

to her community. Through the years, she has touched the lives of many with her involvement with groups such as the American Red Cross, Civil Defense, March of Dimes, United Way, Los Angeles County Parks and Recreation, Girl Scouts, Women of the Moose, and Parent Teacher Association.

In 1945, Ms. Rivera joined the Parent Teacher Association [PTA] and begun her dedicated service as a volunteer. In the classroom of the Bassett Unified School District, in La Puente, CA, she touched the lives of many students. In 1962, Ms. Rivera was presented with the honorary service award for her work in establishing a dental health program for the children of the La Puente area.

Ms. Rivera's leadership in the community has been demonstrated over the years in her service as president of the Erwin PTA, Bassett High School Parent Teacher Association, and her service as council president three times. In light of this leadership, Ms. Rivera was instrumental in implementing bilingual and multicultural programs for all students.

Through the Women of the Moose, Ms. Rivera has worked to ensure that all students have the opportunity to finance their college education. Under Ms. Rivera's leadership the "C" scholarship was established to provide for this need. Concerned for the safety of our children, in 1980 Ms. Rivera organized Operation Stay in School for Bassett Unified School District. This program addressed the safety concerns of our schools, by enforcing a closed campus. Parents were utilized in supervision of lunch periods and the campus gates. Organizing the efforts of parents, school board members, the superintendent, the sheriffs department and the city council of La Puente proved highly effective in deterring trancies, vandalism, and violence.

Ms. Rivera has done many great things for her community. She has organized a fingerprinting program for the kindergarten students, operates a "Clothes Closet," which benefits needy children and the homeless and collects food and donations to distribute to families in need. Ms. Rivera's compassion also has been extended to the senior citizens in her community. Every Thursday, for many years, Ms. Rivera has delivered food with care to bedridden seniors.

For 27 years, Ms. Rivera also has provided volunteer work with the Girl Scouts of America. She has volunteered as a Girl Scout leader of two troops and has been the first and second vice-president of the El Monte/La Puente Council of Girl Scouts.

Mr. Speaker, I ask my colleagues to join me in saluting this truly inspirational American and a fine citizen, whose community service provides an example to all.

#### SUPPORT INCLUSION OF REPUBLIC OF CHINA IN THE UNITED NATIONS

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. KING. Mr. Speaker, October 10 marked the 84th anniversary of the founding of the Republic of China. Normally, this day is marked here in Washington by a number of social events. However this year, there is a

more important reason for us to recognize the events in China in 1911. As all the world can see, it is only under a democratic system that Taiwan has been able to flourish economically and socially. In fact, over the last decade the Republic of China has become one of the world's leading economic powers.

To help recognize the achievements of America's friends on Taiwan, I urge my colleagues here in the Congress to support the Republic of China's bid to gain membership in the United Nations. Although a member of several international organizations, the Republic of China has been refused a seat in the United Nations. Very simply, the exclusion of the Republic of China is an outrageous denial of a voice on important international issues to the people of a thriving democracy. I know that Representative Benjamin Lu has worked tirelessly for the last year on this matter.

Mr. Speaker, I can think of no better way for this institution to show support for the democratic ideals found in the Republic of China than to support its inclusion in the United Nations.

#### H.R. 2494, THRIFT CHARTER CONVERSION TAX ACT OF 1995

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 18, 1995

Mr. ARCHER. Mr. Speaker, today, I am introducing the Thrift Charter Conversion Tax Act of 1995, with JAMES A. LEACH, the chairman of the Banking and Financial Services Committee, and MARGE ROUKEMA, the chairwoman of the Financial Institutions and Consumer Credit Subcommittee, as original cosponsors. The three of us have worked together to identify and address potential tax consequences raised by the Banking Committee's proposal to require thrifts to convert their charters into bank charters. This bill is a product of our efforts.

