106TH CONGRESS
1ST SESSION

H. R. 816

To require a parent who is delinquent in child support to include his unpaid obligation in gross income, and to allow custodial parents a bad debt deduction for unpaid child support payments.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1999

Mr. COX introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To require a parent who is delinquent in child support to include his unpaid obligation in gross income, and to allow custodial parents a bad debt deduction for unpaid child support payments.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Child Support Enforce-

5 ment Act".

6 **SEC. 2. NO EFFECT ON RIGHTS AND LIABILITIES.**

7 Nothing in this Act shall be construed to affect—

1   (1) the right of an individual or State to receive

2 any child support payment; or

3   (2) the obligation of an individual to pay child

4 support.

5 **SEC. 3. INCLUSION IN INCOME OF AMOUNT OF UNPAID**

6   **CHILD SUPPORT PAYMENTS.**

7 (a) IN GENERAL.—Section 108 of the Internal Reve-

8 nue Code of 1986 (relating to discharge of indebtedness

9 income) is amended by adding at the end the following

10 new subsection:

11 "(h) UNPAID CHILD SUPPORT PAYMENTS.—

12   "(1) IN GENERAL.—For purposes of this chap-

13 ter, any taxable unpaid child support payments of a

14 taxpayer for any taxable year shall be treated as

15 amounts includible in gross income of the taxpayer

16 for the taxable year by reason of the discharge of in-

17 debtedness of the taxpayer.

18   "(2) TAXABLE UNPAID CHILD SUPPORT PAY-

19 MENTS.—For purposes of this subsection, the term

20 'taxable unpaid child support payments' means

21 payments—

22   "(A) which were applicable child support

23   payments which the taxpayer was required to

24   pay under a support instrument for the support

25   of a child of the taxpayer, and

1   "(B) with respect to which the notice re-

2   quirements of paragraph (3) are met.

3   "(3) NOTICE REQUIREMENTS.—

4   "(A) IN GENERAL.—During January of

5   the second calendar year following a calendar

6   year in which there begins a taxable year for

7   which a deduction allowed under section 166(f)

8   was claimed, the eligible taxpayer shall send a

9   notice (in such form as the Secretary may pre-

10   scribe) to the individual who failed to make

11   payments which contains—

12   "(i) the amount of the applicable child

13   support payments for such taxable year,

14   and

15   "(ii) notice that the individual is re-

16   quired to include such amount in gross in-

17   come for the taxable year beginning in the

18   preceding calendar year.

19   "(B) NOTICE BY SECRETARY.—If notice

20   cannot be provided under subparagraph (A) be-

21   cause the address is not known to the eligible

22   taxpayer, the Secretary shall send such notice if

23   the address is available to the Secretary.

24   "(C) ADDRESS UNKNOWN.—If notice can-

25   not be provided under subparagraph (A) or (B)

1 because there is no known address, no income

2 shall be included in gross income for any tax-

3 able year beginning before the calendar year

4 preceding the calendar year in which such no-

5 tice may be sent.

6 "(4) SUBSEQUENT PAYMENTS.—If any payment

7 required to be included in gross income under para-

8 graph (1) is subsequently made, the amount of such

9 payment shall be allowed as a deduction for the tax-

10 able year in which such payment is made.

11 "(5) DEFINITIONS.—For purposes of this sub-

12 section, the terms 'applicable child support pay-

13 ments' and 'eligible taxpayer' have the meanings

14 given such terms by section 166(f)."

15 (b) EFFECTIVE DATE.—The amendments made by

16 this section shall apply to taxable years beginning after

17 December 31, 1999.

18 **SEC. 4. ALLOWANCE OF BAD DEBT DEDUCTION FOR UN-**

19 **PAID CHILD SUPPORT PAYMENTS.**

20 (a) IN GENERAL.—Section 166 of the Internal Reve-

21 nue Code of 1986 (relating to deduction for bad debts)

22 is amended by redesignating subsection (f) as subsection

23 (g) and by inserting after subsection (e) the following new

24 subsection:

25 "(f) UNPAID CHILD SUPPORT PAYMENTS.—

1 "(1) IN GENERAL.—In the case of any eligible

2 taxpayer who has any applicable child support pay-

3 ments remaining unpaid as of the close of the tax-

4 able year—

5 "(A) subsections (a) and (d) shall not

6 apply to such payments, and

7 "(B) there shall be allowed as a deduction

8 for such taxable year an amount equal to the

9 amount of such payments.

10 "(2) PER CHILD LIMITATION ON DEDUCTION.—

11 The aggregate amount allowable as a deduction for

12 any taxable year under paragraph (1) with respect

13 to any child for whom applicable child support pay-

14 ments are required to be paid shall not exceed

15 $10,000.

16 "(3) ELIGIBLE TAXPAYER.—For purposes of

17 this subsection, the term 'eligible taxpayer' means

18 an individual—

19 "(A) whose adjusted gross income for the

20 taxable year does not exceed $50,000,

21 "(B) with respect to whom the amount of

22 applicable child support payments remaining

23 unpaid as of the close of the taxable year is

24 equal to or greater than $500, and

1 ''(C) who meets the identification require-

2 ments of paragraph (5).

