

## Kansas Department of Revenue Offices

### Topeka Central Office

Kansas Department of Revenue  
Business Tax Bureau  
Corporate Compliance Unit  
3rd Floor, Docking State Office Building  
915 SW Harrison Street  
Topeka, KS 66612-1588  
(913) 296-1711

### Kansas City Regional Office

Kansas Department of Revenue  
1123 N. 5th  
P.O. Box 1086  
Kansas City, KS 66117  
(913) 371-7350

### Wichita Regional Office

Kansas Department of Revenue  
P.O. Box 26, Wichita, KS 67201  
257 North Broadway, 3rd Floor  
Wichita, KS 67202  
(316) 291-2210

### Kansas Commission On Disability Concerns

Kansas Department of Human Resources  
1430 SW Topeka Boulevard  
Topeka, KS 66612-1877  
(913) 296-1722 • (913) 296-5044 (TDD)

### Kansas Rehabilitation Services

Kansas Department  
Of Social & Rehabilitation Services  
Biddle Building, 1st Floor  
300 SW Oakley, Topeka, KS 66606  
(913) 296-3911 • (913) 296-7029 (TDD)

**Attention business  
owners & managers**

**You can claim  
tax credits up  
to \$10,000 for  
making your  
business more  
accessible  
to people with  
disabilities.**

**Schedule K-37  
Kansas Handicapped  
Accessibility Credit**

## How does the tax credit work?

The Kansas Handicapped Accessibility Credit may be deducted from a taxpayer's Kansas income tax liability if the taxpayer has spent money to make property used in trade or business, or property held for the production of income, more accessible to people who have disabilities. The building or facility must be located in Kansas.

Fifty percent (50%) of the actual costs for alterations to make the establishment accessible may be claimed as a tax credit, up to a maximum of \$10,000. The tax credit should be applied to the income tax liability for the taxable year in which the expenditures are made. If the tax credit is more than the amount of state income tax owed, the credit balance may be carried over and applied to the income tax liability for the next four years or until the total tax credit has been deducted, whichever is sooner.

## What kinds of alterations are covered?

The tax credit covers alterations to existing commercial buildings, structures and recreational areas. The credit also covers alterations to existing street, curb or sidewalk access to the establishment. Alterations made to restrooms, dining areas, elevators, drinking fountains, phone booths or lodging areas are examples of modifications covered by the provisions of this tax credit. However, the tax credit may not be claimed for construction (new

building or building additions). Only alterations that are made to overcome existing architectural barriers are covered.

The purchase of any special equipment or modification of existing equipment to meet the specific needs of workers with disabilities is covered. Speaker telephones, emergency alarm systems and modified desks are examples of covered purchases. Equipment purchased to meet the needs of workers with disabilities is covered in both existing and new structures.

Building alterations must conform with "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" adopted by the American National Standards Institute (revised 1980). More information about these specifications is available through your local library or independent living resource center. Information is also available by contacting the Kansas Commission on Disability Concerns at (913) 296-1722.

## What are the claim procedures?

Individuals who want to claim this tax credit should ask the Kansas Department of Revenue for Schedule K-37. This schedule must be attached to Kansas income tax return when it is filed.

Because of the complex nature of this law (KSA 79-32,175 to 79-32,180, as amended), interested individuals may want to consult an accountant or attorney, or contact the Kansas Department of Revenue for answers to additional questions.

**JAN—IN BRIEF**

Cost to users? Only a commitment to share accommodation information with other users through the JAN network. The result: more job opportunities for more individuals with disabilities and more people returning to work following an injury or illness.

1-800-JAN-7234 (526-7234)  
U.S. outside West Virginia  
Voice and TDD

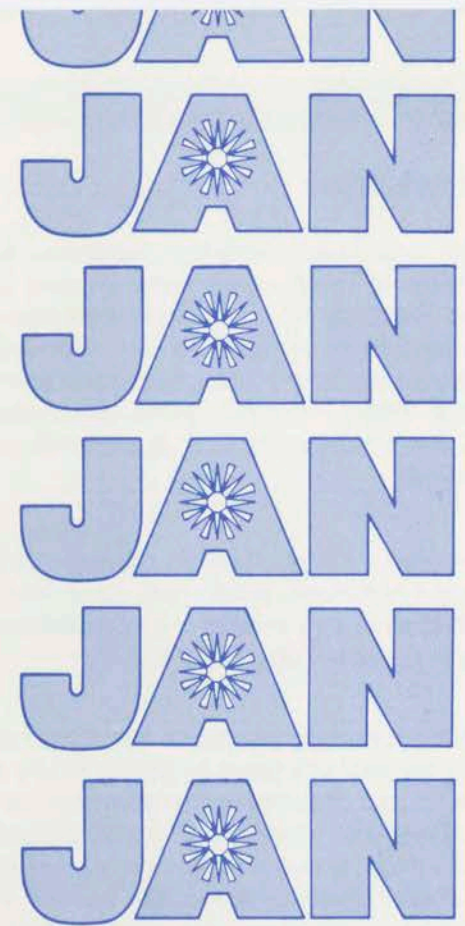
1-800-JAN-INWV (526-4698)  
inside West Virginia  
Voice and TDD

1-800-JAN-CANA (526-2262)  
throughout Canada  
Voice and TDD

If you cannot use our 800 numbers, please call our commercial number at 304-293-7186.

Users include AT&T, Bell Atlantic, E.I. DuPont, Edison Electric Institute, Exxon, Hewlett Packard, Liberty Mutual, Prudential, Reynolds Metals, Sears, 3M, Westinghouse, various educational faculties, public and private rehabilitation professionals, and others who want to spread the word about accommodations through JAN.

890-2790



**The President's Committee On  
Employment Of People With  
Disabilities And  
The Job Accommodation Network  
Of America, Inc.**

*Invite You To Be Part Of The*

**JOB ACCOMMODATION  
NETWORK**

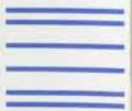
*An international information network  
and consulting resource for  
accommodating persons with  
disabilities in the workplace*

**BUSINESS REPLY MAIL**

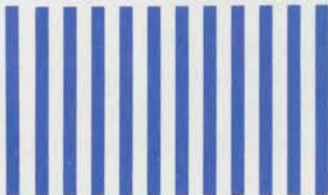
FIRST CLASS PERMIT NO. 6, MORGANTOWN, WV

Postage Will Be Paid By Addressee

West Virginia University  
Job Accommodation Network  
809 Allen Hall  
P.O. Box 6122  
Morgantown, WV 26507-9984



No Postage  
Necessary  
If Mailed in the  
United States



## WHAT IS JAN?

JAN—Job Accommodation Network—is an international information network and consulting resource to enable qualified workers with disabilities to be hired or retained. It brings together information from many sources about practical ways of making accommodations for employees and applicants with disabilities.

JAN enables employers to discuss accommodation solutions. Employers, rehabilitation professionals, and people with disabilities as network members share and benefit.

Placing the right person in the right job is always the goal of a good employer in any size organization. Successful placement saves employers time, money, and valuable personnel resources. It also enhances and completes the rehabilitation process for people with disabilities. In addition to expanding the pool of productive employees, the benefit/cost ratio can be particularly favorable when accommodation can lead to an injured employee returning to work.

JAN offers comprehensive information on methods and available equipment that have proven effective for a wide range of accommodations. These accommodations are usually not expensive.

As a service of the President's Committee on Employment of People with Disabilities, JAN is available via a toll-free number (1-800-526-7234). Callers can discuss their concerns and information needs with JAN's Human Factors Consultants and get immediate suggestions on solutions to accommodation problems.

## HOW DOES JAN WORK?

When information is needed regarding employment of an individual with a disability, you call 1-800-526-7234. A Human Factors Consultant will be on the line to discuss your concerns. The computer then will be searched for information based on these facts: the functional requirements of the specific job, the functional limitations of the worker, environmental factors, and other pertinent information.

The consultant will provide you with information reflecting "close-to-matching" situations identified. Included will be names and addresses and phone numbers of appropriate resources. You can make personal contacts for additional insights. Information can be provided by phone or mail.

The cost? NO MONEY. Simply a commitment that you will provide information about accommodations you have made, or those you make after you begin using the system so they can be in the database and shared with others.

After you contact us, you will be sent an easy-to-complete input data form. You have probably already made some accommodations for physical or mental limitations. Among them may have been supplying useful devices, adjusting hours of work, adjusting work site equipment, whatever. The solutions you have developed or found practical can be made available to others.

JAN can assist employers in the use of available programs, such as the Job Training Partnership Act, Projects with Industry, Supported Employment, Targeted Jobs Tax Credit, and Barrier Removal incentives.

**Accommodation costs need not be high. For example, here are some accommodations described by one major insurance company:**

- Providing a drafting table, page turner, and pressure-sensitive tape recorder for a sales agent paralyzed from a broken neck (\$300).
- Changing a desk layout from the right to the left side for a visually impaired data entry operator (\$0).
- Renting a headset phone that allows an insurance agent with cerebral palsy to write while talking (\$6.01 per month).
- Supplying a telephone amplifier for a computer programmer with a hearing impairment (\$56).
- Enlarging toilet facilities and installing a hand rail for employees who use wheelchairs (\$500).
- Removing turnstiles in the cafeteria and installing lighter weight doors—as part of a general renovation—and having the cafeteria deliver lunch to a payroll technician disabled from polio (\$40 per month).
- Providing a special chair to alleviate back pain for a district sales agent affected by vertebra surgery (\$400).

## I WANT TO KNOW MORE ABOUT JAN

Name \_\_\_\_\_

Title \_\_\_\_\_

Company/Organization \_\_\_\_\_

Address \_\_\_\_\_

Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone (     ) \_\_\_\_\_

Signature \_\_\_\_\_

Check one or both:

- Please send data input form now
- Please send more information

Mail this form to address on reverse side.

The DOLE FOUNDATION is an historic private initiative, a nonpartisan charitable foundation dedicated to the economic independence of persons with disabilities. The Foundation was created by Senator Bob Dole as a means to encourage opportunity for disabled persons in competitive employment.

The DOLE FOUNDATION has a very specific purpose — to put private dollars to work improving the systems that link disabled persons with productive employment. Funds raised from individuals such as you, and from America's corporations, go to top-quality programs around the country, while the Foundation works with other foundations to persuade them to join in.



The Foundation supports the spread of promising new approaches to new locations; the expansion of high-quality programs to serve more individuals and employers; and improvement in program management. Eligible programs include job training and placement and small business assistance, and may serve persons with any recognized form of physical or mental impairment.

A distinguished Board of Trustees, chaired by Senator Bob Dole of Kansas, is assisted by a Technical Advisory Committee of experts in employment and economic opportunity. Operating costs are kept to a modest level through the donation of needed goods and services and the use of volunteers. The Foundation plans to develop an endowment over a period of several years to cover operating costs.

The Dole Foundation  
220 Eye Street NE  
Washington, DC 20002  
(202) 543-6303  
Voice or TDD

THE DOLE FOUNDATION —  
INVESTING IN PEOPLE  
INVESTING IN ABILITY  
INVESTING IN THE FUTURE

# THE \_\_\_\_\_ DOLE FOUNDATION

## INVESTING IN PEOPLE



- Millions of disabled Americans are unemployed but willing and able to work; they want greater economic independence and an opportunity to contribute
- Over 8% of the U.S. Gross National Product (GNP) goes out in government and private programs and payments to disabled persons who would rather be working and contributing to society
- A growing number of employers recognize the value of these workers and the need to provide opportunities
- There are public and private agencies able to provide training, to help find and create jobs, to help disabled individuals start new small businesses
- And YOU can help provide the resources to make it all happen — to help disabled Americans take their place as productive employees, businessowners and taxpayers

# A GREAT AMERICAN RESOURCE

# BE A PART OF HISTORY



Disabled persons are an increasing percentage of Americans, due to improvements in medical care and the aging of our population. While medical research will help prevent many disabling conditions, more children are surviving with disabilities, and accidents result in many more disabilities later in life. As life spans increase, age-related disabilities will increase as well.

If disabled persons are to live with dignity, and if the economy is to bear the burden of those who cannot work, more disabled persons must have a chance to become full participants in the economy. Government and private agencies and employers are doing their part, but more resources are needed. Individual and corporate dollars can provide the momentum, and other foundations can be persuaded to join us.

*Photos courtesy of Mainstream, Inc., and the President's Committee on Employment of the Handicapped.*

### What can you do?

- A direct gift can be put to work immediately. An investment of \$1,000 in certain programs can result in program cost savings and increased tax revenues of \$10,000 or more.
- Trusts and bequests will be gratefully accepted; these can provide benefits to the Foundation for years to come, with significant tax advantages to the donor. Consult your tax advisor.
- Gifts of stock or other appreciated property have similar long-term benefits; you may be able to deduct the appreciated value of the property donated. Consult your tax advisor.
- You may also be able to donate a life insurance policy or an annuity to the Foundation, again with potential tax benefits.
- The Foundation will provide suitable recognition for memorial gifts and may accept donations with certain restrictions attached. Please contact us prior to making such gifts.
- If you choose to take part, the Foundation would also appreciate your help as a volunteer, by suggesting names of others who might be interested in contributing and by speaking to them on the Foundation's behalf.



**YES!** I want to take part in the DOLE FOUNDATION'S work on behalf of disabled Americans. I would like to contribute as:

HONORARY TRUSTEE (gifts of \$100,000 or more) Name \_\_\_\_\_  
 PATRON (gifts of \$25,000 or more) Address \_\_\_\_\_  
 SPONSOR (gifts of \$10,000 or more) City \_\_\_\_\_ State \_\_\_\_\_  
 FRIEND (gifts of \$1,000 or more) Zip \_\_\_\_\_ Phone \_\_\_\_\_  
 SUPPORTER (all gifts under \$1,000)  
 VOLUNTEER (please contact me to discuss how I can help)  
 Please send me more information on the Dole Foundation.

All gifts to the Foundation will be suitably recognized.

The DOLE FOUNDATION is a Kansas not-for-profit corporation, tax exempt under Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code. The Foundation is registered with various state governments which regulate charitable solicitation activity.



**T***he National Information Center for Children and Youth with Disabilities (NICHCY) provides free information to assist parents, educators, caregivers, advocates and others in helping children and youth with disabilities become participating members of the community.*

**National Information Center for Children and Youth with Disabilities**

P.O. Box 1492  
Washington, D.C. 20013-1492

Local                      Toll-Free                      TDD  
(703) 893-6061 • (1-800) 999-5599 • (703) 893-8614



National Information Center for Children and Youth with Disabilities

## WHO USES NICHCY

Everyone can use NICHCY

- Families • Individuals with disabilities
- Professionals • Students
- Organizations

### Prepared Information Packets.

For a quick response to frequently asked questions, we have information contained in:

- State Resource Sheets
- Legal Packs
- Parent's Guides
- Fact Sheets on Disabilities
- Fact Sheets on Public Agencies
- Fact Sheets on Toll-Free Numbers
- Fact Sheets on National Resources

### Technical Assistance to Family and Professional Groups.

NICHCY staff can assist others in areas such as:

- Conferences
- Workshops
- Meetings
- Outreach
- Establishment of information systems
- Establishment of resource centers
- Establishment of public awareness campaigns
- How to be a disseminator

### Publications on Current Issues.

#### NEWS DIGEST

This is a single issue newsletter which provides a researched look at current topics in the disability field.

#### TRANSITION SUMMARY

Also a single issue newsletter, providing a researched look at a single topic about transition from school to adult life.

## HOW TO USE NICHCY

**Call** on the phone: (703) 893-6061 local  
(800) 999-5599 toll-free  
(703) 893-8614 TDD

Hours are 8:30 am to 5:30 pm EST Monday–Friday.  
A recorder will take your message all other hours.

**Send** a message: SpecialNet user name is  
**NICHCY** on Electronic mail.

**Write** to: **NICHCY**, P.O. Box 1492  
Washington, D.C. 20013-1492

Single copies of publications are free.

We are one of three Clearinghouses mandated by Congress to provide specialized information about education for people with disabilities and careers in Special Education. The others are:

**HEATH Resource Center**, the National Clearinghouse on Postsecondary Education for Individuals with Disabilities, a program of the American Council on Education, One Dupont Circle, Suite 800, Washington, D.C. 20036, (202) 939-9320 or toll-free outside the Washington, D.C. area at (800) 544-3284.

**National Clearinghouse for Professions in Special Education**, a project of the Council for Exceptional Children, 1920 Association Drive, Reston, VA 22091, (703) 620-3660 and the National Association of State Directors of Special Education, 1800 Diagonal Road, Suite 320, Alexandria, VA 22314, (703) 519-3800.

The National Information Center for Children and Youth with Disabilities, NICHCY, is a national information and referral clearinghouse. NICHCY operates through the Clearinghouses Program authorized by Section 633 of Part D of the Individuals with Disabilities Education Act, (20 U.S.C. 1433), as amended by Public Law 101-476.

NICHCY is a project of Interstate Research Associates, Inc., and is supported through a Cooperative Agreement with the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS).

## SERVICES NICHCY PROVIDES

### Personal Responses to Questions.

NICHCY's Information Specialists answer questions regarding all disability issues including the following:

- |                       |                      |
|-----------------------|----------------------|
| Specific Disabilities | Special Education    |
| Technology            | Early Intervention   |
| IEPs                  | Legal Issues         |
| IFSPs                 | Related Services     |
| Integration           | Families             |
| Transportation        | Vocational Education |
| Therapy               | Accessibility        |
| Transition            |                      |

### Referrals to Other Organizations.

NICHCY networks with other disability organizations, including:

- |                            |                    |
|----------------------------|--------------------|
| National Disability Groups | Research Centers   |
| Regional Organizations     | Universities       |
| Local Organizations        | Medical Facilities |
| Public Schools             | State Associations |
| Service Providers          | Professionals      |
| Information Centers        | Parent Groups      |
| Advocacy Groups            | Policy Makers      |

# NICHCY



BOB DOLE  
KANSAS  
141 SENATE HART BUILDING  
(202) 224-6521

COMMITTEES:  
AGRICULTURE, NUTRITION, AND FORESTRY  
FINANCE  
RULES

## United States Senate

WASHINGTON, DC 20510-1601

February 17, 1993

Secretary Bentsen  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Bentsen:

I am writing to request information from the Department of the Treasury relevant to the implementation of the Americans with Disabilities Act (ADA) and have a continuing interest in its successful implementation.

There are three provisions in the Internal Revenue Code which are related to the implementation of the ADA. Information about their utilization by businesses will assist us in better assessing how businesses are implementing the Americans with Disabilities Act.

When Congress enacted the ADA in 1990, there was a clear acknowledgement that some of its requirements would require impact of such expenditures on small businesses, Congress amended the Internal Revenue Code to provide a tax credit to small businesses for expenses incurred in complying with the ADA. Known as "the Access Credit," sections 38 (a) and (b) and Section 44 of the Internal Revenue Code have now been available to small businesses for two full calendar years -- 1991 and 1992.

In addition to the Access Credit, the Internal Revenue Code contains Section 190 which allows deductions to businesses for removing architectural barriers and transportation barriers to persons with disabilities. Available to businesses since 1976, there has never been, to my knowledge, a comprehensive analysis of the utilization of this deduction by businesses.

Finally, the targeted jobs tax credit (TJTC) is available to employers who hire persons with disabilities (Sections 38 (a) and (b) and sections 51 (a) and (b) of the Internal Revenue Code). Enacted originally in 1978, the use and effectiveness of the TJTC has been examined for many eligible groups, but not for persons with disabilities.

Secretary Bensten  
February 17, 1993  
Page 2

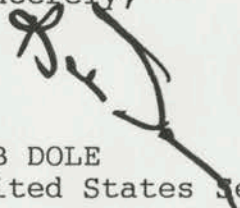
I request the following information about these three provisions in the Internal Revenue Code:

- 1) How many firms have utilized these provisions?
- 2) What is the size, the industry and the geographical distribution of the firms?
- 3) For what particular expense are they claiming the credit or the deduction?
- 4) What amount of money was claimed under the credit or the deduction?

I would like to have this information for years before and after the enactment of the Americans with Disabilities Act.

Thank you for your assistance in this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Dole", written over a diagonal line.

BOB DOLE  
United States Senate

BD/mw

## APPENDIX G

# DISABILITY-RELATED TAX PROVISIONS APPLICABLE TO BUSINESSES

Excerpted from *ADA Handbook*, published by the Department of Justice and the Equal Employment Opportunity Commission.

## Disability-Related Tax Provisions Applicable to Businesses

The three disability-related provisions in the Internal Revenue Code applicable to businesses described below are of particular interest to businesses and people with disabilities:

### 1) Targeted Jobs Tax Credit (Title 26, Internal Revenue Code, section 51)

Employers are eligible to receive a tax credit in the amount of 40 percent of the first \$6,000 of first-year wages of a new employee who has a disability. There is no credit after the first year of employment. For an employer to qualify for the credit, a worker must have been employed for at least 90 days or have completed at least 120 hours of work for the employer. The Revenue Reconciliation Act of 1990, Public Law 101-508, extended this tax credit through December 31, 1991.

[Editor's note: HR 3909, Public Law 102-227, extended this tax credit through June 30, 1992.]

### 2) Tax Deduction to Remove Architectural and Transportation Barriers to People with Disabilities and Elderly Individuals (Title 26, Internal Revenue Code, section 190)

Allows a deduction for "qualified architectural and transportation barrier removal expenses." Only expenditures that are for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his or her trade or business more accessible to, and usable by, handicapped and elderly individuals are eligible for the deduction. The taxpayer must establish, to the satisfaction of the Secretary of the Treasury, that the resulting removal of the barrier meets the standards promulgated by the Secretary with the concurrence of the U.S. Architectural and Transportation Barriers Compliance Board.

For purposes of this section, a "handicapped individual" is any individual who has a physical or mental disability (including, but not limited to, deafness and blindness) which, for that individual, constitutes or results in a functional limitation to employment, or who has any physical or mental impairment that substantially limits one or more major life activities of that individual.

The deduction may not exceed \$15,000 for any taxable year. (The maximum deduction had been \$35,000 prior to passage of Public Law 101-508 in 1990, which lowered the maximum deduction.)

### 3) Disabled Access Tax Credit (Title 26, Internal Revenue Code, section 44)

This tax credit is available to "eligible small businesses" in the amount of 50 percent of "eligible access expenditures" for the taxable year that exceed \$250 but do not exceed \$10,250.

**BNA'S AMERICANS WITH DISABILITIES ACT MANUAL**

*Following are two sample job descriptions that are used in the health-care industry. ADA does not require employers to have written job descriptions. However, EEOC has stated that when investigating ADA complaints, it will consider, along with other relevant evidence, the employer's judgment in identifying the "essential functions" of a job, as set forth in job descriptions that the employer wrote before advertising or interviewing for the job. (For more information, see p. 90:0514.)*

**SAMPLE JOB DESCRIPTION**

**JOB TITLE:** Registered Nurse

**GENERAL STATEMENT OF DUTIES:** Provides professional nursing care for clinic patients following established standards and practices.

**SUPERVISION RECEIVED:** Reports directly to the Nursing Service Supervisor.

**SUPERVISION EXERCISED:** None

**TYPICAL PHYSICAL DEMANDS:** Requires full range of body motion including handling and lifting patients, manual and finger dexterity and eye-hand coordination. Requires standing and walking for extensive periods of time. Occasionally lifts and carries items weighing up to 50 pounds. Requires corrected vision and hearing to normal range. Requires working under stressful conditions or working irregular hours. Requires some exposure to communicable diseases or bodily fluids.

**TYPICAL WORKING CONDITIONS:** Frequent exposure to communicable diseases, toxic substances, ionizing radiation, medicinal preparations and other conditions common to a clinic environment.

**EXAMPLES OF DUTIES:** (This list may not include all of the duties assigned)

1. Performs general nursing care to patients. Administers prescribed medications and treatments in accordance with nursing standards.
2. Prepares equipment and aids physician during treatment, examination, and testing of patients.
3. Observes, records, and reports patient's condition and reaction to drugs and treatments to physicians. Dispenses medication as directed.
4. Oversees appointment bookings and ensures preferences are given to patients in emergency situations. Maintains timely flow of patients.
5. Greets patients and prepares them for physician examination. Screens patients for appropriate information. Instructs patients in collection of samples and tests.
6. Arranges for patient testing and admissions.
7. Responds to and refers incoming telephone calls. Instructs patient and family regarding medications and treatment instructions.
8. Maintains and reviews patients records, charts, and other pertinent information. Posts tests and examination results.
9. Maintains exam rooms for necessary supplies and materials. Ensures cleanliness. Prepares list of medical supplies needed.
10. Screens and refers pharmaceutical representatives.
11. Attends required meetings and participates in committees as requested.

12. Participates in professional development activities and maintains professional affiliations.
13. Maintains patient confidentiality.
14. Performs related work as required.

**PERFORMANCE REQUIREMENTS:**

**Knowledge, Skills, & Abilities:**

Knowledge of the professional nursing theory and practice to give and evaluate patient care. Knowledge of organizational policies, regulations and procedures to administer patient care. Knowledge of medical equipment and instruments to administer patient care. Staff. Knowledge of common safety hazards and precautions to establish a safe work environment. Skill in applying and modifying the principles, methods and techniques of professional nursing to provide ongoing patient care. Skill in preparing and maintaining records, writing reports, and responding to correspondence. Skill in developing and maintaining department quality assurance. Skill in establishing and maintaining effective working relationships with patients, medical staff, and the public. Ability to maintain quality control standards. Ability to react calmly and effectively in emergency situations. Ability to interpret, adapt and apply guidelines and procedures. Ability to communicate clearly.

Education: Graduate of an accredited school of nursing.

Experience: Prefer one year of professional nursing experience in a clinic setting.

Certificate/License: Possession of a State Registered Nurse license. CPR certification.

**ALTERNATIVE TO MINIMUM QUALIFICATIONS:** None

*Reprinted with permission of Keck, Mahin and Cate.*

### SAMPLE JOB DESCRIPTION

**JOB TITLE:** Medical Records Clerk

**GENERAL SUMMARY OF DUTIES:** Files, locates, logs, retrieves and delivers medical records as assigned.

**SUPERVISION RECEIVED:** Reports directly to Medical Records Supervisor.

**SUPERVISION EXERCISED:** None.

**TYPICAL PHYSICAL DEMANDS:** Requires prolonged standing or sitting. Requires frequent bending, stooping or stretching. May require lifting up to 50 pounds. Requires eye-hand coordination and manual dexterity. Requires the ability to distinguish letters or symbols. Requires the use of office equipment, such as computer terminals, telephones or copiers. Requires normal vision range and the absence of color-blindness.

**TYPICAL WORKING CONDITIONS:** Work is performed in an office environment. Some contact with staff.

**EXAMPLES OF DUTIES:** (This list may not include all of the duties assigned)

1. Pulls charts for scheduled appointments in advance. Inserts out cards.
2. Delivers, transports, sorts, and files returned charts.
3. Picks up lab reports, dictations, x-rays, and correspondence.
4. Continually checks for misfiled charts and refiles according to filing system. Maintains orderly files.
5. Files all medical reports. Purges obsolete records and files in storage.
6. Destroys outdated records following established procedures for retention and destruction.
7. Makes up new patient charts. Repairs damaged charts. Assists in locating and filing records.
8. Works with medical assistants and other staff to route patient charts to proper location.
9. Answers telephone, takes messages, and gives routine information in accordance with established procedures.
10. Follows medical records policies and procedures.
11. Duplicates documents and forms as directed.
12. Attends required meetings and participates in committees as requested.
13. Enhances professional growth and development through inservice meetings, education programs, conferences, etc.
14. Maintains patient confidentiality.
15. Performs related work as required.

**PERFORMANCE REQUIREMENTS:**

**Knowledge, Skills, & Abilities:**

Knowledge of medical records filing systems. Skill in English grammar and spelling. Skill in establishing and maintaining effective working relationships with staff. Ability to maintain confidentiality of sensitive information. Ability to file and maintain patient records, files, reports, and other correspondence.

**Education:**

1. High school diploma or GED
2. Completion of course in medical records technology.

**Experience:**

1. Previous experience in medical transcription preferred.
2. Typing ability of 60 wpm.
3. Word processing experience.

Certificate/License: None

**ALTERNATIVE TO MINIMUM QUALIFICATIONS:** None

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## BNA'S AMERICANS WITH DISABILITIES ACT MANUAL

historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken.

**ILLUSTRATION:** Installing an elevator in an historic house museum to provide access to the second floor bedrooms would destroy architectural features of historic significance on the first floor. Providing an audio-visual display of the contents of the upstairs rooms in an accessible location on the first floor would be an alternative way of achieving program accessibility.

Does the special limitation apply to programs that are not historic preservation programs, but just happen to be located in historic properties? No. In these cases, nonstructural methods of providing program accessibility, such as relocating all or part of a program or making home visits, are available to ensure accessibility, and no special limitation protecting the historic structure is provided.

**II-5.6000 Time periods for achieving program accessibility.** Public entities must achieve program accessibility by January 26, 1992. If structural changes are needed to achieve program accessibility, they must be made as expeditiously as possible, but in no event later than January 26, 1995. This three-year time period is not a grace period; all changes must be accomplished as expeditiously as possible. A public entity that employs 50 or more persons must develop a transition plan by July 26, 1992, setting forth the steps necessary to complete such changes. For guidance on transition plan requirements, see II-8.3000.

### **II-6.0000 NEW CONSTRUCTION AND ALTERATIONS**

Regulatory references: 28 CFR 35.151.

**II-6.1000 General.** All facilities designed, constructed, or altered by, on behalf of, or for the use of a public entity must be readily accessible and usable by individuals with disabilities, if the construction or alteration is begun after January 26, 1992.

What is "readily accessible and usable?" This means that the facility must be designed, constructed, or altered in strict compliance with a design

standard. The regulation gives a choice of two standards that may be used (see II-6.2000).

### **II-6.2000 Choice of design standard: UFAS or ADAAG**

**II-6.2100 General.** Public entities may choose from two design standards for new construction and alterations. They can choose either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG), which is the standard that must be used for public accommodations and commercial facilities under title III of the ADA. If ADAAG is chosen, however, public entities are not entitled to the elevator exemption (which permits certain buildings under three stories or under 3,000 square feet per floor to be constructed without an elevator).

Many public entities that are recipients of Federal funds are already subject to UFAS, which is the accessibility standard referenced in most section 504 regulations.

Which standard is stricter, UFAS or ADAAG? The many differences between the standards are highlighted below. In some areas, UFAS may appear to be more stringent. In other areas ADAAG may appear to be more stringent. Because of the many differences, one standard is not stricter than the other.

Can a public entity follow ADAAG on one floor of a new building and then follow UFAS on the next floor? No. Each facility or project must follow one standard completely.

Can a public entity follow UFAS for one alteration project and then follow ADAAG for another alteration project in the same building? No. All alterations in the same building must be done in accordance with the same standard.

**II-6.3000 Major differences between ADAAG and UFAS.** Set forth below is a summary of some of the major differences between ADAAG and UFAS.

### **II-6.3100 General principles**

#### 1) Work areas:

**ADAAG:** Requires that areas used only by employees as work areas be designed and constructed so that individuals with disabilities can approach, enter, and exit the areas.

There is, then, only a limited application of the standards to work areas (§4.1.1(3)).

**UFAS:** Contains no special limited requirement for work areas. The UFAS standards apply (as provided in the Architectural Barriers Act) in all areas frequented by the public or which "may result in employment ... of physically handicapped persons" (§1).

2) Equivalent facilitation

**ADAAG:** Departures from particular standards are permitted where alternatives will provide substantially equivalent or greater access (§2.2).

**UFAS:** UFAS itself does not contain a statement concerning equivalent facilitation. However, section 504 regulations, as well as the Department's title II regulation (28 CFR 35.151(c)), state that departures are permitted where it is "clearly evident that equivalent access" is provided.

3) Exemption from application of standards in new construction

**ADAAG:** Contains a structural impracticability exception for new construction: full compliance with the new construction standards is not required in the rare case where the terrain prevents compliance (§4.1.1(5)(a)).

**UFAS:** Does not contain a structural impracticability exception (or any other exception) for new construction.

4) Exemption from application of standards in alterations

**ADAAG:** For alterations, application of standards is not required where it would be "technically infeasible" (i.e., where application of the standards would involve removal of a load-bearing structural member or where existing physical or site restraints prevent compliance). Cost is not a factor (§4.1.6(1)(j)).

**UFAS:** Application of standards is not required for alterations where

"structurally impracticable," i.e., where removal of a load-bearing structural member is involved or where the result would be an increased cost of 50 percent or more of the value of the element involved (§§4.1.6(3); 3.5 ("structural impracticability")). Cost is a factor. (Note that the similar term, "structural impracticability," is used in ADAAG (see item #3 above), but in ADAAG it is used in relation to new construction. In UFAS, it is used in relation to alterations, and it has a different meaning.)

5) Alterations triggering additional requirements

**ADAAG:** Alterations to primary function areas (where major activities take place) trigger a "path of travel" requirement, that is, a requirement to make the path of travel from the entrance to the altered area — and telephones, restrooms, and drinking fountains serving the altered area — accessible (§4.1.6(2)). But, under the Department of Justice title III rule, a public entity is not required to spend more than 20% of the cost of the original alteration on making the path of travel accessible, even if this cost limitation results in less than full accessibility (28 CFR 36.403(f)).

**UFAS:** If a building undergoes a "substantial alteration" (where the total cost of all alterations in a 12-month period amounts to 50% or more of the value of the building), the public entity must provide an accessible route from public transportation, parking, streets, and sidewalks to all accessible parts of the building; an accessible entrance; and accessible restrooms (§4.1.6(3)).

6) Additions

**ADAAG:** Each addition to an existing building is regarded as an alteration subject to the ADAAG alterations

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TELEFAX

TO: Maureen West

FROM: Lee Foley

DATE: 8/8/92

# OF PAGES INCLUDING COVER: Two (2)

RETURN TELEFAX: 202-842-0551

REMARKS: Mo: Sorry I missed you both times yesterday. Thanks for your willingness to help. I'm not sure if you or Andy have forwarded this draft language on past occasions to Leg Counsel but, if not, it would be important to have them review it. Call if you need anything. Thanks!!!

Section 44 of subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) of the Internal Revenue Code of 1986 is amended in subparagraph (E) of paragraph (2) of subsection (c) by adding the words "reasonable accommodations," after the word "services," and by adding the words "including provision of such assistance to individuals with specific learning disabilities" before the period at the end thereof.

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TELEFAX

TO: *Maureen West*

FROM: *Lee Foley*

DATE: *8/7*

# OF PAGES INCLUDING COVER: *2*

RETURN TELEFAX 202-842-0551

REMARKS:

*Maureen*

*Attached is the language we have discussed over the past couple years that would make explicit the ADA business tax credit for accommodations to employees with specific learning disabilities.*

*As their any way Sen. Jole could get this into the Statement of the Managers for HR 11 (which this is called the urban aid bill, it is actually this year's tax bill, so this language would certainly be germane) This is a no cost item. Please give me a call*  
*Thanks*

Section 44 of subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) of the Internal Revenue Code of 1986 is amended in subparagraph (E) of paragraph (2) of subsection (c) by adding the words "reasonable accommodations," after the word "services," and by adding the words "including provision of such assistance to individuals with specific learning disabilities" before the period at the end thereof.

Section 44 of subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) of the Internal Revenue Code of 1986 is amended in subparagraph (E) of paragraph (2) of subsection (c) by adding the words "reasonable accommodations," after the word "services," and by adding the words "including provision of such assistance to individuals with specific learning disabilities" before the period at the end thereof.

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**TELEFAX**

TO: Maureen West

FROM: Lee Foley

DATE: 2/27/92

# OF PAGES INCLUDING COVER: 2

RETURN TELEFAX: 202-842-0551

REMARKS: Mo: Dale Brown asked me to forward this to you. It's the same language that Andy had worked on when you were away. Call if you need any background, etc. Thanks.





MAXWELL MACMILLAN

# FEDERAL TAXES 2nd

Special Report

November 29, 1990

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A Complete Guide  
to the  
**OMNIBUS BUDGET  
RECONCILIATION  
ACT of 1990**  
—TAX PROVISIONS—

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Explanation • Code Sections Amended •  
Table of Effective Dates • Committee Reports • Index

JAN 1 4 1991

OBRA Date of Enactment: November 5, 1990  
Public Law 101-508

**COMMENT:** Since these changes are effective for tax years beginning after 12-31-89, base-year expenditures for 1990 fiscal years do not have to be reduced proportionately for the part of the year that falls in calendar 1991.

*Act Sec. 11402, extending the credit for increasing research activities, amends IRC §41(h) and makes conforming amendments to '89 OBRA §7110(a) and IRC §28(b)(1)(D), effective for taxable years beginning after 12-31-89.*

**[[151] New Small Business Public Accommodations Access Credit.** The Americans With Disabilities Act of 1990 requires businesses to make structural changes to facilities to accommodate disabled and handicapped individuals. To help small businesses with the cost of complying with that Act, the new law provides a credit for a portion of the expenditures incurred in making the required changes. At the same time, to help offset the cost of the credit, the new law cuts back on the IRC §190 deduction for removal of barriers to the handicapped.

**Background.** Under §190, a taxpayer meeting certain requirements may elect to currently deduct certain architectural and transportation barrier removal expenses rather than capitalize them. The maximum deduction for any tax year is \$35,000.

**New credit.** Under the new law, an eligible small business may elect a credit in an amount equal to 50% of the eligible access expenditures for the tax year that exceed \$250 but do not exceed \$10,250. Thus, the maximum credit in a tax year is \$5,000. The credit is effective for expenditures paid or incurred after 11-5-90.

**Eligible small business.** An eligible small business is a person (or any predecessor) that, for the preceding tax year, either (1) had gross receipts that did not exceed \$1 million or (2) had no more than 30 full-time employees. For this purpose, an employee is considered full-time if he is employed at least 30 hours a week for at least 20 weeks in the tax year. Also, gross receipts for any tax year are to be reduced by returns or allowances made during the year. The IRS is to make appropriate adjustments to the tests where the relevant tax year (preceding year) is a short year.

**Eligible access expenditures.** Eligible access expenditures are amounts paid or incurred by an eligible small business for the purpose of enabling the business to comply with applicable requirements of the Americans With Disabilities Act of 1990 (as in effect on 11-5-90). Such expenditures include amounts paid or incurred (1) for the purpose of removing architectural, communication, physical, or transportation barriers that prevent a business from being accessible to, or usable by, individuals with disabilities; (2) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; (3) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials to individuals with visual impairments; (4) to acquire or modify equipment or devices for individuals with disabilities; or (5) to provide other similar services, modifications, materials, or equipment.

