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Folder Title: JGR/Tax Credits
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THE WHITE HOUSE

WASHINGTON

October 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Tuition Tax Credits -- Draft Letter
To Senator Dole and Draft Presidential
Memo Attached

Richard Darman has asked for comments by 10:00 a.m. today on a proposed letter from Mr. Meese to Senator Dole and from the President to Catholic school administrators. The letter from Meese notes that the tuition tax credit coalition is united behind S. 528 in its present form. As you know, questions had been raised concerning possible changes in the bill in the wake of the Supreme Court's decision in Mueller v. Allen, most prominently whether to extend coverage of the bill to public school expenses. On September 29 you sent a memorandum to Messrs. Meese, Baker, Deaver, Darman, and Duberstein recommending a meeting to discuss possible changes in the bill. Neither I nor Peter, who has been handling this matter, know if such a meeting took place or what the results were.

If the meeting took place and it was decided not to make changes in the bill, these letters can be sent. If you think that the issues have not yet been adequately addressed - i.e., if there has not yet been the meeting called for in your September 29 memorandum - the Meese letter should either not be sent or should be revised. As presently written it conveys the impression that the Administration is committed to S. 528 without changes. Both OPD (Galebach) and Legislative Affairs (Kabel) have told me that the Meese letter must be sent in some form, to get Dole to proceed with the bill, and that supporting changes in S. 528 would doom the bill. The attached memorandum to Darman is based on Peter's guess that no meeting has yet taken place on the issue of changes in S. 528, and the perceived need to send something to Dole. The suggested changes soften language that would otherwise seem to commit us to a no-changes position. I am operating on the basis of less than complete information, so if you want something else done in light of your more complete information please let me know. (I have advised Darman that we needed a little more time.)

THE WHITE HOUSE

WASHINGTON

October 17, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Tuition Tax Credits -- Draft Letter
To Senator Dole and Draft Presidential
Memo Attached

Counsel's Office has reviewed these proposed letters. We have no objection to the letter from the President. The letter to Senator Dole from Mr. Meese conveys the impression that the Administration is opposed to any changes in S. 528. While that may be our ultimate position, I am not convinced that the question has been adequately reviewed, and accordingly recommend softening language that could be interpreted as committing the Administration to a no-change position.

Specifically, we recommend:

1. deleting "on what form of legislation they desire" at the end of the first paragraph;
2. changing "are united behind S. 528 in the form you reported out of Finance Committee in May" in the second paragraph to "is united in the effort to bring S. 528 to a vote;"
3. deleting "in its present form" at the end of the second paragraph.

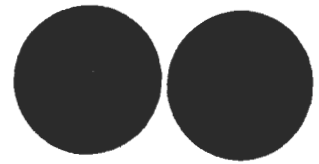
It is our belief that these changes will give the Administration greater flexibility should we decide that changes in S. 528 are necessary or desirable. As revised the Meese letter, like the President's letter, will focus more on bringing the bill to a vote than on the specific form of the bill.

FFF:JGR:aea 10/17/83

cc: FFFielding
JGRoberts
Subj
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1/1



Name of Correspondent: Richard G. Darman

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Tuition Tax Credits -- Draft letter to
Senator Dole and Draft Presidential
Memo Attached

ROUTE TO:	ACTION	DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CUTROLL</u>	ORIGINATOR	<u>83110114</u>		<u>1/1</u>
	Referral Note:			
<u>CUT18</u>	<u>D</u>	<u>83110114</u>	<u>S</u>	<u>83110112</u>
	Referral Note:			
		<u>1/1</u>		<u>1/1</u>
	Referral Note:			
		<u>1/1</u>		<u>1/1</u>
	Referral Note:			
		<u>1/1</u>		<u>1/1</u>
	Referral Note:			

- | | | |
|--|---|---|
| <p>ACTION CODES:</p> <ul style="list-style-type: none"> A - Appropriate Action C - Comment/Recommendation D - Draft Response F - Furnish Fact Sheet to be used as Enclosure | <ul style="list-style-type: none"> I - Info Copy Only/No Action Necessary R - Direct Reply w/Copy S - For Signature X - Interim Reply | <p>DISPOSITION CODES:</p> <ul style="list-style-type: none"> A - Answered B - Non-Special Referral C - Completed S - Suspended |
|--|---|---|

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: (Peter has worked on this before...)

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOP).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/14/83 ACTION/CONCURRENCE/COMMENT DUE BY: 10:00 a.m. MONDAY

SUBJECT: TUITION TAX CREDITS --DRAFT LETTER TO SENATOR DOLE AND DRAFT PRESIDENTIAL MEMO ATTACHED

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HICKEY	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

The attached drafts were prepared by the Office of Policy Development. May we have your comments/clearance by 10:00 a.m. Monday, October 17. Thank you.

RESPONSE:

Richard G. Darman
Assistant to the President
Ext. 2702

DRAFT

October 11, 1983

The Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Bob:

Since receiving your memorandum of September 22 concerning the tuition tax credit legislation, we have been soliciting the views of the leaders of the tuition tax credits coalition, on what form of legislation they desire.

After what I take to be intensive discussions among the coalition leaders, we received a letter from Virgil Dechant, reporting that the Committee for Private Education -- which comprises the Catholic leaders of the coalition -- are united behind S.528 in the form you reported out of Finance Committee in May. Mr. Dechant noted that he has received assurances that the United States Catholic Conference will work wholeheartedly toward passage of S.528 in its present form.

As you know, the leaders of the Christian school movement have been behind S.529 all along, and I am convinced we now have our forces sufficiently marshalled to proceed with the legislative battle.