3 ''(4) APPLICABLE CHILD SUPPORT PAYMENT.—

4   ''(A) IN GENERAL.—The term 'applicable

5 child support payment' means, with respect to

6 any taxable year of the eligible taxpayer—

7   ''(i) any periodic payment of a fixed

8 amount, or

9   ''(ii) any payment of a medical or

10 educational expense, insurance premium,

11 or other similar item,

12 which is required to be paid to such taxpayer

13 during such taxable year by an individual under

14 a support instrument meeting the requirements

15 of paragraph (8) for the support of any qualify-

16 ing child of such individual.

17   ''(B) QUALIFYING CHILD.—For purposes

18 of this paragraph, the term 'qualifying child'

19 means a child of an eligible individual with re-

20 spect to whom a deduction is allowable under

21 section 151 for the taxable year (or would be so

22 allowable but for paragraph (2) or (4) of sec-

23 tion 152(e)).

24   ''(C) PAYMENTS MUST BE DELINQUENT

25 FOR AT LEAST ENTIRE YEAR.—Any payment

1 described in subparagraph (A) which is required
2 to be made by an individual to an eligible tax-
3 payer shall not be treated as an applicable un-
4 paid child support payment if at least half of
5 the payments which are required to be paid to
6 the eligible taxpayer during the 12-month pe-
7 riod ending on the last day of the taxable year
8 are paid. In the case of the 1st taxable year to
9 which this subsection applies to payments from
10 any individual, the preceding sentence shall be
11 applied by substituting '24-month' for '12-
12 month'.

13 "(D) COORDINATION WITH TANF.—The
14 term 'applicable child support payment' shall
15 not include any amount the right to which is
16 described in section 408(a)(3) of the Social Se-
17 curity Act and which has been assigned to a
18 State.

19 "(5) IDENTIFICATION REQUIREMENTS.—The
20 requirements of this paragraph are met if the eligi-
21 ble taxpayer includes on the return claiming the de-
22 duction under this subsection the name, address,
23 and taxpayer identification number of—

1   "(A) each child with respect to whom child

2   support payments to which this subsection ap-

3   plies are required to be paid, and

4   "(B) the individual who was required to

5   make such child support payments.

6   In the case of a failure to provide the information

7   under subparagraph (B), the preceding sentence

8   shall not apply if the eligible taxpayer certifies that

9   any such information is not known.

10   "(6) COST-OF-LIVING ADJUSTMENTS.—In the

11   case of any taxable year beginning after 2000, the

12    $10,000 amount in paragraph (2), the $50,000

13   amount in paragraph (3)(A), and the $500 amount

14   in paragraph (3)(B) shall each be increased by an

15   amount equal to—

16   "(A) such dollar amount, multiplied by

17   "(B) the cost-of-living adjustment deter-

18   mined under section 1(f)(3) for the calendar

19   year in which the taxable year begins by sub-

20   stituting 'calendar year 1999' for 'calendar year

21   1992' in subparagraph (B) thereof.

22   "(7) SUBSEQUENT PAYMENTS.—If any payment

23   with respect to which a deduction was allowed under

24   paragraph (1) is subsequently made, such payment

25   shall be included in gross income of the eligible tax-

1 payer for the taxable year in which paid. This para-

2 graph shall not apply to any amount if an individual

3 has assigned the right to receive such amount to a

4 State (and the State does not pay such amount to

5 such individual).

6 ''(8) SUPPORT INSTRUMENT.—For purposes of

7 this subsection, a support instrument meets the re-

8 quirements of this paragraph if it is—

9 ''(A) a decree of divorce or separate main-

10 tenance or a written instrument incident to

11 such a decree,

12 ''(B) a written separation agreement, or

13 ''(C) a decree (not described in subpara-

14 graph (A)) of a court or administrative agency

15 requiring a parent to make payments for the

16 support or maintenance of 1 or more children

17 of such parent.''

18 (b) DEDUCTION FOR NONITEMIZERS.—Section 62(a)

19 of such Code is amended by inserting after paragraph (17)

20 the following new paragraph:

21 ''(18) UNPAID CHILD SUPPORT PAYMENTS.—

22 The deduction allowed by section 166(f).''

23 (c) CONFORMING AMENDMENT.—Section 166(d)(2)

24 of such Code is amended by striking ''or'' at the end of

25 subparagraph (A), by striking the period at the end of

1 subparagraph (B) and inserting ", or" and by adding at
2 the end thereof the following new subparagraph:

3   "(C) a debt which is an applicable child
4   support payment under subsection (f)."

5   (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 1999.

8 SEC. 5. REDUCTION OF FEDERAL DEBT.

9   Net revenues received in the Treasury pursuant to
10 this Act shall be applied, as provided in appropriation
11 Acts, solely to the retirement of outstanding public debt
12 obligations of the United States and may not be obligated
13 or expended for any other purpose, notwithstanding any
14 other provision of law that does not specifically refer to
15 this section.

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