The expenditures must be reasonable and necessary to accomplish these purposes. Also, the taxpayer must establish to the satisfaction of

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**ITS**

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the IRS that the action undertaken (i.e., removal of barrier, provision of equipment, etc.) meets the standards promulgated by the IRS with the concurrence of the Architectural and Transportation Barriers Compliance Board, as set forth in IRC regulations. Amounts paid or incurred in connection with any facility first placed in service after 11-5-90 are not eligible access expenditures.

"Disability" has the same meaning as when used in the Americans With Disabilities Act.

**Treatment as general business credit.** The new credit is included as a general business credit. Thus, it is subject to the IRC §38 rules that limit the amount of business credit that can be used for any tax year. The portion of the unused business credit for any tax year that is attributable to the disabled access credit may not be carried back to any tax year ending before 11-5-90. For discussion of §38, see ¶384 of Federal Taxes 2nd and ¶38 of Federal Tax Guide.

**Denial of double benefit.** No deduction is allowed for the amount of the credit under any other Code provision. Also, no increase in basis is allowed for such amount.

**Controlled groups.** All members of the same controlled group of corporations (as defined in §52(a)) and all persons under common control (as defined in §52(b)) are treated as one person for purposes of the gross receipts limitation, the employee limitation, and the maximum amount of the credit. The IRS is to apportion the dollar limitation among such related persons under regulations.

**Partnerships and S corporations.** For partnerships and S corporations, the dollar limitation on the amount of the credit applies at both the entity level and at the partner or shareholder level.

**Regulatory authority.** The new law gives the IRS regulatory authority to carry out the purposes of the credit provisions.

**IRC §190 deduction.** The new law reduces the maximum amount of architectural and transportation barrier removal expenses that may be deducted for any tax year to \$15,000, effective for tax years beginning after 11-5-90.

*Act Sec. 11611(a), relating to the disabled access credit, adds new IRC §44, effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(b)(1), relating to including the disabled access credit as part of the general business credit, adds new paragraph (7) to IRC §38(b), effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(b)(2), relating to carryback of the general business credit, adds new paragraph (5) to IRC §39(d), effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(c), relating to architectural and transportation barrier removal expenses, amends IRC §190(c) by striking "\$35,000" and inserting "\$15,000," effective for tax years beginning after 11-5-90.*

**[¶152] Targeted Jobs Credit Extended.** Under pre-'90 OBRA law, the targeted jobs credit, available to employers for 40% of qualified wages paid to first-time employees in certain groups, such as the economically disadvantaged or disabled, expired for individuals who began employment after 9-30-90.

**Credit extension.** The new law retroactively reinstates the credit and extends it to apply to wages of individuals who begin employment by 12-31-91. It also extends authorization appropriations for administrative and publicity expenses relating to the credit.

**Tax Law of 1990**

(5) **Section not to apply to certain noncorporate lessors.**—This section shall not apply to any section 179 property<sup>2</sup> which is purchased by a person who is not a corporation and with respect to which such person is the lessor unless—

(A) the property subject to the lease has been manufactured or produced by the lessor, or

(B) the term of the lease (taking into account options to renew) is less than 50 percent of the class life of the property (as defined in section 168(i)(1)), and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property.

\* \* \* \* \*

[For explanation, see ¶430.]

**¶1060] IRC §184. AMORTIZATION OF CERTAIN RAILROAD ROLLING STOCK.**

[Repealed by section 11801(a)(12), OBRA '90, P.L. 101-508, 11-5-90.]<sup>1</sup>

**¶1061] IRC §188. AMORTIZATION OF CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.**

[Repealed by section 11801(a)(13), OBRA '90, P.L. 101-508, 11-5-90.]<sup>1</sup>

[For explanation see ¶430.]

**¶1062] IRC §190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.**

\* \* \* \* \*

(c) **Limitation.**—The deduction allowed by subsection (a) for any taxable year shall not exceed  $1\frac{1}{2}$  percent of the adjusted taxable income of the taxpayer for such year.<sup>2</sup>

[For explanation, see ¶151, for text of Committee Reports, see ¶3064.]

**[Footnote IRC §179 continued]**

(2) "purchased by any person described in section 46(e)(3) unless the credit under section 38 is allowable with respect to such person for such property (determined without regard to this section)."

**Effective date** (Sec. 11813(c), OBRA '90).—(1) Generally applies to property placed in service after 12-31-90.

(2) **Exceptions.**—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e) of '86 Code (as in effect on the day before 11-5-90),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

**[Footnote IRC §184]** (1) **Effective date** (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) **Savings provision.**—If—

(1) any provision amended or repealed by this applied to—

(A) any transaction occurring before 11-5-90,

(B) any property acquired before such 11-5-90 or,

(C) any item of income, loss, deduction, or credit taken into account before such 11-5-90, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part affect liability for tax for periods ending after such date of enactment, nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such 11-5-90.

**[Footnote IRC §188]** (1) **Effective date** (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) **Savings provision.**—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before 11-5-90,

(B) any property acquired before 11-5-90,

(C) any item of income, loss, deduction, or credit taken into account before 11-5-90, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part affect liability for tax periods ending after 11-5-90, nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after 11-5-90.

**[Footnote IRC §190]** Matter in *italics* in IRC §190(c) added by section 11611(c), OBRA '90, which struck out:

(1) "\$35,000"  
**Effective date** (Sec. 11611(e)(2), OBRA '90).—Applies to tax years beginning after 11-5-90.

Section 11801(a)(14), OBRA '90, struck out from IRC §190(d):

(2) "(d) **Application of Section.**—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 2, 1983, and

(2) taxable years beginning after December 31, 1983."

**Effective date** (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) **Savings provision.**—If—

(1) any provision amended or repealed by this part applied to—

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ship cannot be terminated. Mother dies and leaves her partnership interest to Daughter. As the sole partners, Daughter and Son acting together could remove the restriction on partnership termination. Under the conference agreement, the value of Mother's partnership interest in her estate is determined without regard to the restriction. Such value would be adjusted to reflect any appropriate fragmentation discount.

This rule does not apply to a commer-

cially reasonable restriction which arises as part of a financing with an unrelated party or a restriction required under State or Federal law. The provision also grants to the Treasury Secretary regulatory authority to disregard other restrictions which reduce the value of the transferred interest for transfer tax purposes but which do not ultimately reduce the value of the interest to the transferee.

[For explanation see ¶110-127.]

【§3064】 SECTION 11611. CREDIT FOR COST OF PROVIDING ACCESS FOR DISABLED INDIVIDUALS.

(IRC §44 and §190)

[Senate Explanation]

\* \* \* \* \*

Present Law

Under present law, a taxpayer may elect to deduct certain architectural and transportation barrier removal expenses for the taxable year in which paid or incurred rather than capitalizing such expenses. Architectural and transportation barrier removal expenses are defined for this purpose as expenditures that are paid or incurred by a taxpayer in order to make facilities or public transportation vehicles owned or leased in connection with the taxpayer's business more accessible to handicapped and elderly individuals. In order for such expenditures to be deductible under this provision, the taxpayer must establish to the satisfaction of the Treasury Department that the facility or public transportation vehicle to which the expenditures relate conforms to standards promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. The amount of the deduction allowed under this provision for any taxable year is limited to \$35,000.

Reason for Change

The Americans With Disabilities Act of 1990 requires businesses to make structural changes to facilities to accommodate disabled and handicapped individuals. The committee is concerned that the requirements contained in the Americans With Disabilities Act of 1990 may impose a severe financial burden on certain small businesses. Consequently, the committee believes that it is appropriate to provide these small businesses with a nonrefundable income tax credit for a portion of the expenditures that are incurred in complying with the requirements of the Americans With Disabilities Act of 1990. As a means of offsetting the cost of this new credit, the committee believes [that] it is appropriate to reduce the amount that is allowed as a deduction under section 190.

Explanation of Provision

**Small business public accommodations access credit.** *In general.* Under the bill, an eligible small business that elects the application of the provision is allowed a nonrefundable income tax credit equal to 50 percent of the amount of the eligible public accommodations access expenditures for any taxable year that exceed \$250 but do not exceed \$10,250.<sup>31</sup>

The amount of the credit allowed for any taxable year is not to exceed the excess if any of (1) the regular tax for the taxable year reduced by the amount of the foreign tax credit, any nonrefundable personal credits, and certain other specified credits allowed for such taxable year, over (2) the tentative minimum tax for the taxable year. The amount of the credit that is not allowed under this limitation for any taxable year is to be carried back 3 years and forward 15 years, except that the amount of such credit is not to be carried back to any taxable year beginning before January 1, 1991. The amount of any credit that is carried to another taxable year is subject to the limitation described above for the year to which the credit is carried.

*Definition of eligible small business.* An eligible small business is defined for any taxable year as any person that is engaged in the trade or business of operating a public accommodation and is required by Federal law to make such accommodation accessible to, or usable by, individuals with disabilities, and that either (1) had gross receipts<sup>32</sup> for the preceding taxable year that did not exceed \$4 million or (2) had fewer than 30 full-time employees<sup>33</sup> during the taxable year.

*Definition of eligible public accommodations access expenditures.* Eligible public accommodations access expenditures are defined as amounts paid or incurred by a taxpayer either (1) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or (2) for provid-

【Footnote §3064】 (31) Consequently, the maximum amount of the credit for any taxable year is \$5,000.

(32) The gross receipts of a person for any taxable year are to be determined after reduction for returns and allowances made during the taxable year.

(33) For this purpose, a full-time employee is defined as any employee of the taxpayer who is employed at least 30 hours per week for 20 or more calendar weeks during the taxable year.

on which arises as an unrelated party under State or Federal authority to also grants to the atory authority to ons which reduce erred interest for which do not ulti- of the interest to

### G ACCESS FOR

#### Provision

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## Committee Reports

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ing auxiliary aids or services to an individual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

The amount of an expenditure is not to be considered an eligible public accommodations access expenditure unless the taxpayer establishes to the satisfaction of the Treasury Department that the removal of any barrier or the provision of any auxiliary aid or service to which the expenditure relates satisfies standards set forth in regulations promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. In addition, amounts paid or incurred by a taxpayer for the purpose of removing architectural, communication, or transportation barriers do not qualify as eligible public accommodations access expenditures if the amounts are paid or incurred in connection with any facility that is first placed in service (i.e., the first occupancy of which occurs) after December 31, 1990.

*Other definitions and special rules.* For purposes of this provision, "disability," [has] the [meaning given] by the Americans With Disabilities Act of 1990, as in effect on the date of enactment of this provision.

For purposes of determining the amount of the credit and in determining whether the \$4 million gross receipts limitation and the 30 full-time employee limitation are satisfied, all members of the same controlled group of corporations (as defined in section 52(a)) and all persons under common control (as defined in section 52(b)) are treated as one person. Thus, for example, two or more corporations that are members of the same controlled group of corporations would be allowed a credit that is not to exceed \$5,000 if, treating all such corporations as a single person, the \$4 million gross receipts limitation or the 30 full-time employee limitation is satisfied.

In the case of a partnership, the \$10,250 annual limitation on the amount of expenditures that are taken into account in determining the amount of the credit is to apply at both the partnership level and the partner level. Similarly, in the case of an S corporation, the \$10,250 annual limitation on the amount of the expenditures that are taken into account in determining the amount of the credit is to apply at both the S corporation level and the shareholder level.

The bill also provides that no deduction or credit is to be allowed under any other provision of chapter 1 of the Internal Revenue Code for any amount for which a credit is allowed and the adjusted basis of any property with respect to which a credit is determined is not to include the amount of the credit.

Finally, the bill requires the Treasury Department to prescribe such regulations as are necessary to carry out the purposes of the provision, including regulations that (1)

adjust the \$4 million gross receipts limitation and the 30 full-time employee limitation in the case of taxable years that are less than 12 months and (2) apportion the \$10,250 annual limitation among two or more persons that are treated as a single person under the related-person rules described above.

**Reduction of amount deductible as architectural and transportation barrier removal expenses.** The bill also reduces the amount of architectural and transportation barrier removal expenses that may be deducted for any taxable year to \$15,000.

#### Effective Date.

The small business public accommodations access credit applies to eligible expenditures paid or incurred after the date of enactment.

The reduction in the amount of deductible architectural and transportation barrier removal expenses applies to taxable years after the date of enactment.

[Conference Report]

\* \* \* \* \*

#### Conference Agreement.

The conference agreement follows the Senate amendment, with the following modifications.

First, an eligible small business is defined for any taxable year as a person that had gross receipts for the preceding taxable year that did not exceed \$1 million or had no more than 30 full-time employees during the preceding taxable year.

Second, the amount of the credit for any taxable year is equal to 50 percent of the eligible access expenditures for the taxable year that exceed \$250 but do not exceed \$10,250. Eligible access expenditures are defined as amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements of the Americans With Disabilities Act of 1990 (as in effect on the date of enactment of the credit).

Eligible access expenditures generally include amounts paid or incurred (1) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities; (2) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; (3) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments; (4) to acquire or modify equipment or devices for individuals with disabilities; or (5) to provide other similar services, modifications, materials, or equipment. The expenditures must be reasonable and necessary to accomplish these purposes.

Finally, the disabled access credit is included as a general business credit and

Act 1990, 1997

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Tax Law of 1990

thus, is subject to the rules of present law that limit the amount of the general business credit that may be used for any taxable year. The portion of the unused business

credit for any taxable year that is attributable to the disabled access credit is not to be carried back to any taxable year ending before the date of enactment of the credit.

[For explanation, see ¶151.]

¶3065] SECTION 11621. REVIEW OF IMPACT OF REGULATIONS ON SMALL BUSINESS.

(IRC §7805)

[Conference Report]

**Present Law.** The Internal Revenue Service (IRS) must submit proposed regulations (after they are published) to the Small Business Administration (SBA) for comment on the impact of those regulations on small business. The SBA must respond within four weeks. Similar rules apply to final regulations that do not supersede proposed regulations.

**Conference Agreement.** IRS must continue to submit proposed regulations (after they are published) to the SBA for comment on the impact of those regulations on small business. The SBA must respond within four weeks. The IRS must consider the SBA comments and discuss them in the preamble of the final regulations. Similar rules apply to final regulations that do not supersede proposed regulations. The provision applies to regulations issued after the date that is 30 days after the date of enactment.

[For explanation, see ¶334.]

¶3066] SECTION 11622. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS OF INCOME.

(IRC §7523)

[Conference Report]

**Present Law.** There is no requirement for the Internal Revenue Service (IRS) to publish pie charts. Pie charts illustrating where the Government dollar comes from and where it goes have, however, been published by the IRS in Publication 17, Your

Federal Income Tax.

**Conference Agreement.** The conference agreement requires the IRS to include two pie charts in individual income tax form instruction booklets: one depicting sources of Government revenue and the other showing how that revenue is spent. This provision applies to instructions prepared for taxable years beginning after 1990.

[For explanation, see ¶335.]

¶3067] SECTIONS 11700—11704. TAX TECHNICAL CORRECTIONS.

[Conference Report]

**House Bill.** No provision in H.R. 5835. H.R. 5822 as reported by the House Ways and Means Committee contains technical, clerical, and conforming amendments to the Revenue Reconciliation Act of 1989, the Technical and Miscellaneous Revenue Act of 1988, and other recently enacted tax legislation (H. Rpt. 101-894).

ings in determining whether the expenditure requirements of the 24-month exception to arbitrage rebate requirement have been satisfied is intended to apply only to bonds issued after October 16, 1990.

**OID.**—One of the technical corrections provides rules for determining the yield on a debt instrument that makes a payment or payments in the form of the stock of the issuer (or a related person). The conferees understand that, in the case of a debt instrument that makes payments in the form of stock which provides for an annual dividend rate and a stated redemption amount by a fixed date, the amount of stock to be taken into account under the technical correction should generally be determined by discounting such payments. The discount rate for such purpose shall be the yield on the debt instrument, determined assuming the payments under the stock are made as provided.

**Senate Amendment.** No provision.

**Conference Agreement.** The conference agreement contains the tax technical correction provisions of H.R. 5822 as reported by the House Ways and Means Committee.

**Tax-exempt bonds.**—With regard to the technical corrections to the tax-exempt bond provisions of the 1989 Act, the conferees wish to clarify that the legislative history specifying the treatment of investment earn-

[For explanation, see ¶400-425.]

Fin Packages  
Nina  
Fact Sheet (State  
MO amend on  
incl of supp employ

March 2, 1992

TO: Senator Dole / Nina  
FROM: Mo West  
SUBJECT: Finance Mark-up Disability Amendments

There are several key tax issues of importance to people with disabilities and employers wishing to hire an employee with a disability.

As you know, the tax code was expanded after passage of the ADA to assist the small business community with the cost of ADA compliance. The credit applies to any ADA-related expenditures for the accommodation of persons with disabilities. ADA related expenditures include the following: removal of architectural expenditures, transportation, physical, or communications barriers; procurement or modification of equipment, personal assistance services, translation of materials for the visually or hearing impaired and auxiliary aids and services.

Under the current tax code small businesses are responsible for the first \$250 of expenses to accommodate the disabled. Costs above \$250 are eligible for a 50% non-refundable credit, up to \$10,250. Any ADA disability related expenditure above \$10,250 is eligible for a more restricted deduction of \$15,000. If the entire access tax credit is not used in one year, it can be accumulated and carried forward to subsequent years or carried back to previous tax years.

Only small businesses are eligible to receive tax credits. A small business is defined as any business with less than \$1 million in gross receipts or fewer than 30 full time employees. qualify for the credit.

People with disabilities often incur extra living expenses that are disability-related such as the need for personal assistants to carry out activities of daily living. These expenses become especially burdensome when the individual is not employed, and as you are aware, the employment rate of people with disabilities is the lowest of all minorities.

The current tax credit is based on barrier removal and job accommodation. Eligible small businesses may try to claim the provision of "Personal Assistance Services" (PAS) as an eligible access expenditure. However, there is no definition of PAS in the code to verify that this is an allowable claim. With the inclusion of a PAS definition, claims for such services will assist in making claims and providing this incentive to employers.

COST? - flow?



I have drafted four amendments for your consideration to offer at mark up or on the floor. I haven't shared any of the amendments with Finance staff, however, the disability community has spoken with them and has indicated that you could get bipartisan support for these.

AMENDMENT #1

An amendment to add the definition of "Personal Assistance Services" under the Disability Access Expenditures of the Tax Code (Section 151) would read as follows:

The term Personal Assistance Services (PAS) is defined as "one person assisting another individual with tasks which such individual would typically do if such individual did not have a disability and which are necessary to enable the individual with a disability to carry out activities of daily living".

Do you want to add the definition of Personal Assistance Services to the Disability Access Expenditures of the Tax Code? (You successfully added this definition to the Higher Education Act last week).

Yes \_\_\_\_\_ No \_\_\_\_\_

AMENDMENT #2

A taxpayer with a disability who pays for a reasonable accommodation that exceeds a firm's "undue burden" requirement in the ADA should be provided with tax relief when they rely on "personal assistance services" to work and lead lives which encourage less dependency on government benefits. This amendment would read:

"A taxpayer with a disability can elect to take a credit in the amount equal to 100% of the cost of a job accommodation which the person agrees to pay for when it exceeds a firm's undue burden. In addition, a taxpayer with a disability may elect to take a credit in the amount equal to 100% of eligible personal assistance expenditures that exceed 2% of their net income".

Do you want to offer an amendment to give a taxpayer with a disability the authority to take a tax credit for the amount their employee does not take in providing a reasonable accommodation?

Yes \_\_\_\_\_ No \_\_\_\_\_

Amendment #3

Firms with fewer than 15 employees are not covered by Title I of the ADA Employment requirements but could be the richest job source in the nation. Federal tax policy can encourage this sector of the economy to hire and provide job accommodations to qualified employees with disabilities. An amendment to address this issue would read as:

"Allow firms with fewer than 15 employees to elect to take a credit in an amount equal to 75% of eligible access expenditures that exceeds \$250 but does not exceed \$10,250 and that are spent specifically on providing job accommodations to one or more persons with disabilities".

Do you want to offer this amendment?

Yes \_\_\_\_\_ No \_\_\_\_\_

AMENDMENT #4

Eligible small businesses that provide job accommodations of an ongoing nature such as "personal assistance services" or "supported employment" that exceeds the undue burden requirement under the ADA should have added incentive to offer such accommodations. The amendment would read as follows:

"Allow firms that incur reasonable accommodation costs that are ongoing in nature or exceed undue burden to elect to take a credit in the amount equal to 25% of eligible access expenditures that exceed \$10,250 but do not exceed \$15,500.

Do you want to offer this amendment which will provide a tax credit for ongoing accommodations for people with disabilities?

Yes \_\_\_\_\_ No \_\_\_\_\_

Only small businesses are eligible to receive tax credits. A small business is defined as any business with less than \$1 million gross receipts or fewer than 30 full time employees qualify for the credit. Eligibility for the tax credit is narrowly defined for several reasons. Small businesses will be called on most often to accommodate and employ persons with disabilities. Additionally, small businesses have limited resources, and therefore, require the most technical and financial assistance to comply with ADA. In addition, all other businesses qualify for the \$15,000 tax deduction.

Small businesses, however, will bare the burden of ADA and will need more incentives and greater assistance. Additionally, Section 190 deductions for disability related expenditures apply to only a limited class of expenditures.

FEB-12-92 WED 13:46

UCPA, INC (DC)

FAX NO. 8423519

P. 02



COMMUNITY  
SERVICES  
DIVISION

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Suite 1112  
Washington, DC  
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**TO: MAUREEN WEST**  
**FAX (202) 224-8952**  
**FROM: BOB WILLIAMS, UCPA**  
**DATE: FEBRUARY 12, 1991**  
**RE: DISABILITY RELATED TAX AMENDMENTS**

LEONARD H.  
GOLDENSON  
Board Chairman

JACK HAUSMAN  
Vice Chairman

ROBERT J.  
MACDONALD, ESQ.  
Vice Chairman

JACK  
SCHILLINGER  
President

PER YOUR REQUEST, HERE ARE SOME SUGGESTED DISABILITY-RELATED AMENDMENTS TO VARIOUS TAX REFORM INITIATIVES LIKELY TO BE CONSIDERED BY CONGRESS. SOME ARE SLIGHTLY REVISED FROM THE ONE WE DISCUSSED IN NOVEMBER, OTHERS ARE THE SAME- AND I'VE TAGGED ON THREE AT THE END.

UCPA STRONGLY URGES THAT ALL APPROACHES TO CRAFTING A PARTICULAR AMENDMENT (I.E., WHETHER IT SHOULD TAKE THE FORM OF A TAX CREDIT, DEDUCTION, ALLOWANCE OR EXEMPTION) SHOULD BE CONSIDERED AND A FISCAL NOTE SHOULD BE SOUGHT FOR EACH VERSION.

RAYMOND S. CACHARES  
1st Executive Vice President

BERNADETTE KLEIN  
2nd Executive Vice President

1. DISABILITY-RELATED EXPENSES TAX CREDIT/DEDUCTION, EXEMPTION OR ALLOWANCE -- THIS AMENDMENT COULD BE MODELED ON THE CURRENT DISABILITY-RELATED WORK EXPENSES DEDUCTION BUT WOULD BE CRAFTED TO APPLY MORE GENERALLY TO DISABILITY-RELATED EXPENSES INCURRED OUTSIDE OF WORK (E.G., PAS, TECHNOLOGY, ADAPTIVE CLOTHING, ETC). IT COULD BE CRAFTED EITHER TO ENLARGE THE SCOPE OF THE CURRENT DISABILITY-RELATED WORK EXPENSES DEDUCTION (I.E., TO COVER NON-WORK COSTS AS WELL) OR AS A STAND ALONE PROVISION.

KENNETH R. AUERBACH  
Vice President  
Finance

WILLIAM  
BERENBERG, MD  
Vice President  
Medical Affairs

JACK M.  
WEINSTEIN, ESQ.  
Vice President  
General Counsel

MOREOVER, IT WOULD DIFFER FROM THE STANDARD MEDICAL DEDUCTION IN THAT AN INDIVIDUAL COULD CLAIM ALL DISABILITY-RELATED EXPENSES AND NOT JUST THOSE ABOVE 7.5% OF THEIR INCOME. IN WHATEVER FORM IT MIGHT TAKE AND DEPENDING ON ITS FISCAL NOTE, THE MEASURE COULD APPLY TO: A) TAXPAYERS WITH DISABILITIES AND THOSE WITH

JOHN W. KLUGE  
President, UCP  
Research & Educational  
Foundation

JOHN D. KEMP  
Executive Director

MICHAEL W.  
MORRIS  
Deputy Executive  
Director

DEPENDENTS WITH DISABILITIES OR B) SOLELY TAXPAYERS WITH DISABILITIES.

IF THE PROVISION WERE CRAFTED AS A FLAT TAX EXEMPTION OR ALLOWANCE OF, FOR EXAMPLE \$500 PER YEAR, PERSONS WHOSE DISABILITY-RELATED EXPENSES ARE HIGHER THAN THE AVERAGE SHOULD HAVE A WAY OF DOCUMENTING THAT ON A SCHEDULE AND RECEIVING MORE RELIEF. NOTE: THIS IS, IN FACT, HOW THE IRS CODE WORKS IN GENERAL.

FINALLY, STATUTORY OR REPORT LANGUAGE SHOULD BE INCLUDED DIRECTING IRS TO STUDY, IN CONSULTATION WITH A NATIONAL ADVISORY PANEL COMPOSED OF PEOPLE WITH DISABILITIES AND THEIR FAMILIES, AND REPORT BACK TO CONGRESS ON THE FEASIBILITY OF DEVELOPING A SEPARATE DISABILITY-RELATED EXPENSES. DOING SO WOULD PERMIT THOSE WISHING TO ITEMIZE AND DOCUMENT SUCH COSTS RATHER THAN TAKE A STANDARD DEDUCTION TO DO SO. NOTE: AGAIN THIS IS HOW IRS IS STRUCTURED IN GENERAL. MOREOVER, IF AMERICAN FARMERS CAN ELECT TO DO THEIR TAXES ON A SEPARATE SCHEDULE, AMERICANS WITH DISABILITIES DESERVE NO LESS A CHOICE.

JUSTIFICATION: 1) PEOPLE WITH DISABILITIES OFTEN INCUR EXTRA LIVING EXPENSES THAT ARE DISABILITY-RELATED. SUCH EXPENSES BECOME ESPECIALLY BURDENSOME IN ECONOMIC BAD TIMES. 2) EXISTING MEDICAL AND DISABILITY-RELATED WORK EXPENSES DEDUCTIONS DO NOT PROVIDE ADEQUATE RELIEF IN THIS REGARD.

2. AMEND THE ADA TAX CREDIT (SECTION 151, OBRA-90) TO:

- A) CLARIFY THAT IT APPLIES TO ANY SMALL BUSINESS PROVIDING REASONABLE ACCOMMODATION TO AN EMPLOYEE WITH A DISABILITY AND NOT JUST ONE WHICH IS A PUBLIC ACCOMMODATION. THIS COULD BE DONE BY RETITLING IT: "SMALL BUSINESS AND PUBLIC ACCOMMODATIONS ACCESS CREDIT".

JUSTIFICATION: THE TITLE OF THE SECTION AND THE WAY IT READS ARE BOTH CONFUSING ON THIS POINT AND NEED TO BE CLARIFIED.

- B) ADD PERSONAL ASSISTANCE AS AN ELIGIBLE EXPENSE UNDER SECTION 151. THIS COULD BE DONE BY ADDING PERSONAL ASSISTANCE AS AN "ELIGIBLE ACCESS EXPENDITURE" IN THE SECTION'S FIFTH AND FINAL CLAUSE.

JUSTIFICATION: THE BASIC AIM OF 151 IS CLEARLY BARRIER REMOVAL. ELIGIBLE SMALL BUSINESSES MIGHT TRY TO CLAIM PAS EXPENSES AS "ELIGIBLE ACCESS EXPENDITURES". BUT SINCE THE STATUTE DOES NOT LIST PAS, IRS IS NOT REQUIRED TO ACCEPT SUCH CLAIMS OR EVEN INFORM BUSINESSES OF THEIR RIGHT TO MAKE THEM.

- C) ALLOW FIRMS THAT INCUR REASONABLE ACCOMMODATIONS COSTS THAT ARE ONGOING IN NATURE OR EXCEED UNDUE BURDEN TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 25% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 BUT DO NOT EXCEED \$15,500. JUSTIFICATION: ELIGIBLE SMALL BUSINESSES THAT PROVIDE JOB ACCOMMODATIONS OF AN ONGOING NATURE (E.G., PAS, SUPPORTED EMPLOYMENT) OR THAT EXCEED UNDUE BURDEN SHOULD HAVE ADDED INCENTIVE TO DO SO ESPECIALLY IN RECESSIONARY TIMES.
- D) ALLOW FIRMS WITH FEWER THAN 15 EMPLOYEES TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 75% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$250 BUT DO NOT EXCEED \$10,250 THAT ARE SPENT SPECIFICALLY ON PROVIDING JOB ACCOMMODATIONS TO ONE OR MORE EMPLOYEES WITH DISABILITIES.

JUSTIFICATION: FIRMS WITH FEWER THAN 15 EMPLOYEES ARE NOT COVERED BY THE TITLE I EMPLOYMENT REQUIREMENTS OF THE ADA BUT ARE, IN FACT, THE RICHEST JOB SOURCE IN OUR NATION. FEDERAL TAX POLICY CAN AND SHOULD ENCOURAGE THIS VITAL SECTOR OF OUR ECONOMY TO HIRE AND PROVIDE JOB ACCOMMODATIONS TO QUALIFIED EMPLOYEES WITH DISABILITIES.

- E) ALLOW DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES, WHICH ARE COVERED BY THE PUBLIC ACCOMMODATIONS-TITLE III REQUIREMENTS OF THE ADA, TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 50% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 ON PROVIDING ASSISTANCE TO YOUNGSTERS WITH DISABILITIES WHO REQUIRE IT WITH EATING, TOILETING AND/OR DRESSING IN ORDER TO PARTICIPATE IN SUCH PROGRAMS.

JUSTIFICATION: AS PRESIDENT BUSH PROCLAIMED, THE TRUE MISSION OF THE ADA IS TO BRING "THE SHAMEFUL WALLS OF EXCLUSION STUMBLING DOWN." THIS PROCESS MUST START EARLY. CHILDREN -- WITH AND WITHOUT DISABILITIES -- LEARN BEST BY GROWING UP TOGETHER. YOUNGSTERS WITH DISABILITIES SHOULD NOT BE BARRED THESE OPPORTUNITIES JUST BECAUSE THEY REQUIRE ASSISTANCE WITH EATING, TOILETING AND/OR DRESSING. ELIGIBLE DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES THAT INCUR ADDED COSTS IN PROVIDING SUCH ASSISTANCE SHOULD BE ENCOURAGED AND PROVIDED WITH ADEQUATE TAX RELIEF TO DO SO.

(PLEASE NOTE: THE PERCENTAGES AND DOLLAR AMOUNTS LISTED IN RECOMMENDATIONS 2.C.-2.E. ARE INCLUDED FOR ILLUSTRATIVE PURPOSES AND MAY HAVE TO BE ADJUSTED ACCORDINGLY BASED ON FISCAL NOTE CONSIDERATIONS.)

3. AMEND CURRENT LAW TO PERMIT TAXPAYERS WITH DISABILITIES TO:

- A) TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF ELIGIBLE PERSONAL ASSISTANCE EXPENDITURES THAT EXCEED 2% OF THEIR NET INCOME.

JUSTIFICATION: MUCH THE SAME AS #1 ABOVE. THIS IS A MORE TARGETED VERSION OF #1 ABOVE BUT WOULD PROVIDE TAXPAYERS WITH DISABILITIES WHO RELY UPON PAS TO WORK AND LEAD TYPICAL LIVES SOME ADDED TAX RELIEF.

- B) TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF THE COSTS OF A JOB ACCOMMODATION WHICH THE PERSON AGREES TO PAY FOR BECAUSE IT EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER.

JUSTIFICATION: A TAXPAYER WITH A DISABILITY WHO PAY FOR A JOB ACCOMMODATION WHICH EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER SHOULD BE PROVIDED WITH ADEQUATE TAX RELIEF.

4. REQUIRE THE IRS TO STREAMLINE AND SIMPLIFY RECORD KEEPING AND FILING REQUIREMENTS FOR PERSONAL ASSISTANCE IN CONSULTATION WITH A NATIONAL ADVISORY PANEL COMPOSED OF PAS USERS, FAMILIES, DISABILITY ADVOCATES AND REPRESENTATIVES OF INDEPENDENT LIVING CENTERS.

JUSTIFICATION: IRS RECORD KEEPING AND FILING REQUIREMENTS ARE BURDENSOME FOR PERSONAL ASSISTANCE USERS AND THEIR FAMILIES TO FOLLOW. TO COMPOUND MATTERS, THE IRS HAS CHOSEN TO CRACK DOWN ON USERS AND ILC'S IN SOME STATES. THE PROCESS MUST BE STREAMLINED AND SIMPLIFIED IN CONSULTATION WITH THOSE MOST DIRECTLY AFFECTED BY IT.

5. PERMIT HOMEOWNERS WITHOUT DISABILITIES WHO MAKE THEIR HOMES ACCESSIBLE OUT OF CONSIDERATION OF VISITING FAMILY/FRIENDS TO DEDUCT SOME OR ALL OF THE COSTS OF DOING SO. JUDY HEUMANN CAME UP WITH THIS IDEA AND CAN BE CONTACTED DIRECTLY FOR MORE DETAILS AT 510 763-4100. JUSTIFICATION: 1. IT PROMOTES THE SPIRIT AND AIMS OF THE ADA AND THE FAIR HOUSING ACT AMENDMENTS; AND 2. IT WILL INCREASE THE NATION'S SUPPLY OF ACCESSIBLE HOUSING.
6. PERMIT FOREIGN EXCHANGE STUDENTS TO WORK AS PERSONAL ASSISTANTS OFF CAMPUS AS WELL AS ON CAMPUS. CURRENTLY THEY ARE ONLY PERMITTED TO DO THE LATTER. IT IS UNCLEAR WHETHER THIS WOULD REQUIRE A CHANGE IN THE IRS AND/OR IMMIGRATION CODE. JUDY, HOWEVER, ASKED THAT I BRING IT TO YOUR ATTENTION. JUSTIFICATION: IT INCREASES THE SUPPLY OF AFFORDABLE PAS WORKERS AND GETS RID OF AN ARBITRARY AND HARMFUL DISTINCTION IN OUR TAX CODE.

- 7. EXEMPT SSI RECIPIENTS FROM PAYING ANY TAX ON EARNED INCOME. JUSTIFICATION: THIS MAY SEEM UNNECESSARY BUT I KNOW OF AT LEAST ONE PERSON WHO BECAUSE HE GETS SSI AND IS A SELF-EMPLOYED ARTIST (MAKING AT MOST \$6,000 A YEAR) PAY INCOME TAX AT A RIDICULOUSLY REGRESSIVE RATE.

AS IN THE PAST, I AM SHARING COPIES OF THIS WITH BOBBY SILVERSTEIN, PAT WRIGHT, JUDY HEUMANN AND PAUL MARCHAND. PLEASE LET ME KNOW WHAT YOU THINK AND HOW I CAN BE OF FURTHER HELP. THANKS.

cc: BOBBY SILVERSTEIN      FAX#: (202) 224-9369  
 JUDY HEUMANN              FAX#: (202) 763-4109  
 PAUL MARCHAND            FAX#: (202) 467-4179  
 PAT WRIGHT                 FAX#:

March 13, 1992

TO: Senator Dole/Nina  
FROM: Mo West  
SUBJECT: Finance Mark-up Disability Amendments

There are several key tax issues of importance to people with disabilities and employers wishing to hire an employee with a disability.

As you know, the tax code was expanded after passage of the ADA to assist the small business community with the cost of ADA compliance. The credit applies to any ADA-related expenditures for the accommodation of persons with disabilities. ADA related expenditures include the following: removal of architectural expenditures, transportation, physical, or communications barriers; procurement or modification of equipment, personal assistance services, translation of materials for the visually or hearing impaired and auxiliary aids and services.

Under the current tax code small businesses are responsible for the first \$250 of expenses to accommodate the disabled. Costs above \$250 are eligible for a 50% non-refundable credit, up to \$10,250. Any ADA disability related expenditure above \$10,250 is eligible for a more restricted deduction of \$15,000. If the entire access tax credit is not used in one year, it can be accumulated and carried forward to subsequent years or carried back to previous tax years.

Only small businesses are eligible to receive tax credits. A small business is defined as any business with less than \$1 million in gross receipts or fewer than 30 full time employees qualify for the credit.

People with disabilities often incur extra living expenses that are disability-related such as the need for personal assistants to carry out activities of daily living. These expenses become especially burdensome when the individual is not employed and as you are aware the employment rate of people with disabilities is the lowest of all minorities.

The current tax credit is based on barrier removal and job accommodation. Eligible small businesses may try to claim the provision of "Personal Assistance Services" (PAS) as an eligible access expenditure. However, there is no definition of PAS in the code to verify that this is an allowable claim. With the inclusion of a PAS definition, claims for such services will assist in making claims and providing this incentive to employers.



I have drafted four amendments for your consideration to offer at mark up or on the floor. I haven't shared any of the amendments with Finance staff, however, the disability community has spoken with them and has indicated that you could get bipartisan support for these.

AMENDMENT #1

An amendment to add the definition of "Personal Assistance Services" under the Disability Access Expenditures of the Tax Code (Section 151) would read as follows:

The term Personal Assistance Services (PAS) is defined as "one person assisting another individual with tasks which such individual would typically do if such individual did not have a disability and which are necessary to enable the individual with a disability to carry out activities of daily living".

Do you want to add the definition of Personal Assistance Services to the Disability Access Expenditures of the Tax Code? (You successfully added this definition to the Higher Education Act last week).

Yes \_\_\_\_\_ No \_\_\_\_\_

AMENDMENT #2

A taxpayer with a disability who pays for a reasonable accommodation that exceeds a firm's "undue burden" requirement in the ADA should be provided with tax relief when they rely on "personal assistance services" to work and lead lives which encourage less dependency on government benefits. This amendment would read:

"A taxpayer with a disability can elect to take a credit in the amount equal to 100% of the cost of a job accommodation which the person agrees to pay for when it exceeds a firm's undue burden. In addition, a taxpayer with a disability may elect to take a credit in the amount equal to 100% of eligible personal assistance expenditures that exceed 2% of their net income".

Do you want to offer an amendment to give a taxpayer with a disability the authority to take a tax credit for the amount their employee does not take in providing a reasonable accommodation?

Yes \_\_\_\_\_ No \_\_\_\_\_

### Amendment #3

Firms with fewer than 15 employees are not covered by Title I of the ADA Employment requirements but could be the richest job source in the nation. Federal tax policy can encourage this sector of the economy to hire and provide job accommodations to qualified employees with disabilities. An amendment to address this issue would read as:

"Allow firms with fewer than 15 employees to elect to take a credit in an amount equal to 75% of eligible access expenditures that exceeds \$250 but does not exceed \$10,250 and that are spent specifically on providing job accommodations to one or more persons with disabilities".