I understand that this week the Knights of Columbus are sending out packets to 9,000 Catholic elementary and secondary schools, encouraging students and their parents and friends to make their views known to their Senators on this issue. The coalition is clearly ready do its part, and I believe it is time for a vote.

The only remaining question, as you have discussed with the President, is the proper vehicle for that vote. I hope you will feel free to discuss any problematic considerations with me concerning the identification of that vehicle. In any case, I think we need to settle on an answer within the first days after Congress returns from recess.

I can assure you the President deeply appreciates your fine and effective leadership on this issue. At a time when we are doing so much to encourage improvements in public education, it is fitting for the Congress to recognize the contributions of our nonpublic schools as well.

Sincerely,

Edwin Meese III

DRAFT

Dear Catholic School Administrator:

I am writing to share with you the progress we are making in enacting a tuition tax credit bill. As you know, tuition tax credit legislation is one of the foremost priorities of my Administration, and we have been working to arrange a winning vote in the Senate.

On September 16, I met with representatives from the National Catholic Education Association, the U.S. Catholic Conference, and the Knights of Columbus, among others. At that meeting, I informed them that I had requested -- and Senators Dole and Baker had agreed -- that the Administration's bill, S. 528, be brought to a vote in the Senate this Fall.

I know that you and the parents who patronize your school are most interested in this proposed legislation. We agree that the primary authority over a child's education rests with his or her family. Parents have the right and duty to have their children educated in accordance with their own values. A tuition tax credit will greatly assist parents to exercise this right by giving more equitable federal treatment to private as well as to public schools.

As the leader of your school, you may wish to share this progress report with your students and their parents. You deserve great credit for your longstanding efforts to complement our public school system, and your expressed concern for equitable tax treatment for private schooling has already played a crucial role in getting a tuition tax credit bill to the point where we can have a congressional vote.

You have my best wishes for a most successful school year. God bless you.

Sincerely,

Ronald Reagan

BOB PACKWOOD OREG.
WILLIAM V. VICK JR. DEL.
JOHN C. DANFORTH MO.
JOHN H. CHAFFET AL.
JOHN HENZ PA.
MALCOLM WALLACE WYO.
DAVID DURENBERGER ILL.
WILLIAM L. ARMSTRONG COLO.
STEVEN D. SYMMS IDAHO
CHARLES E. BRASSLEY IOWA

RUSSELL B. LONG LA.
LLOYD BENTSEN TEX.
SPARK M. MATHIAS HAWAII
BANK PATRICK MONTGOMERY N.Y.
MAX BAUCUS MONT.
DAVID L. BORN OKLA.
BILL BRADLEY N.J.
GEORGE J. MITCHELL MAINE
DAVID PRYOR ARK.

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, D.C. 20510

RODGERE A. SHARPEY, CHIEF COUNSEL AND STAFF DIRECTOR
MICHAEL STERN, MINORITY STAFF DIRECTOR

September 22, 1983

MEMORANDUM

TO: EDWIN MEESE, COUNSELOR TO THE PRESIDENT

FROM: SENATOR BOB DOLE

SUBJECT: UPDATE ON TUITION TAX CREDITS

A broad spectrum of groups supporting tuition tax credits has endorsed a proposal to expand tax credits to public school tuition and expenses. The groups include the U.S. Catholic Conference and the Council for American Private Education (CAPE), an umbrella group representing most of the secular private schools, mainstream church related and Jewish schools, and military schools. The conservative Christian schools have not as yet endorsed such a proposal.

Spokesmen for these organizations concede that a public-private bill would be too expensive to pass, unless the credit were limited to less than \$50 per student, instead of the \$300 authorized by the President's bill. They would support such a limited tax credit for public and private school expenses.

At \$50 per student, the bill would cost around \$2 billion per year. At \$25 per student, the loss could be limited to \$1 billion per year, slightly more than the \$800 million loss estimated for the President's bill.

The Catholic Conference and CAPE advise us that Senators Durenberger, Packwood, Moynihan, and Bradley will support their proposal.

A \$25 or \$50 tax credit for public and private school expenses would clearly be of value only as a precedent for funding public and private education by a "voucher system" operated through the Federal tax system. As such, it may be perceived as having broader appeal than a private-only tuition tax bill.

On the other hand, such a precedent could be perceived as a more serious threat to the public schools than a private-only

Attachment A

tuition tax bill. It could lead to a total restructuring of the existing system of public school financing, which many would view as an improvement, but which also might have unforeseen consequences. In addition, civil rights groups like the NAACP oppose allowing a tax credit for public school expenses, because it could operate to permit individuals to "buy" their way out of an integrated school system.

DS:c

Knights of Columbus
NEW HAVEN, CONN. 06507

October 4, 1983

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D. C. 20500

Dear President Reagan:


On Wednesday afternoon, September 28, the Committee for Private Education met at the NCEA offices in Washington, D. C.

Mr. Steven Galebach from the White House Office of Policy Development was present with us on that occasion and he shared valuable information on the current status of the bill which will be beneficial to our Committee in pushing for it's swift passage.

Please be assured that our Committee is united in its effort to collaborate with you and your Administration in securing the passage of the Educational Opportunity and Equity Act of 1983 in its present form. I have been informed that the United States Catholic Conference will work with us wholeheartedly toward this objective.

