



**Legislative Bulletin.....July 17, 2006**

**Contents:**

**H.R. 4019** — To amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income

**Summary of the Bills Under Consideration Today:**

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** \$0

**Effect on Revenue:** increased less than \$500,000 per year, and \$1 million over the 2007-2016 period.

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:**

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 0

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 0

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**H.R. 4019 — To amend title 4 of the United States Code to clarify the treatment of self-employment for purposes of the limitation on State taxation of retirement income — *as reported* (Cannon, R-UT)**

**Order of Business:** The bill is scheduled for consideration on Monday, July 17, 2006, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 4019 would add provisions to current law defining the retirement income of non-resident former members of business partnerships as nontaxable by the state in which the income was earned, provided the income results from a written plan, program, or arrangement in effect immediately before retirement begins.

The bill would also allow retirement income payments that fluctuate to pass the “substantially equal periodic payments” test. The test of the consistency of payments a retiree receives dictates whether or not the income is taxable. By declaring payments from partnerships to pass the test, the income becomes untaxable. The committee report suggests that partnerships may agree to limit retirement income payments to a percentage of annual income. When annual income decreases, payments may have to be cut, thereby failing the “substantially equal periodic payments” test.

Additionally, the bill allows payments to retirees from both qualified and non-qualified partnership retirement plans to meet the substantially equal periodic payments test. The example in the committee report states the payments to a former partner may come from a Keough account until expended, then come from the general assets of the partnership. The Keough account would be a qualified plan, whereas paying the retiree from the assets of the partnership would be a non-qualified plan.

**Additional Information:** CBO states that since state income tax would be reduced under the bill, federal income tax would be increased, hence the CBO score denoting a slight increase in revenues.

**Committee Action:** H.R. 4019 was introduced on October 7, 2005, and referred to the Committee on the Judiciary, which considered it, held a mark-up and reported it by voice vote on June 7, 2006.

**Cost to Taxpayers:** CBO estimates that enacting H.R. 4019 would result in an increase in federal income taxes of less than \$500,000 per year, totaling about \$1 million over the 2007-2016 period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes, the bill would limit states’ abilities to tax in certain circumstances. CBO estimates that the net costs to state governments would likely total less than \$5 million annually and thus would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation) in any of the first five years after enactment.

**Constitutional Authority:** Committee Report 109-542 cites constitutional authority for this legislation in Article 1, Section 8, Clause 8 of the Constitution, the patent and copyright clause. It is unclear how the intellectual property clause relates to this legislation.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution” [*emphasis added*].

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