Do you want to offer this amendment?

Yes \_\_\_\_\_ No \_\_\_\_\_

### AMENDMENT #4

Eligible small businesses that provide job accommodations of an ongoing nature such as "personal assistance services" or "supported employment" that exceeds the undue burden requirement under the ADA should have added incentive to offer such accommodations. The amendment would read as follows:

"Allow firms that incur reasonable accommodation costs that are ongoing in nature or exceed undue burden to elect to take a credit in the amount equal to 25% of eligible access expenditures that exceed \$10,250 but do not exceed \$15,500.

Do you want to offer this amendment which will provide a tax credit for ongoing accommodations for people with disabilities?

Yes \_\_\_\_\_ No \_\_\_\_\_

Only small businesses are eligible to receive tax credits. A small business is defined as any business with less than \$1 million gross receipts or fewer than 30 full time employees qualify for the credit. Eligibility for the tax credit is narrowly defined for several reasons. Small businesses will be called on most often to accommodate and employ persons with disabilities. Additionally, small businesses have limited resources, and therefore, require the most technical and financial assistance to comply with ADA. In addition, all other businesses qualify for the \$15,000 tax deduction.

Small businesses, however, will bare the burden of ADA and will need more incentives and greater assistance. Additionally, Section 190 deductions for disability related expenditures apply to only a limited class of expenditures.

October 26, 1990

TO: Senator Dole  
FROM: Maureen West  
SUBJECT: Assistance for Disability-Related Expenditures

The recently enacted Americans with Disabilities Act (ADA) will require businesses and other public facilities to make "reasonable accommodations" for persons with disabilities. In some cases this could mean that a business will be required to make expenditures to adapt a job or service to a person with a disability.

A number of legislative initiatives designed to ease the financial burden placed on businesses by ADA were introduced this session. Outlined below are four programs you sponsored that provide financial and/or technical assistance to businesses for disability-related expenditures: EEOC technical assistance, targeted jobs tax credit (TJTC), Pryor-Kohl disability access tax credit, and Section 190 deductions.

#### Technical Assistance

You authored a technical assistance amendment to ADA that would assist with its implementation. This amendment directs the Equal Employment Opportunity Commission (EEOC) to clarify and answer questions regarding the rights of persons with disabilities and the obligations of businesses under ADA. This technical assistance amendment was also included in the Commerce, Justice, State, and Judiciary Appropriations Bill. The conference agreement includes \$1 million for the implementation of a technical assistance program as authorized by section 506 of ADA.

#### Targeted Jobs Tax Credit

The targeted jobs tax credit, which aims to increase the employability of disadvantaged youth and persons with disabilities, has been extended for another 15 months. Many businesses in Kansas have successfully utilized this program to employ people with disabilities. The extension will further ease the burden faced by businesses in accommodating persons with disabilities as required by ADA.

#### Pryor-Kohl Disability Access Tax Credit

The tax credit is designed to assist the small business community with the cost of ADA compliance. The credit applies to any ADA-related expenditures for the accommodation of persons with disabilities. ADA-related expenditures include the following: removal of architectural, transportation, physical, or

communications barriers; procurement or modification of equipment and/or services; translation of materials for the visually or hearing impaired; personal assistant services; technical support and training for business and employee compliance; auxiliary aids and services. The variety of eligible disability related expenditures will enable businesses to more easily accommodate persons with disabilities.

Small businesses are responsible for the first \$250 of expense to accommodate the disabled. Costs above \$250 are eligible for a 50% non-refundable credit, up to \$10,250. Any ADA-disability related expenditure above \$10,250 is eligible for a more restricted deduction of \$15,000. If the entire access tax credit is not used in one year, it can be accumulated and carried forward to subsequent years or carried back to previous tax years.

Only small businesses are eligible to receive tax credit. A small business is defined as any business with less than \$1 million gross receipts or fewer than 30 full time employees qualify for the credit. Eligibility for the tax credit is narrowly defined for several reasons. Small businesses will be called on most often to accommodate and employ persons with disabilities. Small businesses have limited resources and, therefore, require the most technical and financial assistance to comply with ADA. In addition, all other businesses qualify for the \$15,000 deduction.

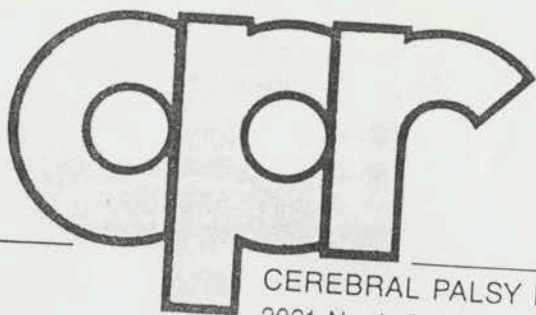
The access tax credit is revenue neutral. The cost of this new credit, however, is offset by lowering the deduction in Section 190 of the Internal Revenue Code to \$15,000.

#### Section 190

Section 190 of the Internal Revenue Code, which you authored, provides a \$35,000 deduction for disability related expenditures. A disability related expenditure is defined as the removal of architectural and transportation barriers to the disabled and elderly. Given a number of assumptions related to company size and income, large businesses have tended to benefit more from the Section 190 deduction.

The Pryor-Kohl Disability Access Tax Credit (as described above) lowers the deduction to \$15,000. Justification for this change to the Section 190 deduction is based upon two arguments. First, Section 190 does not focus assistance effectively to small businesses. Small businesses, however, will bear the burden of ADA and will most need help. And second, Section 190 deductions for disability related expenditures apply to only a limited class of expenditures.

Consequently, Section 190 provides a \$15,000 deduction for disability related expenditures.



Daniel M. Carney  
Chairman  
Deryl K. Schuster  
Patrick J. Regan  
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Randy J. Putnam  
Senior Vice President of  
Finance and Administration  
Crawford Barber  
(1972-1983)

CEREBRAL PALSY RESEARCH FOUNDATION OF KANSAS, INC.  
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March 9, 1992

Senator Robert Dole  
The United States Senate  
SH-141  
Washington, DC 20510-1601

Dear Senator Dole:

*It has come to our attention that the Senate Finance Committee will soon begin deliberations on upcoming tax legislation. In this current economic climate, The Cerebral Palsy Research Foundation of Kansas and its sister organization, United Cerebral Palsy of Kansas, need the support of the tax code to maintain and expand individual giving. I would like to ask you for your support of a full deductibility of appreciated property as an important incentive to encourage individual giving. A disincentive which we have found to giving is the 3% floor on itemized deductions. We would like to ask you and the committee to please repeal this disincentive. We also would like the Committee to consider a legislative solution to a proposed IRS expanded interpretation of corporate sponsorship of charitable events as an unrelated business income tax, as this would effect The United Cerebral Palsy Association telethon in the future. Both the Cerebral Palsy Research Foundation and United Cerebral Palsy depend on corporate and individual giving to maintain services at current levels at a time of reduced government support. We know, Senator Dole, that you have been very supportive of our program and those of other disability organizations. We would like you to consider these suggestions. If you have any questions, please don't hesitate to give me a call at any time.*

Sincerely yours,

A handwritten signature in cursive script that reads "Patrick A. Terick".

Patrick A. Terick  
Director of Governmental Activities

This document is from the collections at the Dole Archives, University of Kansas  
<http://dolearchives.ku.edu>



The Commonwealth of Massachusetts  
MASS. REHABILITATION COMMISSION

JOHN A. CHAPPELL, JR.  
DEPUTY COMMISSIONER FOR  
INDEPENDENT LIVING AND CONSUMER INVOLVEMENT

FAX 617 7279295

(617) 727-4828

FORT POINT PLACE  
21641 NORMWOOD STREET  
BOSTON, MA 02210

Page 46 of 177

# PAS FAX ALERT

**TO : MAUREEN WEST FAX#:**  
**FROM: BOB WILLIAMS, POLICY ASSOCIATE**  
**UCPA G.A. OFFICE, FAX # (202) 842-3519**  
**(202) 842-1266(V/TTD) 1-800-USA-5UCP**  
**DATE: NOVEMBER 4, 1991**  
**RE : POSSIBLE DISABILITY-RELATED AMENDMENTS**  
**TO EXPECTED TAX REFORM INITIATIVES**

IN FOLLOW UP TO OUR CONVERSATION AND PER YOUR REQUEST, HERE ARE SOME SUGGESTED DISABILITY-RELATED AMENDMENTS TO TAX REFORM INITIATIVES BEING DISCUSSED ON THE HILL. AND IN THE MEANTIME I HAVE TRIED TO FLESH OUT THE IDEAS WE DISCUSSED USING SECTION 151 OF THE IRC AS A GUIDE WHEN APPROPRIATE. HOWEVER, I DO NOT CLAIM TO BE A TAX EXPERT. THERE WILL MAY BE BETTER APPROACHES TO TAKE IN THIS AREA. HENCE, PLEASE SEE THIS AS ATTEMPT TO SPARK INCREASED IDEAS, INTEREST AND ACTIVITY IN WHAT I THINK COULD BE VERY FERTILE GROUND FOR ADDRESSING SOME -- THOUGH CLEARLY NOT ALL -- MAJOR PAS CONCERNS. TOWARDS THIS END, I AM SHARING COPIES OF THIS WITH BOBBY SILVERSTEIN, PAT WRIGHT, JUDY HEUMANN AND PAUL MARCHAND. PLEASE LET ME KNOW WHAT YOU THINK AND HOW I CAN BE OF FURTHER HELP. THANKS.

1. DISABILITY-RELATED LIVING EXPENSES TAX CREDIT/DEDUCTION -- THIS AMENDMENT COULD BE MODELED ON THE CURRENT DISABILITY-RELATED WORK EXPENSES DEDUCTION BUT WOULD BE CRAFTED TO APPLY MORE GENERALLY TO DISABILITY-RELATED LIVING EXPENSES INCURRED OUTSIDE OF WORK (E.G., PAS, TECHNOLOGY, ETC). DEPENDING ON ITS FISCAL NOTE, THE MEASURE COULD APPLY TO: A. TAXPAYERS WITH DISABILITIES AND THOSE WITH DEPENDENTS WITH DISABILITIES OR B. SOLELY TAXPAYERS WITH DISABILITIES. **JUSTIFICATION: 1. PEOPLE WITH DISABILITIES OFTEN INCUR EXTRA LIVING EXPENSES THAT ARE DISABILITY-RELATED. SUCH EXPENSES BECOME ESPECIALLY BURDENSOME IN ECONOMIC BAD TIMES. 2. EXISTING MEDICAL AND DISABILITY-RELATED WORK EXPENSES DEDUCTIONS DO NOT PROVIDE ADEQUATE RELIEF IN THIS REGARD.**

*Hi Jim,*

*Can you draft me a Dole bill amending the Tax Code (151) to allow for "personal assistance services" (PAS) incorporating the attached recommendations.*

DOPM, INC (DC) FAX NO: 8423519  
THE ADA TAX CREDIT (SECTION 151, OBRA-90) TO:

- A) CLARIFY THAT IT APPLIES TO ANY SMALL BUSINESS PROVIDING REASONABLE ACCOMMODATION TO AN EMPLOYEE WITH A DISABILITY AND NOT JUST ONE WHICH IS A PUBLIC ACCOMMODATION. THIS COULD BE DONE BY RETITLING IT: "SMALL BUSINESS AND PUBLIC ACCOMMODATIONS ACCESS CREDIT" **JUSTIFICATION: THE TITLE OF THE SECTION AND THE WAY IT READS ARE BOTH CONFUSING ON THIS POINT AND NEED TO BE CLARIFIED.**
- B) ADD PERSONAL ASSISTANCE AS AN ELIGIBLE EXPENSE UNDER SECTION 151. THIS COULD BE DONE BY PERSONAL ASSISTANCE AS AN "ELIGIBLE ACCESS EXPENDITURE" IN THE SECTION'S FIFTH AND FINAL CLAUSE. JUSTIFICATION: THE BASIC AIM OF 151 IS CLEARLY BARRIER REMOVAL. ELIGIBLE SMALL BUSINESSES MIGHT TRY TO CLAIM PAS EXPENSES AS "ELIGIBLE ACCESS EXPENDITURES". BUT SINCE THE STATUTE DOES NOT LIST PAS, IRS IS NOT REQUIRED TO ACCEPT SUCH CLAIMS OR EVEN INFORM BUSINESSES OF THEIR RIGHT TO MAKE THEM.
- C) ALLOW FIRMS THAT INCUR REASONABLE ACCOMMODATIONS COSTS THAT ARE ONGOING IN NATURE OR EXCEED UNDUE BURDEN TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 25% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 BUT DO NOT EXCEED \$15,500. JUSTIFICATION: ELIGIBLE SMALL BUSINESSES THAT PROVIDE JOB ACCOMMODATIONS OF AN ONGOING NATURE (E.G., PAS, SUPPORTED EMPLOYMENT) OR THAT EXCEED UNDUE BURDEN SHOULD HAVE ADDED INCENTIVE TO DO SO ESPECIALLY IN RECESSIONARY TIMES.
- D) ALLOW FIRMS WITH FEWER THAN 15 EMPLOYEES TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 75% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$250 BUT DO NOT EXCEED \$10,250 THAT ARE SPENT SPECIFICALLY ON PROVIDING JOB ACCOMMODATIONS TO ONE OR MORE EMPLOYEES WITH DISABILITIES. JUSTIFICATION: FIRMS WITH FEWER THAN 15 EMPLOYEES ARE NOT COVERED BY THE TITLE I EMPLOYMENT REQUIREMENTS OF THE ADA BUT ARE, IN FACT, THE RICHEST JOB SOURCE IN OUR NATION. FEDERAL TAX POLICY CAN AND SHOULD ENCOURAGE THIS VITAL SECTOR OF OUR ECONOMY TO HIRE AND PROVIDE JOB ACCOMMODATIONS TO QUALIFIED EMPLOYEES WITH DISABILITIES.



**E ALLOW DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES, WHICH ARE COVERED BY TITLE II PUBLIC ACCOMMODATIONS-TITLE III REQUIREMENTS OF THE ADA, TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 50% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 BUT DOES NOT EXCEED ON PROVIDING ASSISTANCE TO YOUNGSTERS WITH DISABILITIES WHO REQUIRE IT WITH EATING, TOILETING AND/OR DRESSING IN ORDER TO PARTICIPATE IN SUCH PROGRAMS. JUSTIFICATION: AS PRESIDENT BUSH PROCLAIMED, THE TRUE MISSION OF THE ADA IS TO BRING "THE STONE WALLS OF EXCLUSION STUMBLING DOWN." THIS PROCESS MUST START EARLY. CHILDREN -- WITH AND WITHOUT DISABILITIES -- LEARN BEST BY GROWING UP TOGETHER. YOUNGSTERS WITH DISABILITIES SHOULD NOT BE BARRED THESE OPPORTUNITIES JUST BECAUSE THEY REQUIRE ASSISTANCE WITH EATING, TOILETING AND/OR DRESSING. ELIGIBLE DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES THAT INCUR ADDED COSTS IN PROVIDING SUCH ASSISTANCE SHOULD BE ENCOURAGED AND PROVIDED WITH ADEQUATE TAX RELIEF TO DO SO.**


**3. A) AMEND CURRENT LAW TO PERMIT TAXPAYERS WITH DISABILITIES TO:**

**A) SELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF ELIGIBLE PERSONAL ASSISTANCE EXPENDITURES THAT EXCEED 2% OF THEIR NET INCOME. JUSTIFICATION: MUCH THE SAME AS #1 ABOVE. THIS IS A MORE TARGETED VERSION OF #1 ABOVE BUT WOULD PROVIDE TAXPAYERS WITH DISABILITIES WHO RELY UPON PAS TO WORK AND LEAD TYPICAL LIVES SOME ADDED TAX RELIEF.**

**B) SELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF THE COSTS OF A JOB ACCOMMODATION WHICH THE PERSON AGREES TO PAY FOR BECAUSE IT EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER. JUSTIFICATION: A TAXPAYER WITH A DISABILITY WHO PAY FOR A JOB ACCOMMODATION WHICH EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER SHOULD BE PROVIDED WITH ADEQUATE TAX RELIEF.**

4. REQUIRE THE IRS TO STREAMLINE AND SIMPLIFY RECORD KEEPING AND FILING REQUIREMENTS FOR PERSONAL ASSISTANCE IN CONSULTATION WITH A NATIONAL ADVISORY PANEL COMPOSED OF PAS USERS, FAMILIES, DISABILITY ADVOCATES AND REPRESENTATIVES OF INDEPENDENT LIVING CENTERS. JUSTIFICATION: IRS RECORD KEEPING AND FILING REQUIREMENTS ARE BURDENSOME FOR PERSONAL ASSISTANCE USERS AND THEIR FAMILIES TO FOLLOW. TO COMPOUND MATTERS, THE IRS HAS CHOSEN TO CRACK DOWN ON USERS AND ILC'S IN SOME STATES. THE PROCESS MUST BE STREAMLINED AND SIMPLIFIED IN CONSULTATION WITH THOSE MOST DIRECTLY AFFECTED BY IT.

C.C: BOBBY SILVERSTEIN FAX#:  
 JUDY HEUMANN FAX#:  
 PAUL MARCHAND FAX#:  
 PAT WRIGHT FAX#:

 **UNITED  
 CEREBRAL  
 PALSY  
 ASSOCIATIONS**

**COMMUNITY  
 SERVICES  
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 Director

**TO: MAUREEN WEST  
 FAX (202) 224-8952  
 FROM: BOB WILLIAMS, UCPA  
 DATE: FEBRUARY 12, 1991  
 RE: DISABILITY RELATED TAX AMENDMENTS**

PER YOUR REQUEST, HERE ARE SOME SUGGESTED DISABILITY-RELATED AMENDMENTS TO VARIOUS TAX REFORM INITIATIVES LIKELY TO BE CONSIDERED BY CONGRESS. SOME ARE SLIGHTLY REVISED FROM THE ONE WE DISCUSSED IN NOVEMBER, OTHERS ARE THE SAME- AND I'VE TAGGED ON THREE AT THE END

UCPA STRONGLY URGES THAT ALL APPROACHES TO CRAFTING A PARTICULAR AMENDMENT (I.E., WHETHER IT SHOULD TAKE THE FORM OF A TAX CREDIT, DEDUCTION, ALLOWANCE OR EXEMPTION) SHOULD BE CONSIDERED AND A FISCAL NOTE SHOULD BE SOUGHT FOR EACH VERSION.

1. **DISABILITY-RELATED EXPENSES TAX CREDIT/DEDUCTION, EXEMPTION OR ALLOWANCE -- THIS AMENDMENT COULD BE MODELED ON THE CURRENT DISABILITY-RELATED WORK EXPENSES DEDUCTION BUT WOULD BE CRAFTED TO APPLY MORE GENERALLY TO DISABILITY-RELATED EXPENSES INCURRED OUTSIDE OF WORK (E.G., PAS, TECHNOLOGY, ADAPTIVE CLOTHING, ETC). IT COULD BE CRAFTED EITHER TO ENLARGE THE SCOPE OF THE CURRENT DISABILITY-RELATED WORK EXPENSES DEDUCTION (I.E., TO COVER NON-WORK COSTS AS WELL) OR AS A STAND ALONE PROVISION.**

MOREOVER, IT WOULD DIFFER FROM THE STANDARD MEDICAL DEDUCTION IN THAT AN INDIVIDUAL COULD CLAIM ALL DISABILITY-RELATED EXPENSES AND NOT JUST THOSE ABOVE 7.5% OF THEIR INCOME. IN WHATEVER FORM IT MIGHT TAKE AND DEPENDING ON ITS FISCAL NOTE, THE MEASURE COULD APPLY TO: A) TAXPAYERS WITH DISABILITIES AND THOSE WITH

DEPENDENTS WITH DISABILITIES OR B) SOLELY TAXPAYERS WITH DISABILITIES.

IF THE PROVISION WERE CRAFTED AS A FLAT TAX EXEMPTION OR ALLOWANCE OF, FOR EXAMPLE \$500 PER YEAR PERSONS WHOSE DISABILITY-RELATED EXPENSES ARE HIGHER THAN THE AVERAGE SHOULD HAVE A WAY OF DOCUMENTING THAT ON A SCHEDULE AND RECEIVING MORE RELIEF. NOTE: THIS IS, IN FACT, HOW THE IRS CODE WORKS IN GENERAL.

FINALLY, STATUTORY OR REPORT LANGUAGE SHOULD BE INCLUDED DIRECTING IRS TO STUDY, IN CONSULTATION WITH A NATIONAL ADVISORY PANEL COMPOSED OF PEOPLE WITH DISABILITIES AND THEIR FAMILIES, AND REPORT BACK TO CONGRESS ON THE FEASIBILITY OF DEVELOPING A SEPARATE DISABILITY RELATED EXPENSES. DOING SO WOULD PERMIT THOSE WISHING TO ITEMIZE AND DOCUMENT SUCH COSTS RATHER THAN TAKE A STANDARD DEDUCTION TO DO SO. NOTE: AGAIN THIS IS HOW IRS IS STRUCTURED IN GENERAL. MOREOVER, IF AMERICAN FARMERS CAN ELECT TO DO THEIR TAXES ON A SEPARATE SCHEDULE, AMERICANS WITH DISABILITIES DESERVE NO LESS A CHOICE.

JUSTIFICATION 1) PEOPLE WITH DISABILITIES OFTEN INCUR EXTRA LIVING EXPENSES THAT ARE DISABILITY RELATED. SUCH EXPENSES BECOME ESPECIALLY BURDENSOME IN ECONOMIC BAD TIMES. 2) EXISTING MEDICAL AND DISABILITY-RELATED WORK EXPENSES DEDUCTIONS DO NOT PROVIDE ADEQUATE RELIEF IN THIS REGARD.

2. AMEND THE ADA TAX CREDIT (SECTION 151, OBRA-90) TO:

A) CLARIFY THAT IT APPLIES TO ANY SMALL BUSINESS PROVIDING REASONABLE ACCOMMODATION TO AN EMPLOYEE WITH A DISABILITY AND NOT JUST ONE WHICH IS A PUBLIC ACCOMMODATION. THIS COULD BE DONE BY RETITLING IT: "SMALL BUSINESS AND PUBLIC ACCOMMODATIONS ACCESS CREDIT".

JUSTIFICATION THE TITLE OF THE SECTION AND THE WAY IT READS ARE BOTH CONFUSING ON THIS POINT AND NEED TO BE CLARIFIED.

B) ADD PERSONAL ASSISTANCE AS AN ELIGIBLE EXPENSE UNDER SECTION 151. THIS COULD BE DONE BY ADDING PERSONAL ASSISTANCE AS AN "ELIGIBLE ACCESS EXPENDITURE" IN THE SECTION'S FIFTH AND FINAL CLAUSE.

JUSTIFICATION: THE BASIC AIM OF 151 IS CLEARLY BARRIER REMOVAL. ELIGIBLE SMALL BUSINESSES MIGHT TRY TO CLAIM PAS EXPENSES AS "ELIGIBLE ACCESS EXPENDITURES". BUT SINCE THE STATUTE DOES NOT LIST PAS, IRS IS NOT REQUIRED TO ACCEPT SUCH CLAIMS OR EVEN INFORM BUSINESSES OF THEIR RIGHT TO MAKE THEM.

- C) ALLOW FIRMS THAT INCUR REASONABLE ACCOMMODATIONS COSTS THAT ARE ONGOING IN NATURE OR EXCEED UNDUE BURDEN TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 25% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 BUT DO NOT EXCEED \$15,500. JUSTIFICATION: ELIGIBLE SMALL BUSINESSES THAT PROVIDE JOB ACCOMMODATIONS OF AN ONGOING NATURE (E.G., PAS, SUPPORTED EMPLOYMENT) OR THAT EXCEED UNDUE BURDEN SHOULD HAVE ADDED INCENTIVE TO DO SO ESPECIALLY IN RECESSIONARY TIMES
- D) ALLOW FIRMS WITH FEWER THAN 15 EMPLOYEES TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 75% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$250 BUT DO NOT EXCEED \$10,250 THAT ARE SPENT SPECIFICALLY ON PROVIDING JOB ACCOMMODATIONS TO ONE OR MORE EMPLOYEES WITH DISABILITIES.

JUSTIFICATION: FIRMS WITH FEWER THAN 15 EMPLOYEES ARE NOT COVERED BY THE TITLE I EMPLOYMENT REQUIREMENTS OF THE ADA BUT ARE, IN FACT, THE RICHEST JOB SOURCE IN OUR NATION. FEDERAL TAX POLICY CAN AND SHOULD ENCOURAGE THIS VITAL SECTOR OF OUR ECONOMY TO HIRE AND PROVIDE JOB ACCOMMODATIONS TO QUALIFIED EMPLOYEES WITH DISABILITIES.

- E) ALLOW DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES, WHICH ARE COVERED BY THE PUBLIC ACCOMMODATIONS-TITLE III REQUIREMENTS OF THE ADA, TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 50% OF ELIGIBLE ACCESS EXPENDITURES THAT EXCEED \$10,250 ON PROVIDING ASSISTANCE TO YOUNGSTERS WITH DISABILITIES WHO REQUIRE IT WITH EATING, TOILETING AND/OR DRESSING IN ORDER TO PARTICIPATE IN SUCH PROGRAMS.

JUSTIFICATION: AS PRESIDENT BUSH PROCLAIMED, THE TRUE MISSION OF THE ADA IS TO BRING "THE SHAMEFUL WALLS OF EXCLUSION STUMBLING DOWN." THIS PROCESS MUST START EARLY. CHILDREN -- WITH AND WITHOUT DISABILITIES -- LEARN BEST BY GROWING UP TOGETHER. YOUNGSTERS WITH DISABILITIES SHOULD NOT BE BARRED THESE OPPORTUNITIES JUST BECAUSE THEY REQUIRE ASSISTANCE WITH EATING, TOILETING AND/OR DRESSING. ELIGIBLE DAY CARE PROVIDERS AND OTHER SIMILAR SERVICES THAT INCUR ADDED COSTS IN PROVIDING SUCH ASSISTANCE SHOULD BE ENCOURAGED AND PROVIDED WITH ADEQUATE TAX RELIEF TO DO SO.

(PLEASE NOTE: THE PERCENTAGES AND DOLLAR AMOUNTS LISTED IN RECOMMENDATIONS 2.C.-2.E. ARE INCLUDED FOR ILLUSTRATIVE PURPOSES AND MAY HAVE TO BE ADJUSTED ACCORDINGLY BASED ON FISCAL NOTE CONSIDERATIONS.)

3. AMEND CURRENT LAW TO PERMIT TAXPAYERS WITH DISABILITIES TO:

- A) TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF ELIGIBLE PERSONAL ASSISTANCE EXPENDITURES THAT EXCEED 2% OF THEIR NET INCOME. ✓

JUSTIFICATION: MUCH THE SAME AS #1 ABOVE. THIS IS A MORE TARGETED VERSION OF #1 ABOVE BUT WOULD PROVIDE TAXPAYERS WITH DISABILITIES WHO RELY UPON PAS TO WORK AND LEAD TYPICAL LIVES SOME ADDED TAX RELIEF. ✓

- B) TO ELECT TO TAKE A CREDIT IN AN AMOUNT EQUAL TO 100% OF THE COSTS OF A JOB ACCOMMODATION WHICH THE PERSON AGREES TO PAY FOR BECAUSE IT EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER. ✓

JUSTIFICATION: A TAXPAYER WITH A DISABILITY WHO PAY FOR A JOB ACCOMMODATION WHICH EXCEEDS A FIRM'S UNDUE BURDEN TRIGGER SHOULD BE PROVIDED WITH ADEQUATE TAX RELIEF.

- 4. REQUIRE THE IRS TO STREAMLINE AND SIMPLIFY RECORD KEEPING AND FILING REQUIREMENTS FOR PERSONAL ASSISTANCE IN CONSULTATION WITH A NATIONAL ADVISORY PANEL COMPOSED OF PAS USERS, FAMILIES, DISABILITY ADVOCATES AND REPRESENTATIVES OF INDEPENDENT LIVING CENTERS. ?

JUSTIFICATION: IRS RECORD KEEPING AND FILING REQUIREMENTS ARE BURDENSOME FOR PERSONAL ASSISTANCE USERS AND THEIR FAMILIES TO FOLLOW. TO COMPOUND MATTERS, THE IRS HAS CHOSEN TO CRACK DOWN ON USERS AND ILC'S IN SOME STATES. THE PROCESS MUST BE STREAMLINED AND SIMPLIFIED IN CONSULTATION WITH THOSE MOST DIRECTLY AFFECTED BY IT. ?

- 5. PERMIT HOMEOWNERS WITHOUT DISABILITIES WHO MAKE THEIR HOMES ACCESSIBLE OUT OF CONSIDERATION OF VISITING FAMILY/FRIENDS TO DEDUCT SOME OR ALL OF THE COSTS OF DOING SO. JUDY HEUMANN CAME UP WITH THIS IDEA AND CAN BE CONTACTED DIRECTLY FOR MORE DETAILS AT 510 763-4100. JUSTIFICATION: 1. IT PROMOTES THE SPIRIT AND AIMS OF THE ADA AND THE FAIR HOUSING ACT AMENDMENTS; AND 2. IT WILL INCREASE THE NATION'S SUPPLY OF ACCESSIBLE HOUSING. ?

- 6. PERMIT FOREIGN EXCHANGE STUDENTS TO WORK AS PERSONAL ASSISTANTS OFF CAMPUS AS WELL AS ON CAMPUS. CURRENTLY THEY ARE ONLY PERMITTED TO DO THE LATTER. IT IS UNCLEAR WHETHER THIS WOULD REQUIRE A CHANGE IN THE IRS AND/OR IMMIGRATION CODE. JUDY, HOWEVER, ASKED THAT I BRING IT TO YOUR ATTENTION. JUSTIFICATION: IT INCREASES THE SUPPLY OF AFFORDABLE PAS WORKERS AND GETS RID OF AN ARBITRARY AND HARMFUL DISTINCTION IN OUR TAX CODE. ?

- 7. EXEMPT SSI RECIPIENTS FROM PAYING ANY TAX ON EARNED INCOME. JUSTIFICATION: THIS MAY SEEM UNNECESSARY BUT I KNOW OF AT LEAST ONE PERSON WHO BECAUSE HE GETS SSI AND IS A SELF-EMPLOYED ARTIST (MAKING AT MOST \$6 000 A YEAR) PAY INCOME TAX AT A RIDICULOUSLY REGRESSIVE RATE.

7.

AS IN THE PAST, I AM SHARING COPIES OF THIS WITH BOBBY SILVERSTEIN, PAT WRIGHT, JUDY HEUMANN AND PAUL MARCHAND. PLEASE LET ME KNOW WHAT YOU THINK AND HOW I CAN BE OF FURTHER HELP. THANKS.

cc:	BOBBY SILVERSTEIN	FAX#:	(202) 224-9369
	JUDY HEUMANN	FAX#:	(202) 763-4109
	PAUL MARCHAND	FAX#:	(202) 467-4179
	PAT WRIGHT	FAX#:	

October 26, 1990

TO: Senator Dole  
FROM: Maureen West  
SUBJECT: Assistance for Disability-Related Expenditures

The recently enacted Americans with Disabilities Act (ADA) will require businesses and other public facilities to make "reasonable accommodations" for persons with disabilities. In some cases this could mean that a business will be required to make expenditures to adapt a job or service to a person with a disability.

A number of legislative initiatives designed to ease the financial burden placed on businesses by ADA were introduced this session. Outlined below are four programs you sponsored that provide financial and/or technical assistance to businesses for disability-related expenditures: EEOC technical assistance, targeted jobs tax credit (TJTC), Pryor-Kohl disability access tax credit, and Section 190 deductions.

#### Technical Assistance

You authored a technical assistance amendment to ADA that would assist with its implementation. This amendment directs the Equal Employment Opportunity Commission (EEOC) to clarify and answer questions regarding the rights of persons with disabilities and the obligations of businesses under ADA. This technical assistance amendment was also included in the Commerce, Justice, State, and Judiciary Appropriations Bill. The conference agreement includes \$1 million for the implementation of a technical assistance program as authorized by section 506 of ADA.

#### Targeted Jobs Tax Credit

The targeted jobs tax credit, which aims to increase the employability of disadvantaged youth and persons with disabilities, has been extended for another 15 months. Many businesses in Kansas have successfully utilized this program to employ people with disabilities. The extension will further ease the burden faced by businesses in accommodating persons with disabilities as required by ADA.

#### Pryor-Kohl Disability Access Tax Credit

The tax credit is designed to assist the small business community with the cost of ADA compliance. The credit applies to any ADA-related expenditures for the accommodation of persons with disabilities. ADA-related expenditures include the following: removal of architectural, transportation, physical, or



communications barriers; procurement or modification of equipment and/or services; translation of materials for the visually or hearing impaired; personal assistant services; technical support and training for business and employee compliance; auxiliary aids and services. The variety of eligible disability related expenditures will enable businesses to more easily accommodate persons with disabilities.

Small businesses are responsible for the first \$250 of expense to accommodate the disabled. Costs above \$250 are eligible for a 50% non-refundable credit, up to \$10,250. Any ADA-disability related expenditure above \$10,250 is eligible for a more restricted deduction of \$15,000. If the entire access tax credit is not used in one year, it can be accumulated and carried forward to subsequent years or carried back to previous tax years.

Only small businesses are eligible to receive tax credit. A small business is defined as any business with less than \$1 million gross receipts or fewer than 30 full time employees qualify for the credit. Eligibility for the tax credit is narrowly defined for several reasons. Small businesses will be called on most often to accommodate and employee persons with disabilities. Small business have limited resources and, therefore, require the most technical and financial assistance to comply with ADA. In addition, all other businesses qualify for the \$15,000 deduction.

The access tax credit is revenue neutral. The cost of this new credit, however, is offset by lowering the deduction in Section 190 of the Internal Revenue Code to \$15,000.

#### Section 190

Section 190 of the Internal Revenue Code, which you authored, provides a \$35,000 deduction for disability related expenditures. A disability related expenditure is defined as the removal of architectural and transportation barriers to the disabled and elderly. Given a number of assumptions related to company size and income, large businesses have tended to benefit more from the Section 190 deduction.

The Pryor-Kohl Disability Access Tax Credit (as described above) lowers the deduction to \$15,000. Justification for this change to the Section 190 deduction is based upon two arguments. First, Section 190 does not focus assistance effectively to small businesses. Small businesses, however, will bare the burden of ADA and will most need help. And second, Section 190 deductions for disability related expenditures apply to only a limited class of expenditures.

Consequently, Section 190 provides a \$15,000 deduction for disability related expenditures.



MAXWELL MACMILLAN

# FEDERAL TAXES 2nd

Special Report

November 29, 1990

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A Complete Guide  
to the  
**OMNIBUS BUDGET  
RECONCILIATION  
ACT of 1990**  
—TAX PROVISIONS—

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Explanation • Code Sections Amended •  
Table of Effective Dates • Committee Reports • Index

JAN 14 1991

OBRA Date of Enactment: November 5, 1990  
Public Law 101-508

**COMMENT:** Since these changes are effective for tax years beginning after 12-31-89, base-year expenditures for 1990 fiscal years do not have to be reduced proportionately for the part of the year that falls in calendar 1991.

*Act Sec. 11402, extending the credit for increasing research activities, amends IRC §41(h) and makes conforming amendments to '89 OBRA §7110(a) and IRC §28(b)(1)(D), effective for taxable years beginning after 12-31-89.*

**[[151] New Small Business Public Accommodations Access Credit.** The Americans With Disabilities Act of 1990 requires businesses to make structural changes to facilities to accommodate disabled and handicapped individuals. To help small businesses with the cost of complying with that Act, the new law provides a credit for a portion of the expenditures incurred in making the required changes. At the same time, to help offset the cost of the credit, the new law cuts back on the IRC §190 deduction for removal of barriers to the handicapped.

**Background.** Under §190, a taxpayer meeting certain requirements may elect to currently deduct certain architectural and transportation barrier removal expenses rather than capitalize them. The maximum deduction for any tax year is \$35,000.

**New credit.** Under the new law, an eligible small business may elect a credit in an amount equal to 50% of the eligible access expenditures for the tax year that exceed \$250 but do not exceed \$10,250. Thus, the maximum credit in a tax year is \$5,000. The credit is effective for expenditures paid or incurred after 11-5-90.

**Eligible small business.** An eligible small business is a person (or any predecessor) that, for the preceding tax year, either (1) had gross receipts that did not exceed \$1 million or (2) had no more than 30 full-time employees. For this purpose, an employee is considered full-time if he is employed at least 30 hours a week for at least 20 weeks in the tax year. Also, gross receipts for any tax year are to be reduced by returns or allowances made during the year. The IRS is to make appropriate adjustments to the tests where the relevant tax year (preceding year) is a short year.

**Eligible access expenditures.** Eligible access expenditures are amounts paid or incurred by an eligible small business for the purpose of enabling the business to comply with applicable requirements of the Americans With Disabilities Act of 1990 (as in effect on 11-5-90). Such expenditures include amounts paid or incurred (1) for the purpose of removing architectural, communication, physical, or transportation barriers that prevent a business from being accessible to, or usable by, individuals with disabilities; (2) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments; (3) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials to individuals with visual impairments; (4) to acquire or modify equipment or devices for individuals with disabilities; or (5) to provide other similar services, modifications, materials, or equipment.

The expenditures must be reasonable and necessary to accomplish these purposes. Also, the taxpayer must establish to the satisfaction of

transfers after

Under the new subject to the causing an in- the trust and disclosed on a the nature of would not run regardless of year.

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**ITS**

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the IRS that the action undertaken (i.e., removal of barrier, provision of equipment, etc.) meets the standards promulgated by the IRS with the concurrence of the Architectural and Transportation Barriers Compliance Board, as set forth in IRC regulations. Amounts paid or incurred in connection with any facility first placed in service after 11-5-90 are not eligible access expenditures.

"Disability" has the same meaning as when used in the Americans With Disabilities Act.

**Treatment as general business credit.** The new credit is included as a general business credit. Thus, it is subject to the IRC §38 rules that limit the amount of business credit that can be used for any tax year. The portion of the unused business credit for any tax year that is attributable to the disabled access credit may not be carried back to any tax year ending before 11-5-90. For discussion of §38, see ¶384 of Federal Taxes 2nd and ¶38 of Federal Tax Guide.

**Denial of double benefit.** No deduction is allowed for the amount of the credit under any other Code provision. Also, no increase in basis is allowed for such amount.

**Controlled groups.** All members of the same controlled group of corporations (as defined in §52(a)) and all persons under common control (as defined in §52(b)) are treated as one person for purposes of the gross receipts limitation, the employee limitation, and the maximum amount of the credit. The IRS is to apportion the dollar limitation among such related persons under regulations.