With best wishes and regards, I am,

Sincerely and respectfully,


Virgil C. Dechant
Supreme Knight

VCD/pb

cc: Rev. Msgr. Daniel F. Hoyer
Members of the Committee for Private Education

Attachment B

THE WHITE HOUSE

WASHINGTON

September 29, 1983

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER, III
MICHAEL K. DEEVER
RICHARD G. DARMAN
KENNETH M. DUBERSTEIN

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Tuition Tax Credits

The following are some of the specific items that should be discussed at tomorrow's meeting about tuition tax credits:

- ° Whether expansion of the bill to include some benefits for public school parents (which, given the Supreme Court's recent decision in the Minnesota case, would plainly enhance the chances of surviving a constitutional challenge) is desirable or possible (in terms of revenue impact, reaction in Congress and reaction of private groups supporting the bill).
- ° Whether there are other ways of improving the bill from a constitutional standpoint [e.g., expanding the "findings" to recite that private schools relieve burdens on public schools, that tax credits distribute tax burdens more equally (both points made by the Supreme Court), and that the bill is just one aspect of overall Federal aid to education].
- ° Dealing with "refundability" -- i.e., not limiting the credit to the amount of a taxpayer's tax liability -- which some private and Congressional supporters would like, but would plainly make the bill more vulnerable to constitutional attack under Supreme Court decisions.
- ° Justice Department testimony and response to Congressional inquiries about the effect on our bill of the Supreme Court's decision in the Minnesota case.


FFF:PJR 9/29/83
cc: FFFielding
PJRusthoven
Subject
Chron.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 29, 1983

FOR: FRED F. FIELDING
FROM: PETER J. RUSTHOVEN 
SUBJECT: Tuition Tax Credits

As you requested, attached for your review and signature is a memorandum for Messrs. Meese, Baker, Deaver, Darman and Duberstein (the recipients of our memorandum of September 1 recommending a meeting on the above-referenced matter) listing some of the specific matters that should be discussed when that meeting takes place tomorrow.

Attachment

THE WHITE HOUSE

WASHINGTON

October 18, 1983

MEMORANDUM FOR DIANNA G. HOLLAND

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Appointment of William Milton Smith
to the President's Commission on
White House Fellowships

I have reviewed the Personal Data Statement submitted by William Milton Smith in connection with his prospective appointment to the President's Commission on White House Fellowships. Under Executive Order 11183 this Commission consists of such "...outstanding citizens from the fields of public affairs, education, the sciences, the professions, other fields of private endeavor, and the Government service, as the President may from time to time appoint...."

Bishop Smith is described as the "Presiding Bishop over the two million member African Methodist Episcopal Zion Church," and serves on the National Board of Directors of the NAACP. There is nothing in Bishop Smith's PDS that would preclude his appointment to this Commission.

THE WHITE HOUSE

WASHINGTON

September 29, 1983

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER, III
MICHAEL K. DEEVER
RICHARD G. DARMAN
KENNETH M. DUBERSTEIN

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Tuition Tax Credits

The following are some of the specific items that should be discussed at tomorrow's meeting about tuition tax credits:

- ° Whether expansion of the bill to include some benefits for public school parents (which, given the Supreme Court's recent decision in the Minnesota case, would plainly enhance the chances of surviving a constitutional challenge) is desirable or possible (in terms of revenue impact, reaction in Congress and reaction of private groups supporting the bill).
- ° Whether there are other ways of improving the bill from a constitutional standpoint [e.g., expanding the "findings" to recite that private schools relieve burdens on public schools, that tax credits distribute tax burdens more equally (both points made by the Supreme Court), and that the bill is just one aspect of overall Federal aid to education].
- ° Dealing with "refundability" -- i.e., not limiting the credit to the amount of a taxpayer's tax liability -- which some private and Congressional supporters would like, but would plainly make the bill more vulnerable to constitutional attack under Supreme Court decisions.
- ° Justice Department testimony and response to Congressional inquiries about the effect on our bill of the Supreme Court's decision in the Minnesota case.

THE WHITE HOUSE

WASHINGTON

February 20, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: James Coyne Request for Guidance Concerning
Reply to Letter From David T. Willard
Regarding Tuition Tax Credits

Jim Coyne has asked for our comments on an impertinent letter to the President from David T. Willard, Superintendent of Schools of Elementary School District No. 96 in Illinois. Willard's letter was in response to a letter the President wrote praising Providence-St. Mel High School in Chicago, the private, inner-city "hard-work high school" frequently visited by the President. That letter, used in fundraising for Providence-St. Mel, was sent over our office's objections. Willard's letter disputes some facts in the President's letter, and generally objects to the President's education policies. The letter is very sarcastic, although Willard inadvertently proves our point about the quality of public education by incorrectly using "affect" for "effect."

The letter does not raise legal questions and I do not know why Coyne routed it to us. The facts Willard disputes were provided by Coyne's office in the original letter they proposed that the President send; Ed Wilson's redraft for this office simply muted somewhat the fundraising aspects of that letter. I recommend sending the letter back to Coyne for a substantive response.

Attachment

THE WHITE HOUSE

WASHINGTON

February 20, 1984

MEMORANDUM FOR JAMES K. COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR OF PRIVATE SECTOR INITIATIVES

FROM: FRED F. FIELDING ^{Orig. signed by FFF}
COUNSEL TO THE PRESIDENT

SUBJECT: Your Request for Guidance Concerning
Reply to Letter From David T. Willard
Regarding Tuition Tax Credits

You have asked for our views on the hostile letter to the President from David T. Willard, Superintendent of Schools, written in response to the President's July 28 letter on behalf of Providence - St. Mel High School. In his letter Willard disputes certain facts in the President's letter and generally objects to the Administration's education policies. The letter raises policy rather than legal questions, and accordingly I am returning it to you for a substantive response. (The one-third figure disputed by Willard appeared in materials submitted by your office, so I assume you can substantiate it in response to Willard.)