Requiring thrifts to convert to banks raises several banking, tax, housing, and accounting policy issues. It is not easy to reconcile these sometimes competing policies. Nonetheless, it is clear that the thrift charter conversion proposal must contain transitional tax relief cushioning the blow to thrifts required to convert to banks. This bill is intended to modify the tax laws to permit the conversion of thrifts to banks, consistent with the policies behind the thrift charter conversion proposal, and in a manner that is fair to the thrifts and consistent with our deficit reduction goals.

The following is a technical explanation of the provisions of the bill.

#### TECHNICAL EXPLANATION OF THE THRIFT CHARTER CONVERSION TAX ACT OF 1995

1. Repeal "percentage of taxable income" method for the calculation of bad debt deductions by thrift institutions.

#### PRESENT LAW AND BACKGROUND

*Tax treatment of bad debt deductions of savings institutions—reserve methods of accounting for bad debts of thrift institutions*

A taxpayer engaged in a trade or business may deduct the amount of any debt that becomes wholly or partially worthless during the year (the "specific charge-off" method). Certain thrift institutions (building and loan associations, mutual savings banks, or cooperative banks) are allowed deductions for

bad debts under rules more favorable than those granted to other taxpayers (and more favorable than the rules applicable to other financial institutions). Qualified thrift institutions are eligible to compute deductions for bad debts using either the specific charge-off method or the reserve method of section 593. To qualify for this reserve method, a thrift institution must meet an asset test, requiring that 60 percent of its assets consist of "qualifying assets" (generally cash, government obligations, and loans secured by residential real property). This percentage must be computed at the close of the taxable year, or at the option of the taxpayer, as the annual average of monthly, quarterly, or semiannual computations of similar percentages.

If a thrift institution uses the reserve method of accounting for bad debts, it must establish and maintain a reserve for bad debts, charge actual losses against the reserve, and is allowed a deduction for annual additions to restore the reserve to its proper balance. Under section 593, a thrift institution may elect, each year, to calculate its annual addition to its bad debt reserve under either (1) the "percentage of taxable income" method applicable only to thrift institutions, or (2) the "experience" method also used by small banks.

Under the percentage of taxable income method, a thrift institution generally may claim as a deduction an addition to its bad debt reserve for an amount equal to 8 percent of its taxable income (determined without regard to this deduction and with additional adjustments). Under the experience method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to the greater of: (1) an amount based on its actual average experience for losses in the current and five preceding taxable years, or (2) an amount necessary to restore the reserve to its balance as of the close of the base year. For taxable years beginning before 1988, the "base year" was the last taxable year before the most recent adoption of the experience method (i.e., generally, the last year the taxpayer was on the percentage of taxable income method). Pursuant to a provision contained in the Tax Reform Act of 1986, for taxable years beginning after 1987, the base year is the last taxable year beginning before 1988. The base year amount is reduced to the extent that the taxpayer's loan portfolio decreases. Computing bad debts under a "base year" concept allows a thrift institution to claim a deduction for bad debts for an amount at least equal to the institution's actual losses that were incurred during the taxable year.

#### Bad debt methods of commercial banks

A small commercial bank (i.e., one with an adjusted basis of assets of \$500 million or less) only may use the experience method or the specific charge-off method for purposes of computing its deduction for bad debts. A large commercial bank must use the specific charge-off method. If a small bank becomes a large bank, it must recapture its existing bad debt reserve (i.e., include the amount of the reserve in income) through one of two methods. Under the 4-year recapture method, the bank generally includes 10 percent of the reserve in income in the first taxable year, 20 percent in the second year, 30 percent in the third year, and 40 percent in the fourth year. Alternatively, a bank may elect the cut-off method. Under the cut-off method, the bank neither restores its bad debt reserve to income nor may it deduct actual losses relating to loans held by the bank as of the date of the required change in the method of accounting. Rather, the amount of such losses are charged against and reduce the existing bad debt reserve; any losses in excess of the reserve are deductible.