**Partnerships and S corporations.** For partnerships and S corporations, the dollar limitation on the amount of the credit applies at both the entity level and at the partner or shareholder level.

**Regulatory authority.** The new law gives the IRS regulatory authority to carry out the purposes of the credit provisions.

**IRC §190 deduction.** The new law reduces the maximum amount of architectural and transportation barrier removal expenses that may be deducted for any tax year to \$15,000, effective for tax years beginning after 11-5-90.

*Act Sec. 11611(a), relating to the disabled access credit, adds new IRC §44, effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(b)(1), relating to including the disabled access credit as part of the general business credit, adds new paragraph (7) to IRC §38(b), effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(b)(2), relating to carryback of the general business credit, adds new paragraph (5) to IRC §39(d), effective for expenditures paid or incurred after 11-5-90; Act Sec. 11611(c), relating to architectural and transportation barrier removal expenses, amends IRC §190(c) by striking "\$35,000" and inserting "\$15,000," effective for tax years beginning after 11-5-90.*

**[¶152] Targeted Jobs Credit Extended.** Under pre-'90 OBRA law, the targeted jobs credit, available to employers for 40% of qualified wages paid to first-time employees in certain groups, such as the economically disadvantaged or disabled, expired for individuals who began employment after 9-30-90.

**Credit extension.** The new law retroactively reinstates the credit and extends it to apply to wages of individuals who begin employment by 12-31-91. It also extends authorization appropriations for administrative and publicity expenses relating to the credit.

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(5) Section not to apply to certain noncorporate lessors.—This section shall not apply to any section 179 property <sup>2</sup>which is purchased by a person who is not a corporation and with respect to which such person is the lessor unless—

(A) the property subject to the lease has been manufactured or produced by the lessor, or

(B) the term of the lease (taking into account options to renew) is less than 50 percent of the class life of the property (as defined in section 168(i)(1)), and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property.

\* \* \* \* \*

[For explanation, see ¶430.]

¶1060] IRC §184. AMORTIZATION OF CERTAIN RAILROAD ROLLING STOCK.

[Repealed by section 11801(a)(12), OBRA '90, P.L. 101-508, 11-5-90.]<sup>1</sup>

¶1061] IRC §188. AMORTIZATION OF CERTAIN EXPENDITURES FOR CHILD CARE FACILITIES.

[Repealed by section 11801(a)(13), OBRA '90, P.L. 101-508, 11-5-90.]<sup>1</sup>

[For explanation see ¶430.]

¶1062] IRC §190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

\* \* \* \* \*

(c) Limitation.—The deduction allowed by subsection (a) for any taxable year shall not exceed <sup>1</sup>\$15,000.<sup>2</sup>

[For explanation, see ¶151, for text of Committee Reports, see ¶3064.]

[Footnote IRC §179 continued.]

(2) "purchased by any person described in section 46(e)(3) unless the credit under section 38 is allowable with respect to such person for such property (determined without regard to this section)."

Effective date (Sec. 11813(c), OBRA '90).—(1) Generally applies to property placed in service after 12-31-90.

(2) Exceptions.—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e) of '86 Code (as in effect on the day before 11-5-90),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

¶Footnote IRC §184] (1) Effective date (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) Savings provision.—If—

(1) any provision amended or repealed by this applied to—

(A) any transaction occurring before 11-5-90,

(B) any property acquired before such 11-5-90 or,

(C) any item of income, loss, deduction, or credit taken into account before such 11-5-90, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such 11-5-90.

¶Footnote IRC §188] (1) Effective date (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) Savings provision.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before 11-5-90,

(B) any property acquired before 11-5-90,

(C) any item of income, loss, deduction, or credit taken into account before 11-5-90, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax periods ending after 11-5-90,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after 11-5-90.

¶Footnote IRC §190] Matter in italics in IRC §190(c) added by section 11611(c), OBRA '90, which struck out:

(1) "\$35,000"  
Effective date (Sec. 11611(e)(2), OBRA '90).—Applies to tax years beginning after 11-5-90.

Section 11801(a)(14), OBRA '90, struck out from IRC §190(d):

(2) "(d) Application of Section.—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 2, 1983, and

(2) taxable years beginning after December 31, 1983."

Effective date (Sec. 11821, OBRA '90).—(a) Generally takes effect on 11-5-90.

(b) Savings provision.—If—

(1) any provision amended or repealed by this part applied to—

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ship cannot be terminated. Mother dies and leaves her partnership interest to Daughter. As the sole partners, Daughter and Son acting together could remove the restriction on partnership termination. Under the conference agreement, the value of Mother's partnership interest in her estate is determined without regard to the restriction. Such value would be adjusted to reflect any appropriate fragmentation discount.

This rule does not apply to a commer-

[For explanation see ¶110-127.]

【§3064】 SECTION 11611. CREDIT FOR COST OF PROVIDING ACCESS FOR DISABLED INDIVIDUALS.

(IRC §44 and §190)

[Senate Explanation]

• • • • •

Present Law

Under present law, a taxpayer may elect to deduct certain architectural and transportation barrier removal expenses for the taxable year in which paid or incurred rather than capitalizing such expenses. Architectural and transportation barrier removal expenses are defined for this purpose as expenditures that are paid or incurred by a taxpayer in order to make facilities or public transportation vehicles owned or leased in connection with the taxpayer's business more accessible to handicapped and elderly individuals. In order for such expenditures to be deductible under this provision, the taxpayer must establish to the satisfaction of the Treasury Department that the facility or public transportation vehicle to which the expenditures relate conforms to standards promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. The amount of the deduction allowed under this provision for any taxable year is limited to \$35,000.

Reason for Change

The Americans With Disabilities Act of 1990 requires businesses to make structural changes to facilities to accommodate disabled and handicapped individuals. The committee is concerned that the requirements contained in the Americans With Disabilities Act of 1990 may impose a severe financial burden on certain small businesses. Consequently, the committee believes that it is appropriate to provide these small businesses with a nonrefundable income tax credit for a portion of the expenditures that are incurred in complying with the requirements of the Americans With Disabilities Act of 1990. As a means of offsetting the cost of this new credit, the committee believes [that] it is appropriate to reduce the amount that is allowed as a deduction under section 190.

cially reasonable restriction which arises as part of a financing with an unrelated party or a restriction required under State or Federal law. The provision also grants to the Treasury Secretary regulatory authority to disregard other restrictions which reduce the value of the transferred interest for transfer tax purposes but which do not ultimately reduce the value of the interest to the transferee.

Explanation of Provision

**Small business public accommodations access credit.** *In general.* Under the bill, an eligible small business that elects the application of the provision is allowed a nonrefundable income tax credit equal to 50 percent of the amount of the eligible public accommodations access expenditures for any taxable year that exceed \$250 but do not exceed \$10,250.<sup>31</sup>

The amount of the credit allowed for any taxable year is not to exceed the excess if any of (1) the regular tax for the taxable year reduced by the amount of the foreign tax credit, any nonrefundable personal credits, and certain other specified credits allowed for such taxable year, over (2) the tentative minimum tax for the taxable year. The amount of the credit that is not allowed under this limitation for any taxable year is to be carried back 3 years and forward 15 years, except that the amount of such credit is not to be carried back to any taxable year beginning before January 1, 1991. The amount of any credit that is carried to another taxable year is subject to the limitation described above for the year to which the credit is carried.

**Definition of eligible small business.** An eligible small business is defined for any taxable year as any person that is engaged in the trade or business of operating a public accommodation and is required by Federal law to make such accommodation accessible to, or usable by, individuals with disabilities, and that either (1) had gross receipts<sup>32</sup> for the preceding taxable year that did not exceed \$4 million or (2) had fewer than 30 full-time employees<sup>33</sup> during the taxable year.

**Definition of eligible public accommodations access expenditures.** Eligible public accommodations access expenditures are defined as amounts paid or incurred by a taxpayer either (1) for the purpose of removing architectural, communication, or transportation barriers which prevent a public accommodation operated by the taxpayer from being accessible to, or usable by, an individual with a disability, or (2) for provid-

【Footnote §3064】 (31) Consequently, the maximum amount of the credit for any taxable year is \$5,000.

(32) The gross receipts of a person for any taxable year are to be determined after reduction for returns and allowances made during the taxable year.

(33) For this purpose, a full-time employee is defined as any employee of the taxpayer who is employed at least 30 hours per week for 20 or more calendar weeks during the taxable year.

on which arises as an unrelated party under State or Federal authority to also grants to the atory authority to ons which reduce erred interest for which do not ulti- of the interest to

### G ACCESS FOR

#### Provision

accommodations 1. Under the bill, as that elects the sion is allowed a credit equal to 50 the eligible public penditures for any \$250 but do not

lit allowed for any exceed the excess if ax for the taxable unt of the foreign able personal cred- ecified credits al- year, over (2) the r the taxable year. that is not allowed ny taxable year is rs and forward 15 out of such credit o any taxable year y 1, 1991. The t is carried to an- ect to the limita- the year to which

all business. An s defined for any on that is engaged f operating a pub- required by Fed- accommodation ac- individuals with her (1) had gross ling taxable year million or (2) had mployees<sup>33</sup> during

ublic accommoda- . Eligible public expenditures are or incurred by a purpose of remov- igation, or trans- prevent a public by the taxpayer or usable by, an , or (2) for provid-

le year is \$5,000. uction for returns and ho is empl, ed at least

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ing auxiliary aids or services to an individ- ual with a disability who is an employee of, or using, a public accommodation operated by the taxpayer.

The amount of an expenditure is not to be considered an eligible public accommodations access expenditure unless the taxpayer establishes to the satisfaction of the Treasury Department that the removal of any barrier or the provision of any auxiliary aid or service to which the expenditure relates satisfies standards set forth in regulations promulgated by the Treasury Department with the concurrence of the Architectural and Transportation Barriers Compliance Board. In addition, amounts paid or incurred by a taxpayer for the purpose of removing architectural, communication, or transportation barriers do not qualify as eligible public accommodations access expenditures if the amounts are paid or incurred in connection with any facility that is first placed in service (i.e., the first occupancy of which occurs) after December 31, 1990.

*Other definitions and special rules.* For purposes of this provision, \* \* \* "disability," \* \* \* [has] the \* \* \* [meaning given] by the Americans With Disabilities Act of 1990, as in effect on the date of enactment of this provision.

For purposes of determining the amount of the credit and in determining whether the \$4 million gross receipts limitation and the 30 full-time employee limitation are satisfied, all members of the same controlled group of corporations (as defined in section 52(a)) and all persons under common control (as defined in section 52(b)) are treated as one person. Thus, for example, two or more corporations that are members of the same controlled group of corporations would be allowed a credit that is not to exceed \$5,000 if, treating all such corporations as a single person, the \$4 million gross receipts limitation or the 30 full-time employee limitation is satisfied.

In the case of a partnership, the \$10,250 annual limitation on the amount of expenditures that are taken into account in determining the amount of the credit is to apply at both the partnership level and the partner level. Similarly, in the case of an S corporation, the \$10,250 annual limitation on the amount of the expenditures that are taken into account in determining the amount of the credit is to apply at both the S corporation level and the shareholder level.

The bill also provides that no deduction or credit is to be allowed under any other provision of chapter 1 of the Internal Revenue Code for any amount for which a credit is allowed and the adjusted basis of any property with respect to which a credit is determined is not to include the amount of the credit.

Finally, the bill requires the Treasury Department to prescribe such regulations as are necessary to carry out the purposes of the provision, including regulations that (1)

adjust the \$4 million gross receipts limitation and the 30 full-time employee limitation in the case of taxable years that are less than 12 months and (2) apportion the \$10,250 annual limitation among two or more persons that are treated as a single person under the related-person rules described above.

**Reduction of amount deductible as architectural and transportation barrier removal expenses.** The bill also reduces the amount of architectural and transportation barrier removal expenses that may be deducted for any taxable year to \$15,000.

#### Effective Date.

The small business public accommodations access credit applies to eligible expenditures paid or incurred after the date of enactment.

The reduction in the amount of deductible architectural and transportation barrier removal expenses applies to taxable years after the date of enactment.

[Conference Report]

#### Conference Agreement.

The conference agreement follows the Senate amendment, with the following modifications.

First, an eligible small business is defined for any taxable year as a person that had gross receipts for the preceding taxable year that did not exceed \$1 million or had no more than 30 full-time employees during the preceding taxable year.

Second, the amount of the credit for any taxable year is equal to 50 percent of the eligible access expenditures for the taxable year that exceed \$250 but do not exceed \$10,250. Eligible access expenditures are defined as amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements of the Americans With Disabilities Act of 1990 (as in effect on the date of enactment of the credit).

Eligible access expenditures generally include amounts paid or incurred (1) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities; (2) to provide qualified interpreters or other effective methods of making orally delivered materials available to individuals with hearing impairments; (3) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments; (4) to acquire or modify equipment or devices for individuals with disabilities; or (5) to provide other similar services, modifications, materials, or equipment. The expenditures must be reasonable and necessary to accomplish these purposes.

Finally, the disabled access credit is included as a general business credit and

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thus, is subject to the rules of present law that limit the amount of the general business credit that may be used for any taxable year. The portion of the unused business

credit for any taxable year that is attributable to the disabled access credit is not to be carried back to any taxable year ending before the date of enactment of the credit.

[For explanation, see ¶151.]

【¶3065】 SECTION 11621. REVIEW OF IMPACT OF REGULATIONS ON SMALL BUSINESS.

(IRC §7805)

[Conference Report]

**Present Law.** The Internal Revenue Service (IRS) must submit proposed regulations (after they are published) to the Small Business Administration (SBA) for comment on the impact of those regulations on small business. The SBA must respond within four weeks. Similar rules apply to final regulations that do not supersede proposed regulations.

**Conference Agreement.** IRS must continue to submit proposed regulations (after they are published) to the SBA for comment on the impact of those regulations on small business. The SBA must respond within four weeks. The IRS must consider the SBA comments and discuss them in the preamble of the final regulations. Similar rules apply to final regulations that do not supersede proposed regulations. The provision applies to regulations issued after the date that is 30 days after the date of enactment.

[For explanation, see ¶334.]

【¶3066】 SECTION 11622. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS OF INCOME.

(IRC §7523)

[Conference Report]

**Present Law.** There is no requirement for the Internal Revenue Service (IRS) to publish pie charts. Pie charts illustrating where the Government dollar comes from and where it goes have, however, been published by the IRS in Publication 17, Your

Federal Income Tax.

**Conference Agreement.** The conference agreement requires the IRS to include two pie charts in individual income tax form instruction booklets: one depicting sources of Government revenue and the other showing how that revenue is spent. This provision applies to instructions prepared for taxable years beginning after 1990.

[For explanation, see ¶335.]

【¶3067】 SECTIONS 11700—11704. TAX TECHNICAL CORRECTIONS.

[Conference Report]

**House Bill.** No provision in H.R. 5835, H.R. 5822 as reported by the House Ways and Means Committee contains technical, clerical, and conforming amendments to the Revenue Reconciliation Act of 1989, the Technical and Miscellaneous Revenue Act of 1988, and other recently enacted tax legislation (H. Rpt. 101-894).

ings in determining whether the expenditure requirements of the 24-month exception to arbitrage rebate requirement have been satisfied is intended to apply only to bonds issued after October 16, 1990.

**Senate Amendment.** No provision.

**Conference Agreement.** The conference agreement contains the tax technical correction provisions of H.R. 5822 as reported by the House Ways and Means Committee.

**OID.**—One of the technical corrections provides rules for determining the yield on a debt instrument that makes a payment or payments in the form of the stock of the issuer (or a related person). The conferees understand that, in the case of a debt instrument that makes payments in the form of stock which provides for an annual dividend rate and a stated redemption amount by a fixed date, the amount of stock to be taken into account under the technical correction should generally be determined by discounting such payments. The discount rate for such purpose shall be the yield on the debt instrument, determined assuming the payments under the stock are made as provided.

**Tax-exempt bonds.**—With regard to the technical corrections to the tax-exempt bond provisions of the 1989 Act, the conferees wish to clarify that the legislative history specifying the treatment of investment earn-

[For explanation, see ¶400-425.]



# CRS Report for Congress

## Federal Tax Code Provisions of Interest to the Disabled and Handicapped

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April 30, 1990



Congressional Research Service • The Library of Congress

## FEDERAL TAX CODE PROVISIONS OF INTEREST TO THE DISABLED AND HANDICAPPED

### SUMMARY

In determining taxable income under present income tax laws, some relief is provided to those individuals with physical and/or mental disability or to those who help care for them. The special needs of these individuals are recognized through a number of special *Internal Revenue Code* provisions.

Among the provisions available to individuals are (1) an additional standard deduction amount for blind individuals (\$600 for elderly or blind married individuals or \$750 for elderly or blind single individuals – with an inflation adjustment for tax years beginning after 1988); (2) the itemized deduction for unreimbursed medical expenses to the extent that the total amount of such expenditures exceed 7.5 percent of adjusted gross income; (3) a one-time exclusion from the capital gains on the proceeds from the sale of a principal residence (up to \$125,000 of the gain) by persons age 55 or over who must enter a nursing home for care; (4) the dependent care credit; (5) the special tax treatment of disability benefits; and (6) employee business expenses of handicapped workers, which is not subject to a floor.

Additionally, two provisions are especially designed to help businesses provide for the needs of the handicapped. Those two provisions are the targeted jobs tax credit which is available to employers who hire handicapped individuals undergoing vocational training and a \$35,000 deduction per year for the removal of architectural and transportation barriers.

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## FEDERAL TAX CODE PROVISIONS OF INTEREST TO THE DISABLED AND HANDICAPPED

Tax provisions with special application to the disabled and handicapped are briefly described in this paper. In determining taxable income under present income tax laws, some relief is provided to those individuals with physical and/or mental disability. Their special needs are recognized through a number of special *Internal Revenue Code* provisions available to individuals. Among the provisions available to individuals are (1) an additional standard deduction amount for blind individuals (\$600 for elderly or blind married individuals or \$750 for elderly or blind single individuals - with an inflation adjustment for tax years beginning after 1988); (2) the itemized deduction for unreimbursed medical expenses to the extent that the total amount of such expenditures exceed 7.5 percent of adjusted gross income; (3) a one-time exclusion from the capital gains on the proceeds from the sale of a principal residence (up to \$125,000 of the gain) by persons age 55 or over who must enter a nursing home for care; (4) the dependent care credit; (5) the special tax treatment of disability benefits; and (6) employee business expenses of handicapped workers, which is not subject to a floor. In addition, businesses have available such provisions as a \$35,000 deduction per year for removal of architectural and transportation barriers, and the targeted jobs tax credit.

### PERSONAL/DEPENDENCY EXEMPTION

Frequently, the dependency exemption arises in the case of a taxpayer supporting a handicapped or mentally impaired individual. The dependency exemption has a value of \$1,950 for 1988, \$2,000 for 1989, and \$2,050 in 1990. (The personal/dependency exemption is indexed to inflation and thus is likely to rise in future years.)

In order to claim a dependency exemption for any person under present law, five tests must be met:

1. Gross income test - a taxpayer cannot claim a person (other than the taxpayer's child under the age of 19 or who qualifies as a student under the age of 24) as a dependent if the person had gross income of \$2,000 or more for the tax year 1989 (or \$2,050 in tax year 1990). In applying the gross income test, tax exemption income, such as compensation for injuries and sickness (including but not limited to worker compensation) and damages by court award or agreement, is not included in determining whether the taxpayer has furnished over half of the dependent's support. Gross income is measured before

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allowing for expenses of earning income or other items deductible for income tax purposes. For example, an individual with rental property collecting \$2,100 in rent with \$1,000 in rental expenses could not be claimed as a dependent, since his or her gross income exceeds the personal/dependency exemption amount even though his or her adjusted gross income is only \$1,100.

2. Support test – the taxpayer must furnish more than one-half of the support of that person for the taxable year. Excludable income not counted in the gross income test (such as social security and railroad retirement) is counted in determining whether the taxpayer has furnished over half of the dependent's support.
3. Member of household or relationship – a person need not be related to the taxpayer to qualify as a dependent if he or she is a member of the taxpayer's household and lives with him or her for the entire year. Certain dependent relatives need not live with the taxpayer or be a member of the taxpayer's household to be claimed as an exemption. Parents and grandparents, for example, may be claimed as dependents even though they live in separate domiciles.
4. Citizenship test – a dependent must be a citizen or national of the United States or a resident of the United States or a resident of Canada, Mexico, the Panama Canal Zone, or the Republic of Panama for some part of the year to be claimed as an exemption by the taxpayer.
5. Joint return test – a taxpayer is not allowed an exemption for a dependent if the dependent files a joint tax return.

### HEAD OF HOUSEHOLD FILING STATUS

Current law provides single taxpayers with a qualifying dependent an additional benefit. A single taxpayer with a dependent not only receives the dependency exemption but also moves from single taxpayer status and tax rates to "head of household" taxpayer status and rates. Head of household rates are approximately in the middle between the higher rates of singles and the lower rates of married taxpayers filing jointly. Also, the standard deduction for head of household is higher than for singles but lower than for joint returns. There is no reduction in rates or increase in the standard deduction amount for married taxpayers who can claim a dependent.

## ADDITIONAL STANDARD DEDUCTION FOR THE ELDERLY OR BLIND

In addition to the personal/dependency exemption and the standard deduction, a taxpayer is allowed an additional standard deduction<sup>1</sup> if he/she is elderly or blind on the last day of the taxable year. This additional amount is \$600 for an elderly or blind married individual or surviving spouse and \$750 for an elderly or blind unmarried individual. After the 1988 tax year, these additional amounts are subject to adjustment for inflation. The increase, if not a multiple of \$50, is rounded down to the next lowest multiple of \$50. Since inflation has been relatively low, a \$50 multiple has not yet been reached. Thus, the amounts of the additional standard deduction for tax year 1989 are the same as they were when enacted into law.

For purposes of claiming this additional standard deduction, the taxpayer is considered blind if the central visual acuity does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is not greater than 20 degrees. The additional standard deduction for blindness may not be claimed for a dependent other than the spouse. An additional standard deduction for other forms of handicap is currently not allowed by Federal tax laws.

## MEDICAL DEDUCTION

Under present law, only those unreimbursed medical expenses in excess of 7.5 percent of the adjusted gross income of the taxpayer may be deducted.<sup>2</sup> A taxpayer may include amounts paid on behalf of a person who qualifies as a dependent. Additionally, he may include expenses on behalf of a person who would qualify as a dependent except for exceeding the limit for the gross income test or except for filing a joint return with his or her spouse. Qualified medical expenses counted towards this 7.5 percent limitation include health insurance premiums, unreimbursed medical expenditures, and prescription drugs. The only nonprescription drug eligible for inclusion is insulin.

The determination of what constitutes medical care for purposes of the medical expense deduction is of special importance to the handicapped. Three special categories are enumerated below.

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<sup>1</sup>Prior law provided an extra personal exemption for blindness. The *Tax Reform Act of 1986* provided an additional standard deduction in lieu of this personal exemption.

<sup>2</sup>Note that reimbursed expenses are not deductible (see page 9).

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**RESIDENCE IN A SANITARIUM OR NURSING HOME**

If an individual is in a sanitarium or nursing home because of physical or mental disability, and the availability of medical care is a principal reason for his being there, the entire cost of maintenance (including meals and lodging) may be included in medical expenses for purposes of the medical expense deduction. The Tax Court found in *W. B. Counts and Mildred P. Counts, Petitioners, v. Commissioner of Internal Revenue, Respondent* that:

In summary, the present regulations provide that the cost of inpatient hospital care, including the costs of meals and lodging at the hospital, is an expenditure for medical care as that term is defined in section 213(e)(1)(A). It is recognized that such costs of maintenance at an institution other than a hospital may constitute expenses for medical care; that whether such costs incurred at an institution other than a hospital are deductible as medical expenses is a factual question the answer to which depends not upon the nature of the institution but upon the condition of the person and the care which he receives; that the cost of nursing attention is an expense for medical care; that if a - and we note that the regulations do not require *the* - principal reason for the person's presence in an institution is the availability of medical care for him, then the costs of meals and lodging, furnished as a necessary incident to such care, for as long as the person requires the care, are deductible; and that, if the availability of medical care is not a principal reason for the person's presence at the institution, the costs of meals and lodging are not deemed expenses for medical care, although, even in this event, the expenses for nursing attention are considered costs of medical care and are deductible. An example in subdivision (v) (b) of the regulations deals with the case of a person who resides at a home for the aged because of personal or family considerations and *not because he requires medical or nursing attention*; in this event, it is provided that the person's costs of meals and lodging are not embraced within the term "medical care" but that his costs of nursing attention are deductible.<sup>3</sup>

**SPECIAL SCHOOLING FOR HANDICAPPED DEPENDENTS**

Payments for sending a mentally or physically handicapped dependent to a special school may be deducted as medical expenses if the principal reason for his attendance is the institution's special resources for alleviating his handicap. The cost of meals and lodging supplied by such a special school, and the cost of ordinary education furnished which is incidental to the special services furnished by the school may also be included as medical expenses. Deducting

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<sup>3</sup>*W. B. Counts*, 42 TC 755, 763-764 (July 23, 1964).

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the cost of attending a school for the mentally retarded as a medical expense is expressly allowable under I.R.S. Regulation 1.213-1(e)(1)(v)(a).

### CAPITAL EXPENDITURES

Capital expenditures incurred by a physically handicapped individual for structural changes to his personal residence (made to accommodate the handicapping condition) are fully deductible as a medical expense. The *General Explanation of the Tax Reform Act of 1986* prepared by the Joint Committee on Taxation states that examples of qualifying expenditures are construction of entrance and exit ramps, enlarging doorways or hallways to accommodate wheelchairs, installment of railings and support bars, the modification of kitchen cabinets and bathroom fixtures, and the adjustments of electric switches or outlets.

### \$125,000 EXCLUSION OF GAIN FROM SALE OF RESIDENCE

Under present law, gain from the sale of a taxpayer's principal residence is taxable, but the tax may be deferred. If another residence is purchased or built within the prescribed time period, the taxpayer may qualify for the nonrecognition of all or part of the gain on the sale of the old residence, thus deferring tax on the nonrecognized gain. However, the basis of the new residence is reduced by the amount of the nonrecognized gain.<sup>4</sup> This provision is available to all taxpayers regardless of age or handicapping condition.

A taxpayer may also elect to exclude from gross income up to a \$125,000 gain from the sale of a residence, provided (1) the taxpayer was at least 55 years of age before the date of the sale or exchange, and (2) he owned and occupied the property as his principal residence for a period totalling at least three years within the five year period ending on the date of the sale. Short periods of absence, such as for vacations, even if rented during those periods, are counted towards the three-year required period. Taxpayers meeting these two requirements can elect to exclude from gross income the entire capital gain from the sale or exchange if the capital gain is less than \$125,000 or the first \$125,000 profit if the gain is greater. The election may be made only once in a lifetime. If either spouse has previously made an election (individually, jointly, or from a previous marriage), then neither is eligible to elect the exclusion.

A special exception to the occupancy rule is provided in the *Technical and Miscellaneous Revenue Act of 1988*. Added was a provision "that a taxpayer is treated as meeting the required use rule (three out of the five years preceding sale of the residence) if during the five year period the taxpayer becomes physically or mentally incapable of self care and (1) owns and uses the residence for at least one year and (2) then during any time within such

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<sup>4</sup>An explanation of nonrecognition of gain can be found in Internal Revenue Code Section 1034(a).



5-year period the taxpayer owns the property and resides in a facility (including a nursing home) licensed by a State or political subdivision to care for individuals who have become mentally or physically incapable of self-care."<sup>5</sup>

### DEPENDENT CARE CREDIT

The child and dependent care tax credit is available to taxpayers for employment-related expenses incurred to care for a dependent or spouse who is physically or mentally disabled. Employment-related expenses include expenses for household services, day care centers, and other similar types of noninstitutional care which are incurred in order to permit the taxpayer to be gainfully employed. With the passage of the *Economic Recovery Tax Act of 1981*, the tax credit for dependent care was increased and liberalized. Under current law, taxpayers may claim a nonrefundable credit of 30 percent of qualified expenses if their adjusted gross income is \$10,000 or less. For taxpayers with incomes above \$10,000, the credit is reduced by 1 percent for each additional \$2,000 of adjusted gross income until an adjusted gross income of \$28,000 is reached. Taxpayers with adjusted gross incomes in excess of \$28,000 are provided a minimum 20 percent credit towards qualifying expenditures. The maximum amount of qualifying expenses is \$2,400 for one dependent or \$4,800 for two or more dependents.<sup>6</sup> Table 1 which follows on the next page gives the tax credit percentage and maximum allowable credits by adjusted gross income class.

Prior to the passage of the *Economic Recovery Tax Act of 1981*, these expenses, in the case of elderly dependents, were eligible only if incurred for services performed in the taxpayer's household. Under the new liberalized provision, if the dependent spends at least eight hours a day in the taxpayer's home, expenditures made for out of home, noninstitutional care are eligible for the credit. Dependent care centers must be in compliance with all State and local regulations for the taxpayer to count such expenditures toward qualified expenses. Married couples must file a joint return in order to be eligible for the credit.

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<sup>5</sup>U.S. Congress. House. Conference Committees, 1988. *Technical and Miscellaneous Revenue Act of 1988; Conference Report to accompany H.R. 4333*. Washington, U.S. Govt. Print. Off., 1988. p. 144. (100th Congress, 2d session. House Report No. 100-1104.)

<sup>6</sup>Before 1981, taxpayers could claim an annual credit of 20 percent of qualified expenses up to \$2,000 (for a maximum credit of \$400) for one qualifying individual and \$4,000 (for a maximum credit of \$800) for two or more qualifying individuals.

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TABLE 1. Dependent Care Tax Credit

Adjusted Gross Income	Applicable Percentage of Qualified Expenses	Maximum Credit	
		One Qualifying Individual	Two or More Qualifying Individuals
Up to \$10,000	30%	\$720	\$1,440
10,001 -- 12,000	29	696	1,392
12,001 -- 14,000	28	672	1,344
14,001 -- 16,000	27	648	1,296
16,001 -- 18,000	26	624	1,248
18,001 -- 20,000	25	600	1,200
20,001 -- 22,000	24	576	1,152
22,001 -- 24,000	23	552	1,104
24,001 -- 26,000	22	528	1,056
26,001 -- 28,000	21	504	1,008
28,001 and over	20	480	960

Source: Economic Recovery Tax Act of 1981 -- Law and Explanation.  
 Chicago, Commerce Clearing House. 1981. p. 30.

**TAX TREATMENT OF DISABILITY BENEFITS**

**SOCIAL SECURITY AND RAILROAD RETIREMENT BENEFITS**

Social Security and Tier 1 Railroad Retirement Benefits received for disability are taxable only to high-income recipients. Disability benefits are taxed in the same manner as retirement benefits. The tax is computed on the lesser of one-half of the benefit or one-half of the taxpayer's "combined income" in excess of \$25,000 for single taxpayers (including heads-of-households) and \$32,000 for married couples filing jointly. Combined income is defined as gross income, interest on tax-exempt obligations, and the social security or railroad retirement benefit.

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## **WORKER'S COMPENSATION**

Worker's compensation received by an employee because of job-related sickness or injury is fully exempt from income tax. If the employee turns over his/her compensation to his/her employer, and the employer continues to pay all or part of the employee's regular salary, the excess of the salary payments over the amount of worker's compensation is taxable income to the employee.

## **FEDERAL EMPLOYEES' COMPENSATION**

Benefits provided for disability or death resulting from an injury sustained in the performance of duty by civilian personnel in the service of the United States are exempt from income tax.

## **DISABILITY COMPENSATION OF CIVIL SERVANTS**

Disability income received by a civil servant under a Federal, State, or local governmental plan may be partially or totally excludable from taxation if such income is in the nature of worker compensation act benefits. Such income, to qualify for exclusion from taxation, should be from a disability incurred as a result of employment and from which the employee is incapacitated—such that the employee is no longer able to perform official duties. The disability, either mental or physical, may be either temporary or permanent. Pensions and annuities are not covered under this provision and only those amounts which would have been provided under applicable workmen's compensation acts are excludable from taxation. Thus, income receipts which exceed worker compensation benefits are taxable to the recipient.

## **DAMAGES RECEIVED FOR INJURY OR ILLNESS**

The amount of any damages received, whether by suit or agreement, for injury or illness (but not compensation for lost wages) is exempt from tax.

## **ACCIDENT OR HEALTH INSURANCE BENEFITS**

Disability payments, reimbursed medical expenses, and other benefits received under an accident or health insurance policy attributable to premiums paid by the taxpayer are exempt from tax. Benefits other than reimbursement for medical expenses, however, are generally taxable if they are attributable to contributions by the employer or were paid by the employer.

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**REIMBURSEMENT FOR MEDICAL CARE EXPENSES**

Amounts paid by an employer-financed accident and health plan to an employee as reimbursement for medical expenses are generally exempt from tax. However, such reimbursement may serve to reduce the medical expenses deduction because only those expenses that are not reimbursed are allowable as deductions.

**COMPENSATION FOR PERMANENT LOSS OR DISFIGUREMENT**

Compensation received for permanent loss, loss of use of a member or function of the body, or permanent disfigurement, is exempt from tax even if received from an employer-financed accident and health plan.

**VETERANS' BENEFITS**

Disability compensation and pension payments received by veterans for service-connected and non-service-connected disabilities are excludable from gross income. Grants to disabled veterans for homes designed for "wheelchair living," and for motor vehicles for veterans who have lost their sight or the use of their limbs, are also not taxable.

**DISABILITY RETIREMENT**

**Credit for the Elderly and the Permanently and Totally Disabled**

For persons under age 65, the credit is only available to those who are retired on disability. The individual must be permanently and totally disabled, which is defined as being unable to engage in any substantial gainful activity because of physical or mental impairment which can be expected to result in death or to last for a continuous period greater than one year.

The 15 percent credit is computed on the lower of the amount of disability income or "initial amount." The initial amount is determined by filing status. Those amounts are as follows:

Single individual	\$5,000
Married individuals, joint return, one spouse is a qualified individual	\$5,000
Married individuals, joint return, both spouses are qualified individuals	\$7,500
Married individual, separate return	\$3,750.

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This initial amount is reduced by any tax-free benefit received under the *Social Security Act* (Title II), the *Railroad Retirement Act of 1974*, or a Veterans Administration program. Other amounts excludable under non-IRS Code provision further reduce the initial amount.

Finally, the initial amount is reduced by one-half the amount of adjusted gross income over the following levels:

Single taxpayer	\$7,500
Married taxpayer, combined AGI on joint return	\$10,000
Married individual filing separately	\$5,000.

Thus, this credit is targeted to low- and moderate-income taxpayers. As an example, a single individual will receive no benefit if income exceeds \$17,500. A married couple, where both spouses are qualified for the credit and file a joint return, will lose all benefit from the credit when their combined income exceeds \$25,000.

Special rules apply in some cases where both taxpayers are eligible for this credit.

### MILITARY DISABILITY BENEFITS

Prior to enactment of the *Tax Reform Act of 1976* amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country, as well as similar amounts received by disabled members of the National Oceanic and Atmospheric Administration, the Public Health Service, or the Foreign Service were excluded from income.<sup>7</sup> The *Tax Reform Act of 1976* eliminated this exclusion prospectively for persons who join these Government services after September 24, 1975, with specific exceptions. Disability payments administered by the Veterans Administration are excluded from income. In addition, a person who joins the military service after September 24, 1975, and retires on disability and does not receive disability benefits from the Veterans Administration, is

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<sup>7</sup>A member of the armed forces who met certain disability and length of service requirements could elect to draw disability retirement pay based on a percentage of disability formula or a length of service formula. Disability retirement pay based on the percentage of disability formula was totally excluded from income. Under the length of service formula, the portion of disability retirement pay equal to the amount that would have been paid under the percentage of disability formula was excluded, and the excess was subjected to the sick pay rules which existed prior to their repeal by the *Tax Reform Act of 1976*.

## CRS-11

allowed to exclude from income an amount equal to the benefits he/she would be entitled to receive from the Veterans Administration.

Otherwise, members of the armed forces who joined after September 24, 1975, are allowed to exclude military disability payments only if the payments are directly attributable to combat-related injuries. The term "combat-related injury" means personal injury or sickness which is incurred (1) as a direct result of armed conflict, (2) while engaged in extra-hazardous service, (3) under conditions simulating war, or which is (4) caused by instrumentality of war.

### **TERRORIST ATTACK AFFECTING CIVILIAN EMPLOYEES**

A civilian employee of the United States, injured as a result of a violent attack which the Secretary of State determines to be a terrorist act, while out of the country in performance of his official duties, may exclude from his gross income amounts received as disability payments attributable to those injuries.

### **EMPLOYEE BUSINESS EXPENSES**

A provision enacted as part of the *Tax Reform Act of 1986* provides that employee business expenses must now be itemized along with other miscellaneous deductions and they are subject to a floor of 2 percent of adjusted gross income. However, a special exception from the 2 percent floor is provided for impairment-related work expenses of handicapped employees. The *Internal Revenue Code of 1986* provides that these expenses are "for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work and with respect to which a deduction is allowable under section 162." Section 162 of the Code is for trade and business expenses.

### **REMOVAL OF ARCHITECTURAL AND TRANSPORTATIONAL BARRIERS**

The removal of architectural and transportation barriers can be treated as a deductible expense (rather than as an expenditure which is capitalized over the useful life of the asset). Expenditures must be made to make facilities or public transportation vehicles (either owned or leased by the taxpayer and used in the taxpayer's trade or business) more accessible to and usable by the elderly and handicapped. There is no requirement that such expenditures be made only for the benefit of employees but rather the provision applies equally to all elderly and handicapped persons.

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The maximum deduction permitted a business taxpayer (either individual, corporation, or a controlled group of corporations) for qualifying expenditures is limited to \$35,000 a year. When first adopted, the qualifying expenditures were limited to \$25,000 a year. The deduction has been made a permanent part of the Internal Revenue Code by the *Tax Reform Act of 1986*.

**TARGETED JOBS TAX CREDIT**

A targeted jobs tax credit for handicapped individuals undergoing vocational training is available to employers. The credit is equal to 40 percent of the first \$6,000 of wages paid during the first year of employment. Thus, the maximum amount of the credit per employee is \$2,400. The amount of the credit reduces the company's deduction for wages. It is required that the employee be employed for a minimum of 90 days or must complete 120 hours of service for the employer to receive the credit.

The credit was extended through September 30, 1990, in the *Omnibus Reconciliation Act of 1989*.