FFF:JGR:aea 2/20/84

cc: FFFielding/JGRoberts/Subj/Chron



WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

FD-10-02

Handled

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: James K. Coyne / David T. Willard

MI Mail Report User Codes: (A) (B) (C)

James Coyne
Subject: Requests guidance to reply to letter to David T. Willard re: tuition tax credits

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
W Halland	ORIGINATOR	102113			1 1
CUAT18	D	102113			584 102123

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: Feb 9 84 James Coyne memo to FFF

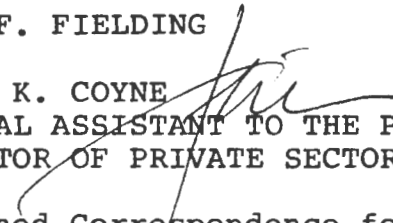
Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, DEOB).
 Always return completed correspondence record to Central Files.
 *Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

February 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JAMES K. COYNE 
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR OF PRIVATE SECTOR INITIATIVES

SUBJECT: Attached Correspondence for the President from
David Willard, Superintendent, Re: Providence -
St. Mel

The attached letter from David T. Willard, Superintendent of Schools, to the President was sent to our office from Linda Frick, Correspondence.

I would like to ask your office to review and comment as to an appropriate response for this letter. Included with the original incoming is the previous exchange of correspondence. Thank you for assistance. If you have any questions, please give me a call (X-6676).

cc: Linda Frick

THE WHITE HOUSE
WASHINGTON

Date: 2/6

To: Jim Coyne

The attached is for y:

- Information
- Appropria
- Review and
- With Comm

ask Fred Fielding's
office to comment
& let Linda Frick

For your ⁱⁿ know-

Please to

intend to file -

forward along -

or respond to Willard, 1/16 letter

Thanks

LINDA FRICK
Correspondence, Staff Assistant
Room 96, x7610

Linda

44

**ELEMENTARY SCHOOL
DISTRICT NO. 96**

DAVID T. WILLARD, ED. D.
SUPERINTENDENT

PAMELA L. WITT, ED. D.
ASSISTANT SUPERINTENDENT
FOR INSTRUCTION

777 CHECKER DRIVE
BUFFALO GROVE, ILLINOIS 60090
PHONE 312 459-4260

LEE O. EAKRIGHT
DIRECTOR OF BUSINESS SERVICES

January 16, 1984

Inappropriate response

206662 *al*

AA
The President
The White House
Washington, D. C. 20515

Re: July 28, 1983, Letter to
Providence-St. Mel High School

Dear Mr. President:

Your letter to Providence-St. Mel High School in Chicago, Illinois, while justifiably complimentary, contains some erroneous assumptions.

You refer to costs for Providence-St. Mel as being one-third the cost of a tax supported high school. In the material which accompanies a copy of your letter, Principal Adams of Providence-St. Mel indicates the per pupil cost at \$2,200. You may be interested to know that in the State of Illinois the average cost for educating a child in 1981-82 was \$2,904. The average cost for educating a high school student in districts having only high school students was \$3,801.

No doubt you are also aware that many private schools are able to control costs because of lower salaries paid to employees and/or the utilization of personnel who have dedicated their lives to the church and are not necessarily raising families and otherwise involved in the material economy.

Your letter erroneously compares costs between public schools and private schools. Furthermore, you apparently fail to understand part of the reason why there are differences in costs. On the basis of your reasoning, it is easy to understand why you would support tuition tax credits for private schools. While I have no problem with the existence of private schools or with their need to be supported, I am concerned about the affect of such logic on public schools and the potential flow of money away from public schools already having teachers who are underpaid and programs underfunded. !!

I would request only that you attempt to stay enlightened and informed on this subject so that the future of American education will not be seriously harmed by unwise federal policy and legislation. Thank you.

Very respectfully yours,

David T. Willard

David T. Willard, Ed. D.
Superintendent of Schools

DTW/pmm

cc: Mr. Hal Seamon, Executive Director
Illinois Association of School Boards
Mr. John Wargo, Executive Director
Illinois Association of School Administrators

RECEIVED

JAN 12 1984

Office of the Superintendent
District No. 96

THE WHITE HOUSE
WASHINGTON

July 28, 1983

Dear Paul:

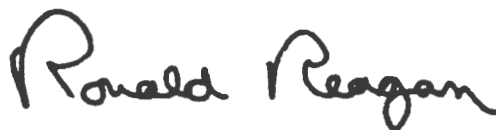
On January 19, 1983, you honored me by asking that I serve as honorary chairman of a campaign to raise money for Providence-St. Mel High School for scholarships, operating expenses and needed equipment. I accepted with pleasure and by this letter emphasize that my commitment is to more than an "honorary" role. Providence-St. Mel is known as the "hard-work high school"; it's time the rest of us did some hard work to support your efforts that have made it a shining example to schools all across our country.

Providence-St. Mel stands as a testimony to your faith and dedication to an ideal I share deeply, that private initiative coupled with community involvement will solve our nationwide crisis in education. You took over a school about to fail and made it pass, with flying colors. ~~For about~~
~~the cost of a few~~ ~~high school you have~~
from a high crime neighborhood into students with high achievement. That 100% of the 1982 graduating class went on to college is proof enough of the drive for excellence the high school instills in its students.

My two visits have convinced me that an investment in Providence-St. Mel is an investment in America's future. The parents paying tuition for children currently enrolled know this already; they can be proud of the fine education their children are receiving under your dynamic leadership.

But now is the time for the rest of us to join in the spirit of Providence-St. Mel and make your school ours so that we can share in the sense of optimism and accomplishment that flows through the "hard-work high school."

