

2015 HOUSE FINANCE AND TAXATION

HCR 3032

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3032
2/9/2015
23487

- Subcommittee
 Conference Committee

Amanda Muscha

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress and the Internal Revenue Service to end the requirement of capitalization of business and farm machinery repair costs and allow business owners to deduct those costs as a business expense.

Minutes:

Vice Chairman Owens: Opened hearing.

Chairman Headland: It is a resolution that I had drafted because of an order issued by the IRS that became final September 19th, of 2013 and how they treat the amounts paid, to acquire, produce, or improve tangible property. These regulations created new complex rules for small business and farmers, and here's a couple examples of how these rules work: the first rule sets out a new elective of 500 dollars per invoice for safe harbor, for expensing any amount paid to acquire this tangible product and it does this without an application or a financial statement, the second part is the new elective of the 5000 dollar safe harbor that could be utilized if the business provides a couple of things (written accounting procedures for expensing such amounts written as a capitalization policy and it follows in the books and the records and the other one is the applicable financial statements that include audited financial statements). Under these new regulations, any cost exceeding the safe harbor limit must pass a sophisticated, three part legal test in order to be expensed. Prior to this, if you had a 500 repair, or a 500 cost of a new piece of equipment you were able to write off and essentially deduct the cost of that, now it has to meet these criteria (adaption, restorations, and better standards as set forth by the IRS). The problems with the regulations are they bring negative consequences for the business owners and small business including family farms. 500 dollar expense in today's world is unreasonably low and it does not reflect real world expenses for the cost of these every day repairs and it requires these entities to navigate a maze of legal tests and unworkable for most small business in this country; and furthermore, the criteria to take advantage of the more favorable 5000 per advice item is reasonable for large corporations, but not really for small ones. This resolution is just asking congress to do what they should do and legislate these rules put forward by the IRS constituted one of the largest tax increases this country has ever seen. I am told, but CBO scored this, eliminating this would cost 100's of billions of dollars. New tax increases put forward by a government agency without any legislative

oversight. Would we allow that here in North Dakota? Let's pass this and send it to the right people.

Representative Trottier: Did they put a hold or a temporary hold on the tax increase?

Chairman Headland: No, these rules are in place. When I file my taxes this year I have to abide to these rules.

Representative Steiner: How do the three things you mentioned relate to taxation?

Chairman Headland: I believe they were talking about procedures on how you calculate taxation. For instance, when current policy allowed for direct expensing and write off of these particular repairs and items, these rules essentially put them on an amortization schedule where you have to amortize the cost of that repair over time. Therefore the federal government is getting all that money out front.

Vice Chairman Owens: This sounds like a change to 199, where you up to a certain dollar amount could expense a maximum total in the year that it occurred as opposed to depreciating it over a period of time either through double declining or simple depreciation?

Chairman Headland: 179 is actually tax policy that relates to purchase of equipment, this is relating to the repair of equipment. Never before have businesses had to amortize repairs and don't tell me it's not about the money. It is one of the hugest tax increases ever placed on business in the country.

Representative Hatlestad: You pay the tax up front and then deduct overtime?

Chairman Headland: Essentially. Instead of being able to take that 500 repairs or whatever cost and just deduct it from your tax form, like used to be the practice, you put it on a depreciation schedule and amortize it over time.

Representative Trottier: If you have a \$10,000 repair bill in one year you can only deduct \$500 in one year?

Chairman Headland: No, I don't think that's how it works. If you have a business and you have your list of repairs that you had to take care of over the years' time, for each one of those that is over 500, you have to address each one separately.

Representative Dockter: If it was a \$10,000 5 year amortization it would be 2,000 but the problem is that it will be every year you do that so it just keeps stretching out and they will have to pay more and more on their income because they can't write off in the one year that it occurred and as a tax preparer it is a night-mare to have continuing ed-classes and everything.

Representative Froseth: This includes all business and farm machinery.

Chairman Headland: It includes all business.

Representative Froseth: In our business we have done a lot of repairs on our equipment just because of the fact that you could deduct it and you can take a rapid deduction on it and if you couldn't do that there would be a lot of expensive repairs that wouldn't be done and essentially cost more money in the end.

Chairman Headland: You are exactly right and I think that is a great example of how punitive this policy is. Business for the most part don't anticipate repairs, you anticipate in budget for a certain amount of repairs because you know you will have somethings to deal with but if there is an unexpected to repair, if my tractor blows up and I have that 30,000 cost of repairing that motor I maybe haven't planned for that and yet I won't be able to take advantage of the deduction that was there prior to this rule. It would have to do on a depreciation schedule.

Representative Hatlestad: Would you end up paying the same amount of tax amortized over that 5 year period versus taking it the first year all?

Chairman Headland: No, because you don't know what your tax liability is from year to year. Upfront you when that time that, that repair is made and you are having your taxes prepared you know what your liability is.

Vice Chairman Owens: Is there any support to HCR 3032?

Larry Severson, soybean farmer: I stand in support of 3032.