EMPLOYEE BUSINESS EXPENSES

A provision enacted as part of the Tax Reform Act of 1986 provides that employee business expenses may be treated along with other miscellaneous deductions and they are subject to a floor of 2 percent of adjusted gross income. However, a special exception from the 2 percent floor is provided for payments for work expenses of handicapped employees. The Internal Revenue Code of 1986 provides that these expenses are "for amounts in connection with an individual's place of employment which are necessary for the individual to be able to work and with respect to which a deduction is allowable under section 162. Section 112 of the Code is amended and continues to read:

REMOVAL OF ARCHITECTURAL AND LEISURE FACILITIES

The removal of architectural and leisure facilities from the list of deductions is effective for taxable years beginning after 1986. The new Code will allow a deduction for the cost of such facilities only if they are necessary for the production of income. There is no deduction for such facilities for years beginning before 1987. The new Code also provides that the deduction for such facilities is limited to the cost of the facilities. This is a new limitation and will apply to all eligible and qualified facilities.

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S.L.C.

101ST CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. DOLE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To allow certain capital expenditures of small businesses for  
auxiliary aids and services and reasonable accommoda-  
tions to be treated as expense items, and for other pur-  
poses.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4 SECTION 1. EXPENSING OF CERTAIN CAPITAL EXPENDITURES TO  
5 ASSIST DISABLED.

6 (a) ADDITIONAL ITEMS ELIGIBLE FOR EXPENSING.—  
7 Section 190(b) of the Internal Revenue Code of 1986 (re-  
8 lating to definitions) is amended by adding at the end  
9 thereof the following new paragraph:



1           “(4) CERTAIN ITEMS INCLUDED.—

2                   “(A) IN GENERAL.—The term ‘qualified ar-  
3           chitectural and transportation barrier removal  
4           expense’ shall include any of the following ex-  
5           penses in connection with a trade or business  
6           which are chargeable to capital account:

7                   “(i) Expenses for auxiliary aids and  
8           services.

9                   “(ii) Expenses in connection with pro-  
10          viding reasonable accommodations to indi-  
11          viduals with disabilities.

12           “(B) AUXILIARY AIDS AND SERVICES.—The  
13          term ‘auxiliary aids and services’ includes—

14                   “(i) qualified interpreters or other ef-  
15          fective methods of making aurally deliv-  
16          ered materials available to individuals with  
17          hearing impairments;

18                   “(ii) qualified readers, taped texts, or  
19          other effective methods of making visually  
20          delivered materials available to individuals  
21          with visual impairments;

22                   “(iii) acquisition or modification of  
23          equipment or devices; and

24                   “(iv) other similar services and ac-  
25          tions.

1                   “(C) REASONABLE ACCOMMODATION.—The  
2                   term ‘reasonable accommodation’ includes—

3                   “(i) making existing facilities used by  
4                   employees readily accessible to and usable  
5                   by individuals with disabilities; and

6                   “(ii) job restructuring, part-time or  
7                   modified work schedules, reassignment to a  
8                   vacant position, acquisition or modification  
9                   of equipment or devices, appropriate ad-  
10                  justment or modifications of examinations,  
11                  training materials or policies, the provision  
12                  of qualified readers or interpreters, and  
13                  other similar accommodations for individ-  
14                  uals with disabilities.”

15                  (b) DECREASE IN MAXIMUM AMOUNT WHICH MAY BE  
16                  EXPENDED.—Section 190(c) of the Internal Revenue Code  
17                  of 1986 is amended by striking “\$35,000” and inserting  
18                  “\$25,000”.

19                  (c) EFFECTIVE DATE.—The amendments made by this  
20                  section shall apply to taxable years beginning after Decem-  
21                  ber 31, 1989.

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October 8, 1990, and

(II) agreements, options, rights, or restrictions which are substantially modified after October 8, 1990, and

(iii) to the extent such amendments relate to section 2704 of such Code (as so added), shall apply to restrictions or rights (or limitations on rights) created after October 8, 1990.

EXCEPTION.--For purposes of subparagraph

(A)(i), with respect to property transferred before October 9, 1990--

(i) any failure to exercise a right of conversion,

(ii) any failure to pay dividends, and

(iii) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

(2) SUBSECTION (b).--The amendment made by subsection (b) shall apply to gifts after October 8, 1990.

PART II--DISABLED ACCESS CREDIT

SEC. 11611. CREDIT FOR COST OF PROVIDING ACCESS FOR DISABLED INDIVIDUALS.

(a) GENERAL RULE.--Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by subtitle E, is amended by adding at the end

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1 thereof the following new section:

2 ``SEC. 44. EXPENDITURES TO PROVIDE ACCESS TO DISABLED  
3 INDIVIDUALS.

4 `` (a) GENERAL RULE.--For purposes of section 38, in the  
5 case of an eligible small business, the amount of the  
6 disabled access credit determined under this section for any  
7 taxable year shall be an amount equal to 50 percent of so  
8 much of the eligible access expenditures for the taxable year  
9 as exceed \$250 but do not exceed \$10,250.

10 `` (b) ELIGIBLE SMALL BUSINESS.--For purposes of this  
11 section, the term 'eligible small business' means any person  
12 if--

13 `` (1) either--

14 `` (A) the gross receipts of such person for the  
15 preceding taxable year did not exceed \$1,000,000, or

16 `` (B) in the case of a person to which  
17 subparagraph (A) does not apply, such person employed  
18 not more than 30 full-time employees during the  
19 preceding taxable year, and

20 `` (2) such person elects the application of this  
21 section for the taxable year.

22 For purposes of paragraph (1)(B), an employee shall be  
23 considered full-time if such employee is employed at least 30  
24 hours per week for 20 or more calendar weeks in the taxable  
25 year.

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1       “(c) ELIGIBLE ACCESS EXPENDITURES.--For purposes of this  
2 section--

3           “(1) IN GENERAL.--The term ‘eligible access  
4 expenditures’ means amounts paid or incurred by an  
5 eligible small business for the purpose of enabling such  
6 eligible small business to comply with applicable  
7 requirements under the Americans With Disabilities Act of  
8 1990 (as in effect on the date of the enactment of this  
9 section).

10          “(2) CERTAIN EXPENDITURES INCLUDED.--The term  
11 ‘eligible access expenditures’ includes amounts paid or  
12 incurred--

13           “(A) for the purpose of removing architectural,  
14 communication, physical, or transportation barriers  
15 which prevent a business from being accessible to, or  
16 usable by, individuals with disabilities,

17           “(B) to provide qualified interpreters or other  
18 effective methods of making aurally delivered  
19 materials available to individuals with hearing  
20 impairments,

21           “(C) to provide qualified readers, taped texts,  
22 and other effective methods of making visually  
23 delivered materials available to individuals with  
24 visual impairments,

25           “(D) to acquire or modify equipment or devices

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1 for individuals with disabilities, or  
2 (E) to provide other similar services,  
3 modifications, materials, or equipment.

4 (3) EXPENDITURES MUST BE REASONABLE.--Amounts paid  
5 or incurred for the purposes described in paragraph (2)  
6 shall include only expenditures which are reasonable and  
7 shall not include expenditures which are unnecessary to  
8 accomplish such purposes.

9 (4) EXPENSES IN CONNECTION WITH NEW CONSTRUCTION  
10 ARE NOT ELIGIBLE.--The term 'eligible access  
11 expenditures' shall not include amounts described in  
12 paragraph (2)(A) which are paid or incurred in connection  
13 with any facility first placed in service after the date  
14 of the enactment of this section.

15 (5) EXPENDITURES MUST MEET STANDARDS.--The term  
16 'eligible access expenditures' shall not include any  
17 amount unless the taxpayer establishes, to the  
18 satisfaction of the Secretary, that the resulting removal  
19 of any barrier (or the provision of any services,  
20 modifications, materials, or equipment) meets the  
21 standards promulgated by the Secretary with the  
22 concurrence of the Architectural and Transportation  
23 Barriers Compliance Board and set forth in regulations  
24 prescribed by the Secretary.

25 (d) DEFINITION OF DISABILITY; SPECIAL RULES.--For

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1 purposes of this section--

2       “(1) DISABILITY.--The term ‘disability’ has the same  
3 meaning as when used in the Americans With Disabilities  
4 Act of 1990 (as in effect on the date of the enactment of  
5 this section).

6       “(2) CONTROLLED GROUPS.--

7       “(A) IN GENERAL.--All members of the same  
8 controlled group of corporations (within the meaning  
9 of section 52(a)) and all persons under common  
10 control (within the meaning of section 52(b)) shall  
11 be treated as 1 person for purposes of this section.

12       “(B) DOLLAR LIMITATION.--The Secretary shall  
13 apportion the dollar limitation under subsection (a)  
14 among the members of any group described in  
15 subparagraph (A) in such manner as the Secretary  
16 shall by regulations prescribe.

17       “(3) PARTNERSHIPS AND S CORPORATIONS.--In the case  
18 of a partnership, the limitation under subsection (a)  
19 shall apply with respect to the partnership and each  
20 partner. A similar rule shall apply in the case of an S  
21 corporation and its shareholders.

22       “(4) SHORT YEARS.--The Secretary shall prescribe  
23 such adjustments as may be appropriate for purposes of  
24 paragraph (1) of subsection (b) if the preceding taxable  
25 year is a taxable year of less than 12 months.

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1           “(5) GROSS RECEIPTS.--Gross receipts for any taxable  
2 year shall be reduced by returns and allowances made  
3 during such year.

4           “(6) TREATMENT OF PREDECESSORS.--The reference to  
5 any person in paragraph (1) of subsection (b) shall be  
6 treated as including a reference to any predecessor.

7           “(7) DENIAL OF DOUBLE BENEFIT.--In the case of the  
8 amount of the credit determined under this section--

9           “(A) no deduction or credit shall be allowed for  
10 such amount under any other provision of this  
11 chapter, and

12           “(B) no increase in the adjusted basis of any  
13 property shall result from such amount.

14           “(e) REGULATIONS.--The Secretary shall prescribe  
15 regulations necessary to carry out the purposes of this  
16 section.”

17           (b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.--

18           (1) IN GENERAL.--Subsection (b) of section 38, as  
19 amended by subtitle E, is amended by striking “plus” at  
20 the end of paragraph (5), by striking the period at the  
21 end of paragraph (6) and inserting “, plus” and by  
22 adding at the end thereof the following new paragraph:

23           “(7) in the case of an eligible small business (as  
24 defined in section 44(b)), the disabled access credit  
25 determined under section 44(a).”



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1           (2) CARRYBACKS.--Section 39(d) is amended by adding  
2 at the end thereof the following new paragraph:

3           “(5) NO CARRYBACK OF SECTION 44 CREDIT BEFORE  
4 ENACTMENT.--No portion of the unused business credit for  
5 any taxable year which is attributable to the disabled  
6 access credit determined under section 44 may be carried  
7 to a taxable year ending before the date of the enactment  
8 of section 44.”

9           (c) DEDUCTION REDUCED FOR ARCHITECTURAL AND  
10 TRANSPORTATION BARRIER REMOVAL EXPENSES.--Section 190(c)  
11 (relating to expenditures to remove architectural and  
12 transportation barriers to the handicapped and elderly) is  
13 amended by striking “\$35,000” and inserting “\$15,000”.

14           (d) CLERICAL AMENDMENT.--The table of sections for  
15 subpart D of part IV of subchapter A of chapter 1, as amended  
16 by subtitle E, is amended by adding at the end thereof the  
17 following new item:

“Sec. 44. Expenditures to provide access to  
disabled individuals.”

18           (e) EFFECTIVE DATES.--

19           (1) IN GENERAL.--Except as provided in paragraph (2),  
20 the amendments made by this section shall apply to  
21 expenditures paid or incurred after the date of the  
22 enactment of this Act.

23           (2) SUBSECTION (c).--The amendment made by subsection

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1 (c) shall apply to taxable years beginning after the date  
2 of the enactment of this Act.

3 PART III--OTHER PROVISIONS

4 SEC. 11621. REVIEW OF IMPACT OF REGULATIONS ON SMALL  
5 BUSINESS.

6 (a) GENERAL RULE.--Subsection (f) of section 7805  
7 (relating to review of impact of regulations on small  
8 business) is amended to read as follows:

9 (f) REVIEW OF IMPACT OF REGULATIONS ON SMALL  
10 BUSINESS.--

11 (1) SUBMISSIONS TO SMALL BUSINESS

12 ADMINISTRATION.--After publication of any proposed or  
13 temporary regulation by the Secretary, the Secretary  
14 shall submit such regulation to the Chief Counsel for  
15 Advocacy of the Small Business Administration for comment  
16 on the impact of such regulation on small business. Not  
17 later than the date 4 weeks after the date of such  
18 submission, the Chief Counsel for Advocacy shall submit  
19 comments on such regulation to the Secretary.

20 (2) CONSIDERATION OF COMMENTS.--In prescribing any  
21 final regulation which supersedes a proposed or temporary  
22 regulation which had been submitted under this subsection  
23 to the Chief Counsel for Advocacy of the Small Business  
24 Administration--

25 (A) the Secretary shall consider the comments



## TELECOPIER TRANSMITTAL

DATE: \_\_\_\_\_

TO: Andy Weis  
\_\_\_\_\_  
\_\_\_\_\_

FROM: Mo West  
\_\_\_\_\_

Office of Senator Bob Dole  
141 Hart Senate Office Building  
Washington, D.C. 20510

(202) 224-6521

NUMBER OF PAGES TO FOLLOW: \_\_\_\_\_

SUBJ: \_\_\_\_\_

Summary of TJTC

## SUMMARY

The Targeted Jobs Tax Credit (TJTC) was created by the Revenue Act of 1978 to encourage employers to hire hard-to-employ individuals. It has been extended and amended by seven subsequent laws. Most recently, the 101st Congress included extension of TJTC through December 1991, in the FY1991 budget reconciliation bill (H.R. 5835).

TJTC had expired on Oct. 1, 1990. During its brief hiatus, the U.S. Department of Labor (DOL) advised State employment security agencies to continue accepting employers' certification requests, although they could not process them.

During the first year in which a TJTC eligible is employed, the employer can claim a tax credit equal to 40% of the first \$6,000 earned. A minimum period of employment is required before an employer can receive the credit. It is 90 days or 120 hours, except for summer youth hires who must be retained for 14 days or 20 hours. The credit for summer hires is 40% of the first \$3,000 earned. In 1989, most TJTC-hires earned between the minimum wage and \$3.99 an hour. No data are available on how long they remained employed.

The program is intended to promote employment in the private sector of the following specifically designated groups: economically disadvantaged cooperative education students 16-19 years old, youth 18-22 years old, ex-offenders, and Vietnam-era veterans; vocational rehabilitation referrals; and individuals receiving general assistance, Supplemental Security Income, or Aid to Families with Dependent Children. The credit essentially is a youth employment program since over the years it most often has been claimed for individuals from the economically disadvantaged youth group. In 1989, over half the certifications issued were for members of this group. AFDC recipients, at a little over one-fifth of certifications, and the handicapped, at less than one-tenth, were well behind the youth group.

The costs of the program are primarily lost revenues. According to the Joint Committee on Taxation, revenue losses of \$200 million could occur in FY1991; \$100 million in FY1992; and \$100 million in FY1993. Administrative costs for TJTC had been earmarked, but since FY1987, the States have been told to use an unspecified portion of their Wagner-Peyser grants to cover TJTC-related expenses. Congress has appropriated funds for the program each year, however. In FY1990, \$24 million for TJTC administration was distributed by DOL to employment security agencies.

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## ISSUE DEFINITION

The Targeted Jobs Tax Credit (TJTC) is not a permanent program. It has been extended for 1 to 3 years by seven laws since the credit's inception in 1978. After it briefly expired starting Oct. 1, 1990, the 101st Congress reauthorized TJTC through December 1991, in the FY1991 budget reconciliation bill (H.R. 5835).

## BACKGROUND AND ANALYSIS

### **Program Mission and History**

The TJTC was created by the Revenue Act of 1978 (P.L. 95-600, Section 321) to promote private sector job creation for specifically designated hard-to-employ groups. The credit's initial expiration date was Dec. 31, 1981. It was extended for 1 year and amended by the Economic Recovery Tax Act of 1981 (P.L. 97-34, Section 261). Employers could claim a credit for hiring individuals from the following groups: economically disadvantaged youth age 18-24; economically disadvantaged cooperative education students age 16-19; economically disadvantaged ex-offenders; economically disadvantaged transitional rehabilitation referrals; general assistance recipients; Supplementary Security Income (SSI) recipients; and Aid to Families with Dependent Children (AFDC) recipients or Work Incentive (WIN) registrants.

(The "lower level standard income level" (LLSIL) is used to determine whether an individual is economically disadvantaged. The level is revised based upon changes in the Consumer Price Index. It varies by geographic area and urban area. The highest LLSIL in the contiguous United States for 1990, \$21,950, covers metro areas in the Northeast; the lowest, \$18,150, covers non-metro in the South. Current law defines economically disadvantaged as 70% of the appropriate LLSIL.)

The 1981 law also made two changes designed to close loopholes in the program. First, it eliminated retroactive certifications, a practice involving no new job creation. Instead, using this loophole, employers could claim credits for TJTC-eligible persons who already were on the firms' payrolls. In the early years of the program, a majority of the credits claimed were for retroactive certifications. Second, the law required that to be eligible, cooperative education students must live in economically disadvantaged families. Without this constraint, employers were able to receive subsidies for hiring individuals they likely would have hired in the absence of the program.

The Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, Section 233) extended the program for 2 years through 1984. The Act established a special credit to encourage the creation of summer jobs for economically disadvantaged 16 and 17 year olds. For an eligible youngster hired during any 90-day period between May 1 and September 15, an employer's wage costs were subsidized up to 85% of the first \$3,000 earned.

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TJTC was reauthorized for 1 year through Dec. 31, 1985, by the Deficit Reduction Act of 1984 (P.L. 98-369, Section 1041). The program expired at the end of 1985 after the 99th Congress failed to reauthorize TJTC during its first session. Upon the October 1986 signing of the Tax Reform Act of 1986 (P.L. 99-514, Section 1701), the credit was made retroactive to Dec. 31, 1985, and extended for 3 years through Dec. 31, 1988.

The credit originally was equal to 50% of the TJTC-eligible's first year earnings up to \$6,000, and 25% of second year earnings up to \$6,000. The 1986 law eliminated the second year of the credit as well as reducing the proportion of wages subsidized to 40%. In addition, minimum employment of 90 days or 120 hours was required before an employer could claim the credit. For summer youth hires, the minimum period now is 14 days or 20 hours. This language was included in the law to limit the practice of workforce churning by some employers. Churning refers to a firm maximizing the amount of credit it receives by rapidly turning over its workforce in order to hire more TJTC-eligibles.

The 100th Congress chose to extend and amend the program in the technical corrections tax law (P.L. 100-647). The one-year extension would have ended on Dec. 31, 1989. The summer youth credit was reduced from 85% to 40% of the first \$3,000 earned. The target group of economically disadvantaged youth was narrowed from 18-24 year olds to 18-22 year olds.

The TJTC was extended through Sept. 30, 1990 as part of the FY1990 budget reconciliation bill (H.R. 3299). The 101st Congress passed it on November 22 and the President signed it on Dec. 19, 1989 (P.L. 101-239). An additional requirement concerning TJTC was included in the law: employers requesting certification of job applicants who do not have vouchers must specify at least one but not more than two target groups to which they might belong, and employers must certify that a good faith effort to determine the individuals' eligibility has been made. Presumably, these changes were made to the program to try to minimize the current practice among some employers and management assistance companies of asking local Employment Service offices to determine TJTC-eligibility for all new hires.

The Treasury Department has testified against extension of TJTC for the past several years. It typically has cited the program's relatively low utilization rate, the presence of windfall and substitution effects, and the availability of other Federal programs to assist the TJTC-eligible groups as reasons for its opposition.

## Program Activity and Costs

### Employment Generated

The number of jobs created by the TJTC program will always be less than the number of persons certified as employed. Windfall gains and substitution account for the discrepancy. Windfall gains occur when firms hire members of target groups whom they would have hired without benefit of the program. Substitution occurs when employers either fire workers ineligible for the credit and replace them with

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eligible workers, or hire only eligible workers as vacancies develop. Both these practices are inherent byproducts of tax incentive programs.

In FY1982, there was a drop in certifications because the loophole closings enacted by Congress became effective. More of the decline was due to limiting TJTC eligibility to cooperative education students from economically disadvantaged families, than to the elimination of retroactive certifications.

Between FY1982 and FY1985, the number of TJTC certifications steadily increased. (See Table 1.) The rise in certifications was related to greater job availability associated with the recovery from the early 1980s recessions and heightened employer awareness of the program. In FY1986, certifications fell because the program lapsed between January and October.

TABLE 1. Number of Certifications,  
TJTC Totals Before the Program Lapsed

Fiscal Year	Number of Certifications a/
1982	202,261
1983	431,182
1984	563,381
1985	621,889
1986:I	155,053

a/ Excludes cooperative education determinations.

Source: U.S. Department of Labor.

Estimates of the Congressional Budget Office (CBO) and General Accounting Office (GAO) indicate that only a small proportion of the TJTC-eligible population find jobs because of the program. Fewer than 1 out of 10 economically disadvantaged youth age 18-24 who got jobs in 1983 did so through the program. This target group historically has accounted for the majority of the program certifications.

An evaluation by Macro Systems Inc. for the U.S. Department of Labor (DOL) also found little job creation. The researchers concluded just 5-30% of people for whom the credit was claimed would have been unable to get jobs without the program. The credit largely rewards firms that would have hired TJTC-eligibles anyway.

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**Retroactive Period**

DOL told Employment Security offices to authorize tax credits for employers that hired TJTC eligibles during the 10-month retroactive period, from January-October 1986. The offices were to review those employer requests for TJTC certification that came in during the period which they kept, as well as other proof offered by employers that showed timely filing of requests for certification during the period (e.g., postmarked originals or copies of requests, dated certificates of mailing, or State agency date stamps). Employers who could not provide such evidence, even if they had been told by local offices not to file their requests because the program had lapsed, would be unable to claim the credit.

Between January and October 1986, DOL did not have authority to continue collecting program data since the credit no longer was in effect. Information on program activity since 1987 is available on a calendar year basis. In 1989, there were 452,453 certifications. (See Table 2.) More than half (230,998) were from the economically disadvantaged youth group. The next largest group, AFDC recipients, represented about one-fifth (99,127) of certifications. Handicapped persons for whom credits were claimed represented less than one-tenth (40,652) of all certifications. Economically disadvantaged ex-convicts (24,795), economically disadvantaged summer youth hires (17,450), general assistance recipients (17,428), and economically disadvantaged Vietnam-era veterans (14,570) collectively accounted for just 16% of the certifications issued for 1989. The States that issued the most certifications were Texas (58,365), and California (35,164); they accounted for one-fifth of the total. Florida (28,572), New York (24,056), Ohio (23,627), Illinois (20,895), and Maryland (20,097) collectively accounted for over one-fourth of the total.

**TABLE 2. Number of Certifications,  
TJTC Totals Since the Program was Extended in 1986**

Calendar Year	Number of Certifications <sup>a/</sup>
1987	598,180
1988	497,312
1989	452,453
1990:I & II	224,253

<sup>a/</sup> Excludes cooperative education determinations.

Source: U.S. Department of Labor.

In 1989, most TJTC-hires (192,762) earned between the minimum wage and \$3.99 an hour. A somewhat smaller number (144,987) were hired for jobs that paid \$4.00-\$4.99 an hour. The great majority of TJTC-hires worked in service (201,384) and clerical (154,983) occupations.



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### Costs Incurred

Appropriations to cover the administrative costs of the program represent only a small part of the credit's total cost. From FY1980 through FY1984, TJTC administrative appropriations were \$20.0 million annually. In FY1985, the appropriation was raised to \$27.5 million. Approximately \$7.2 million was appropriated for the first quarter of FY1986 to close out the program on the basis of its Dec. 31, 1985 expiration date.

For both FY1987 and FY1988, the Administration proposed that no Employment Service funds be earmarked for TJTC administrative costs. Instead, the States were supposed to use some of their Wagner-Peyser grants, which go toward operating Employment Service activities, for TJTC administration. However, for FY1987, the Supplemental Appropriations Act of 1987 (P.L. 100-71), required that \$15 million be used for TJTC administration during the remainder of the fiscal year, and for FY88, \$28.72 million was appropriated. Although the Administration did not request any funds for program administration in FY1989, Congress included \$14.152 million in the Labor Department's appropriations bill. Some States reportedly had run out of funds to administer the program during the year. For the period Oct. 1, 1989 through Sept. 30, 1990, funds for TJTC administration were included in P.L. 101-166 (signed Nov. 21, 1989). The U.S. Department of Labor announced in January 1990 that it had distributed \$24 million to the States for TJTC administration.

TJTC's greatest cost comes in the form of revenue losses (i.e., taxes foregone). According to the Joint Committee on Taxation, revenue losses from TJTC are projected to be \$200 million in FY1991 and \$100 million annually in FY1992 and FY1993.

A comprehensive cost-benefit analysis of TJTC for the Nation has not been attempted. Such a study, confined to the Chicago area and to three welfare-targeted groups, found substantial benefits compared to costs. It appears, however, that the study's cost calculation was understated. Macro Systems, using cost-effectiveness in an administrative sense only, also deemed the program a success. Both CRS and CBO estimates show that TJTC costs less per participant served than does the Job Training Partnership Act.

### LEGISLATION

#### **P.L. 101-45, H.R. 2402**

Makes supplemental appropriations for FY1989, including allowing use of funds for State unemployment insurance and employment service operations under the Wagner-Peyser Act to carry out TJTC. Signed into law June 30, 1989.

#### **P.L. 101-239, H.R. 3299**

Provides for reconciliation pursuant to section 5 of the concurrent resolution on the budget for FY1990. Introduced Sept. 20, 1989; reported by Committee on the Budget as an original measure (H.Rept. 101-247). Passed House, amended, Oct. 5, 1989. Senate struck all after the enacting clause and substituted language of S. 1750

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amended; passed Senate Oct. 13, 1989. Conference held Oct. 25, 1989. Signed into law Dec. 19, 1989.

**H.R. 5835 (Panetta)**

Provides for reconciliation pursuant to section 4 of the concurrent resolution on the budget for FY1991. Introduced Oct. 15, 1990; reported by Committee on the Budget in original measure (H.Rept. 101-881). Passed House, amended, Oct. 16, 1990. Senate struck all after the enacting clause and substituted language of S. 3209 amended; passed Senate Oct. 19, 1990. Conference held Oct. 22, 1990.

**FOR ADDITIONAL READING**

U.S. Library of Congress. Congressional Research Service. The targeted jobs tax credit, 1978-1987, by Linda LeGrande. [Washington] July 14, 1987. 13 p.  
CRS Report 87-616 E

101ST CONGRESS  
1ST SESSION

# S. 1661

To amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 18), 1989

Mr. PRYOR (for himself, Mr. BOREN, Mr. HATCH, Mr. HARKIN, and Mr. GORE) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

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; AMENDMENT OF 1986 CODE.

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Business Disabilities Tax Credit Act of 1989”.

6 (b) AMENDMENT OF THE 1986 CODE.—Except as oth-  
7 erwise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment to, or  
9 repeal of, a section or other provision, the reference shall be

1 considered to be made to a section or other provision of the  
2 Internal Revenue Code of 1986.

3 SEC. 2. CREDIT FOR COSTS TO MAKE REASONABLE ACCOM-  
4 MODATIONS FOR DISABLED INDIVIDUALS.

5 (a) ALLOWANCE OF CREDIT.—Subpart C of part IV of  
6 subchapter A of chapter 1 (relating to refundable credits) is  
7 amended by adding at the end thereof the following new  
8 section:

9 “SEC. 36. DISABILITY TAX CREDIT.

10 “(a) IN GENERAL.—There shall be allowed as a credit  
11 against the tax imposed by this subtitle for the taxable year  
12 an amount equal to the sum of qualified disability expenses  
13 for the taxable year as does not exceed \$5,000.

14 “(b) QUALIFIED DISABILITY EXPENSES.—The term  
15 ‘qualified disability expenses’ means the amounts which are  
16 paid or incurred by the taxpayer during the taxable year—

17 “(1) to make existing facilities readily accessible  
18 to and usable by individuals with disabilities,

19 “(2) to acquire or modify equipment or devices for  
20 individuals with disabilities,

21 “(3) to make appropriate adjustment or modifica-  
22 tions of examinations, training materials or policies for  
23 individuals with disabilities,

24 “(4) to make available qualified readers or  
25 interpreters for individuals with disabilities, and

1           “(5) to provide other similar accommodations for  
2 individuals with disabilities.

3           “(c) INDIVIDUALS WITH DISABILITIES.—The term ‘in-  
4 dividuals with disabilities’ means, with respect to an  
5 individual—

6           “(1) a physical or mental impairment that sub-  
7 stantially limits one or more of the major life activities  
8 of such individuals,

9           “(2) a record of such an impairment, or

10           “(3) being regarded as having such an impair-  
11 ment.

12           “(d) CARRYFORWARDS.—If a taxpayer has qualified  
13 disability expenses for any taxable year, the excess of the  
14 qualified disability expense over \$5,000 for such year shall be  
15 a qualified disability expense in the succeeding taxable  
16 year.”.

17           (b) CONFORMING AMENDMENT.—The table of sections  
18 for subpart C of part IV of subchapter A of chapter 1 is  
19 amended by adding at the end thereof the following new  
20 item:

“Sec. 36. Disability Tax Credit.”

21           (c) EFFECTIVE DATE.—The amendments made by this  
22 section shall apply to taxable years beginning after  
23 December 31, 1989.

1 SEC. 3. REPEAL OF TREATMENT OF EXPENDITURES TO  
2 REMOVE ARCHITECTURAL AND TRANSPORTA-  
3 TION BARRIERS TO THE HANDICAPPED AND  
4 ELDERLY.

5 (a) IN GENERAL.—Section 190 is repealed.

6 (b) EFFECTIVE DATE.—The amendments made by this  
7 section shall apply to taxable years beginning after  
8 December 31, 1989.

○

the FCC, specifying rates, commissions, surcharges, or other fees collected from consumers. The FCC will be required to monitor industry rates examine service innovations and improvements, study market structure, and report its findings to the Congress.

Mr. President, I want to make it clear that there is no intent to injure or discourage the development of the OSP industry. We want to help them to continue to gain respectability. A few bad actors have hurt them, and there is agreement in the industry, to its credit, that a remedy is necessary. Industry representatives have worked diligently with labor and consumer representatives, with the author of companion legislation in the House, Congressman JIM COOPER, and the distinguished chairman of the House Subcommittee on Telecommunications and Finance, Congressman ED MARKEY, to help shape an acceptable legislative resolution of these issues.

OSP companies have moved into a market that is dominated by AT&T, and they have had a positive impact. Competition has stimulated the development of service improvements: We've seen an upgrading of operator service equipment, and enhanced services such as foreign language operators, advanced emergency call handling, voice message, and other specialized services. We expect such developments to continue.

I want to reiterate, Mr. President, that this bill is companion legislation to H.R. 971, a bill carefully crafted over several months by Mr. COOPER and Mr. MARKEY and now awaiting floor consideration by the other body. Mr. MARKEY and Mr. COOPER have done a marvelous job in the interest of consumers. I look forward to working with my colleagues in the Senate in moving this very worthwhile legislation. I am joined in sponsoring this legislation by Senators HERB KOHL, AL GORE, LARRY PRESSLER, PAUL SIMON, JOHN KERRY, and CONRAD BURNS.

• Mr. KOHL. Mr. President, I am pleased to join today with my colleague from Louisiana, Senator BREAUX, in introducing legislation important to anyone who uses a public telephone.

Since the breakup of AT&T in 1984, companies have been allowed to compete to provide operator services from public telephones. The advent of these companies—known as AOS's, or alternative operator services—has created havoc.

Pick up a phone today in a hotel, or hospital, or airport and make an operator assisted phone call. Chances are you won't know whether the operator you're talking to is an AT&T operator or an independent operator service. Chances are even better that you won't know what rate you're being charged for the call. And chances are high that the rate you're being charged is higher than the average

AT&T rate for an operator assisted call.

Alternative operator services are a consumer's nightmare. Most people have used them and not known they were doing so until after the fact—when their telephone bill arrived.

Many States have already taken action to address AOS's. In Wisconsin, the State public service commission has acted to prevent operator service providers operating in the State from charging rates in excess of the AT&T rate for the same call. The State's action, however, applies only to intrastate calls—not those made across State lines. Other States, such as Tennessee, have instituted similar intrastate rate regulation.

Unfortunately, the FCC has been slow to initiate similar rate proceedings at the Federal level, despite a petition on the part of several State regulatory bodies, including the Wisconsin PSC, to do so.

The bill we are introducing today would require the FCC to take several actions to protect consumers against unreasonable rates charged by AOS companies. It would require that the operator service provider identify itself to the caller prior to a call being placed. It would prevent AOS providers from blocking access to the long distance carrier of the caller's choice. It would require AOS companies to file their rate schedules with the FCC, and to justify any rates that the FCC determines are unreasonable. And it would require the FCC to assess, over a 9-month period, the extent to which operator service providers have affected the quality and cost of operator service to telephone customers.

Mr. President, this bill is a good first step. It will protect consumers against using an alternative operator service unknowingly. And it will require AOS companies to justify any rates considered unreasonable by the FCC.

The bill also represents a compromise. It was put together with the advice and assistance of industry representatives and consumer groups.

While the bill does not go as far as the actions taken by the Wisconsin Public Service Commission, I am supporting it not only because it affords some immediate consumer protection but because it sends a clear signal to the FCC and to operator service providers that Congress is concerned about excessive rate charges in the industry.

However, the concerns that have been raised in Wisconsin regarding the need for rate regulation are not exclusive to Wisconsin. I am hopeful that this measure will bring about voluntary rate reduction in the industry, making further legislative action in this area unnecessary. But such action may be warranted in the future.

I want to commend my colleague, Senator BREAUX, for his work on this legislation. I look forward to working with him and other members of the Commerce Committee in fine tuning

this bill and bringing it before the full Senate in the near future. •

By Mr. PRYOR (for himself, Mr. BOREN, Mr. HATCH, and Mr. HARKIN):

S. 1661. A bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses; to the Committee on Finance.

SMALL BUSINESS DISABILITIES TAX CREDIT TAX

Mr. PRYOR. Mr. President, today I am introducing the Small Business Disabilities Tax Credit Act of 1989. Just 2 weeks ago the Senate traveled a tremendous distance along the road to full disability rights with the passage of the Americans With Disabilities Act. The Small Business Disabilities Tax Credit Act of 1989 will take us still closer to the end of this road by providing a tax credit that will help businesses comply with the ADA bill recently passed.

This legislation will provide a \$5,000 refundable tax credit for expenses a business incurs in order to accommodate a disabled patron or employee. All expenditures made to comply with the reasonable accommodations provision of the Americans with Disabilities Act will qualify for this credit. Businesses will be able to claim the credit for carryover expenses, meaning that if expenses exceed the \$5,000 credit in 1 year, the excess will qualify for the credit in subsequent years.

Section 190 of the Internal Revenue Code currently provides a \$35,000 deduction for expenditures to remove architectural and transportation barriers to the handicapped. As the Small Business Legislative Council has pointed out, though, "small business has not been able to take advantage of section 190 for a variety of reasons." For instance, under the current deduction a small business in the 34-percent tax bracket would have to spend almost \$15,000 to realize \$5,000 dollars in tax savings while under the credit approach a small business would receive a dollar-for-dollar \$5,000 savings for \$5,000 in expenditure. As we can see, the credit approach is much more effective at getting more money back into the hands of businesses that can most use help and which will be called upon most often to accommodate the disabled.

I intend to pay for the new tax credit by repealing the inadequate \$35,000 deduction, thereby making my proposal revenue neutral. Large businesses that may have benefited slightly more under the \$35,000 deduction will still qualify for the credit, and they will of course be able to carry over expenses in excess of \$5,000 from 1 year to the next. Large businesses are already in a better position to comply with the ADA since most already employ or serve disabled persons. Moreover, many of the disabled are predisposed toward small businesses since their smaller family settings can better serve the particular needs

of a disabled employee or patron. For these reasons, I believe a tax credit focused on small businesses is preferable to the present deduction.

Finally, the credit will apply to all expenditures made for accommodating the disabled, not just for removing architectural or structural barriers. When any of the following actions are taken to accommodate a disabled individual they will qualify for the credit: modifying facilities; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; providing qualified readers or interpreters; when there is cost, restructuring jobs, providing part-time or modified work schedules, or reassigning to a vacant position; or providing other similar accommodations.

Regardless of the outcome, Mr. President, of the Americans With Disabilities Act which has passed the Senate, the small business disabilities tax credit is, I think, very good, very sound and very constructive tax policy for our country since it will encourage businesses to make accommodations for the disabled. It will especially encourage and enable the small businesses to make these particular accommodations called for by the ADA. I predict the result will be greater access for the disabled and fewer disputes over what constitutes reasonable accommodation.

Mr. President, the United States is one of the wealthiest countries in the world and can afford to pay for full access for the disabled. The disabled should be fully included in all walks of society, not just because it will mean more fulfilling, meaningful lives for them but also because the disabled have a valuable contribution to make to society as trusted employees, valued customers, and active citizens. Full inclusion of the disabled in our society will strengthen our national community by promoting an awareness and a toleration of diversity, values which we hold dear in America. Fully including the disabled in our society will increase the size of the "us" group in our country and further shrink the size of the "them" group.

For all these reasons, Mr. President, I ask the support of my colleagues for the Small Business Disabilities Tax Credit Act of 1989. I hope to expedite consideration of this bill by including it in the budget reconciliation package that the Finance Committee will be preparing shortly. Some modifications may be necessary once the Finance Committee completes its revenue estimates for the bill, nevertheless the final form will undoubtedly be of great assistance to small businesses endeavoring to comply with the ADA bill.

This bill has already attracted the support representatives of the small business community: The National Federation of Independent Business, the Small Business Legislative Council, and Small Business United.

Mr. President, I send to the desk the bill. I am proud to announce as original cosponsors, Mr. HATCH, Mr. HARKIN, and Mr. BOREN. And, Mr. President, let me ask unanimous consent if I might, to add an additional, and I must say a very illustrious, cosponsor, the Senator from Tennessee [Mr. GORE], who happens to be at this moment the very, very able Presiding Officer in the chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I hope that the small business community throughout our country will carefully study this bill and realize what I think will be the valuable attributes and impact that it implies.

Mr. President, I urge the small business community of our country to look at and to study this legislation and hopefully to offer support. I would also welcome the support of the disabilities community.

Mr. President, I ask unanimous consent that a copy of the Small Business Disabilities Tax Credit Act of 1989 and a letter from the Small Business Legislative Council supporting the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1661

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

SECTION 1. SHORT TITLE: AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Disabilities Tax Credit Act of 1989".

(b) AMENDMENT OF THE 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. CREDIT FOR COSTS TO MAKE REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS.

(a) ALLOWANCE OF CREDIT.—Subpart C of part IV of subchapter A of Chapter 1 (relating to refundable credits) is amended by adding at the end thereof the following new section:

"SEC. 26. DISABILITY TAX CREDIT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of qualified disability expenses for the taxable year as does not exceed \$5,000.