*Recapture of bad debt reserves by thrift institutions*

If a thrift institution become, a commercial bank, or if the institution fails to satisfy the 60-percent qualified asset test, the institution is required to change its method of accounting for bad debts and, under proposed Treasury regulations, is required to recapture its bad debt reserve.<sup>1</sup> The percentage of taxable income portion of the reserve generally is included in income ratably over a 6-taxable year period. The experience method portion of the reserve is not restored to income if the former thrift institution qualified as a small bank. If the former thrift institution is treated as a large bank, the experience method portion of the reserve is restored to income either ratably over a 6-taxable year period, or under the 4-year recapture method described above.

In addition, a thrift institution may be subject to a form of reserve recapture even if the institution continues to qualify for the percentage of taxable income method. Specifically, if a thrift institution distributes to its shareholders an amount in excess of its post-1951 earnings and profits, such excess will be deemed to be distributed from the institution's bad debt reserve and must be restored to income (sec. 593(e)).

*Financial accounting treatment of tax reserves of bad debts of thrift institutions*

In general, for financial accounting purposes, a corporation must record a deferred tax liability with respect to items that are deductible for tax purposes in a period earlier than they are expensed for book purposes. The deferred tax liability signifies that, although a corporation may be reducing its current tax expense because of the accelerated tax deduction, the corporation will become liable for tax in a future period when the related item is expensed for book purposes (i.e., when the timing item "reverses"). Under the applicable accounting standard (Accounting Principles Board Opinion 23), deferred tax liabilities generally were not required for pre-1988 tax deductions attributable to the bad debt reserve method of thrift institutions because the potential reversal of the bad debt reserve was indefinite (i.e., generally, a reversal would only occur by operation of sec. 593(e), a condition within the control of a thrift institution). However, the establishment of 1987 as a base year by the Tax Reform Act of 1986 increased the likelihood of bad debt reserve reversals with respect to post-1987 additions to the reserve and it is understood that thrift institutions generally have recorded deferred tax liabilities for these additions.

*Treatment of thrift institutions under H.R. 2491*

H.R. 2491 (the "Thrift Charter Conversion Act of 1995") will require thrift institutions to forego their Federal thrift charters and become either State-chartered thrift institutions or Federally-chartered banks. If a thrift institution becomes a bank, the institution will be subject to recapture of all or a portion of its bad debt reserve under proposed Treasury regulations. It is understood that such recapture will require the institution to immediately record, for financial accounting purposes, a current or deferred tax liability for the amount of recapture taxes for which liabilities previously had not been recorded (generally, with respect to the pre-1988 reserves) regardless of when such recap-

ture taxes are actually paid to the Treasury. It is further understood that the recording of this liability generally will decrease the regulatory capital of the new bank.

DESCRIPTION OF PROPOSAL

The proposal would repeal the section 593 reserve method of accounting for bad debts by thrift institutions, effective for taxable years beginning after 1995. Under the proposal, thrift institutions that qualify as small banks would be allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks would be required to use the specific charge-off method. Thus, the percentage of taxable income method of accounting for bad debts would no longer be available for any institution.

A thrift institution required to change its method of computing reserves for bad debts would treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury. Any section 481(a) adjustment required to be taken into account with respect to such change generally would be taken into account ratably over a 6-taxable year period, beginning with the first taxable year beginning after 1995. For purposes of determining the section 481(a) adjustment of a taxpayer, the balance of the reserve for bad debts with respect to the taxpayer's base year (generally, the balance of the reserve as of the close of the last taxable year beginning before January 1, 1988, adjusted for decreases in the taxpayer's loan portfolio) would not be taken into account. However, the balance of these pre-1988 reserves would continue to be subject to the provisions of present-law section 593(e) (requiring recapture in the case of certain excess distributions to shareholders).

Thus, under the proposal, subject to the special rule described below, a thrift institution that would be treated as a large bank generally would be required to recapture its post-1987 additions to its bad debt reserve, whether such additions are made pursuant to the percentage of taxable income method or the experience method. In addition, subject to the special rule described below, a thrift institution that would qualify as a small bank generally only would be required to recapture its post-1987 additions to its bad debt reserve that were attributable to the use of the percentage of taxable income method during such period. If such small bank would later become a large bank, any amount required to be recaptured under present law would be reduced by the amount of the pre-1988 reserve.