Sincerely,



Mr. Paul J. Adams III
Principal
Providence-St. Mel High School
119 South Central Park
Chicago, Illinois 60624

THE WHITE HOUSE

WASHINGTON

October 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS,

SUBJECT: President Reagan's Tax Reform Plan --
Limitations on Cash Method of Accounting

On September 18, 1985, the Secretary of the State Bar of California sent to Treasury Secretary Baker a copy of the Bar's resolution opposing the provision in the President's Tax Reform Plan that would deny the use of the cash method of accounting to many businesses and professional organizations, including many law firms. Under current law, law firms may use the cash method of accounting, and most do. The President's tax reform plan would bar use of the cash method by any business (including a law firm) unless the business (1) has annual gross receipts of less than \$5 million, and (2) uses no other method of accounting for purposes other than ascertaining taxable income.

The reasons stated by the Administration for this change are (1) the cash method is an inaccurate reflection of the economic results of business, with the accrual method providing a more accurate picture, and (2) use of the cash method by some businesses and accrual by others produces an economic mismatch for revenue purposes. (Example: Company A incurs liability for \$1 million for legal services rendered by Law Firm B in Year 1; Law Firm B bills and is paid in Year 2. Company A on accrual method deducts expenses in Year 1; Law Firm B on cash method declares no income until Year 2. In Year 1, IRS gave the deduction but did not tax the corresponding income.)

I do not know enough about law firm finances to evaluate whether the organized bar or the Administration has the better of the argument. It does seem to me, however, that forcing law firms to go to accrual accounting would be enormously complicating for all but the largest firms, particularly since there is often a big difference between doing the work (when income must be declared under accrual accounting) and actually getting paid (when income is declared under the cash method). I have no idea how attorneys working for contingency fees would calculate income on the accrual method. In any event, as far as attorneys are concerned, this may be tax reform but it certainly is not tax simplification.

I see no need for a response by you to the California Bar. You were only copied on the letter to Secretary Baker, and since his people had this bright idea, they can defend it.

846354

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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

R → F

Name of Correspondent: Mary Wailer

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: President Reagan's Tax Reform Plan -
Limitations on Cash Method of Accounting

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>Call Hall</u>	ORIGINATOR	<u>85.09.19 PXL</u>		<u>1 1</u>
	Referral Note:			
<u>Crut 18</u>	<u>D</u>	<u>85.09.20 PXL</u>	<u>S</u>	<u>85.09.20</u>
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	Referral Note:			

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet
to be used as Enclosure

- † - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response - Initials of Signer
- Code - "A"
- Completion Date - Date of Outgoing

Comments: resolution

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THE STATE BAR OF CALIFORNIA



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(415) 561-8200

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September 18, 1985

346354 *cll*

The Honorable James A. Baker, III
Secretary, Department of the Treasury
15th & Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: President Reagan's Tax Reform Plan --
Limitations on Cash Method of Accounting

Dear Mr. Secretary:

The Board of Governors of the State Bar of California adopted the following resolution at its September 14, 1985 meeting:

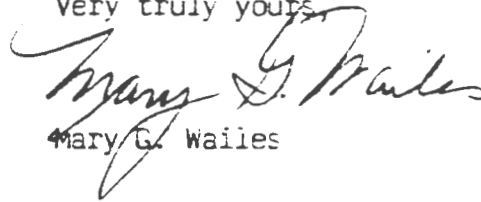
RESOLVED that the State Bar of California hereby opposes Chapter 8.03 of the President Reagan's Tax Reform Plan which would deny the use of the cash method of accounting for many businesses and professional organizations; and it is

FURTHER RESOLVED that the Administration and the California members of Congress be advised of the foregoing action.

Enclosed for your information is a copy of the materials that were before the Board in connection with its consideration of this matter.

The Board of Governors respectfully urges that you oppose this measure.

Very truly yours,



Mary G. Wailes

MGW/bc

cc: Fred F. Fielding, Counsel ✓
to the President
The White House
Washington, D.C. 20500

Kevin Driscoll
American Bar Association
1800 M Street, Northwest
Washington, D.C. 20036

Attached: Copy of Board of Governors Agenda Item 204 (September)

AGENDA ITEM

Recommendation of the Taxation Section that the Board of Governors oppose Chapter 8.03 of President Reagan's tax proposal

DATE: August 28, 1985

TO: THE MEMBERS OF THE BOARD OF GOVERNORS

SOURCE: TAXATION SECTION, EXECUTIVE COMMITTEE

SUBJECT: President Reagan's Tax Reform Plan -- Limitation on Cash Method of Accounting Support of ABA July 10, 1985 position paper by the Taxation Section and proposed support by the State Bar of California's Board of Governors

BACKGROUND:

The Taxation Section has reviewed the Secretary's referral of August 14, 1985 together with the accompanying Memorandum from Kevin J. Driscoll, American Bar Association, and the Report of the American Bar Association Section of Taxation Report to the House of Delegates, attached hereto.

RECOMMENDATION:

The Taxation Section supports the position taken by the American Bar Association Taxation Section as contained in its report of July 10, 1985 to the ABA House of Delegates.

The Taxation Section of the State Bar further recommends that the State Bar Board of Governors support the Report and adopt the reasons stated in the July 10, 1985 position paper, in the form attached.

Should the Board of Governors concur, the following resolution would be appropriate:

RESOLVED, that the State Bar of California oppose Chapter 8.03 of the President's Tax Proposals which would deny the use of the cash method of accounting for many businesses and professional organizations.

FURTHER RESOLVED, that the State Bar of California ~~take all necessary steps to~~ communicate the foregoing position to the Administration and to Congress.