"(b) QUALIFIED DISABILITY EXPENSES.—The term "qualified disability expenses" means the amounts which are paid or incurred by the taxpayer during the taxable year—

"(1) to make existing facilities readily accessible to and usable by individuals with disabilities,

"(2) to acquire or modify equipment or devices for individuals with disabilities,

"(3) to make appropriate adjustment or modifications of examinations, training materials or policies for individuals with disabilities,

"(4) to make available qualified readers or interpreters for individuals with disabilities, and

"(5) to provide other similar accommodations for individuals with disabilities.

"(c) DISABILITY.—The term "disability" means, with respect to an individual—

"(1) a physical or mental impairment that substantially limits one more of the major life activities of such individuals,

"(2) a record of such an impairment, or

"(3) being regarded as having such an impairment.

"(d) CARRYFORWARDS.—If a taxpayer has qualified disability expenses for any taxable year, the excess of the qualified disability expense over \$5,000 for such year shall be qualified disability expense in the succeeding taxable year."

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of Chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 26. Disability Tax Credit."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 3. REPEAL OF TREATMENT OF EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

(a) IN GENERAL.—Section 190 is repealed.  
(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SMALL BUSINESS LEGISLATIVE COUNCIL.

Washington, DC, September 19, 1989.  
Hon. David Pryor,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR PRYOR: On behalf of the Small Business Legislative Council (SELBC), I wish to express our support for your initiative to alleviate the impact of the enactment of the Americans with Disabilities Act of 1989 (ADA) upon small business.

As we understand it, you would replace the current deduction (Internal Revenue Code Section 190) permitted for expenditures to remove architectural and transportation barriers to the handicapped with a tax credit for expenditures to comply with the Americans with Disabilities Act of 1989. Our reports suggest that small business has not been able to take advantage of Section 190 for a variety of reasons. We believe all other factors equally, a tax credit is generally more effective than a deductions section as an incentive to encourage activity by small business.

Frankly, while we appreciate the motivation for enactment of the ADA, we are gravely concerned about the burden of compliance with the public accommodation upon small business. The language of the section is ambiguous, and the potential costs of compliance are significant. Your initiative will provide a positive incentive to comply with the law, and this may reduce the likelihood of chaos on Main Street and confrontations in the court house.

Once again, we appreciate your leadership in representing the interest of small business.

Sincerely,

JOHN S. SATAGAJ,  
President.

● Mr. HARKIN. Mr. President, I want to congratulate Senator Pryor for his fine work in developing the Small Business Disabilities Tax Credit Act. I believe that it addresses the concerns of small business owners regarding compliance with the Americans for Disabilities Act.



# Barrier Removal and the IRS

by Gary Bosworth

**N**ow that the Americans with Disabilities Act has been signed by President Bush we can sit back and rest, right? Wrong!

Any law is only good as long as people are encouraged to obey it. Stiff enforcement will probably become necessary in various sectors of society. However there are other tools that can be equally important in having the ADA live up to its full potential.

It is always best if businesses can be convinced to want to comply, instead of dragged kicking and screaming. It is easier if we show they can save money by spending money to be accessible. Then many businesses that aren't even covered by the ADA will work to become accessible anyway.

Luckily the Internal Revenue Service taxation code already has an excellent tax incentive for business to become accessible. IRS code section 190 deals with the little known Architectural Barriers Removal Deduction.

There are many complex parts to our nation's taxation system; but for most of us, Income Tax law heads the list of top priorities. There are many intricacies to the various in's and out's of our ever changing regulations. It is hard for the average business to keep abreast of the necessary data to stay well informed on this important subject.

This is especially vital for the small business person throughout our country.

The massive overhaul of regulations that have come about from the Tax Reform Act of 1986, the Revenue Act of 1987 and the Technical Corrections Act of 1988 have drastically reduced or eliminated many of the well known deductions.

It has become especially hard to find good tax saving techniques in this climate of fewer deductions for the

business person. The Architectural Barrier Removal Deduction, however is a little known, but, well tested tax deduction which is still available.

IRS Code Section 190 allows a very generous deduction of up to \$35,000 a year for expenses spent in removing barriers to the disabled and elderly. This deduction makes such expenses very cost effective. Code Section 190

*... "Any expenses that can be shown as being directly related to the barrier removal then become fully deductible in the first year up to \$35,000." ...*

changes the character and cost effectiveness of those expenses that normally would require depreciation over a period of up to 30½ years. Instead the taxpayer can deduct them in full up to \$35,000 in a single year all at once.

The types of expenses that qualify are any expenses that make a business, rental property, or other profit making establishment more accessible to the disabled and/or elderly. The Internal Revenue Service has even laid out in their regulation a number of simple examples that would qualify for this generous treatment. Some of these examples include: public walkways at least 48 inches wide, handicapped parking spaces, curb cuts or curb ramps, doorways at least 32 unobstructed inches wide, door platforms of at least 5 feet in length and wheelchair accessible buses, vans,

and other vehicles.

This is just a small sampling of the possible expenses listed directly in the IRS regulations under Code Section 190.

The IRS has even left the door open to possibilities not even covered in detail in their regulations. The regulations do this by stating that any expense not covered by the examples in the regulations are still deductible if the expenses satisfies these tests:

1. The removed barrier must have been a substantial access barrier for use of the facility or transportation by disabled or elderly persons, for at least one major class (such as blind, deaf, wheelchair users, et cetera), and

2. The barrier must be removed in such a way to not create a new barrier to that or any other major class of disabled or elderly persons.

The beauty of Code Section 190 is that many businesses periodically remodel, expand or upgrade their business surroundings. If a business person has this in their plans in the near term, it makes excellent sense to use the opportunity to make their establishment accessible.

Any expenses that can be shown as being directly related to the barrier removal then become fully deductible in the first year up to \$35,000. Since the remodeling was done at the same time as the accessibility improvements, and were planned to be integral in the remodeling; much of the remodeling expenses thus become deductible under IRS Code Section 190 as an amortization expense.

In fact this Architectural Barrier Removal Deduction is just about the only type of amortization that allows an immediate one year write-off period.

To give a simple example of how productive this deduction is, let's look at an illustration.

undue hardship' can mean anything to anybody," he said.

In the ADA's own words, "the term 'undue hardship' means an action requiring significant difficulty or expense when considered in light of . . . the nature and cost of the accommodation needed (and) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation."

Thomas pointed out that the owner of a small retail store with a few steps out front might plead undue economic hardship for a \$2,000 solution to his or her accessibility problem.

American Stair-Glide offers a variety of products including inclined stairlifts, inclined wheelchair lift and vertical wheelchair lifts for commercial and residential purposes.

Thomas said the firm has no plans to include the ADA in its marketing plan for next year.

"We haven't come onto a strategy where we'll use it out front—'You've got this law to comply with, so buy these products.' We'll stay away from that," he remarked.

But Thomas said he is anticipating that, in the not-too-distant future, new companies will spring up to compete with his.

"There might be a belief out there, by certain people, that this legislation has created more of a market than is really there," he said.

While the businesses *MAINSTREAM* contacted are still grappling with how, or whether, to use the ADA in their marketing tactics for 1991 and beyond, most reported that they did lobby for the bill's passage, even if it was primarily by contacting the Congressmen and Congresswomen who serve their districts.

"The ADA is going to give disabled people the back-up they needed to force the issue of accessibility," said Lackey at Alumi-Ramp.

Now that the law has been passed, the enactment waiting game begins.

"The majority of the standards don't go into effect until Jan. 26, 1992, 18 months after the date of enactment," Cannon said.

Now, the ATBCB and other government agencies are working on putting together a "user-friendly" document

that "you will just be able to pick up, and you won't need to pick up several books to see what they're referring to" by mentioning certain standards, he explained.

Even when the standards are all in place, the process of compliance will be a transitional period.

"We expect some missteps," Cannon predicted. ■

*Michele Molnar is a free lance writer and has been writing for MAINSTREAM since 1986.*

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Mr. Brown owns a building where he operates a restaurant that is due for some remodeling in the amount of \$10,000. Normally he would be required to depreciate the \$10,000 over a life time of 30½ years for a maximum tax deduction of \$328 in the first year. Assuming Mr. Brown is in the 28% tax bracket he would lower his federal taxes by \$92. Ninety-two dollars is not much for an expenditure of \$10,000.

However, let's make that \$10,000 spent in such a way so that it is deductible under Code Section 190. The tax deduction for the year now is \$10,000. Again assuming the 28% tax bracket, the federal tax is lowered \$2,800 instead of \$92. That is a savings of \$2,718 over the previous method.

This doesn't even take into account the additional savings possible on state income taxes and self-employment taxes.

The Architectural Barrier Removal Deduction of Code Section 190 is outlined in IRS Publication 907, *Tax Information for Handicapped and Disabled Individuals*, under the section labeled 'Business Tax Incentives'.

In some cases business owners might even qualify for Redevelopment or other matching funds for some of the expenditures. Local government agencies should be able to help with the procedural details of applying for such funds.

The numbers speak for themselves. Accessibility makes good business and economical sense. Smart businesspersons would readily agree that they want to make it easier for more people to be able to use their business establishment so they can spend their money there.

The difficult job ahead for us is to spread the word throughout the business community about the excellent financial and tax benefits available by using the Architectural Barrier Removal Deduction described in IRS Code Section 190. ■

*Gary Bosworth, a registered tax-preparer with the firm of Mitzi Mayer & Associates located in Palm Springs, California; is chairperson of the Desert Hot Springs Rotary Accessibility Project and member of the board of directors of ADAPT of Southern California.*

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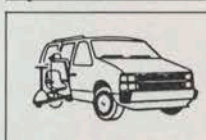
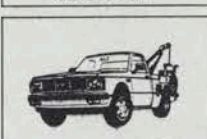

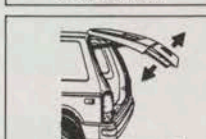
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NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

John H. Moore, Jr.  
President

John A. Doyle  
Executive Director

October 30, 1989

The Honorable Bob Dole  
Attention: Maureen West  
United States Senate  
Washington, D.C. 20510

Dear Maureen:

I have taken a look at the Senator's draft proposal "to allow certain capital expenditures for small businesses for auxiliary aids and services and reasonable accommodations to be treated as expense items, and for other purposes."

At the present time I can see no reason why we would not be able to support this proposal. I would be interested in knowing how many other organizations in the disability community have seen this proposed legislation and have given their input and support.

As soon as you are prepared to introduce this legislation I would be happy to prepare a complete analysis of its impact.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Graham', is written over the typed name.

Michael Graham  
Assistant Director  
Government Relations

MG/lrl

P.S. I was quite pleased to receive the note from the Senator expressing his appreciation for NARF's assistance on the Technical Assistance Amendment.

# NFIB NEWS

Contact: Terry Hill (202) 554-9000



## SMALL-BUSINESS GROUP SUPPORTS TAX RELIEF FOR DISABILITIES ACT EXPENSES

WASHINGTON, Nov. 16---A bill to offer business tax credits for the costs of complying with proposed new regulations affecting disabled citizens today drew the support of the nation's largest small-business advocacy organization, the National Federation of Independent Business.

NFIB, in announcing its support for H.R. 3500, praised the measure's sponsors, Reps. Kweisi Mfume (D-Md.) and Fred Upton (R-Mich.) for creating the bill which would provide a refundable \$5000 tax credit to businesses with 15 or fewer employees and which have a gross annual income of \$1 million or less. The legislation is designed to help offset the expected costs of the Americans With Disabilities Act which, if enacted, would require businesses to restructure their facilities to accommodate a wide range of disabilities.

"The Upton-Mfume tax credit proposal could greatly lessen the burdens imposed by the Disabilities Act," NFIB Assistant Director of Federal Legislation David Rehr said. "It is a thoughtful, well-targeted approach to help small firms comply and, at the same time, provide greater access for the disabled."

The tax credit could also be applied to other types of accommodations beyond structural alterations, including specialized equipment and services such as telecommunications devices and certified sign language interpreters.

NFIB has more than 570,000 members in all 50 states.

###



Atlantic Information Services, Inc.

February 1, 1990

Ms. Maureen West  
Office of Sen. Bob Dole  
141 Hart Senate Office Building  
United States Senate  
Washington, D.C. 20510

Dear Maureen:

Thanks for spending time on the phone with me yesterday. I appreciate your answering my questions about the proposed reduction in the amount a business can deduct from federal taxes for barrier removal.

As per our conversation, I've enclosed a copy of the IRS's business tax incentives information, as it regards disabled workers. As you'll see, the IRS uses a different (and somewhat outdated) set of accessibility standards that bears little resemblance to UFAS or the current ANSI standards. This came out of IRS Publication 907.

I'd appreciate your sending me any information you have on the proposed modification to this deduction. I'll be in touch if I have any more questions. If there's any way I can help you make sense of all of this mumbo-jumbo, please don't hesitate to call me at 775-9008. Once again, thanks for your time and effort.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Goodwin", is written over the typed name. The signature is fluid and cursive.

Steve Goodwin

**Social security tax (FICA).** If you pay a household employee cash wages of \$50 or more during a calendar quarter, those wages are subject to social security taxes. Payments in kind (meals, transportation, etc.) are not used to figure the \$50 amount or to figure the tax. The tax is figured on all cash wage payments in the quarter regardless of when they were earned.

Both you and the employee pay a share of the social security tax on the employee's wages. For 1988 the social security tax rate for each of you is 7.51%. Therefore, in 1988 you could have deducted 7.51% from each cash wage payment you made during a calendar quarter, if you paid the employee \$50 or more during the quarter. The combined rate for you and the employee is 15.02% (7.51% plus 7.51%).

You report and pay the social security tax quarterly on Form 942, *Employer's Quarterly Tax Return for Household Employees*. The form has instructions for filling it out and a table to determine how much to deduct from the employee's wages.

**Limit.** Only the first \$45,000 of wages you pay each employee during the calendar year 1988 is subject to these taxes.

**Income tax withholding.** If an employee asks you to withhold income tax, and you agree, you must withhold an amount from each payment based on the information given to you by the employee and shown on Form W-4, *Employee's Withholding Allowance Certificate*. Publication 15, *Circular E, Employer's Tax Guide*, explains how to figure the amount to withhold.

**Earned income credit advance payment.** You must make advance payments of the earned income credit to an eligible employee who requests it. Employees who earn under \$19,340 in 1989 and meet certain other conditions are eligible. The employee makes the request by giving you a completed Form W-5, *Earned Income Credit Advance Payment Certificate*. Each payday, you make the payments to your employee from the social security taxes and withheld income taxes that you would otherwise pay to the Internal Revenue Service. For more information, see Publication 15.

You must notify any employees not having federal income tax withheld that they may be eligible for an income tax refund because of the earned income credit. For more information, see the instructions for Form 942.

**Filing Form 942.** You must report on Form 942 the taxes withheld each quarter if:

- 1) You are liable for social security tax, or
- 2) Your employee asked you to withhold federal income tax and you agreed.

If you own a business as a sole proprietor, you may include your household employee on Form 941, *Employer's Quarterly Federal Tax Return*. Do **not** include household employees on Form 941 filed for a partnership or corporation.

For more information about employment taxes for household employees, see Publication 15 and Publication 926, *Employment Taxes for Household Employers*, and the instructions for Form 942.

**Federal unemployment tax (FUTA)** is for your employee's unemployment insurance. If you paid cash wages of \$1,000 or more to household employees in any calendar quarter in the current or prior year, you are liable for FUTA tax for any employees you have in the current year. However, the FUTA tax does not apply to wages paid to your spouse, to your parents, or to your children under 21 years old. You report the

FUTA tax yearly on Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*.

**Rate.** The rate is 6.2% on the first \$7,000 of cash wages paid to each employee during the calendar year. The FUTA tax is imposed on you as the employer. You must not collect or deduct it from the wages of your employees.

You can take a credit against your federal unemployment tax for the unemployment tax you pay to the state. Your net federal tax may be as low as 0.8%, if you pay the state tax on time.

When you hire a household employee, you should contact your state employment tax office to get information on how to file the state return and to get a state reporting number. The state will give you your experience rate, which you use to figure the amount of tax you will pay the state.

For more information regarding federal unemployment taxes, see Publication 15, Publication 926, and the instructions for Form 940.

## Business Tax Incentives

If you own or operate a business, you should be aware of two tax incentives for helping the handicapped. First, you may deduct up to \$35,000 of the cost of removing architectural or transportation barriers to the handicapped and elderly. Second, you may take a tax credit for hiring members of certain targeted groups, including the handicapped. These incentives are explained in the following discussions.

### Deduction for Removal of Barriers

You may choose to deduct your expenses for making a facility or public transportation vehicle, owned or leased for use in your trade or business, more accessible to, and usable by, handicapped and elderly people. For this purpose, a facility is all or any part of a building, structure, equipment, road, walk, parking lot, or similar property. A public transportation vehicle is a vehicle, such as a bus or railroad car, that provides transportation service to the public (including service for your customers, if you are not in the business of providing transportation services). You may not deduct any expenses that you had in building or completely renovating a facility or public transportation vehicle or in normally replacing depreciable property. The most you can deduct is \$35,000 for the tax year in which you had the expense. However, you may add amounts in excess of the \$35,000 limit to the basis of the property subject to depreciation.

**Partnership deduction limit.** The \$35,000 limit also applies to a partnership and to each partner. Each partner must apply the \$35,000 limit to the total of his or her:

- 1) Distributive share of the partnership's deductible expenses for the removal of architectural and transportation barriers (after the \$35,000 limit has been applied at the partnership level),
- 2) Distributive share of any such deductible expenses that are distributed to that partner from any other partnership, and
- 3) Deductible expenses individually incurred for the removal of these barriers.

In figuring this limit, the partner may divide the \$35,000 limit between any expenses that were individually incurred and any expenses that were received as a distributive share of a partnership's expenses. If this division results in all or a part of a partner's distributive share of a partnership's deductible



expenses not being deductible by that partner, the partnership may add the nondeductible part to the basis of the partnership property. In making the addition to the basis of a partnership's properties, it is presumed that each partner's distributive share of the partnership's deductible expenses for the removal of these barriers (after application of the \$35,000 limit at the partnership level) was deductible in full by the partner. This presumption can be disproved only by showing that all or a part of a partner's distributive share of such expenses was not deductible by the partner because it was more than that partner's \$35,000 limit as allocated by that partner.

**Example.** In 1988 John Blue's distributive share of the Brown and Blue partnership's deductible expenses for the removal of architectural barriers to the handicapped and elderly was \$25,000. John also had \$20,000 of similar expenses in the operation of his sole proprietorship, which he chose to deduct in 1988. John allocated \$20,000 of his \$35,000 limit to his distributive share of the Brown and Blue partnership's expenses and \$15,000 to his own expenses. John may add to the basis of his own property his excess \$5,000. Also, if Brown and Blue can show that John could not deduct \$5,000 of his distributive share of the partnership's expenses, it may add that amount to the basis of its property.

**Qualification standards.** For these expenses to be deductible, the following standards must be met:

**Grading.** The grading of ground must reach the level of a normal entrance to make a facility accessible to people with physical disabilities.

#### Walks

- 1) A public walk must be at least 48 inches wide and must not slope more than 5%. A walk of maximum or near maximum steepness that is fairly long must have level areas at regular intervals. A walk or driveway must have a nonslip surface.
- 2) The walk must have a continuing common surface and must not have steps or sudden changes in level.
- 3) Where a walk crosses another walk, a driveway, or a parking lot, they must blend to a common level. However, this does not require the removal of curbs which are a safety feature for the handicapped, especially the blind.
- 4) A sloping walk must have a level platform at the top and at the bottom. If a door swings out onto the platform at the top or bottom of the walk, the platform must be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform, the platform must be at least 3 feet deep and 5 feet wide. A platform must extend at least 1 foot past the opening side of any doorway.

#### Parking lots

- 1) At least one parking space that is near a facility must be set aside and marked for use by the handicapped.
- 2) The parking space must be open on one side to allow room for people in wheelchairs or on braces or crutches to get in and out of a car onto a level surface.
- 3) A parking space for the handicapped that is placed between two regular diagonal or head-on parking spaces must be at least 12 feet wide.
- 4) The parking space must be located so that people in wheelchairs or on braces or crutches do not have to go behind parked cars.

#### Ramps

- 1) A ramp must not slope more than 1 inch for each foot of length.
- 2) The ramp must have at least one handrail that is 32 inches high, measured from the surface of the ramp. The handrail must be smooth, and must extend at least 1 foot past the top and bottom of the ramp. However, this does not require a handrail extension which is itself a hazard.
- 3) The ramp must have a nonslip surface.
- 4) The ramp must have a level platform at the top and at the bottom. If a door swings out onto the platform, the platform must be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform, the platform must be at least 3 feet deep and 5 feet wide. The platform must extend at least 1 foot past the opening side of any doorway.
- 5) The ramp must have level platforms no farther than 30 feet apart and at any turn.
- 6) A curb ramp must be provided at an intersection. The curb ramp must not be less than 4 feet wide and must not slope more than 1 inch for each foot of length. The two surfaces must blend smoothly. A curb ramp must have a nonslip surface.

#### Entrances

A building must have at least one main entrance which is usable by people in wheelchairs. The entrance must be on a level accessible to an elevator.

#### Doors and doorways

- 1) A door must have a clear opening at least 32 inches wide and must be operable by a single effort.
- 2) The floor on the inside and outside of a doorway must be level for at least 5 feet from the door in the direction the door swings and must extend at least 1 foot past the opening side of the doorway.
- 3) There must not be any sharp slopes or sudden changes in level at a doorway. The threshold must be flush with the floor. If the door has an automatic closer, it must be selected, placed, and set so as not to impair the use of the door by the handicapped.

#### Stairs

- 1) Stairsteps must have round nosing of between 1 and 1½ inch radius.
- 2) Stairs must have a handrail 32 inches high as measured from the front of the tread.
- 3) Stairs must have at least one handrail that extends at least 18 inches past the top step and the bottom step. But this does not require a handrail extension which is itself a hazard.
- 4) Each step must not be more than 7 inches high.

#### Floors

- 1) Floors must have a nonslip surface.
- 2) Floors on each story of a building must be on the same level or must be connected by a ramp, as discussed previously.

#### Toilet rooms

- 1) A toilet room must have enough space for people in wheelchairs.
- 2) The toilet room must have at least one toilet stall that—
  - a) Is at least 66 inches wide,

- b) Is at least 60 inches deep,
  - c) Has a door, if any, that is at least 32 inches wide and swings out,
  - d) Has a handrail on one side that is 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches away from the wall, and fastened securely at the ends and center, and
  - e) Has a toilet with a seat 19 to 20 inches from the floor with the centerline 18 inches from the side wall on which the handrail is located.
- 3) The toilet room may have, in addition to a toilet stall described in (2), a toilet stall that:
- a) Is at least 36 inches wide,
  - b) Is at least 56 inches deep,
  - c) Has a door, if any, that is at least 32 inches wide and swings out,
  - d) Has handrails on each side that are 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches away from the wall, and fastened securely at the ends and center, and
  - e) Has a toilet with a seat 19 to 20 inches from the floor.
- 4) The toilet room must have sinks with narrow aprons. Drain pipes and hot water pipes under a sink must be covered or insulated.
- 5) A mirror and a shelf above a sink must not be higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.
- 6) A toilet room for men must have wall-mounted urinals with the opening of the basin 15 to 19 inches from the floor or floor-mounted urinals that are level with the main floor.
- 7) Towel racks, towel dispensers, and other dispensers and disposal units must not be mounted higher than 40 inches from the floor.

#### Water fountains

- 1) A water fountain or cooler must have up-front spouts and controls.
- 2) The water fountain or cooler must be hand-operated or hand-and-foot-operated.
- 3) A water fountain mounted on the side of a floor-mounted cooler must not be more than 30 inches above the floor.
- 4) A wall-mounted, hand-operated water cooler must be mounted with the basin 36 inches from the floor.
- 5) The water fountain must not be fully recessed and must not be set into an alcove unless the alcove is at least 36 inches wide.

#### Public telephones

- 1) A public telephone must be placed so that the dial and the headset can be reached by people in wheelchairs.
- 2) The public telephone must be equipped for those with hearing disabilities and be so identified with instructions for use.
- 3) Coin slots of public telephones must not be more than 48 inches from the floor.

#### Elevators

- 1) An elevator must be accessible to, and usable by, the handicapped and the elderly on the levels they use to enter the building and all levels and areas normally used.

- 2) Cab size must allow for turning a wheelchair. It must measure at least 54 by 68 inches.
- 3) Door clear opening width must be at least 32 inches.
- 4) All controls needed must be within 48 to 54 inches from the cab floor. These controls must be usable by the blind and must be identifiable by touch.

#### Controls

Switches and controls for light, heat, ventilation, windows, draperies, fire alarms, and all similar controls that are needed or used often must be placed within the reach of people in wheelchairs. These switches and controls must not be higher than 48 inches from the floor.

#### Markings

- 1) Raised letters or numbers must be used to mark rooms and offices. These markings must be placed on the wall to the right or left of the door at a height of 54 to 66 inches from the floor.
- 2) A door that might prove dangerous if a blind person were to use it, such as a door leading to a loading platform, boiler room, stage, or fire escape, must be identifiable by touch.

#### Warning signals

- 1) An audible warning signal must be accompanied by a simultaneous visual signal for the benefit of those with hearing disabilities.
- 2) A visual warning signal must be accompanied by a simultaneous audible signal for the benefit of the blind.

#### Hazards

Hanging signs, ceiling lights, and similar objects and fixtures must be at least 7 feet from the floor.

#### International accessibility symbol

The international accessibility symbol (see illustration) must be displayed on routes to and at wheelchair-accessible entrances to facilities and public transportation vehicles.



#### Rail facilities

- 1) A rail facility must have at least one entrance with a clear opening at least 36 inches wide.
- 2) A boarding platform edge bordering a drop-off or other dangerous condition must be marked with a strip of floor material that is different in color and texture from the rest

of the floor surface. The gap between boarding platform and vehicle doorway must be as small as possible.

### Buses

- 1) A bus must have a mechanism such as a lift or ramp to enable a wheelchair user to enter the bus and enough clearance to let a wheelchair user reach a secure location.
- 2) The bus must have a wheelchair-securing device. However, this does not require a wheelchair-securing device which is itself a barrier or hazard.
- 3) The vertical distance from a curb or from street level to the first front doorstep must not be more than 8 inches; each front doorstep after the first step up from the curb or street level must also not be more than 8 inches high; and the steps at the front and rear doors must be at least 12 inches deep.
- 4) The bus must have clear signs that indicate that seats in the front of the bus are priority seats for handicapped or elderly persons and that tell other passengers to make these seats available to handicapped and elderly passengers who want to use them.
- 5) Handrails and stanchions must be provided in the entrance to the bus so that handicapped and elderly passengers can grasp them from outside the bus and use them while boarding and paying the fare. This system must include a rail across the front of the bus interior for passengers to lean against while paying fares. Overhead handrails must be continuous except for a gap at the rear doorway.
- 6) Floors and steps must have nonslip surfaces. Step edges must have a band of bright contrasting color running the full width of the step.
- 7) A stepwell next to the driver must have, when the door is open, at least 2 foot-candles of light measured on the step tread. Other stepwells must have, at all times, at least 2 foot-candles of light measured on the step tread.
- 8) The doorways of the bus must have outside lighting that provides at least 1 foot-candle of light on the street surface for a distance of 3 feet from the bottom step edge. This lighting must be below window level and must be shielded from the eyes of entering and exiting passengers.
- 9) The fare box must be located as far forward as practical and must not block traffic in the vestibule.

### Rapid and light rail vehicles

- 1) Passenger doorways on the vehicle sides must have clear openings at least 32 inches wide.
- 2) Audible or visual warning signals must be provided to alert passengers of closing doors.
- 3) Handrails and stanchions must permit safe boarding, moving around, sitting, standing, and getting off by handicapped and elderly persons. On a level-entry vehicle, handrails, stanchions, and seats must be located to allow a wheelchair user to enter the vehicle and position the wheelchair in a location that does not block the movement of other passengers. On a vehicle with steps, handrails and stanchions must be provided in the entrance so that handicapped and elderly persons can grasp them and use them from outside the vehicle while boarding.

- 4) Floors must have nonslip surfaces. Step edges on a light rail vehicle must have a band of bright contrasting color running the full width of the step.
- 5) A stepwell next to the driver must have, when the door is open, at least 2 foot-candles of light measured on the step tread. Other stepwells must have, at all times, at least 2 foot-candles of light measured on the step tread.
- 6) Doorways on a light rail vehicle must have outside lighting that provides at least 1 foot-candle of light on the street surface for a distance of 3 feet from the bottom step edge. This lighting must be below window level and must be shielded from the eyes of entering and exiting passengers.

### Other barrier removals

To be deductible, expenses of removing any barrier not covered by the above standards must meet three tests.

- 1) The removed barrier must be a substantial barrier to access or use of a facility or public transportation vehicle by handicapped or elderly people,
- 2) The removed barrier must have been a barrier for at least one major class of these persons (such as the blind, deaf, or wheelchair users), and
- 3) The barrier must be removed without creating any new barrier that significantly impairs access to or use of the facility or vehicle by these persons.

**To deduct expenses** for the removal of architectural and transportation barriers to the handicapped and elderly, claim the deduction on your income tax return for the tax year in which you paid or incurred the expenses. Identify the deduction as a separate item. A partnership also should make its choice to deduct these expenses on its partnership return for the first year for which the choice applies. For the choice to be valid, you must file the return for the tax year for which the choice is to apply not later than the due date (including extensions) of the return. This choice applies to all such expenses, up to the \$35,000 limit, that were paid or incurred during the tax year. The choice is irrevocable after the due date of the return. If you make this choice, be sure you maintain adequate records to support the deduction.

### Targeted Jobs Credit

The targeted jobs credit provides an incentive to hire persons from targeted groups that have a particularly high unemployment rate or other special employment needs.

You, as an employer, can choose to take a targeted jobs tax credit. The targeted jobs credit is for qualified wages that you incur or pay to members of targeted groups who start working for you before 1989.

The new jobs credit, which was replaced by the targeted jobs credit, expired at the end of 1978. Any new jobs credit that could not be claimed in earlier years can be carried over for the 15 tax years after the year you earned it or until it is used up, whichever comes first.

**Members of targeted groups.** A person is a member of a targeted group if the person meets the requirements of any of the groups listed in the next paragraph.

Members of targeted groups are persons who are:

- 1) Vocational rehabilitation referrals,
- 2) Economically disadvantaged youths,
- 3) Economically disadvantaged Vietnam-era veterans,
- 4) Supplemental Security Income (SSI) recipients,

- 5) General assistance recipients,
- 6) Youths participating in a cooperative education program,
- 7) Economically disadvantaged ex-convicts,
- 8) Eligible work incentive employees, or
- 9) Qualified summer youth employees.

**Certification.** For you to claim the targeted jobs credit on the wages paid to an employee, that employee must be certified as a member of a targeted group by the designated local agency. Designated agencies are local offices of the state employment security agency (jobs service). In the case

of a student participating in a cooperative education program, the student is certified by the school administering the program.

For more information on the targeted jobs credit, see Publication 572, *General Business Credit*.

**Caution:** As this publication was being prepared for print, Congress was considering legislation that would extend the expiration date for the targeted jobs credit and that would change some of the requirements for the targeted groups. For additional information on any late legislative changes, see Publication 553, *Highlights of 1988 Tax Changes*.

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HERBERT KOHL  
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*10. Mansura / Carolyn S.*

## United States Senate

WASHINGTON, DC 20510

November 20, 1989

COMMITTEES:  
JUDICIARY  
GOVERNMENTAL AFFAIRS  
SPECIAL COMMITTEE  
ON AGING

*Jim W.  
11/22*

Dear Colleague:

We recently introduced S. 1876, the Small Business Rehabilitation Relief Act of 1989. The bill provides a refundable tax credit to help small business defray the cost of making their establishments accessible to persons with disabilities. We are writing to invite your cosponsorship.

The Senate recently passed the Americans with Disabilities Act. Under the ADA, many employers are required to make their businesses accessible to employees and customers with disabilities.

Elimination of barriers is not always without cost to business. But, it is a cost we believe should be incurred, considering the benefit to those with disabilities, the benefit to business and the benefit to our entire society. Small business will incur some of those costs and we are most sympathetic to their concerns.

S. 1876 addresses this issue. The bill builds on an amendment offered by Senator Hatch during debate on the ADA. That approach has since been embodied in legislation introduced by Senators Pryor and Hatch and others.

While both of our bills employ tax credits, the Small Business Rehabilitation Relief Act utilizes a different structure for that credit. We base these changes on two principles. First, providing access to persons with disabilities is, at least in part, a cost of doing business in this nation. Second, any credit should encourage the most economical renovations possible.

Our bill incorporates these principles. Under the bill, eligible businesses would receive a refundable 80 percent tax credit on expenditures between \$250 and \$4,000. In other words, after spending \$250, businesses would be eligible for a tax credit equal to 80 cents on every dollar spent up to \$4,000. This amounts to a maximum annual refundable credit of \$3,000.

Businesses eligible for the credit would have a choice of what to do with expenditures over the \$4,000 cap. They can carry forward these excess amounts and apply them against the tax credit in future years (again, subject to the annual \$4,000 cap). Or, the businesses can deduct expenditures over \$4,000 in the

current year as allowed under Section 190 of the Internal Revenue Code.

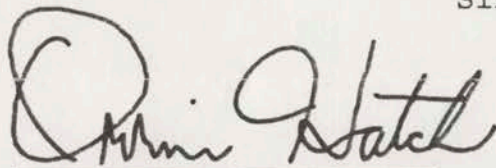
The bill is targeted to help small businesses. A business qualifies for the tax credit if it has fewer than 30 employees or less than \$4 million in gross receipts. The refundable feature of the tax credit means that even start-up businesses with low profits will be helped. All together, these provisions should greatly reduce the financial cost for those small businesses which incur additional costs.

Finally, we think the bill complements and furthers the goals of the ADA. While ADA would require many businesses to undergo renovations, some businesses are not covered by the Act. Our bill's tax credit would be available even to these "non-covered" businesses. The bill thus provides an incentive for businesses to make their worksites accessible to and usable by persons with disabilities even when the ADA imposes no such requirement.

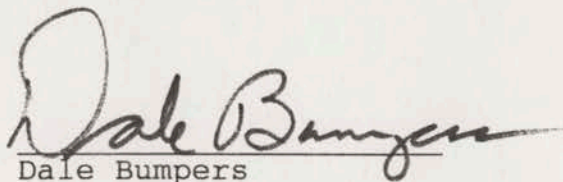
The legislation is supported by the Consortium for Citizens with Disabilities, the National Federation of Independent Businesses, the Small Business Legislative Council, the National Small Business United and the National Restaurant Association.

We believe this approach offers a good way to encourage and assist businesses in their renovations for employees and customers with disabilities. We urge you to join us in support of this legislation. If you have any questions or would like to cosponsor, please give Tom Stubbs (4-9539) or Sherry Hayes (4-7531) a call.

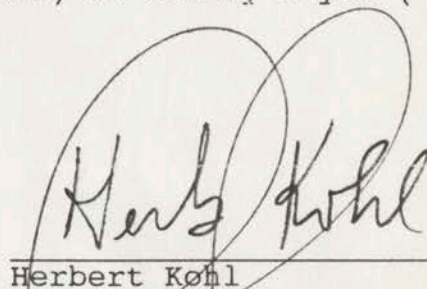
Sincerely,



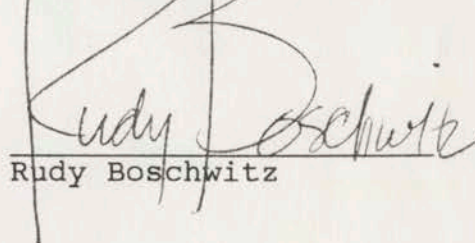
Orrin G. Hatch



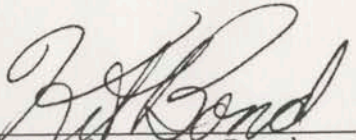
Dale Bumpers

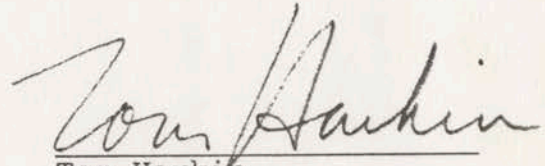


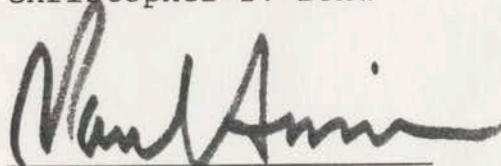
Herbert Kohl



Rudy Boschwitz

  
\_\_\_\_\_  
Christopher S. Bond

  
\_\_\_\_\_  
Tom Harkin

  
\_\_\_\_\_  
Paul Simon

**Senator Orrin G. Hatch**  
**United States Senate**  
**Washington, DC 20510-4402**  
**Tel # (202) 224-5251**  
**Fax # (202) 224-6331**

**Facsimile Cover Sheet**

TO: MAUREEN WEST <sup>fax 48952</sup> 48959 DATE: 6/20  
SEN. DOLE TIME: \_\_\_\_\_

FROM: TONY AHLRICH  
SEN. HATCH

SUBJECT: CHARITABLE DEDUCTION

TOTAL NUMBER OF PAGES SENT (including cover sheet): 5

If you do not receive all pages, please call: \_\_\_\_\_

COMMENTS: HOPE YOU'LL SIGN ON. LET ME  
KNOW IF YOU WANT TO SIGN "DEAR  
COLLEAGUE". THANKS!



ORRIN G. HATCH  
UTAH

WENDY J. HIGGINBOTHAM  
ADMINISTRATIVE ASSISTANT

135 RUSSELL SENATE OFFICE BUILDING  
TELEPHONE: (202) 224-6251  
TDD: (202) 224-2849

# United States Senate

WASHINGTON, DC 20510-4402

June 19, 1991

COMMITTEES:  
LABOR AND HUMAN  
RESOURCES  
JUDICIARY  
FOREIGN RELATIONS  
OFFICE OF TECHNOLOGY  
ASSESSMENT

*DRAFT*

Dear Colleague:

Last Congress I introduced a bill that would provide a tax deduction for obsolete computer and other business equipment donated to charitable organizations that use the equipment to train disabled or needy individuals. Shortly, I will re-introduce this bill. I invite you to cosponsor this legislation which will help disadvantaged Americans become more productive employees in today's technologically advanced work environment.

The evolution of technology has made installed computers become outdated long before they cease to function properly. During the 1990s, over 40 million computers will become commercially obsolete. Most of these computers, still fully functional, will be liquidated, banished to indefinite storage, or even scrapped. Why? Because there is no tax incentive for businesses to donate obsolete, fully depreciated business equipment to charitable organizations.