Vice Chairman Owens: Is there any further support? Is there any opposition? We will close the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HCR 3032
2/9/2015
23488

- Subcommittee
 Conference Committee

Omonola Muscha

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress and the Internal Revenue Service to end the requirement of capitalization of business and farm machinery repair costs and allow business owners to deduct those costs as a business expense.

Minutes:

Chairman Headland: Opened discussion on HCR 3032

Representative Hatlestad: Moved a do pass

Representative Steiner: Seconded the motion

A Roll Call Vote Was Taken: Yes 13, No 0, Absent 1 (Representative Toman)

Representative Dockter will carry the bill.

Date: 2-9-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3032**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep Hatlestad Seconded By Rep. Steiner

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	✓	
REP TOMAN	AD		REP SCHNEIDER	✓	
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD	✓				
REP KLEIN	✓				
REP KADING	✓				
REP TROTTIER	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Dockter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3032: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3032 was placed on the Eleventh order on the calendar.

2015 SENATE FINANCE AND TAXATION

HCR 3032

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

HCR3032
3/18/2015
Job #25053

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress and the Internal Revenue Service to end the requirement of capitalization of business and farm machinery repair costs and allow business owners to deduct those costs as a business expense.

Minutes:

Chairman Cook opened hearing on HCR3032.

Rep. Craig Headland in support of HCR3032. It's simply a resolution asking Congress to fix a couple of rules that came about this past year from the IRS in how machinery, equipment, & repairs and purchases are handled. We've gotten some movement by the IRS in this area since we've heard this resolution in the House. It is a good resolution and we should pass it over to them.

Sen. Cook -- You are getting exactly what you are asking for now, aren't you?

Rep. Headland -- I'm not sure.

Sen. Bekkedahl -- It's how the IRS is interpreting those costs and placing them over a longer term of deduction -vs- the cost incurred in that year, is that what I'm hearing?

Rep. Headland -- The old way of doing it was if you have an equipment failure, a repair, you expense it. Here, with this rule, they want you to amortize it, if it was over \$500. I think somebody else can answer Sen. Cook's question if we've gotten the change we sought out.

Joe Becker, Office of Tax Commissioner -- Rep. Headland is correct. There has been some movement. The IRS has issued some more recent revenue procedures that have made some adjustments to help small businesses. The issue that is at the heart of most complaints is that IRS has issued regulations which must be complied with and they have set some deminimis thresholds and Rep. Headland mentioned one of them for repairs and maintenance: take a tractor that you have to replace a major component on, if that is over \$500 you have to analyze that and you may very well have to capitalize and depreciate it as opposed to writing it off, and that is the issue. A lot of the complaint is that the \$500 is a

very low standard. The IRS is simply saying that up to \$500 we aren't going to question it. If you write it off, it's just done. Over that, you may still be able to write it off but you are going to have to go through some tests that they put in the regulations to determine whether they are going to allow you to do that or not. That has not changed. I am aware the IRS has put out a request for input on those thresholds and I think we are still in a comment period.

Sen. Cook -- Should this resolution speak only to the threshold?

Joe Becker-- As an accountant and having to take a look at this, those regulations are lengthy. They are complex. I think those who drafted them, from the IRS, in terms of the amount of time they are saying it will require the average person to come to an understanding of them is well understated. I have spent hours and attended various seminars and I'm still trying to get a grasp of some of the provisions. From my understanding and what I've heard at seminars, the issues are the low thresholds. One of them is a \$200 threshold. There is a 12 month threshold. A \$500 threshold. It's your small businesses where most of the complaints are coming from. Your larger businesses that have audited financial statements, they have a \$5,000 threshold so they get a little bit more room to work with. There is some concern that there is some unfairness there.

Sen. Bekkedahl -- Is this interpretation industry specific just to agriculture or is this interpretation to all businesses and classifications?

Joe Becker -- No. All of this is not geared just to farming. It is across all businesses.

Sen. Oehlke -- If you own some property, you are going to have to show your accountant that the \$500 threshold is one thing, they also ask questions like what's the expected life of this, is it one year, is it two? Maybe it's a \$3,000 fix but maybe you have to do that every year. Then they would let you expense it, but if it's something that probably will last 10 years then they are going to apply a depreciation schedule to it. (meter 13:00-13:53)

Sen. Dotzenrod -- I think it is surprising that we've got this ruling in this way of treating repairs this way. The trend in tax policy at the federal level has been to allow more on purchases. (meter 14:14-15:04) I think the threshold should be much higher.

Sen. Cook -- Congress doesn't have a clue what they are going to do with reform of income tax. They are seeking comments about income tax policy. There are so many income tax bills floating around Congress.

Sen. Dotzenrod -- I'd move a do pass on HCR3032.

Sen. Unruh -- Seconded.

Roll call vote on do pass on HCR3032. 7-0-0 Motion carried.

Carrier: Sen. Dotzenrod

Chairman Cook closed the hearing on HCR3032.

Date: 3.18.15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3032

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By: Sen Dotzenrod Seconded By Sen. Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Dotzenrod

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3032: Finance and Taxation Committee (Sen. Cook, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3032 was placed on the Fourteenth order on the calendar.