FISCAL IMPACT:

None

PERSONNEL IMPACT: None

Attached: August 28, 1985 Memorandum from Robert Livsey
July 19, 1985 Memorandum from Kevin J. Driscoll, ABA
July 10, 1985 ABA Section of Taxation Report to the house of Delegates

THE TAXATION SECTION
THE STATE BAR OF CALIFORNIA



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TO: BOARD OF GOVERNORS
FROM: Robert C. Livsey, Chair
Taxation Section
DATE: August 28, 1985

WHEREAS, Chapter 8.03 of the President's tax proposals would not promote fairness, growth and simplicity, the Taxation Section recommends that the Board of Governors adopt the following resolution:

RESOLVED, that the State Bar of California oppose Chapter 8.03 of the President's Tax Proposals which would deny the use of the cash method of accounting for many businesses and professional organizations.
FURTHER RESOLVED, that the State Bar of California take all necessary steps to communicate the foregoing position to the Administration and to Congress.

AMERICAN BAR ASSOCIATION

MEMORANDUM

TO: Presidents, Presidents-Elect and Executive Directors, State and Local Major Bar Associations

FROM: Kevin J. Driscoll

SUBJ: President Reagan's Tax Reform Plan -- Limitations on Cash Method of Accounting

DATE: July 19, 1985

RECEIVED

JUL 22 1985

CHIEF EXECUTIVE OFFICER
THE STATE BAR OF CALIFORNIA

** ACTION SUGGESTED **

As many of you know, the ABA House of Delegates July 10 adopted unanimously a resolution recommended by the ABA Taxation Section opposing the Reagan Administration's proposal to require many personal service businesses, including law firms, to convert from the cash method to the accrual method of accounting for income tax purposes. The proposed limitation on the cash method of accounting is contained in President Reagan's recently unveiled plan for comprehensive tax reform.

Your help is needed now to inform Members of Congress of the strong opposition of lawyers around the country to this proposal.

Under the Administration's proposal, a personal service business would not be able to use the cash method if either (1) its gross receipts exceed \$5 million (on a three-year moving average basis), or (2) it uses another method regularly to ascertain income for purposes of reports to owners, creditors or others. The ABA believes this proposal would work against simplification and would result in substantial inequity for taxpayers.

Earlier this year, the ABA House of Delegates adopted resolutions in support of broad-based tax reform. While the Association remains strongly committed to the principle of tax reform, it will oppose proposals that impact unfairly on any group of taxpayers.

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Page Two
July 19, 1985

Congressional tax-writing committees began an extended series of hearings on the Administration's tax reform proposals last month. The House Ways and Means Committee is expected to begin drafting a bill in the fall, but final congressional action may not occur until later this year or early next year.

Several bar associations are considering or have already adopted resolutions opposing this proposal, and I encourage those who have not yet done so to join with the ABA in opposing this unfair and unsound proposal. It would be most timely and extremely helpful if communications from your bar -- or if your bar has not yet taken a position, then from individuals who are ABA members -- could be sent or called to your congressional delegation. In addition, it would be useful to communicate with members of the Senate Finance and House Ways and Means Committees, of which I enclose membership rosters. Also, Congress' August recess is scheduled to begin August 2. Consequently, most Members of Congress will be in their home states until after Labor Day. It would be extremely helpful if members of your bar could contact your Senators and Representatives during this time to emphasize your concerns. By way of background, I am enclosing copies of the ABA resolution and accompanying background report, and the Administration's proposal on the issue.

We would very much appreciate your sending us copies of any correspondence you send and letting us know of any response you receive. If you need additional information please contact me at 202/331-2211.

:gms
Enclosures

cc: William W. Falsgraf
Eugene C. Thomas
Thomas E. Gonser
Hugh Calkins
James P. Holder
John J. Sweeney

14821

AMERICAN BAR ASSOCIATION

SECTION OF TAXATION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

RESOLVED that the American Bar Association recommends that Congress reject the Administration's proposal to require many personal service businesses, which now compute taxable income on the cash basis, to convert to the accrual basis.

FURTHER RESOLVED that the Section of Taxation is authorized to urge the foregoing position on the proper committees of the Congress.

REPORT

The Administration's tax reform proposals of May 29, 1985, would require all taxpayers who meet either one of two conditions to compute taxable income in accordance with the accrual method. This would be required if either (1) the business has gross receipts (computed on the basis of a three-year moving average) of \$5 million or more, or (2) the business (other than a farming business) uses the accrual method in preparing reports to owners, creditors or others. Under this proposal, any business having gross receipts of \$5 million or more would thus be denied the use of the cash method. Moreover, every such business would be required to pay a one-time tax, spread over a six-year period, on the balance of its accounts receivable less its accounts payable on the effective date of the change in method.

As applied to personal service businesses, this proposal is unsound for the reasons discussed below. This discussion and the accompanying resolutions are limited in scope

to the application of the Administration's proposal to businesses that provide personal services. The Association is not sufficiently familiar with the particular issues presented by businesses that provide other forms of service either to support or to oppose application of the proposal to them.

1. The Cash Method Clearly Reflects Income

The cash method is simple, in application and fair in result. If income is properly represented by spendable assets, the cash method clearly reflects that income because it treats the receipt of cash (or a cash equivalent) as the event producing the income. While accounts receivable may represent an accretion to wealth, they do not represent disposable income until collected, factored or otherwise converted to cash. Accounts receivable and accounts payable clearly are important to a determination of the financial condition of a business or to an assessment of its future prospects. They are not, however, critical to a determination of its current spendable income.