Under a special rule, if the taxpayer meets a "residential loan requirement" for any taxable year, the amount of the section 481(a) adjustment otherwise required to be restored to income would be suspended. A taxpayer would meet the residential loan requirement if for any taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than the average of the principal amount of such loans during the six most recent testing years. A "testing year" means (1) each taxable year ending on or after December 31, 1990, and before January 1, 1996, and (2) each taxable year ending after December 31, 1995, for which the taxpayer met the residential loan would be a loan described in section 7701(a)(19)(C)(v) (generally, loans secured by residential real and church property and mobile homes). The determination of whether a member of controlled group of corporations meet the residential loan requirement would be made on a controlled group basis. A special rule would provide that a taxpayer that calculates its estimated tax installments on an annualized basis would determine wheth-

er it meets the residential loan requirement with respect to each such installment. Treasury regulations are expected to provide rules for the application of the residential loan requirement rules in the case of mergers, acquisitions, and other reorganizations of thrift and other institutions.

EFFECTIVE DATE

The proposal would be effective for taxable years beginning after December 31, 1995.

2. Treatment of payments made to the SAIF fund pursuant to H.R. 2491.

PRESENT LAW AND BACKGROUND

In general, a taxpayer is allowed to deduct ordinary and necessary expenses paid or incurred in carrying on a trade business during the taxable year (sec. 162). However, amounts that give rise to a permanent improvement or betterment must be capitalized rather than deducted currently (sec. 263). Whether an expenditure is deductible under section 162 or must be capitalized under section 263 is often a matter of dispute between the IRS and taxpayers and has been the subject of significant litigation. Most recently, in *INDOPCO v. Commissioner*, 503 U.S. 79 (1992), the U.S. Supreme Court held that expenditures that give rise to a future benefit must be capitalized. The *INDOPCO* decision overruled a prior U.S. Supreme Court decision that has been interpreted to hold that an expenditure must give rise to an identifiable asset before it is capitalized (*Lincoln Savings v. Comm.*, 403 U.S. 345 (1971), relating to additional premiums paid by a thrift institution to the Federal Savings and Loan Insurance Corporation). The scope of the *INDOPCO* decision is uncertain.

H.R. 2491 would require thrift institutions to pay a special assessment to the Saving Association Insurance Fund ("SAIF"). The due date of the payment would be the first business day of January 1996. The SAIF generally is the insurance fund for deposits in thrift institutions. Effective January 1, 1998, the SAIF would be merged with the Bank Insurance Fund ("BIF") (the insurance fund for deposits in banks). Thrift institutions and banks also are required to pay annual premiums to the SAIF and BIF, respectively, based on the amount of their insured deposits. Currently, the premium rate for the SAIF deposits is substantially higher than the premium rate for BIF deposits. After the merger of the SAIF and BIF in 1998, under H.R. 2491, thrift institutions and banks would be subject to the same lower deposit insurance rates generally applicable to banks.

DESCRIPTION OF PROPOSAL

The proposal would provide that the special assessment paid to the SAIF as required by H.R. 2491 would be deductible when paid.

EFFECTIVE DATE

The proposal would be effective upon enactment.

**FORSAKING A VALUED BULWARK TO EXTREMISM**

**HON. JIM BUNN**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 18, 1995*

Mr. BUNN. Mr. Speaker, the Government of Turkey has, for several decades, been one of America's closest allies. They have stood by us throughout the cold war, during Operation Desert Storm, and the crisis in the Balkans. Unfortunately, some in Congress have failed to recognize Turkey's friendship and strategic importance in recent weeks.

<sup>1</sup>The requirement of the proposed regulations that a thrift institution recapture its bad debt reserves upon a change in the method of its accounting for bad debts is based on *Nash v. U.S.*, 398 U.S. 1 (1970), where the U.S. Supreme Court held that a taxpayer essentially was required to recapture its bad debt reserve when the related accounts receivable were transferred by the taxpayer.