This legislation will provide a deduction for the lesser of the fair market value or the original cost of fully depreciated business equipment that is donated to charitable organizations. The recipient organizations must use the equipment in the training of the disabled or disadvantaged.

As you know, the United States is already facing potential labor shortages of computer-literate and technically skilled employees. Our country also has an underutilized labor pool of Americans with disabilities. Two-thirds of these Americans between the ages of 16 and 64 are not working. Of these, two-thirds say they would like to work. This accounts for approximately eight and a half million people.

We can help fill our country's labor needs and provide new growth and work opportunities for our fellow disadvantaged citizens by encouraging corporate America to donate its old computer equipment to charitable organizations. Everyone will win: businesses will gain skilled workers; the nation will benefit from increased tax revenues and reduced welfare payments; and disadvantaged Americans will have enhanced opportunities to become more positive contributors to society.

If you are interested in cosponsoring this progressive legislation, please contact Tony Ahlrichs of my staff at 4-9861.

Sincerely,

Orrin G. Hatch

091012.044

S.L.C.

101ST CONGRESS  
2D SESSION

S. \_\_\_\_\_

IN THE SENATE OF THE UNITED STATES

Mr. HATCH introduced the following bill: which was read twice and referred to  
the Committee on \_\_\_\_\_

**A BILL**

To amend the Internal Revenue Code of 1986 to allow a charitable deduction for certain contributions of depreciable business property.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4 SECTION 1. CONTRIBUTIONS OF DEPRECIABLE BUSINESS PROPER-  
5 TY.

6 (a) IN GENERAL.—Subsection (e) of section 170 of the  
7 Internal Revenue Code of 1986 (relating to contributions  
8 of ordinary income and capital gain property) is amended  
9 by adding at the end thereof the following new paragraph:

091012.044

2

S.L.C.

1           “(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS  
2 OF DEPRECIABLE BUSINESS PROPERTY.—

3           “(A) QUALIFIED CONTRIBUTIONS.—For pur-  
4 poses of this paragraph, a qualified contribution  
5 shall mean a charitable contribution of property  
6 described in section 1245(a)(3) by the taxpayer  
7 to an organization which is described in section  
8 501(c)(3) and is exempt under section 501(a)  
9 (other than a private foundation, as defined in  
10 section 509(a), which is not an operating foun-  
11 dation, as defined in section 4942(j)(3)), but  
12 only if—

13           “(i) the use of the property by the  
14 donee is related to the purpose or function  
15 constituting the basis for the donee’s ex-  
16 emption under section 501,

17           “(ii) the property is to be used within  
18 the 90-day period beginning on the date on  
19 which such contribution is made solely for  
20 the training of individuals who are disabled  
21 or needy,

22           “(iii) the property is not transferred  
23 by the donee in exchange for money, other  
24 property, or services, and

091012.044

S.L.C.

1                   “(iv) the taxpayer receives from the  
 2 donee a written statement representing that  
 3 the use and disposition of the property will  
 4 be in accordance with the provisions of  
 5 clauses (i), (ii), and (iii).

6                   “(B) AMOUNT OF DEDUCTION.—Notwith-  
 7 standing any other provision of this subsection,  
 8 the amount allowable as a deduction under sub-  
 9 section (a) for any qualified contribution (as de-  
 10 fined in subparagraph (A)) shall be an amount  
 11 equal to the greater of—

12                   “(i) the taxpayer’s basis in the proper-  
 13 ty contributed, or

14                   “(ii) the lesser of—

15                   “(I) the fair market value (deter-  
 16 mined at the time of such contribu-  
 17 tion) of such property, or

18                   “(II) the taxpayer’s acquisition  
 19 cost for such property.

20                   “(C)

21                   (b) EFFECTIVE DATE.—The amendment made by this  
 22 section shall apply with respect to contributions made after  
 23 December 31, ~~1990~~, in taxable years ending after such  
 24 date.                   1991

§ 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly

(a) Treatment as expenses.—

(1) In general.—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) Election.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

(b) Definitions.—For purposes of this section—

(1) Architectural and transportation barrier removal expenses.—The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) Qualified architectural and transportation barrier removal expense.—The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(3) Handicapped individual.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

(c) Limitation.—The deduction allowed by subsection (a) for any taxable year shall not exceed \$35,000.

(d) Application of section.—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

(2) taxable years beginning after December 31, 1983.

(Added Pub.L. 94-455, Title XXI, § 2122(a), Oct. 4, 1976, 90 Stat. 1914, and amended Pub.L. 98-369, Title X, § 1062(a)(1), (b), July 18, 1984, 98 Stat. 1047; Pub.L. 99-514, Title II, § 244, Oct. 22, 1986, 100 Stat. 2183.)

1986 Amendment. Subsec. (d)(2). Pub.L. 99-514, § 244, substituted "1983" for "1983, and before January 1, 1986".

1984 Amendment. Subsec. (c). Pub.L. 98-369, § 1062(b), substituted "\$35,000" for "\$25,000".

Subsec. (d). Pub.L. 98-369, § 1062(a)(1), substituted provisions that this section shall apply to taxable years beginning after December 31, 1976 and before January 1, 1983 and to taxable years beginning after December 31, 1983, and before January 1, 1986 for provisions which had required the Secretary to prescribe such regulations as might be necessary to carry out this section within 180 days after October 4, 1976.

Effective Date of 1984 Amendment. Section 1062(c) of Pub.L. 98-369 provided that: "The amendment made by subsection (b) [amending subsec. (c) of this section] shall apply to taxable years beginning after December 31, 1983."

Effective Date. Section 2122(c) of Pub.L. 94-455, as amended by Pub.L. 96-167, § 9(c), Dec. 29, 1979, 93 Stat. 1278; Pub.L. 98-369, Title X, § 1062(a)(2), July 18, 1984, 98 Stat. 1047, provided that: "The amendments made by this section [enacting this section and amending sections 263(a)(1), 1245(a)(2) and 1250(b)(3) of this title] shall apply to taxable years beginning after December 31, 1976."

Legislative History. For legislative history and purpose of Pub.L. 98-369, see 1984 U.S. Code Cong. and Adm. News, p. 697. See, also, Pub.L. 99-514, 1986 U.S. Code Cong. and Adm. News, p. 4075.

Library References

Internal Revenue §§ 3310, 3340, 3370.

C.J.S. Internal Revenue §§ 137, 139, 142, 147, 156, 165, 184, 254, 255, 260, 264.

§ 191. Repealed. Pub.L.

Section, added Pub.L. 94-4 § 2124(a)(1), Oct. 4, 1976, 90 amended Pub.L. 95-600, Title (2), (7), Nov. 6, 1978, 92 Stat. 29 96-222, Title I, § 107(a)(1)(E) (94 Stat. 222; Pub.L. 96-541, 1980, 94 Stat. 3204, related to th

§ 192. Contributions to

(b) Limitation.—The m for any taxpayer for any

(1) the amount nec liability of the taxpay (or with respect to) p

(2) the aggregate section 501(c)(21) to t trust for the taxable

(c) Special rules.—

(1) Method of det

(A) In general imined by using not inconsistent

(B) Funding p ing period for 1

(i) the av employees o

(ii) 10 tax

For purposes of meaning as such Benefits Act (30

(C) Different

(i) regula period, or

(ii) the S er,

such different p subparagraph (1

(5) Denial of sec shall be allowed unc in determining the d (or a predecessor).

(e) Definition of bla term "black lung benef death due to pneumoco Health Act of 1977 or

(As amended Pub.L. 95-4 § 108(b)(2)(B), Apr. 1, 198

References in Text. Se Black Lung Benefits Act (3C ferred to in subsec. (c)(1) section 902(d) of Title 30, Mining.

**JAN—IN BRIEF**

Cost to users? Only a commitment to share accommodation information with other users through the JAN network. The result: more job opportunities for more individuals with disabilities and more people returning to work following an injury or illness.

1-800-JAN-PCEH (526-7234)  
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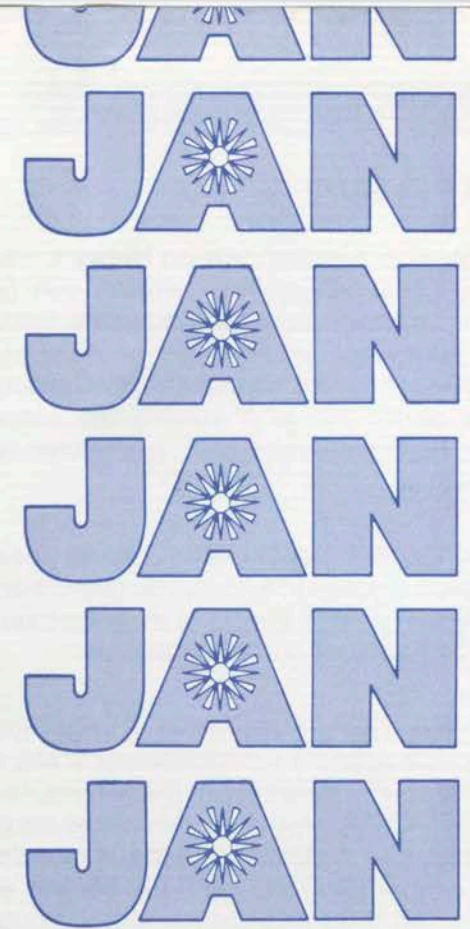
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889-3029



**The President's Committee On  
Employment Of People With  
Disabilities And  
The Job Accommodation Network  
Of America, Inc.**

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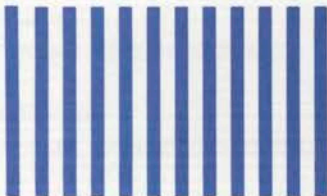
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## WHAT IS JAN?

JAN—Job Accommodation Network—is an international information network and consulting resource to enable qualified workers with disabilities to be hired or retained. It brings together information from many sources about practical ways of making accommodations for employees and applicants with disabilities.

JAN enables employers to discuss accommodation solutions. Employers, rehabilitation professionals, and people with disabilities as network members share and benefit.

Placing the right person in the right job is always the goal of a good employer in any size organization. Successful placement saves employers time, money, and valuable personnel resources. It also enhances and completes the rehabilitation process for people with disabilities. In addition to expanding the pool of productive employees, the benefit/cost ratio can be particularly favorable when accommodation can lead to an injured employee returning to work.

JAN offers comprehensive information on methods and available equipment that have proven effective for a wide range of accommodations. These accommodations are usually not expensive.

As a service of the President's Committee on Employment of People with Disabilities, JAN is available via a toll-free number [1-800-JAN-PCEH (1-800-526-7234)]. Callers can discuss their concerns and information needs with JAN's Human Factors Consultants and get immediate suggestions on solutions to accommodation problems.

## HOW DOES JAN WORK?

When information is needed regarding employment of an individual with a disability, you call 1-800-JAN-PCEH. A Human Factors Consultant will be on the line to discuss your concerns. The computer then will be searched for information based on these facts: the functional requirements of the specific job, the functional limitations of the worker, environmental factors, and other pertinent information.

The consultant will provide you with information reflecting "close-to-matching" situations identified. Included will be names and addresses and phone numbers of appropriate resources. You can make personal contacts for additional insights. Information can be provided by phone or mail.

The cost? NO MONEY. Simply a commitment that you will provide information about accommodations you have made, or those you make after you begin using the system so they can be in the database and shared with others.

After you contact us, you will be sent an easy-to-complete input data form. You have probably already made some accommodations for physical or mental limitations. Among them may have been supplying useful devices, adjusting hours of work, adjusting work site equipment, whatever. The solutions you have developed or found practical can be made available to others.

JAN can assist employers in the use of available programs, such as the Job Training Partnership Act, Projects with Industry, Supported Employment, Targeted Jobs Tax Credit, and Barrier Removal incentives.

**Accommodation costs need not be high. For example, here are some accommodations described by one major insurance company:**

- Providing a drafting table, page turner, and pressure-sensitive tape recorder for a sales agent paralyzed from a broken neck (\$300).
- Changing a desk layout from the right to the left side for a visually impaired data entry operator (\$0).
- Renting a headset phone that allows an insurance agent with cerebral palsy to write while talking (\$6.01 per month).
- Supplying a telephone amplifier for a computer programmer with a hearing impairment (\$56).
- Enlarging toilet facilities and installing a hand rail for employees who use wheelchairs (\$500).
- Removing turnstiles in the cafeteria and installing lighter weight doors—as part of a general renovation—and having the cafeteria deliver lunch to a payroll technician disabled from polio (\$40 per month).
- Providing a special chair to alleviate back pain for a district sales agent affected by vertebra surgery (\$400).

## I WANT TO KNOW MORE ABOUT JAN

Name \_\_\_\_\_

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# INTERNAL REVENUE CODE

INCLUDING THE REVENUE RECONCILIATION ACT  
OF 1990  
AND ALL OTHER 1990 AMENDMENTS

In Two Volumes

Volume One

Income Taxes §1-1000

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CCH Tax Law Staff Publication

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**COMMERCE CLEARING HOUSE, INC.**

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(2) each amortization year thereafter shall be  $16\frac{2}{3}$  percent.

**Amendments**

**P.L. 95-600, § 701(e):**

Amended paragraph (1) of § 201(c) of P.L. 94-455 to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,"

**P.L. 94-455, § 201(a) and (c):**

§ 201(a) added Code Sec. 189 to read as above.

§ 201(c) provides as follows:

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply—

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

The above amendment made by P.L. 99-514 applies generally to costs incurred after December 31, 1986, in tax years ending after such date. However, for special and transitional rules, see Act Sec. 803(d)(2)-(7), below.

**Act Sec. 803(d)(2)-(7), as amended by P.L. 100-647, § 1008(b)(7), and P.L. 101-239, § 7831(d)(1), provides:**

(2) **SPECIAL RULE FOR INVENTORY PROPERTY.**—In the case of any property which is inventory in the hands of the taxpayer—

(A) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) **CHANGE IN METHOD OF ACCOUNTING.**—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 4 years.

(3) **SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.**—The amendments made by this section shall not apply to any

property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) **TRANSITIONAL RULE FOR CAPITALIZATION OF INTEREST AND TAXES.**—

(A) **TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.**—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—

(i) to which the amendments made by section 201 do not apply by reason of sections 204(a)(1)(D) and (E) and 204(a)(5)(A), and

(ii) to which the amendments made by section 251 do not apply by reason of section 251(d)(3)(M).

(B) **INTEREST AND TAXES.**—Section 263A of such Code shall not apply to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 to the extent it would require the capitalization of interest and taxes paid or incurred in connection with such property which are not required to be capitalized under section 189 of such Code (as in effect before the amendment made by subsection (b)(1)).

(5) **TRANSITION RULE CONCERNING CAPITALIZATION OF INVENTORY RULES.**—In the case of a corporation which on the date of the enactment of this Act was a member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986), the parent of which—

(A) was incorporated in California on April 15, 1925,

(B) adopted LIFO accounting as of the close of the taxable year ended December 31, 1950, and

(C) was, on May 22, 1986, merged into a Delaware corporation incorporated on March 12, 1986,

the amendments made by this section shall apply under a cut-off method whereby the uniform capitalization rules are applied only in costing layers of inventory acquired during taxable years beginning on or after January 1, 1987.

(6) **TREATMENT OF CERTAIN REHABILITATION PROJECT.**—The amendments made by this section shall not apply to interest and taxes paid or incurred with respect to the rehabilitation and conversion of a certified historic building which was formerly a factory into an apartment project with 155 units, 39 units of which are for low-income families, if the project was approved for annual interest assistance on June 10, 1986, by the housing authority of the State in which the project is located.

(7) **SPECIAL RULE FOR CASUALTY LOSSES.**—Section 263A(d)(2) of the Internal Revenue Code of 1986 (as added by this section) shall apply to expenses incurred on or after the date of the enactment of this Act.

[Sec. 190]

**SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.**

[Sec. 190(a)]

(a) **TREATMENT AS EXPENSES.**—

(1) **IN GENERAL.**—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

**Sec. 190**

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[Sec. 190(b)]

(b) DEFINITIONS.—For purposes of this section—

(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(3) HANDICAPPED INDIVIDUAL.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

[Sec. 190(c)]

(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed \$15,000.

Amendments

P.L. 101-508, § 11611(c):

Act Sec. 11611(c) amended Code Sec. 190(c) by striking "\$35,000" and inserting "\$15,000".

The above amendment applies to tax years beginning after the date of enactment of this Act.

[Sec. 190(d)—Repealed]

Amendments

P.L. 101-508, § 11801(a)(14):

Act Sec. 11801(a)(14) repealed Code Sec. 190(d). Prior to repeal, Code Sec. 190(d) read as follows:

(d) APPLICATION OF SECTION.—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

(2) taxable years beginning after December 31, 1983.

The above amendment is effective on the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, prop-

erty, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 244:

Act Sec. 244 amended Code Sec. 190(d)(2) by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983".

The above amendment is effective on the date of enactment of this Act.

P.L. 98-369, § 1062(a)(1):

Act Sec. 1062(a)(1) amended Code Sec. 190(d) to read as above. Prior to amendment, Code Sec. 190(d) read as follows:

(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.

The above amendment is effective on July 18, 1984.

P.L. 98-369, § 1062(b):

Act Sec. 1062(b) amended Code Sec. 190(c) by striking out "\$25,000" and inserting in lieu thereof "\$35,000".

The above amendment applies to tax years beginning after December 31, 1983.

P.L. 94-455, § 2122(a), as amended by P.L. 96-167, § 9(c) and P.L. 98-369, § 1062(a):

Added Code Sec. 190 to read as above. Effective for taxable years beginning after December 31, 1976.

[Sec. 191—Repealed]

Amendments

P.L. 97-448, § 102(f)(1):

Amended subparagraph (B) of section 212(e)(2) of P.L. 97-24 to read as below under the amendment note for P.L. 97-34, § 212(e)(2).

P.L. 97-34, § 212(d)(1):

Repealed Code Sec. 191, applicable to expenditures incurred after December 31, 1981, in taxable years ending after such date.

P.L. 97-34, § 212(e)(2) provides:

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if—

(A) the physical work on such rehabilitation began before January 1, 1982, and

(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).

~ Prior to repeal, Code Sec. 191 read as follows:

**SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.**

(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) DEFINITIONS.—For purposes of this section—

(1) CERTIFIED HISTORIC STRUCTURE.—The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

(A) is listed in the National Register, or

(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(2) REGISTERED HISTORIC DISTRICT.—The term "registered historic district" means—

(A) any district listed in the National Register, and

(B) any district—

(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of

preserving and rehabilitating buildings of historic significance to the district, and

(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(3) AMORTIZABLE BASIS.—The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(4) CERTIFIED REHABILITATION.—The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(2) CERTAIN LESSEES.—

(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

(C) LIMITATION.—Subparagraph (A) shall apply only if on the date the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

(ii) for not less than 30 years.

(g) APPLICATION OF SECTION.—This section shall apply with respect to additions to capital account made after June 14, 1976, and before January 1, 1984.

(h) CROSS REFERENCES.—

(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.).

(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250.

P.L. 96-541, § 2(a):

Redesignated former Code Sec. 191(g) as 191(h) and added a new subsection (g), effective December 17, 1980.

P.L. 96-222, § 107(a)(1)(E):

Amended Code Sec. 191(f)(2)(C) by changing "the data of" to "the date", effective as provided in P.L. 94-455, § 2124(a)(1).

P.L. 95-600, § 701(f)(1):

Amended Code Sec. 191(d) by striking out paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting new paragraphs (1) and (2) to read as above, effective as provided in P.L. 94-455,

**Sec. 191—R**

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§ 2124(a)(1). Prior to amendment, Code Sec. 191(d)(1) read as follows:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

P.L. 95-600, § 701(f)(2):

Amended Code Sec. 191(g) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(g) read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

P.L. 95-600, § 701(f)(7):

Amended Code Sec. 191(f) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(f) read as follows:

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant."

P.L. 94-455, § 2124(a)(1):

Added Code Sec. 191 to read as above. Applicable to additions to capital account made after June 14, 1976, and before June 15, 1981.

[Sec. 192]

SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

[Sec. 192(a)]

(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

[Sec. 192(b)]

(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year.

Amendments

P.L. 95-488, § 1(a), (e):

Amended Code Sec. 192(b) to read as above, effective for tax years beginning after December 31, 1977. Before amendment, Code Sec. 192(b) read:

(b) LIMITATION.—

(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

(B) the lesser of—

(i) the amount, which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

(II) such claims approved during any one of those 4 taxable years.

P.L. 95-227, § 4(b)(1):

Added Code Sec. 192. Effective for contributions, acts, and expenditures made after 1977, in and for tax years beginning after such date. However, this effective date was contingent upon enactment of the Black Lung Benefits Reform Act (H.R. 4544), which was enacted as P.L. 95-239, on March 1, 1978.

[Sec. 192(c)]

(c) SPECIAL RULES.—

(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

Internal Revenue Code

Sec. 192(c)

PRYOR-KOHL DISABILITY ACCESS TAX CREDIT

STRUCTURE/SIZE OF CREDIT

- SMALL BUSINESS PAYS FIRST \$250 OF COSTS TO ACCOMMODATE THE DISABLED.
- COSTS ABOVE \$250 ELIGIBLE FOR 50% NON-REFUNDABLE CREDIT, UP TO A \$5,000 TOTAL CREDIT.
- COSTS ABOVE \$5,000 ARE ELIGIBLE FOR A MORE RESTRICTED DEDUCTION OF UP TO \$15,000.
- IF THE ENTIRE CREDIT IS NOT USED IN A SINGLE YEAR IT CAN BE ACCUMULATED AND CARRIED FORWARD TO SUBSEQUENT YEARS OR CARRIED BACK TO PREVIOUS TAX YEARS.

ELIGIBLE BUSINESSES

- BUSINESSES WITH LESS THAN \$1 MILLION GROSS RECEIPTS OR FEWER THAN 30 FULL TIME EMPLOYEES QUALIFY FOR THE CREDIT.
- ALL OTHER BUSINESSES QUALIFY FOR THE \$15,000 DEDUCTION.
- ASSISTANCE IS FOCUSED ON SMALL BUSINESSES SINCE THEY WILL BE CALLED ON MOST OFTEN TO ACCOMMODATE AND EMPLOYEE THE DISABLED AND BECAUSE THEY ARE THE BUSINESSES WITH LIMITED RESOURCES WHICH WILL NEED THE MOST ASSISTANCE.

ELIGIBLE EXPENDITURES

- ALL ADA-RELATED EXPENDITURES QUALIFY:
  - REMOVAL OF ARCHITECTURAL, TRANSPORTATION, PHYSICAL, OR COMMUNICATION BARRIERS;
  - PROCUREMENT OR MODIFICATION OF EQUIPMENT AND/OR SERVICES;
  - TRANSLATING MATERIALS AS NECESSARY FOR THE VISUALLY OR HEARING IMPAIRED;
  - PROVIDING PERSONAL ASSISTANCE SERVICES;
  - PROVIDING TECHNICAL SUPPORT AND TRAINING FOR BUSINESSES AND EMPLOYEES TO COMPLY WITH THE ADA.

COST

- REVENUE NEUTRAL
- COST OF NEW CREDIT OFFSET BY LOWERING THE DEDUCTION IN SECTION 190 OF THE INTERNAL REVENUE CODE TO \$15,000.
  - SECTION 190 PROVIDES A \$35,000 DEDUCTION FOR DISABILITY RELATED EXPENDITURES.
  - SECTION 190 DOES NOT FOCUS ASSISTANCE EFFECTIVELY TO SMALL BUSINESSES, WHICH WILL MOST NEED HELP, AND IT APPLIES TO ONLY A LIMITED CLASS OF EXPENDITURES.

## Pryor-Kohl Disability Access Tax Credit

### Structure/Size of Credit

- Business pays first \$250 of costs to accommodate the disabled.
- Costs above \$250 eligible for 100% refundable credit, up to \$5,000.
- Costs above \$5,000 can be carried over for credit in subsequent years.

### Eligible Expenditures

- All ADA-related expenditures qualify.
- Removal of architectural, transportation, physical, or communication barriers;
- Procurement or modification of equipment and/or services;
- Providing technical support and training for businesses to comply with the ADA.

### Eligible Businesses

- All businesses qualify regardless of size. (Makes credit easier to use).

### Cost

- Revenue neutral
- Cost of new credit offset by repeal of Section 190 of the Internal Revenue Code.
  - Section 190 provides a \$35,000 deduction for disability related expenditures.
  - Section 190 does not focus assistance effectively to small businesses, which will most need help, and it applies to only a limited class of expenditures.

### Effective Date

- December 31, 1990.

ADA TAX CREDIT COMPROMISE

**Purpose:** The purpose of this section is to provide a tax credit to businesses making expenditures to implement the Americans with Disabilities Act, to promote access to their businesses by individuals with disabilities, to allow the use of their businesses by disabled individuals, and to accommodate the employment of disabled individuals.

(1) Section of the 11086 Code amended: Subpart C of part IV of Subchapter A of Chapter I (relating to refundable credits).

(2) **Size and structure of credit:** There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year, an amount equal to the sum of qualified disability expenses as exceeds \$250 but does not exceed \$5000.

(3) **Carryforwards:** If a taxpayer has eligible access expenditures for any taxable year exceeding \$5000, such excess expenditures shall be considered eligible access expenditures in the succeeding taxable year.

(4) **Eligible access expenditures:** The term 'eligible access expenditures' means amounts paid or incurred:

(A) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, an individual with a disability,

(B) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,

(C) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments,

(D) to acquire or modify equipment, or devices <sup>of examinations</sup> for individuals with disabilities,

(E) to provide training by qualified disability service providers in the assistance of the disabled to personnel, and (this section needs clarification; disability community is working on phrasing and will have something to us by this afternoon, 10/5), and

(F) to provide other similar services and actions for individuals with disabilities.

(5) **New construction:** The term 'eligible access expenditures' shall not include expenses which are paid or incurred in connection with any facility the first occupancy of which occurs before the date six months after the final regulations implementing the ADA are issued (clarify wording).

- (6) **Definition of disability:** The term 'disability' means, with respect to an individual--
- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual,
  - (B) a record of such an impairment, or
  - (C) being regarded as having such an impairment
- (7) **Controlled groups:** In general.--All members of the same controlled group of corporations (within the meaning of 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as one person for the purposes of this section.
- Dollar Limitation.--The Secretary shall apportion the dollar limitation under (the relevant) subsection among the members of any group described in (the above) subparagraph in such a manner as the Secretary shall by regulation prescribe.
- (8) **Partnerships and S Corporations:** In the case of a partnership, the dollar limitation (in the relevant section) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S Corporation and its shareholders.
- (9) **Denial of double benefit:** No deduction or credit shall be allowed under this chapter with respect to any amount for which a credit is allowed under (the relevant) section.
- No increase in the adjusted basis of any property shall result from such amount.
- (10) **Regulations:** The Secretary shall prescribe regulations necessary to carry out the purposes of this section, including regulations for determining what expenditures are to be treated as eligible access expenditures.
- (11) **Conforming amendment:** The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting:
- "Sec. 35. Cost of providing accessibility to disabled individuals.
- "Sec.36.Overpayments of tax."
- (12) **Section 190:** Section 190 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is repealed (the purpose of this section is to totally repeal the current \$35,000 deduction for expenditures on access expenditures -- I think this does it).
- (13) **Effective date:** The amendments made by this section shall apply to taxable years beginning after December 31, 1990.



## MEMORANDUM

### BACKGROUND:

On September 8, 1989, the Senate passed S.933, the Americans with Disabilities Act (ADA), and the President signed the bill into law on July 26, 1990. The ADA will require businesses and other public facilities to make "reasonable accommodations" for persons with disabilities. In some cases this could mean that a business will be required to make expenditures to adapt a job or service to a person with a disability.

### S.1661:

On September 23, 1989, Sen. Pryor introduced S.1661 along with Sen.'s Hatch, Harkin, and Boren. S.1661 will provide a \$5,000 refundable, carryover tax credit for expenditures made to accommodate a patron or employee with a disability. S.1661 also repeals Section 190 of the Internal Revenue Code which provides a \$35,000 deduction for expenditures to remove architectural or transportation barriers to persons with disabilities. S.1661 is revenue neutral since it uses the revenue realized from the repeal of Section 190 to fund the tax credit.

### TAX CREDIT vs. DEDUCTION:

While the current deduction provides a tax savings equal to, at most, 34 cents per dollar of expenditure, the tax credit will provide one dollar in tax savings for every dollar of expenditure. Large businesses may benefit slightly more under the deduction, but they are generally in a better position to accommodate persons with disabilities. Small businesses, however, have more limited resources, and they will be called on most often to accommodate persons with disabilities. Moreover, the credit will apply to all expenditures made to accommodate persons with disabilities, not just to expenditures for removing architectural or transportation barriers.

### POLITICS:

Although most of the business community did not actively oppose the ADA, small businesses have expressed concerns about the potential costs associated with the act. In cases where expenditures would be required, S.1661 would provide significant assistance to businesses. The bill is also good for persons with disabilities since it will encourage business to make accommodations for these individuals. The result should be a lessening of disputes about what would constitute a "reasonable accommodation" in specific situations.

### ENDORSEMENTS:

NFIB, Small Business United, and the Small Business Legislative Council have endorsed S.1661.

# INTERNAL REVENUE CODE

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(2) each amortization year thereafter shall be  $16\frac{2}{3}$  percent.

**Amendments**

P.L. 95-600, § 701(e):

Amended paragraph (1) of § 201(c) of P.L. 94-455 to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,"

P.L. 94-455, § 201(a) and (c):

§ 201(a) added Code Sec. 189 to read as above.

§ 201(c) provides as follows:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

The above amendment made by P.L. 99-514 applies generally to costs incurred after December 31, 1986, in tax years ending after such date. However, for special and transitional rules, see Act Sec. 803(d)(2)-(7), below.

Act Sec. 803(d)(2)-(7), as amended by P.L. 100-647, § 1008(b)(7), and P.L. 101-239, § 7831(d)(1), provides:

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 4 years.

(3) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—The amendments made by this section shall not apply to any

property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) TRANSITIONAL RULE FOR CAPITALIZATION OF INTEREST AND TAXES.—

(A) TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—

(i) to which the amendments made by section 201 do not apply by reason of sections 204(a)(1)(D) and (E) and 204(a)(5)(A), and

(ii) to which the amendments made by section 251 do not apply by reason of section 251(d)(3)(M).

(B) INTEREST AND TAXES.—Section 263A of such Code shall not apply to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 to the extent it would require the capitalization of interest and taxes paid or incurred in connection with such property which are not required to be capitalized under section 189 of such Code (as in effect before the amendment made by subsection (b)(1)).

(5) TRANSITION RULE CONCERNING CAPITALIZATION OF INVENTORY RULES.—In the case of a corporation which on the date of the enactment of this Act was a member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986), the parent of which—

(A) was incorporated in California on April 15, 1925,

(B) adopted LIFO accounting as of the close of the taxable year ended December 31, 1950, and

(C) was, on May 22, 1986, merged into a Delaware corporation incorporated on March 12, 1986,

the amendments made by this section shall apply under a cut-off method whereby the uniform capitalization rules are applied only in costing layers of inventory acquired during taxable years beginning on or after January 1, 1987.

(6) TREATMENT OF CERTAIN REHABILITATION PROJECT.—The amendments made by this section shall not apply to interest and taxes paid or incurred with respect to the rehabilitation and conversion of a certified historic building which was formerly a factory into an apartment project with 155 units, 39 units of which are for low-income families, if the project was approved for annual interest assistance on June 10, 1986, by the housing authority of the State in which the project is located.

(7) SPECIAL RULE FOR CASUALTY LOSSES.—Section 263A(d)(2) of the Internal Revenue Code of 1986 (as added by this section) shall apply to expenses incurred on or after the date of the enactment of this Act.

[Sec. 190]

**SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.**

[Sec. 190(a)]

(a) TREATMENT AS EXPENSES.—

(1) IN GENERAL.—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

**Sec. 190**

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Income Tax—Expenditures for Handicapped

4823

[Sec. 190(b)]

(b) DEFINITIONS.—For purposes of this section—

(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(3) HANDICAPPED INDIVIDUAL.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

[Sec. 190(c)]

(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed \$15,000.

Amendments

P.L. 101-508, § 11611(c):

Act Sec. 11611(c) amended Code Sec. 190(c) by striking "\$35,000" and inserting "\$15,000".

The above amendment applies to tax years beginning after the date of enactment of this Act.

[Sec. 190(d)—Repealed]

Amendments

P.L. 101-508, § 11801(a)(14):

Act Sec. 11801(a)(14) repealed Code Sec. 190(d). Prior to repeal, Code Sec. 190(d) read as follows:

(d) APPLICATION OF SECTION.—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

(2) taxable years beginning after December 31, 1983.

The above amendment is effective on the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, prop-

erty, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 244:

Act Sec. 244 amended Code Sec. 190(d)(2) by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983".

The above amendment is effective on the date of enactment of this Act.

P.L. 98-369, § 1062(a)(1):

Act Sec. 1062(a)(1) amended Code Sec. 190(d) to read as above. Prior to amendment, Code Sec. 190(d) read as follows:

(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.

The above amendment is effective on July 18, 1984.

P.L. 98-369, § 1062(b):

Act Sec. 1062(b) amended Code Sec. 190(c) by striking out "\$25,000" and inserting in lieu thereof "\$35,000".

The above amendment applies to tax years beginning after December 31, 1983.

P.L. 94-455, § 2122(a), as amended by P.L. 96-167, § 9(c) and P.L. 98-369, § 1062(a):

Added Code Sec. 190 to read as above. Effective for taxable years beginning after December 31, 1976.

[Sec. 191—Repealed]

Amendments

P.L. 97-448, § 102(f)(1):

Amended subparagraph (B) of section 212(e)(2) of P.L. 97-24 to read as below under the amendment note for P.L. 97-34, § 212(e)(2).

P.L. 97-34, § 212(d)(1):

Repealed Code Sec. 191, applicable to expenditures incurred after December 31, 1981, in taxable years ending after such date.

Internal Revenue Code

Sec. 191—R

P.L. 97-34, § 212(e)(2) provides:

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if—

(A) the physical work on such rehabilitation began before January 1, 1982, and

(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).

~ Prior to repeal, Code Sec. 191 read as follows:

**SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.**

(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) DEFINITIONS.—For purposes of this section—  
(1) CERTIFIED HISTORIC STRUCTURE.—The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

(A) is listed in the National Register, or

(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(2) REGISTERED HISTORIC DISTRICT.—The term "registered historic district" means—

(A) any district listed in the National Register, and

(B) any district—

(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of

preserving and rehabilitating buildings of historic significance to the district, and

(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(3) AMORTIZABLE BASIS.—The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(4) CERTIFIED REHABILITATION.—The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(2) CERTAIN LESSEES.—

(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

(C) LIMITATION.—Subparagraph (A) shall apply only if on the date the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

(ii) for not less than 30 years.

(g) APPLICATION OF SECTION.—This section shall apply with respect to additions to capital account made after June 14, 1976, and before January 1, 1984.

(h) CROSS REFERENCES.—

(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.).

(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250.

P.L. 96-541, § 2(a):

Redesignated former Code Sec. 191(g) as 191(h) and added a new subsection (g), effective December 17, 1980.

P.L. 96-222, § 107(a)(1)(E):

Amended Code Sec. 191(f)(2)(C) by changing "the date of" to "the date", effective as provided in P.L. 94-455, § 2124(a)(1).

P.L. 95-600, § 701(f)(1):

Amended Code Sec. 191(d) by striking out paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting new paragraphs (1) and (2) to read as above, effective as provided in P.L. 94-455.

**Sec. 191—R**

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§ 2124(a)(1). Prior to amendment, Code Sec. 191(d)(1) read as follows:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

P.L. 95-600, § 701(f)(2):

Amended Code Sec. 191(g) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(g) read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

P.L. 95-600, § 701(f)(7):

Amended Code Sec. 191(f) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(f) read as follows:

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant."

P.L. 94-455, § 2124(a)(1):

Added Code Sec. 191 to read as above. Applicable to additions to capital account made after June 14, 1976, and before June 15, 1981.

[Sec. 192]

SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

[Sec. 192(a)]

(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

[Sec. 192(b)]

(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year.

Amendments

P.L. 95-488, § 1(a), (e):

Amended Code Sec. 192(b) to read as above, effective for tax years beginning after December 31, 1977. Before amendment, Code Sec. 192(b) read:

(b) LIMITATION.—

(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

(B) the lesser of—

(i) the amount, which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

(II) such claims approved during any one of those 4 taxable years.

P.L. 95-227, § 4(b)(1):

Added Code Sec. 192. Effective for contributions, acts, and expenditures made after 1977, in and for tax years beginning after such date. However, this effective date was contingent upon enactment of the Black Lung Benefits Reform Act (H.R. 4544), which was enacted as P.L. 95-239, on March 1, 1978.

[Sec. 192(c)]

(c) SPECIAL RULES.—

(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

Internal Revenue Code

Sec. 192(c)

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(2) each amortization year thereafter shall be  $16\frac{2}{3}$  percent.

**Amendments**

**P.L. 95-600, § 701(e):**

Amended paragraph (1) of § 201(c) of P.L. 94-455 to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,"

**P.L. 94-455, § 201(a) and (c):**

§ 201(a) added Code Sec. 189 to read as above.

§ 201(c) provides as follows:

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply—

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

The above amendment made by P.L. 99-514 applies generally to costs incurred after December 31, 1986, in tax years ending after such date. However, for special and transitional rules, see Act Sec. 803(d)(2)-(7), below.

Act Sec. 803(d)(2)-(7), as amended by P.L. 100-647, § 1008(b)(7), and P.L. 101-239, § 7831(d)(1), provides:

(2) **SPECIAL RULE FOR INVENTORY PROPERTY.**—In the case of any property which is inventory in the hands of the taxpayer—

(A) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) **CHANGE IN METHOD OF ACCOUNTING.**—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 4 years.

(3) **SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.**—The amendments made by this section shall not apply to any

property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) **TRANSITIONAL RULE FOR CAPITALIZATION OF INTEREST AND TAXES.**—

(A) **TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.**—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—

(i) to which the amendments made by section 201 do not apply by reason of sections 204(a)(1)(D) and (E) and 204(a)(5)(A), and

(ii) to which the amendments made by section 251 do not apply by reason of section 251(d)(3)(M).

(B) **INTEREST AND TAXES.**—Section 263A of such Code shall not apply to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 to the extent it would require the capitalization of interest and taxes paid or incurred in connection with such property which are not required to be capitalized under section 189 of such Code (as in effect before the amendment made by subsection (b)(1)).

