last day of the taxable year in which the transfer was made.

(5) **GENERAL SALES TAXES.**—For purposes of subsection (a)—

(A) **ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.**—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

(i) without regard to the reference to State and local income taxes, and

(ii) as if State and local general sales taxes were referred to in a paragraph thereof.

(B) **DEFINITION OF GENERAL SALES TAX.**—The term “general sales tax” means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

(C) **SPECIAL RULES FOR FOOD, ETC.**—In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(D) **ITEMS TAXED AT DIFFERENT RATES.**—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax im-

posed with respect to an item at a rate other than the general rate of tax.

(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term “compensating use tax” means, with respect to any item, a tax which—

(i) is imposed on the use, storage, or consumption of such item, and

(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer’s trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(H) AMOUNT OF DEDUCTION MAY BE DETERMINED UNDER TABLES.—

(i) IN GENERAL.—At the election of the taxpayer for the taxable year, the amount of the deduction allowed under this paragraph for such year shall be—

(I) the amount determined under this paragraph (without regard to this subparagraph) with respect to motor vehicles, boats, and other items specified by the Secretary, and

(II) the amount determined under tables prescribed by the Secretary with respect to items to which subclause (I) does not apply.

(ii) REQUIREMENTS FOR TABLES.—The tables prescribed under clause (i)—

(I) shall reflect the provisions of this paragraph,

(II) shall be based on the average consumption by taxpayers on a State-by-State basis (as determined by the Secretary) of items to which clause (i)(I) does not apply, taking into account filing status, number of dependents, adjusted gross income, and rates of State and local general sales taxation, and

(III) need only be determined with respect to adjusted gross incomes up to the applicable amount (as determined under section 68(b)).

[(I) APPLICATION OF PARAGRAPH.—This paragraph shall apply to taxable years beginning after December 31, 2003, and before January 1, 2015.]

(c) DEDUCTION DENIED IN CASE OF CERTAIN TAXES.—No deduction shall be allowed for the following taxes:

(1) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph

shall not prevent the deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(2) Taxes on real property, to the extent that subsection (d) requires such taxes to be treated as imposed on another taxpayer.

(d) APPORTIONMENT OF TAXES ON REAL PROPERTY BETWEEN SELLER AND PURCHASER.—

(1) GENERAL RULE.—For purposes of subsection (a), if real property is sold during any real property tax year, then—

(A) so much of the real property tax as is properly allocable to that part of such year which ends on the day before the date of the sale shall be treated as a tax imposed on the seller, and

(B) so much of such tax as is properly allocable to that part of such year which begins on the date of the sale shall be treated as a tax imposed on the purchaser.

(2) SPECIAL RULES.—

(A) in the case of any sale of real property, if—

(i) a taxpayer may not, by reason of his method of accounting, deduct any amount for taxes unless paid, and

(ii) the other party to the sale is (under the law imposing the real property tax) liable for the real property tax for the real property tax year,

then for purposes of subsection (a) the taxpayer shall be treated as having paid, on the date of the sale, so much of such tax as, under paragraph (1) of this subsection, is treated as imposed on the taxpayer. For purposes of the preceding sentence, if neither party is liable for the tax, then the party holding the property at the time the tax becomes a lien on the property shall be considered liable for the real property tax for the real property tax year.

(B) In the case of any sale of real property, if the taxpayer's taxable income for the taxable year during which the sale occurs is computed under an accrual method of accounting, and if no election under section 461(c) (relating to the accrual of real property taxes) applies, then, for purposes of subsection (a), that portion of such tax which—

(i) is treated, under paragraph (1) of this subsection, as imposed on the taxpayer, and

(ii) may not, by reason of the taxpayer's method of accounting, be deducted by the taxpayer for any taxable year,

shall be treated as having accrued on the date of the sale.

(e) TAXES OF SHAREHOLDER PAID BY CORPORATION.—Where a corporation pays a tax imposed on a shareholder on his interest as a shareholder, and where the shareholder does not reimburse the corporation, then—

(1) the deduction allowed by subsection (a) shall be allowed to the corporation; and

(2) no deduction shall be allowed the shareholder for such tax.

(f) DEDUCTION FOR ONE-HALF OF SELF-EMPLOYMENT TAXES.—

(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as

a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 (other than the taxes imposed by section 1401(b)(2)) for such taxable year.

(2) DEDUCTION TREATED AS ATTRIBUTABLE TO TRADE OR BUSINESS.—For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee.

(g) CROSS REFERENCES.—

(1) For provisions disallowing any deduction for certain taxes, see section 275.

(2) For treatment of taxes imposed by Indian tribal governments (or their subdivisions), see section 7871.

VII. DISSENTING VIEWS

The two permanent tax extender bills approved by the Republicans at the markup would add more than \$224 billion to the deficit. Together with the seven bills that were approved by the Republicans in the previous markup, these nine bills would add more than \$317 billion to the deficit. In the 113th Congress, Ways and Means Committee Republicans selectively approved 14 of the more than 50 expired tax provisions, totaling more than \$825 billion worth of deficit-financed, permanent tax cuts. This selective approach failed last Congress, with none of these permanent provisions being enacted into law. The bills marked up by the Committee set us down a partisan path, when we should be embracing bipartisanship and working in a responsible, bipartisan manner on tax reform.

Even though these bills were introduced individually with some bipartisan support, the opposition to these bills is based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset. We recognize that a deduction for state and local sales taxes in lieu of state and local income taxes is particularly valuable to taxpayers in states that currently do not have income taxes. But the approach that the Committee Republicans are taking with respect to this and other important legislation undermines the bipartisan support that the provisions enjoy. Indeed, this provision was not included in the Republican tax reform plan introduced by the Ways and Means Committee Chairman last Congress, and the plan specifically repealed the deduction for state and local income taxes. The American people expect a tax code that maintains and supports our shared priorities, and each time the Committee considers these bills in a piecemeal approach, it is taking a step in the wrong direction and away from comprehensive tax reform.

We all support the policy of providing parity for taxpayers in states that do not have income taxes. The markup was not to debate the merits of H.R. 622, which would make permanent the provision that allows for a deduction for state and local sales taxes in lieu of state and local income taxes.

Finally, we also oppose the manner in which Republicans are proceeding—selecting to make permanent another two provisions in addition to the previously passed seven provisions at a cost of more than \$317 billion without any offset from the more than 50 tax provisions that expired at the end of last year. This approach is both fiscally irresponsible and contrary to the goals of bipartisan, comprehensive tax reform.

Expired provisions must be dealt with in a comprehensive manner. The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit,

the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

SANDER LEVIN.