The conclusion that the cash basis clearly reflects income is substantiated by the fact that the owners of personal service businesses generally deal with one another on the cash basis. Thus, major events such as the admission of new members, the periodic revision of income interests, and the withdrawal of existing members are generally accounted for on the basis of the cash method. For example, newly admitted members generally share in cash collections following their admission even though the collections may result from work done or billings sent prior to admission. Similarly, periodic changes in income interests often apply to all subsequent cash collections. Withdrawal of members seldom results in a continuing interest of the withdrawing member in outstanding receivables. The fact that owners of personal service businesses are willing to deal with one another in these situations in accordance with the cash method attests to their belief that the cash method clearly reflects the income of the business.

There is no evidence to indicate that a significant number of cash basis businesses manage their affairs so as to defer artificially the receipt of taxable income, for example, by originating billings late in a taxable year to cause the resulting income to be taxable in the following year. Most cash basis businesses, particularly the larger ones that would be impacted by the proposal, have aggressive billing and collection practices that tend to accelerate rather than defer the receipt of income. Indeed, if manipulation issues are of concern, the proposal is ill-founded because it is far easier to manipulate

the timing of a billing under the accrual method than it is to manipulate the timing of a receipt under the cash method.

If, to avoid manipulation, the proposal were to require accrual of work in process, major accounting and valuation problems would result. Sellers of professional services do not ordinarily maintain price lists for particular kinds of client services and the amount ultimately billed and collected often results from a process of negotiation. Thus, the amount actually paid by a purchaser of services may differ drastically from the putative value at which carried on the service provider's books, or even from the amount billed for those services. For these reasons, the cash method is ideally suited to measure the income of service providers and that method does not appear to be the subject of significant abuse.

Taxable income of a business that is neither growing nor shrinking significantly in size will be the same for any given period whether measured under the accrual or the cash method. Accordingly, the proposed change would not, in the long run, have any significant tax revenue effect beyond the imposition of a one-time tax that would be occasioned by the change itself. As is true of most changes in accounting method, the longer-term effects are considerably less significant than is the distortion that results from the change itself. This one-time tax would not be the product of any increase in income, net worth or ability to pay of the affected business enterprises; rather, it would be solely the product of the required change in accounting method.

2. The Problem of Mismatching

The Administration refers with concern to the fact that accrual basis purchasers of services may deduct those costs when incurred and yet cash basis providers of services do not recognize income until cash is received. In personal service situations this is a very short-term problem, and such mismatching as does occur is normally resolved within the scope of a twelve-month period and seems to be of trivial consequence to the tax system and the economy. Accordingly, those situations do not involve the kinds of concerns that are presented when accrual deductions precede by many years the economic performance that results in offsetting income.

Indeed, when Congress has addressed issues of mismatching, it has exempted short-term situations. For example, sections 467 and 1272-1275 generally exempt events occurring within the period of one year. Alternatively, Congress has fashioned special matching rules to meet particular situations without imposing wholesale method changes; for example, see

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sections 267 and 404(d) where concurrence of the timing of particular inclusions and deductions is mandated. In short, if short-term mismatching in this area is a problem, there are better solutions.

Beyond this, the Administration's proposal would result in a significant level of "reverse" mismatching where cash basis service purchasers deal with accrual basis service providers. Many clients of service providers are cash basis individuals; others are required to capitalize and defer deduction of service fees. Thus the Administration proposal would necessarily accelerate the inclusion by service providers even where deductions are available to clients only in subsequent periods.

3. The Proposal Is Inherently Inequitable and Economically Inefficient:

Sellers of services are not entitled to report income on the installment plan, and yet this method is electively available to sellers of products, a feature that effectively places the latter group on a modified cash method. The Administration proposal thus discriminates against sellers of services. The installment plan exists because the receipt of a spendable asset, i.e., cash, is the primary indicator of income for tax purposes. The availability of that plan to product sellers is an important and realistic feature of the tax law. To withdraw from sellers of services the similar important and realistic features of the cash method would be highly discriminatory. If the proposal were modified to allow installment reporting by personal service businesses, the result would be a modest change in tax revenues and a substantial increase in complexity.

The Administration proposes at the same time to deny to accrual basis taxpayers the right to maintain a bad debt reserve. A bad debt reserve is a realistic recognition that not all accounts receivable will ultimately be collected. Denying the right to maintain such a reserve assures that tax will be paid on income that will never be received, thus compounding the unfair effect of denial of the cash method to service providers. This represents in a very real sense a taxpayer loan to the Treasury of money that will not ultimately be owed as taxes. This is surely a distortion that should not be permitted to exist.

The artificial dividing line of \$5 million in gross receipts between businesses that would and would not be subject to the proposal introduces complexity and promises to have other undesirable effects. It assures that those businesses that grow

or that combine to produce receipts in excess of the threshold will be disadvantaged vis-a-vis those that do not. It assures that decisions as to size, whether by way of growth or by way of combination, will be heavily influenced, if not controlled, by the attendant tax consequences. Such decisions should be a product of economic consequences and should not be constrained by artificial but compelling tax consequences.

James B. Lewis
Chairman

The President's
Tax Proposals
to the Congress for
Fairness, Growth,
and Simplicity



May 1985

LIMIT USE OF CASE METHOD OF ACCOUNTING

General Explanation

Chapter 8.03

Current Law

The Internal Revenue Code provides for the following permissible methods of accounting: (1) the cash receipts and disbursements method ("cash method"), (2) an accrual method, or (3) any other method or combination of methods permitted under Treasury regulations. A taxpayer is entitled to adopt any one of the permissible methods for each separate trade or business of the taxpayer, provided that the method selected clearly reflects the taxpayer's income from such trade or business. A method of accounting that reflects the consistent application of generally accepted accounting principles ordinarily is considered to clearly reflect income.