(5) **TRANSITION RULE CONCERNING CAPITALIZATION OF INVENTORY RULES.**—In the case of a corporation which on the date of the enactment of this Act was a member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986), the parent of which—

(A) was incorporated in California on April 15, 1925,

(B) adopted LIFO accounting as of the close of the taxable year ended December 31, 1950, and

(C) was, on May 22, 1986, merged into a Delaware corporation incorporated on March 12, 1986,

the amendments made by this section shall apply under a cut-off method whereby the uniform capitalization rules are applied only in costing layers of inventory acquired during taxable years beginning on or after January 1, 1987.

(6) **TREATMENT OF CERTAIN REHABILITATION PROJECT.**—The amendments made by this section shall not apply to interest and taxes paid or incurred with respect to the rehabilitation and conversion of a certified historic building which was formerly a factory into an apartment project with 155 units, 39 units of which are for low-income families, if the project was approved for annual interest assistance on June 10, 1986, by the housing authority of the State in which the project is located.

(7) **SPECIAL RULE FOR CASUALTY LOSSES.**—Section 263A(d)(2) of the Internal Revenue Code of 1986 (as added by this section) shall apply to expenses incurred on or after the date of the enactment of this Act.

[Sec. 190]

**SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.**

[Sec. 190(a)]

(a) **TREATMENT AS EXPENSES.**—

(1) **IN GENERAL.**—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

**Sec. 190**

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Income Tax—Expenditures for Handicapped

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[Sec. 190(b)]

(b) DEFINITIONS.—For purposes of this section—

(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(3) HANDICAPPED INDIVIDUAL.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

[Sec. 190(c)]

(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed \$15,000.

Amendments

P.L. 101-508, § 11611(c):

Act Sec. 11611(c) amended Code Sec. 190(c) by striking "\$35,000" and inserting "\$15,000".

The above amendment applies to tax years beginning after the date of enactment of this Act.

[Sec. 190(d)—Repealed]

Amendments

P.L. 101-508, § 11801(a)(14):

Act Sec. 11801(a)(14) repealed Code Sec. 190(d). Prior to repeal, Code Sec. 190(d) read as follows:

(d) APPLICATION OF SECTION.—This section shall apply to—

- (1) taxable years beginning after December 31, 1976, and before January 1, 1983, and
- (2) taxable years beginning after December 31, 1983.

The above amendment is effective on the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, prop-

erty, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 244:

Act Sec. 244 amended Code Sec. 190(d)(2) by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983".

The above amendment is effective on the date of enactment of this Act.

P.L. 98-369, § 1062(a)(1):

Act Sec. 1062(a)(1) amended Code Sec. 190(d) to read as above. Prior to amendment, Code Sec. 190(d) read as follows:

(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.

The above amendment is effective on July 18, 1984.

P.L. 98-369, § 1062(b):

Act Sec. 1062(b) amended Code Sec. 190(c) by striking out "\$25,000" and inserting in lieu thereof "\$35,000".

The above amendment applies to tax years beginning after December 31, 1983.

P.L. 94-455, § 2122(a), as amended by P.L. 96-167, § 9(c) and P.L. 98-369, § 1062(a):

Added Code Sec. 190 to read as above. Effective for taxable years beginning after December 31, 1976.

[Sec. 191—Repealed]

Amendments

P.L. 97-448, § 102(f)(1):

Amended subparagraph (B) of section 212(e)(2) of P.L. 97-24 to read as below under the amendment note for P.L. 97-34, § 212(e)(2).

P.L. 97-34, § 212(d)(1):

Repealed Code Sec. 191, applicable to expenditures incurred after December 31, 1981, in taxable years ending after such date.

Internal Revenue Code

Sec. 191—R

P.L. 97-34, § 212(e)(2) provides:

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if—

(A) the physical work on such rehabilitation began before January 1, 1982, and

(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).

~ Prior to repeal, Code Sec. 191 read as follows:

**SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.**

(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) DEFINITIONS.—For purposes of this section—

(1) CERTIFIED HISTORIC STRUCTURE.—The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

(A) is listed in the National Register, or

(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(2) REGISTERED HISTORIC DISTRICT.—The term "registered historic district" means—

(A) any district listed in the National Register, and

(B) any district—

(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of

preserving and rehabilitating buildings of historic significance to the district, and

(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(3) AMORTIZABLE BASIS.—The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(4) CERTIFIED REHABILITATION.—The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(2) CERTAIN LESSEES.—

(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

(C) LIMITATION.—Subparagraph (A) shall apply only if on the date the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

(ii) for not less than 30 years.

(g) APPLICATION OF SECTION.—This section shall apply with respect to additions to capital account made after June 14, 1976, and before January 1, 1984.

(h) CROSS REFERENCES.—

(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.).

(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250.

P.L. 96-541, § 2(a):

Redesignated former Code Sec. 191(g) as 191(h) and added a new subsection (g), effective December 17, 1980.

P.L. 96-222, § 107(a)(1)(E):

Amended Code Sec. 191(f)(2)(C) by changing "the data of" to "the date", effective as provided in P.L. 94-455, § 2124(a)(1).

P.L. 95-600, § 701(f)(1):

Amended Code Sec. 191(d) by striking out paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting new paragraphs (1) and (2) to read as above, effective as provided in P.L. 94-455,

**Sec. 191—R**

§ 2124:

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§ 2124(a)(1). Prior to amendment, Code Sec. 191(d)(1) read as follows:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

P.L. 95-600, § 701(f)(2):

Amended Code Sec. 191(g) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(g) read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

P.L. 95-600, § 701(f)(7):

Amended Code Sec. 191(f) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(f) read as follows:

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant."

P.L. 94-455, § 2124(a)(1):

Added Code Sec. 191 to read as above. Applicable to additions to capital account made after June 14, 1976, and before June 15, 1981.

[Sec. 192]

SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

[Sec. 192(a)]

(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

[Sec. 192(b)]

(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year.

Amendments

P.L. 95-488, § 1(a), (e):

Amended Code Sec. 192(b) to read as above, effective for tax years beginning after December 31, 1977. Before amendment, Code Sec. 192(b) read:

(b) LIMITATION.—

(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

(B) the lesser of—

(i) the amount, which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

(II) such claims approved during any one of those 4 taxable years.

P.L. 95-227, § 4(b)(1):

Added Code Sec. 192. Effective for contributions, acts, and expenditures made after 1977, in and for tax years beginning after such date. However, this effective date was contingent upon enactment of the Black Lung Benefits Reform Act (H.R. 4544), which was enacted as P.L. 95-239, on March 1, 1978.

[Sec. 192(c)]

(c) SPECIAL RULES.—

(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

Internal Revenue Code

Sec. 192(c)

# INTERNAL REVENUE CODE

INCLUDING THE REVENUE RECONCILIATION ACT  
OF 1990  
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Volume One

Income Taxes §1-1000

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(2) each amortization year thereafter shall be  $16\frac{2}{3}$  percent.

**Amendments**

**P.L. 95-600, § 701(e):**

Amended paragraph (1) of § 201(c) of P.L. 94-455 to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,"

**P.L. 94-455, § 201(a) and (c):**

§ 201(a) added Code Sec. 189 to read as above.

§ 201(c) provides as follows:

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply—

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms "nonresidential real property", "residential real property (other than low-income housing)", "low-income housing", and "construction period" have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

The above amendment made by P.L. 99-514 applies generally to costs incurred after December 31, 1986, in tax years ending after such date. However, for special and transitional rules, see Act Sec. 803(d)(2)-(7), below.

Act Sec. 803(d)(2)-(7), as amended by P.L. 100-647, § 1008(b)(7), and P.L. 101-239, § 7831(d)(1), provides:

(2) **SPECIAL RULE FOR INVENTORY PROPERTY.**—In the case of any property which is inventory in the hands of the taxpayer—

(A) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) **CHANGE IN METHOD OF ACCOUNTING.**—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 4 years.

(3) **SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.**—The amendments made by this section shall not apply to any

property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) **TRANSITIONAL RULE FOR CAPITALIZATION OF INTEREST AND TAXES.**—

(A) **TRANSITION PROPERTY EXEMPTED FROM INTEREST CAPITALIZATION.**—Section 263A of the Internal Revenue Code of 1986 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to interest costs which are allocable to any property—

(i) to which the amendments made by section 201 do not apply by reason of sections 204(a)(1)(D) and (E) and 204(a)(5)(A), and

(ii) to which the amendments made by section 251 do not apply by reason of section 251(d)(3)(M).

(B) **INTEREST AND TAXES.**—Section 263A of such Code shall not apply to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 to the extent it would require the capitalization of interest and taxes paid or incurred in connection with such property which are not required to be capitalized under section 189 of such Code (as in effect before the amendment made by subsection (b)(1)).

(5) **TRANSITION RULE CONCERNING CAPITALIZATION OF INVENTORY RULES.**—In the case of a corporation which on the date of the enactment of this Act was a member of an affiliated group of corporations (within the meaning of section 1504(a) of the Internal Revenue Code of 1986), the parent of which—

(A) was incorporated in California on April 15, 1925,

(B) adopted LIFO accounting as of the close of the taxable year ended December 31, 1950, and

(C) was, on May 22, 1986, merged into a Delaware corporation incorporated on March 12, 1986,

the amendments made by this section shall apply under a cut-off method whereby the uniform capitalization rules are applied only in costing layers of inventory acquired during taxable years beginning on or after January 1, 1987.

(6) **TREATMENT OF CERTAIN REHABILITATION PROJECT.**—The amendments made by this section shall not apply to interest and taxes paid or incurred with respect to the rehabilitation and conversion of a certified historic building which was formerly a factory into an apartment project with 155 units, 39 units of which are for low-income families, if the project was approved for annual interest assistance on June 10, 1986, by the housing authority of the State in which the project is located.

(7) **SPECIAL RULE FOR CASUALTY LOSSES.**—Section 263A(d)(2) of the Internal Revenue Code of 1986 (as added by this section) shall apply to expenses incurred on or after the date of the enactment of this Act.

[Sec. 190]

**SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.**

[Sec. 190(a)]

(a) **TREATMENT AS EXPENSES.**—

(1) **IN GENERAL.**—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

**Sec. 190**

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Income Tax—Expenditures for Handicapped

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[Sec. 190(b)]

(b) DEFINITIONS.—For purposes of this section—

(1) ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—The term "architectural and transportation barrier removal expenses" means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.—The term "qualified architectural and transportation barrier removal expense" means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

(3) HANDICAPPED INDIVIDUAL.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

[Sec. 190(c)]

(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed \$15,000.

Amendments

P.L. 101-508, § 11611(c):

Act Sec. 11611(c) amended Code Sec. 190(c) by striking "\$35,000" and inserting "\$15,000".

The above amendment applies to tax years beginning after the date of enactment of this Act.

[Sec. 190(d)—Repealed]

Amendments

P.L. 101-508, § 11801(a)(14):

Act Sec. 11801(a)(14) repealed Code Sec. 190(d). Prior to repeal, Code Sec. 190(d) read as follows:

(d) APPLICATION OF SECTION.—This section shall apply to—

(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

(2) taxable years beginning after December 31, 1983.

The above amendment is effective on the date of enactment of this Act.

Act Sec. 11821(b) provides:

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, prop-

erty, or item for purposes of determining liability for tax for periods ending after such date of enactment.

P.L. 99-514, § 244:

Act Sec. 244 amended Code Sec. 190(d)(2) by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983".

The above amendment is effective on the date of enactment of this Act.

P.L. 98-369, § 1062(a)(1):

Act Sec. 1062(a)(1) amended Code Sec. 190(d) to read as above. Prior to amendment, Code Sec. 190(d) read as follows:

(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.

The above amendment is effective on July 18, 1984.

P.L. 98-369, § 1062(b):

Act Sec. 1062(b) amended Code Sec. 190(c) by striking out "\$25,000" and inserting in lieu thereof "\$35,000".

The above amendment applies to tax years beginning after December 31, 1983.

P.L. 94-455, § 2122(a), as amended by P.L. 96-167, § 9(c) and P.L. 98-369, § 1062(a):

Added Code Sec. 190 to read as above. Effective for taxable years beginning after December 31, 1976.

[Sec. 191—Repealed]

Amendments

P.L. 97-448, § 102(f)(1):

Amended subparagraph (B) of section 212(e)(2) of P.L. 97-24 to read as below under the amendment note for P.L. 97-34, § 212(e)(2).

P.L. 97-34, § 212(d)(1):

Repealed Code Sec. 191, applicable to expenditures incurred after December 31, 1981, in taxable years ending after such date.

Internal Revenue Code

Sec. 191—R

P.L. 97-34, § 212(e)(2) provides:

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply with respect to any rehabilitation of a building if—

(A) the physical work on such rehabilitation began before January 1, 1982, and

(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act).

~ Prior to repeal, Code Sec. 191 read as follows:

**SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.**

(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

(d) DEFINITIONS.—For purposes of this section—

(1) CERTIFIED HISTORIC STRUCTURE.—The term "certified historic structure" means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

(A) is listed in the National Register, or

(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

(2) REGISTERED HISTORIC DISTRICT.—The term "registered historic district" means—

(A) any district listed in the National Register, and

(B) any district—

(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of

preserving and rehabilitating buildings of historic significance to the district, and

(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

(3) AMORTIZABLE BASIS.—The term "amortizable basis" means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

(4) CERTIFIED REHABILITATION.—The term "certified rehabilitation" means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(2) CERTAIN LESSEES.—

(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

(C) LIMITATION.—Subparagraph (A) shall apply only if on the date the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

(ii) for not less than 30 years.

(g) APPLICATION OF SECTION.—This section shall apply with respect to additions to capital account made after June 14, 1976, and before January 1, 1984.

(h) CROSS REFERENCES.—

(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.).

(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250.

P.L. 96-541, § 2(a):

Redesignated former Code Sec. 191(g) as 191(h) and added a new subsection (g), effective December 17, 1980.

P.L. 96-222, § 107(a)(1)(E):

Amended Code Sec. 191(f)(2)(C) by changing "the date of" to "the date", effective as provided in P.L. 94-455, § 2124(a)(1).

P.L. 95-600, § 701(f)(1):

Amended Code Sec. 191(d) by striking out paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting new paragraphs (1) and (2) to read as above, effective as provided in P.L. 94-455,

**Sec. 191—R**

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§ 2124(a)(1). Prior to amendment, Code Sec. 191(d)(1) read as follows:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register,

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

P.L. 95-600, § 701(f)(2):

Amended Code Sec. 191(g) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(g) read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

P.L. 95-600, § 701(f)(7):

Amended Code Sec. 191(f) to read as above, effective as provided in P.L. 94-455, § 2124(a)(1). Prior to amendment, Code Sec. 191(f) read as follows:

"(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant."

P.L. 94-455, § 2124(a)(1):

Added Code Sec. 191 to read as above. Applicable to additions to capital account made after June 14, 1976, and before June 15, 1981.

[Sec. 192]

SEC. 192. CONTRIBUTIONS TO BLACK LUNG BENEFIT TRUST.

[Sec. 192(a)]

(a) ALLOWANCE OF DEDUCTION.—There is allowed as a deduction for the taxable year an amount equal to the sum of the amounts contributed by the taxpayer during the taxable year to or under a trust or trusts described in section 501(c)(21).

[Sec. 192(b)]

(b) LIMITATION.—The maximum amount of the deduction allowed by subsection (a) for any taxpayer for any taxable year shall not exceed the greater of—

(1) the amount necessary to fund (with level funding) the remaining unfunded liability of the taxpayer for black lung claims filed (or expected to be filed) by (or with respect to) past or present employees of the taxpayer, or

(2) the aggregate amount necessary to increase each trust described in section 501(c)(21) to the amount required to pay all amounts payable out of such trust for the taxable year.

Amendments

P.L. 95-488, § 1(a), (e):

Amended Code Sec. 192(b) to read as above, effective for tax years beginning after December 31, 1977. Before amendment, Code Sec. 192(b) read:

(b) LIMITATION.—

(1) IN GENERAL.—The amount of the deduction allowed by subsection (a) for any taxable year with respect to any such trust shall not exceed the amount determined under paragraph (2) or (3), whichever is greater.

(2) CURRENT YEAR OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the amount which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to carry out the purposes of the trust described in subparagraph (A) of section 501(c)(21) for the taxable year.

(3) CERTAIN FUTURE OBLIGATIONS.—The amount determined under this paragraph for the taxable year is the sum of—

(A) the amount which is necessary to meet the expenses of the trust described in clause (iii) of section 501(c)(21)(A) for the taxable year, and

(B) the lesser of—

(i) the amount, which, when added to the fair market value of the assets of the trust as of the beginning of the taxable year, is necessary to provide all expected future payments with respect to black lung benefit claims which are approved, including any such claims which have been filed and which have not been disapproved, as of the end of the taxable year, or

(ii) twice the amount which is necessary to provide all expected future payments with respect to the greater of—

(I) black lung benefit claims filed during the taxable year or any one of the 3 immediately preceding taxable years, or

(II) such claims approved during any one of those 4 taxable years.

P.L. 95-227, § 4(b)(1):

Added Code Sec. 192. Effective for contributions, acts, and expenditures made after 1977, in and for tax years beginning after such date. However, this effective date was contingent upon enactment of the Black Lung Benefits Reform Act (H.R. 4544), which was enacted as P.L. 95-239, on March 1, 1978.

[Sec. 192(c)]

(c) SPECIAL RULES.—

(1) METHOD OF DETERMINING AMOUNTS REFERRED TO IN SUBSECTION (b).—

Internal Revenue Code

Sec. 192(c)



September 27, 1988

M E M O R A N D U M

TO: SENATOR DOLE  
FROM: RICH BELAS  
SUBJECT: EMPLOYEES OF SMALL BUSINESSES

The most recent data from the SBA indicate the following:

- o 87.9 percent of businesses have fewer than 20 employees.
- o 10 percent of businesses have between 20 and 99 employees.
- o 1.8 percent of businesses have between 100 and 499 employees.
- o 0.4 percent of businesses have 500 or more employees.

In 1985, a more detailed (and slightly different) breakdown was included in the SBA's State of Small Business Report to the President:

Employees	1-4	5-9	10-19	20-49	50-99	100+
Percent of Businesses	57%	21%	11%	7%	2%	2%

50 percent of the workforce is employed by businesses with 500 or more employees. To put it another way, Congress could exempt over 99 percent of businesses and still cover half the workforce.

X

Handwritten notes and scribbles, including the numbers 6, 9, 5 and a large arrow pointing right.

Handwritten note in a box: "Bull" and "Paper" with a large number 75 next to it.

MEMORANDUM:

TO: Senator Robert Dole  
FROM: Ronald Pearlman  
SUBJECT: S. 933  
DATE: September 7, 1989

We have estimated that the following set of provisions would be revenue neutral:

-- make expenditures for auxiliary aids and services and reasonable accommodations for the handicapped eligible for expensing as long as these are incurred in connection with the taxpayers trade or business, and

-- limit the per year cap on allowable expensing under Section 190 of the I.R.C. to \$25,000.

JULY 18, 1989

Ronald A. Pearlman,  
Chief of Staff  
Joint Committee on Taxation  
1015 Longworth House Office Building  
Washington, D.C. 20515

Dear Ron:

Please ask your staff to estimate the revenue impact of an amendment to Internal Revenue Code Section 190 to make expenditures for "auxiliary aids and services" and "reasonable accommodations" for the handicapped eligible for expensing under the statute. These terms would be defined to include the costs of interpreters, readers, tapes and other means of making oral or written materials available to hearing or vision impaired persons, and the costs of job restructuring, part-time or modified work schedules, reassignments, the acquisition or modification of equipment, devices, training materials, examinations, procedures and protocols to accommodate the handicapped.

Second would you ask them to estimate the revenue cost of increasing the \$35,000 per year cap on the allowable expensing under Section 190 to 1) \$50,000 and 2) \$100,000.

Finally, would you ask them to estimate the effect of applying a carryover rule so that any unrecovered basis (after both prior years' expensing and depreciation allowances) could be expensed in each succeeding year up to the amount of the unused cap for that year. Please make this computation for caps of \$35,000, \$50,000 and \$100,000.

Thank you very much.

Sincerely,

BOB DOLE



LABOR POLICY  
ASSOCIATION, INC.

August 14, 1989

Ms. Maureen West  
Legislative Assistant  
Office of Senator Robert Dole  
SH-141 Hart S.O.B.  
United States Senate  
Washington, D.C. 20510

Dear Maureen:

Given the fact that the Americans With Disabilities Act is now likely to become law, the business community will be interested in making certain that implementation can be accomplished with minimum disruption. One major area of concern, which we know is shared by Senator Dole, will be the costs attached to compliance.

As you know, one idea that has been floated to encourage compliance while recognizing that cost is a factor is a change to section 190 of the Internal Revenue Code dealing with the removal of architectural barriers.

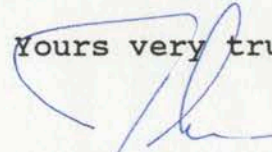
We have given some thought as to how such a change might be accomplished. Attached are three possible approaches, drafted as amendments to S. 933, that might be considered. We recognize that such an amendment approach to S. 933 is probably not feasible and that separate legislation will most likely have to be considered. Nevertheless, the attached options might provide some ideas.

Number 101 would expand 190's scope to include expenditures for accommodations and auxiliary aids and services and would remove the \$35,000 cap; number 102 would expand the scope and raise the cap to \$100,000; number 103 would expand the scope but keep the cap at \$35,000. Obviously, the first option is the most preferable. It is also important that any change made to section 190 be applicable on an establishment rather than an entire enterprise basis.

Ms. Maureen West  
August 14, 1989  
Page Two

We've previously provided a copy of the attached to Mark Disler. Please give me a call if you have any questions or would like to discuss in more detail.

Yours very truly,



G. John Tysse  
Vice President & General Counsel

AMENDMENT # 101

PURPOSE: To add a new section in Title VI to promote employment opportunities for individuals with disabilities by amending the Internal Revenue Code, Section 190, to provide: (1) that existing tax deductions for expenditures made to remove architectural barriers shall also be available for expenditures made for auxiliary aids and services and other accommodations provided to individuals with disabilities (referred to as "handicapped individuals" in the IRC); and (2) to eliminate the current limitation of \$35,000 on such deductions.

-----

On page 36, after line 24, insert the following new section:

SEC. 607. INCENTIVES

Section 190 of the Internal Revenue Code, 26 U.S.C. § 190, hereby is amended as follows:

(a) In Section 190, subsection (a), after the word "treat," insert the following:

"accommodation expenses and".

(b) In Section 190, subsection (b), insert a new paragraph (4) as follows:

"(4) Accommodation expenses. -- The term "accommodation expenses" means an expenditure by an employer for the purpose of accommodating the known physical or mental limitations of a handicapped individual who is an employee or applicant for employment, and the term shall include, but is not limited to, the expenses incurred in: (i) making existing facilities used by employees accessible to and usable by handicapped individuals; and (ii) acquiring or modifying equipment or devices, restructuring jobs, modifying work schedules, and providing qualified readers or interpreters."

(c) In Section 190, delete subsection (c) and redesignate the following subsection accordingly.

(d) The amendments to the Internal Revenue Code made by subsections (a), (b) and (c) shall apply to taxable years beginning after December 31, 1988.

AMENDMENT # 102

PURPOSE: To add a new section in Title VI to promote employment opportunities for individuals with disabilities by amending the Internal Revenue Code, Section 190, to provide: (1) that existing tax deductions for expenditures made to remove architectural barriers shall also be available for expenditures made for auxiliary aids and services and other accommodations provided to individuals with disabilities (referred to as "handicapped individuals" in the IRC); and (2) to raise the current limitation on such deductions from \$35,000 to \$100,000.

-----

On page 36, after line 24, insert the following new section:

SEC. 607. INCENTIVES

Section 190 of the Internal Revenue Code, 26 U.S.C. § 190, hereby is amended as follows:

(a) In Section 190, subsection (a), after the word "treat," insert the following:

"accommodation expenses and".

(b) In Section 190, subsection (b), insert a new paragraph (4) as follows:

"(4) Accommodation expenses. -- The term "accommodation expenses" means an expenditure by an employer for the purpose of accommodating the known physical or mental limitations of a handicapped individual who is an employee or applicant for employment, and the term shall include, but is not limited to, the expenses incurred in: (i) making existing facilities used by employees accessible to and usable by handicapped individuals; and (ii) acquiring or modifying equipment or devices, restructuring or reassigning jobs, modifying work schedules, and providing qualified readers or interpreters."

(c) In Section 190, subsection (c), delete the term "\$35,000" and insert in lieu thereof "100,000."

(d) The amendments to the Internal Revenue Code made by subsections (a), (b) and (c) shall apply to taxable years beginning after December 31, 1988.

AMENDMENT # 103

PURPOSE: To add a new section in Title VI to promote employment opportunities for individuals with disabilities by amending the Internal Revenue Code, Section 190, to provide that existing tax deductions for expenditures made to remove architectural barriers shall also be available for expenditures made for auxiliary aids and services and other accommodations provided to individuals with disabilities (referred to as "handicapped individuals" in the IRC).

-----

On page 36, after line 24, insert the following new section:

SEC. 607. INCENTIVES

Section 190 of the Internal Revenue Code, 26 U.S.C. § 190, hereby is amended as follows:

(a) In Section 190, subsection (a), after the word "treat," insert the following:

"accommodation expenses and".

(b) In Section 190, subsection (b), insert a new paragraph (4) as follows:

"(4) Accommodation expenses. -- The term "accommodation expenses" means an expenditure by an employer for the purpose of accommodating the known physical or mental limitations of a handicapped individual who is an employee or applicant for employment, and the term shall include, but is not limited to, the expenses incurred in: (i) making existing facilities used by employees accessible to and usable by handicapped individuals; and (ii) acquiring or modifying equipment or devices, restructuring jobs, modifying work schedules, and providing qualified readers or interpreters."

(c) The amendments to the Internal Revenue Code made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1988.



101ST CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. DOLE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

---

**A BILL**

To amend the Internal Revenue Code of 1986 to expand the deduction for expenditures to remove architectural and transportation barriers to the handicapped to include accommodation expenses by an employer for handicapped employees and to remove the dollar limitation on such deduction.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4       **SECTION 1. EXPANSION OF DEDUCTION FOR EXPENDITURES TO**  
5                               **REMOVE ARCHITECTURAL AND TRANSPORTATION**  
6                               **BARRIERS TO THE HANDICAPPED AND ELDERLY.**

7       (a) ACCOMODATION EXPENSES.—

1 (1) IN GENERAL.—Paragraph (1) of section  
2 190(a) of the Internal Revenue Code of 1986 is  
3 amended by inserting “accomodation expenses and”  
4 after “treat”.

5 (2) ACCOMMODATION EXPENSES DEFINED.—Sub-  
6 section (b) of section 190 of such Code is amended  
7 by redesignating paragraphs (1), (2), and (3) as para-  
8 graphs (2), (3), and (4), and by inserting before para-  
9 graph (2) (as so redesignated) the following new  
10 paragraph:

11 “(1) ACCOMODATION EXPENSES.—The term ‘ac-  
12 commodation expenses’ means an expenditure by an  
13 employer for the purpose of accommodating the  
14 known physical or mental limitations of a handi-  
15 capped individual who is an employee or applicant  
16 for employment, including the expenses incurred  
17 in— *for the purpose of*

18 “(i) making existing facilities used by such  
19 individual accessible and usable, and

20 “(ii) acquiring or modifying equipment or  
21 devices, restructuring jobs, modifying work  
22 schedules, and providing qualified readers or in-  
23 terpreters for such individual.”.

24 (3) CONFORMING AMENDMENTS.—

1 (A) Section 67(d)(1) of such Code is  
2 amended by striking “section 190(b)(3)” and  
3 inserting “section 190(b)(4)”.

4 (B) Section 263(a)(1)(E) of such Code is  
5 amended by inserting “to accommodate, and”  
6 after “expenditure” and by inserting a comma  
7 after “barriers to”.

8 (4) CLERICAL AMENDMENTS.—

9 (A) The heading of section 190 of such  
10 Code is amended by inserting “TO ACCOMO-  
11 DATE, AND” after “EXPENDITURES” and by in-  
12 serting a comma after “BARRIERS TO”.

13 (B) The item relating to section 190 in the  
14 table of sections for part VI of subchapter B of  
15 chapter 1 of such Code is amended by inserting  
16 “to accommodate, and” after “Expenditures”  
17 and by inserting a comma after “barriers to”.

18 (b) DOLLAR LIMITATION REMOVED.—Section 190 of  
19 the Internal Revenue Code of 1986 is amended by striking  
20 subsection (c) and redesignating subsection (d) as subsec-  
21 tion (c).

22 (c) EFFECTIVE DATE.—The amendments made by this  
23 section shall apply to taxable years beginning after Decem-  
24 ber 31, 1988.

101ST CONGRESS  
1ST SESSION

S. \_\_\_\_\_

---

IN THE SENATE OF THE UNITED STATES

Mr. DOLE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

---

**A BILL**

To amend the Internal Revenue Code of 1986 to expand the deduction for expenditures to remove architectural and transportation barriers to the handicapped to include accommodation expenses by an employer for handicapped employees and to remove the dollar limitation on such deduction.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4 SECTION 1. EXPANSION OF DEDUCTION FOR EXPENDITURES TO  
5 REMOVE ARCHITECTURAL AND TRANSPORTATION  
6 BARRIERS TO THE HANDICAPPED AND ELDERLY.

7 (a) ACCOMODATION EXPENSES.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           190(a) of the Internal Revenue Code of 1986 is  
3           amended by inserting “accomodation expenses and”  
4           after “treat”.

5           (2) ACCOMMODATION EXPENSES DEFINED.—Sub-  
6           section (b) of section 190 of such Code is amended  
7           by redesignating paragraphs (1), (2), and (3) as para-  
8           graphs (2), (3), and (4), and by inserting before para-  
9           graph (2) (as so redesignated) the following new  
10          paragraph:

11           “(1) ACCOMODATION EXPENSES.—The term ‘ac-  
12          commodation expenses’ means an expenditure by an  
13          employer for the purpose of accommodating the  
14          known physical or mental limitations of a handi-  
15          capped individual who is an employee or applicant  
16          for employment, including the expenses incurred  
17          in— *for the purpose of*

18                   “(i) making existing facilities used by such  
19                  individual accessible and usable, and

20                   “(ii) acquiring or modifying equipment or  
21                  devices, restructuring jobs, modifying work  
22                  schedules, and providing qualified readers or in-  
23                  terpreters for such individual.”.

24          (3) CONFORMING AMENDMENTS.—

1 (A) Section 67(d)(1) of such Code is  
2 amended by striking “section 190(b)(3)” and  
3 inserting “section 190(b)(4)”.

4 (B) Section 263(a)(1)(E) of such Code is  
5 amended by inserting “to accommodate, and”  
6 after “expenditure” and by inserting a comma  
7 after “barriers to”.

8 (4) CLERICAL AMENDMENTS.—

9 (A) The heading of section 190 of such  
10 Code is amended by inserting “TO ACCOMO-  
11 DATE, AND” after “EXPENDITURES” and by in-  
12 serting a comma after “BARRIERS TO”.

13 (B) The item relating to section 190 in the  
14 table of sections for part VI of subchapter B of  
15 chapter 1 of such Code is amended by inserting  
16 “to accommodate, and” after “Expenditures”  
17 and by inserting a comma after “barriers to”.

18 (b) DOLLAR LIMITATION REMOVED.—Section 190 of  
19 the Internal Revenue Code of 1986 is amended by striking  
20 subsection (c) and redesignating subsection (d) as subsec-  
21 tion (c).

22 (c) EFFECTIVE DATE.—The amendments made by this  
23 section shall apply to taxable years beginning after Decem-  
24 ber 31, 1988.

101ST CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. DOLE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to expand the deduction for expenditures to remove architectural and transportation barriers to the handicapped to include accommodation expenses by an employer for handicapped employees.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4       SECTION 1. EXPANSION OF DEDUCTION FOR EXPENDITURES TO  
5                               REMOVE ARCHITECTURAL AND TRANSPORTATION  
6                               BARRIERS TO THE HANDICAPPED AND ELDERLY.

7       (a) ACCOMODATION EXPENSES.—

8               (1) IN GENERAL.—Paragraph (1) of section  
9       190(a) of the Internal Revenue Code of 1986 is

1 amended by inserting “accomodation expenses and”  
2 after “treat”.

3 (2) ACCOMMODATION EXPENSES DEFINED.—Sub-  
4 section (b) of section 190 of such Code is amended  
5 by redesignating paragraphs (1), (2), and (3) as para-  
6 graphs (2), (3), and (4), and by inserting before para-  
7 graph (2) (as so redesignated) the following new  
8 paragraph:

9 “(1) ACCOMODATION EXPENSES.—The term ‘ac-  
10 commodation expenses’ means an expenditure by an  
11 employer for the purpose of accommodating the  
12 known physical or mental limitations of a handi-  
13 capped individual who is an employee or applicant  
14 for employment, including the expenses incurred  
15 in— *for this purpose of*

16 “(i) making existing facilities used by such  
17 individual accessible and usable, and

18 “(ii) acquiring or modifying equipment or  
19 devices, restructuring jobs, modifying work  
20 schedules, and providing qualified readers or in-  
21 terpreters for such individual.”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 67(d)(1) of such Code is  
24 amended by striking “section 190(b)(3)” and  
25 inserting “section 190(b)(4)”.



1 (B) Section 263(a)(1)(E) of such Code is  
2 amended by inserting “to accommodate, and”  
3 after “expenditure” and by inserting a comma  
4 after “barriers to”.

5 (4) CLERICAL AMENDMENTS.—

6 (A) The heading of section 190 of such  
7 Code is amended by inserting “TO ACCOMO-  
8 DATE, AND” after “EXPENDITURES” and by in-  
9 serting a comma after “BARRIERS TO”.

10 (B) The item relating to section 190 in the  
11 table of sections for part VI of subchapter B of  
12 chapter 1 of such Code is amended by inserting  
13 “to accommodate, and” after “Expenditures”  
14 and by inserting a comma after “barriers to”.

15 (b) EFFECTIVE DATE.—The amendments made by this  
16 section shall apply to taxable years beginning after Decem-  
17 ber 31, 1988.

101ST CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. DOLE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to expand the deduction for expenditures to remove architectural and transportation barriers to the handicapped to include accommodation expenses by an employer for handicapped employees.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assem-*  
3 *bled,*

4       SECTION 1. EXPANSION OF DEDUCTION FOR EXPENDITURES TO  
5                               REMOVE ARCHITECTURAL AND TRANSPORTATION  
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1 amended by inserting “accomodation expenses and”  
2 after “treat”.

3 (2) ACCOMMODATION EXPENSES DEFINED.—Sub-  
4 section (b) of section 190 of such Code is amended  
5 by redesignating paragraphs (1), (2), and (3) as para-  
6 graphs (2), (3), and (4), and by inserting before para-  
7 graph (2) (as so redesignated) the following new  
8 paragraph:

9 “(1) ACCOMODATION EXPENSES.—The term ‘ac-  
10 commodation expenses’ means an expenditure by an  
11 employer for the purpose of accommodating the  
12 known physical or mental limitations of a handi-  
13 capped individual who is an employee or applicant  
14 for employment, including the expenses incurred  
15 in—

16 “(i) making existing facilities used by such  
17 individual accessible and usable, and

18 “(ii) acquiring or modifying equipment or  
19 devices, restructuring jobs, modifying work  
20 schedules, and providing qualified readers or in-  
21 terpreters for such individual.”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 67(d)(1) of such Code is  
24 amended by striking “section 190(b)(3)” and  
25 inserting “section 190(b)(4)”.

1 (B) Section 263(a)(1)(E) of such Code is  
2 amended by inserting “to accommodate, and”  
3 after “expenditure” and by inserting a comma  
4 after “barriers to”.

5 (4) CLERICAL AMENDMENTS.—

6 (A) The heading of section 190 of such  
7 Code is amended by inserting “TO ACCOMO-  
8 DATE, AND” after “EXPENDITURES” and by in-  
9 serting a comma after “BARRIERS TO”.

10 (B) The item relating to section 190 in the  
11 table of sections for part VI of subchapter B of  
12 chapter 1 of such Code is amended by inserting  
13 “to accommodate, and” after “Expenditures”  
14 and by inserting a comma after “barriers to”.

15 (b) EFFECTIVE DATE.—The amendments made by this  
16 section shall apply to taxable years beginning after Decem-  
17 ber 31, 1988.

97TH CONGRESS  
1ST SESSION

## S. 27

To amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from \$25,000 to \$100,000.

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### IN THE SENATE OF THE UNITED STATES

JANUARY 5, 1981

Mr. DOLE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from \$25,000 to \$100,000.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That (a) subsection (c) of section 190 of the Internal Revenue  
4 Code of 1954 (relating to limitation on the amount of deduc-  
5 tion) is amended by striking out "\$25,000" and inserting in  
6 lieu thereof "\$100,000".

98TH CONGRESS  
1ST SESSION

# S. 120

To extend for two years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mr. DOLE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To extend for two years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That subsection (c) of section 2122 of the Tax Reform Act of  
4 1976 (relating to the effective date for allowance of the de-  
5 duction barriers to the handicapped and elderly) is amended  
6 by striking out "January 1, 1983" and inserting in lieu  
7 thereof "January 1, 1985".

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98TH CONGRESS  
S. 110  
Dole No. 118

PROPERTY OF

1            of Subsection (a) of Section 9122 of the Tax Reform  
2 Act of 1976 is amended by striking out “, and before Janu-  
3 ary 1, 1983”.

4            (c) The amendment made by subsection (a) shall apply  
5 to taxable years beginning after December 31, 1980.

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99TH CONGRESS  
1ST SESSION

# S. 1399

To amend the Rehabilitation Act of 1973 to strengthen the Architectural and Transportation Barriers Compliance Board.

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## IN THE SENATE OF THE UNITED STATES

JULY 8, 1985

Mr. DOLE (for himself, Mr. WEICKER, and Mr. STAFFORD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 10 (legislative day, JULY 8), 1985

Committee discharged; referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Rehabilitation Act of 1973 to strengthen the Architectural and Transportation Barriers Compliance Board.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Architectural and Trans-  
4 portation Barriers Compliance Board Act of 1985".

5       SEC. 2. (a) Section 502(a)(1)(A) of the Rehabilitation  
6 Act of 1973 (hereafter in this Act referred to as the "Act") is  
7 amended by striking out "Eleven" and inserting in lieu there-  
8 of "Twelve".



the Section 5026(a)(2) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation,

(2) by striking out "three" the first time it appears in clause (i) and inserting in lieu thereof "four";

(3) by adding at the end thereof the following new sentence: "The term of office of the appointed member provided for by the Architectural and Transportation Barriers Compliance Board Act of 1985 first taking office shall expire at the same time as the term of office of the successors of the three members first appointed for three-year terms."; and

(4) by adding after subparagraph (A) (as redesignated by this subsection) the following new subparagraph:

"(B) Any appointed member may continue to serve as a member of the Board until the member's successor qualifies."

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99TH CONGRESS  
1ST SESSION

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Mr. PROXMIER

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