

PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SEC. 1. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) **QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.**—

(1) *IN GENERAL.*—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections:

“(g) **QUALIFIED DISASTER MITIGATION PAYMENTS.**—

“(1) *IN GENERAL.*—Gross income shall not include any amount received as a qualified disaster mitigation payment.

“(2) **QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.**—For purposes of this section, the term ‘qualified disaster mitigation payment’ means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

“(3) **NO INCREASE IN BASIS.**—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

“(h) **DENIAL OF DOUBLE BENEFIT.**—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Subsection (d) of section 139 of such Code is amended by striking “a qualified disaster relief payment” and inserting “qualified disaster relief payments and qualified disaster mitigation payments”.

(B) Subsection (e) of section 139 of such Code is amended by striking “and (f)” and inserting “, (f), and (g)”.

(b) **CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.**—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) **SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.**—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.”.

(c) **EFFECTIVE DATE.**—

(1) **QUALIFIED DISASTER MITIGATION PAYMENTS.**—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

(2) **DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.**—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. CARDIN. Mr. Speaker, reserving the right to object, I do so not for the purposes of objecting but to give the gentleman from Florida (Mr. FOLEY) an opportunity to explain the legislation that is extremely important to people who have suffered disaster as a result of hurricanes in our country.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I appreciate the gentleman for yielding and certainly for his help in supporting this important measure.

Mr. Speaker, I am pleased to call up H.R. 1134, as amended by the other body, and with the bill's many supporters urge its adoption.

I remind my colleagues that the House passed this bill by voice vote 1 month ago. It was a bipartisan effort. We worked with the administration to develop a bill that makes disaster mitigation grants tax free. The bill also extended tax-free treatment to outstanding grants, as the administration's budget clearly provided for.

The amendment gilds the lily by making the relief in outstanding grants more explicit. During the past month, there has been some discussion in the other body of raising taxes and of adding unrelated tax breaks. I am pleased and thrilled that neither of those ideas was added to the bill and that this amendment is acceptable.

As I said when the bill was considered on this floor on March 14, H.R. 1134 will make disaster mitigation grants attractive to those we want to help avoid loss of life and property. These grants have saved Americans \$2.9 billion in property losses during the past 15 years. Passing this bill today will clarify a difficult tax issue just in time, and I must underline just in time, for our April 15 filing and help those Americans who are even now struggling with their tax returns. And I hope all here will join me in passing the bill.

Of course, I thank the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), and the ranking member, the gentleman from New York (Mr. RANGEL),

for their quick consideration of this important bill and, of course, the gentleman from Maryland (Mr. CARDIN), a member of the committee, for his excellent work on this as well.

Mr. COLE of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. COLE of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. It is very gracious of him.

Mr. Speaker, I come from a part of the country, Oklahoma, where disasters are not uncommon. Sometimes they are the awful man-made disasters of the Oklahoma City Bombing, something we will talk about next week, but more frequently they are the disasters associated with tornados.

In my home community in 1999 we had an F-5 tornado that destroyed in my community and the adjacent community 6,000 homes and killed 40 people. Four years later, another tornado, traveling almost in the identical path, destroyed another 500 homes and injured many people.

Each time we got superb help from the Federal Government and from FEMA, both in the immediate disaster and in the aftermath, to mitigate the consequences of future events of this type; and we were very, very grateful for that help as Americans.

It came then as an enormous surprise to the constituents that I represent years later that this help turned into potentially a taxable event. That is, there was talk at the Internal Revenue Service of going back, taking the grant and actually levying a tax on them years after they have been given.

I want to commend the gentleman from Florida (Mr. FOLEY), who has had similar circumstances dealing with hurricanes in his home State, for working with our delegation in Oklahoma on a bipartisan basis, the gentleman from Oklahoma (Mr. ISTOOK), the gentleman from Oklahoma (Mr. LUCAS), the gentleman from Oklahoma (Mr. SULLIVAN), the gentleman from Oklahoma (Mr. BOREN) and myself and for working across the aisle with our good friends who have this problem in common.

On this floor we sometimes do have partisan disagreements, but when the good of the country is at stake, it is amazing how often we do come together. And certainly we come together regardless of party to help people that have been hurt through no fault of their own in the course of disaster and to help them prepare so that those disasters never threaten their well-being again.

So I want to thank again my friend, the gentleman from Florida (Mr. FOLEY), for his outstanding work. I commend our colleagues in the Senate for working with him in getting this bill done just in time. Literally, I had a couple of town meetings last week when we were on break where I had constituents come and ask who had

benefited from these mitigation grants, would the taxation problem be taken care of? And at that time I could not actually assure that it would be.

A number of them filed extensions rather than turn their taxes in. They were not sure what their liability was going to be. If it were not for the action of the gentleman from Florida (Mr. FOLEY), if it were not for the action of the people on both sides of the aisle, if it were not for the action of the other body, they would potentially be facing a tax bill that they never anticipated.