The cash method of accounting generally requires an item to be included in income when actually or constructively received and permits a deduction for an expense when paid. In contrast, the principles of the accrual method of accounting generally require that an item be included in income when all the events have occurred which fix the right to its receipt and its amount can be determined with reasonable accuracy. Similarly, a deduction is allowed to an accrual basis taxpayer when all events have occurred which determine the fact of liability for payment, the amount of the liability can be determined with reasonable accuracy, and the economic performance that establishes the liability has occurred.

In general, taxpayers that are required to use inventories for a particular trade or business (other than farming) must use an accrual method of accounting for their purchases and sales. A taxpayer is required to use inventories in all cases in which the production, purchase, or sale of merchandise is an income-producing factor. Any other permissible method of accounting (including the cash method) may be used for other purposes in that trade or business or for other trades or businesses of the taxpayer.

A person engaged in the trade or business of farming generally may use the cash method of accounting for such business even though the farming business may involve the production and sale of goods. Use of the accrual method is required, however, for a corporation (other than S corporations and certain family-owned corporations) engaged in the trade or business of farming (or a partnership engaged in the trade or business of farming that has a corporation as a partner) that has gross receipts of more than \$1 million in any taxable year beginning after December 31, 1975.

Reason for Change

The cash method of accounting frequently fails to reflect the economic results of a taxpayer's business over a taxable year. The cash method simply reflects actual cash receipts and disbursements, which need not be related to economic income. Obligations to pay and rights to receive payment are disregarded under the cash method, even though they directly bear on whether the business has generated an economic profit or a loss. Because of its inadequacies, the cash method of accounting is not considered to be in accord with generally accepted accounting principles and, therefore, is not permissible for financial accounting purposes.

The relative simplicity of the cash method justifies its use for tax purposes by smaller, less sophisticated businesses, for which accrual accounting may be burdensome. Current law, however, permits many taxpayers that already use an accrual method for financial accounting purposes to use the cash method for tax purposes.

The cash method also produces a mismatching of income and deductions where the taxpayer engages in transactions with parties that employ a different method of accounting. For example, an accrual method taxpayer may deduct certain liabilities as incurred (even though not yet billed), such as liabilities for certain services rendered, even though the service provider on the cash method may defer reporting income until the amount is billed and cash payment thereon is made.

Proposal

A taxpayer would not be permitted to use the cash method of accounting for a trade or business unless it satisfied both of the following conditions: (1) the business has average (determined on a 3-year moving average basis) annual gross receipts of \$5 million or less (taking into account appropriate aggregation rules); and (2) with respect to a trade or business other than farming, no other method of accounting has been used regularly to ascertain the income, profit, or loss of the business for the purpose of reports or statements to shareholders, partners, other proprietors, beneficiaries or for credit purposes. Consideration will also be given to taking into account the billing of clients for services in the use of the accrual method.

The above conditions would apply in addition to the current law limitation on use of the cash method with respect to a trade or business in which inventory accounting is required. The current rules requiring certain corporations to use accrual accounting for the trade or business of farming would also remain in effect in addition to the above rules.

Effective Date

The proposal would be effective for taxable years beginning on or after January 1, 1986. In order to minimize large distortions in the taxable income of taxpayers who are required to change from the cash to the accrual method, the administrative rules generally applicable to changes in methods of accounting initiated by the taxpayer and approved by the Internal Revenue Service would be applied. Accordingly, taxpayers affected by the proposal would be allowed to spread the adjustment that results from the difference between the use of the cash and accrual methods of accounting ratably over a period not to exceed six taxable years.

Analysis

The proposed restriction on the use of the cash method of accounting would affect only a small percentage of firms. In 1981, approximately 103,000 corporations (eight percent of all corporations), 4,000 partnerships (one percent of all partnerships), and 1,800 sole proprietorships (including about 300 farmers) (less than one percent of all sole proprietorships) had receipts greater than the proposed \$5 million limitation. Some of these businesses already use the accrual method of accounting for tax purposes. Accurate measurement of the income of these large firms is important to the integrity of the tax system, since they account for a significant share of business receipts.

The proposal would affect only businesses that are already using an accrual method of accounting in some part of their business or are sufficiently large to have access to professional accounting expertise. The primary industries that would be affected by the proposal would be banks that use an accrual method of accounting for financial reporting and large service organizations, such as accounting, law and advertising firms.

The virtue of the cash method's simplicity would be retained for those businesses, such as small farmers, that might be unduly burdened by a requirement that they use accrual accounting.

Committee on Finance

D-219 Dirksen Senate Office Building, Washington, D.C. 20510

(202) 224-4515

Jurisdiction: (1) Except as provided in the Congressional Budget Act of 1974, revenue measures generally. (2) Except as provided in the Congressional Budget Act of 1974, the bonded debt of the United States. (3) The deposit of public moneys. (4) Customs, collection districts and ports of entry, and delivery. (5) Reciprocal trade agreements. (6) Transportation of dutiable goods. (7) Revenue measures relating to the insular possessions. (8) Tariffs and import quotas, and matters related thereto. (9) National social security. (10) General revenue sharing. (11) Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.

Ratio: 11:5

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Committee on Ways and Means

1102 Longworth House Office Building, Washington, D.C. 20515

(202) 225-3677

Jurisdiction: (1) Customs, collection districts and ports of entry and delivery; (2) Free trade agreements; (3) Revenue measures generally; (4) Revenue measures relating to the insular possessions; (5) The bonded debt of the United States (subject to the proviso of clause 4 (g) of House Rule X, mandating the submission of annual committee reports to the Committee on the Budget); (6) The deposit of public moneys; (7) Transportation of durable goods; (8) Tax-exempt foundations and charitable trusts; (9) National social security, except (A) health care and families programs that are supported from general revenues as opposed to payroll deductions, and (B) work incentive programs.

Ratio: 23:13

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