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PUBLIC LAW 101-140-NOV. 8, 1989

Public Law 101-140
101st Congress

Joint Resolution

Nov. 8, 1989
[HJ. Res. 2801]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "\$3,122,700,000,000".

TITLE II-REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title 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. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Reform Act of 1986.

26 USC 89 note.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.

26 USC 6652, 79,
105.120,127,
129.125.117.
132, 505.

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

26 USC 3121.
3231,3306. 3401.
4976,305, 129, 117.120,127 ,
132; 42 USC 409.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B (a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125 (g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410 (b)(2)(A)(i)".

(4) Section 162 (1) (2) is amended by striking subparagraph (B)

and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended
(A) by striking "(as defined in section 89 (i)(4))", and
(B) by adding at the end the following: "For purposes of
this subparagraph, the term 'church plan' means a plan
maintained by a church for church employees, and the term
'church' means any church (as defined in section
3121(w)(3)(A)) or qualified church-controlled organization
(as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by
striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking
"sections 89 and " and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking
"89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellan-
eous Revenue Act of 1988 are hereby repealed.

(b) Exceptions. --

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day
before the date of the enactment of the Tax Reform Act of 1986)
is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.--

"(A) IN GENERAL. -- This subsection shall not apply to a
church plan maintained for church employees.

(B) DEFINITIONS.-- For purposes of subparagraph (A), the
terms 'church plans' and 'church employee' have the same mean-
ing given such terms by paragraphs (1) and (3)(B) of section
414(e) respectively, except that --

"(i) section 414(e) shall be applied by substituting
'section 501(c)(3)' for 'section 501' each place it appears,
and

"(ii) the term 'church employee' shall not include an
employee of --

"(I) an organization described in section
170(b)(1)(A)(ii) above the secondary school level
(other than a school for religious training),

"(II) an organization described in section
170(b)(1)(A)(iii), and

"(III) an organization described in section
501(c)(3), the basis for exemption for which is
substantially similar to the basis for exemption of
an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day
before the date of the enactment of the Tax Reform Act of 1986)
is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED. --

"(A) IN GENERAL.-- The term 'cafeteria plan' does not
include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGE-
MENTS. -- Subparagraph (A) shall not apply to a profit-shar-
ing or stock bonus plan or rural cooperative plan (within
the meaning of section 401(k)(7)) which includes a qualified
cash or deferred arrangement (as defined in section
401(k)(2)) to the extent of amounts which a covered em-
ployee may elect to have the employer pay as contributions
to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDU-
CATIONAL INSTITUTIONS. -- Subparagraph (A) shall not apply
to a plan maintained by an educational organization de-
scribed in section 170(b)(1)(A)(ii) to the extent of amounts

which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if --

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

- (c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) **DEPENDENT CARE ASSISTANCE.**—

(1) **IN GENERAL.**—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) **EXCLUDED EMPLOYEES.**—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) **EXCLUDED EMPLOYEES.**—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) **DELAY IN APPLICATION OF BENEFITS TEST.**—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31,

1989.

26 USC 414 note.

(b) LINE OF BUSINESS TEST. --

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED. -- In the case of any plan year beginning on or before the date the Secretary of Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE -- Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP TERM LIFE INSURANCE. -- Paragraph (7) of section 505(b) (relating to \$200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES. --

26 USC 129 note.

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

26 USC 129 note.

(2) The amendments made by subsection (a)(3) shall apply to plan years beginning after December 31, 1989.

26 USC 414 note.

(3) the provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

26 USC 505 note.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.