Again, I want to thank the gentleman from Florida (Mr. FOLEY) for his extraordinary work in this regard. I want to tell him if he wants to run for office next time, come to Oklahoma. We remember our friends. And we appreciate very much his remarkable efforts.

I thank so much my good friend, the gentleman from Maryland (Mr. CARDIN).

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I certainly appreciate that invitation, but I am quite proud of serving Florida.

I think it is important to thank the gentleman from Louisiana (Mr. JINDAL) has been a prime sponsor, as have been Democrats and Republicans. That is one of the joys of the process when we actually get something done with bipartisan support.

I want to thank the staff on the Committee on Ways and Means but specifically Elizabeth Nicholson from my staff, my deputy chief of staff who has labored very long, hard hours on trying to get this to fruition. We are here on the floor and I am very excited and pleased that we will be able to provide this relief for our taxpayers. And, of course, the gentleman from Oklahoma (Mr. COLE) clearly stated without their help and the entire delegation that this effort would have been for naught.

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So we appreciate all involvement and all support.

Mr. CARDIN. Mr. Speaker, further reserving the right to object, I want to just conclude by acknowledging the work of the gentleman from Florida (Mr. FOLEY). He really does deserve the credit for being persistent to get this legislation passed prior to April 15.

I also want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), our ranking member, for arranging this process.

It has been a pleasure to work with the gentleman. As the gentleman knows the problems we have had in Maryland with Hurricane Isabel and the hardship that that caused, I got to see firsthand the damage and devastation to families in my own State. This bill will help. It has been my pleasure

to join my colleague from Florida in sponsoring and supporting this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FORTENBERRY). Is there objection to the original request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. 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. 1134, the bill just passed.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRESS AND THE JUDICIARY: RESTORING COMITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, 174 years ago, Supreme Court Justice John Marshall warned: "The greatest scourge in angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary."

Despite Marshall's warning, quite remarkably, nearly 200 years later the very independence of the judiciary, a matter so fundamental to our separation of powers, is still a matter of contention for some, particularly in this Congress.

For 2 years in a row now, Chief Justice Rehnquist has used his year-end report to highlight the deteriorating relationship between the judicial branch and the legislative branch, the result of a recent systematic congressional attack on the independence of the judiciary. Since I arrived in Congress, I have been quite surprised by the dreadful state of relations between our branches and the absence of the comity that historically existed between the two.

The Federal caseload continues to rise at a record pace, reaching new levels. Courthouse funding is woefully inadequate, failing to meet the needs of our Federal courts in order to carry out their mission and to make necessary improvements in priority areas such as court security. Judicial confirmations continue to be mired in po-

litical brinksmanship. Judicial compensation has not kept pace with inflation and congressional inaction on an annual basis has led to delays in important adjustments, despite the President's admonition for Congress to act.

The House Committee on the Judiciary, on which I sit, has initiated investigations of judges charged with judicial misconduct, matters that were previously left to circuit judicial councils, and the word "impeachment" has been used quite loosely and frequently as a threat.

A few weeks ago, these threats reached a fever pitch with talk, from the highest leadership levels of this body, of intentions to "look at an unaccountable, arrogant, out-of-control judiciary that thumbed their nose at Congress and the President" and a warning that "the time will come for the men responsible for this to answer for their behavior, but not today."

The Congress has also renewed its appetite for legislation that would strip the Federal courts of jurisdiction on a piecemeal basis from areas in which some are not pleased with the results that have been reached from the courts, or in areas where some are worried about potential outcomes down the road.

We have considered one bill which would remove Federal court jurisdiction over issues concerning the free exercise or the establishment of religion or over marriage. Should any Federal judge take up any issue involving that, the free exercise or the establishment of religion, he is subject to impeachment under the bill.

We had another proposal to remove jurisdiction of the courts over the Ten Commandments, another over the Pledge of Allegiance, and yet another to remove jurisdiction over any issue affecting the acknowledgement of God as the sovereign source of law. Again, the penalty for a judge who inquires or exercises jurisdiction is impeachment, removal from office.

Perhaps we should simply remove the jurisdiction of the Federal courts over the entire first amendment and be done with it.

After moving to strip jurisdiction, we recently moved to provide jurisdiction, where the Federal courts should not have it, in the Schiavo matter; and the only common denominator seems to be the desire to obtain the preferred result from the bench, regardless of the constitutionally enshrined principles of the separation of powers and of federalism itself.

Congress has not stopped here, but has pursued proposals to split appellate court jurisdiction and even considered legislation that would decide for the judiciary what they may look at or include in their judicial opinions.

Does anyone in Congress believe that we can undermine the courts without belittling the Congress itself?

Some Supreme Court rulings, such as the decision with regard to the sentencing guidelines, remind us that