

Central Intelligence Agency

CHRONO



Washington, D.C. 20505

OLL85/1280/1

16 MAY 1985

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your legislative referral memorandum, dated April 16, 1985 asking for our views on H.R. 2019. If enacted into law, the bill would provide benefits for government employees who are kidnapped or deprived of their liberty as a result of hostile action directed against the United States. According to Congresswoman Schroeder, this bill is designed to "take up where the Hostage Relief Act left off."

We strongly support H.R. 2019 and urge its early adoption. In view of the fact that the "Hostage Relief Act" (HRA) expired in 1981, this bill is long overdue. However, one beneficial provision in the HRA does not appear in H.R. 2019 - a tax relief section. When a person covered by H.R. 2019 is released from captivity, back pay and accrued interest are likely to be paid in a lump sum. The tax consequences of such an event may substantially offset any benefit intended by the bill. The HRA dealt more favorably with tax matters by permitting the former hostage to exclude back pay from gross income. A number of other beneficial tax provisions for released hostages were contained in Title II of that statute, which we have included for your information.

As far as practicable then, we should support inclusion of a tax relief provision in H.R. 2019 similar to that contained in Title II of the HRA.

Sincerely,

/s/Charles A. Briggs

Charles A. Briggs
Director, Office of Legislative Liaison

Enclosure
as stated

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Definitions

excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

50 USC app 501.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

APPLICABILITY TO COLOMBIAN HOSTAGE

Richard Starr.
5 USC 5561 note.

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

5 USC 5561 note

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

5 USC 5561 note.

26 USC 1.

SEC. 201. COMPENSATION EXCLUDED FROM GROSS INCOME.

For purposes of the Internal Revenue Code of 1954, the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

(1) in captive status, or

(2) hospitalized as a result of such individual's captive status.

5 USC 5561 note.

SEC. 202. INCOME TAXES OF HOSTAGES WHERE DEATH RESULTS FROM CAPTIVE STATUS.

(a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1954 shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

26 USC 1.

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- (A) shall not be assessed,
- (B) if assessed, the assessment shall be abated, and
- (C) if collected, shall be credited or refunded as an overpayment.

(b) **DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.**—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

5 USC 5561 note

SEC. 203. SPOUSE MAY FILE JOINT RETURN.

(a) **GENERAL RULE.**—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 for any taxable year—

26 USC 6013

- (1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and
- (2) for which such spouse is otherwise entitled to file such a joint return.

(b) **CERTAIN RULES MADE APPLICABLE.**—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

SEC. 204. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF CAPTIVE STATUS.

5 USC 5561 note

(a) **GENERAL RULE.**—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

- (1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 was performed within the time prescribed therefor, and
- (2) the amount of any credit or refund (including interest).

26 USC 7508.

(b) **APPLICATION TO SPOUSE.**—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) **SECTION 7508(d) MADE APPLICABLE.**—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

5 USC 5561 note.

SEC. 205. DEFINITIONS AND SPECIAL RULES.

(a) **AMERICAN HOSTAGE.**—For purposes of this title, the term "American hostage" means any individual who, while—

- (1) in the civil service or the uniformed services of the United States, or
 - (2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),
- is placed in a captive status during the hostage period.

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(b) **HOSTAGE PERIOD.**—For purposes of this title, the term “hostage period” means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) **CAPTIVE STATUS.**—For purposes of this title—

(1) **IN GENERAL.**—The term “captive status” means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) **MISSING STATUS DEFINED.**—The term “missing status”—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term “employee” has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) **HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.**—

(1) **IN GENERAL.**—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) **2-YEAR LIMIT.**—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) **CIVIL SERVICE; UNIFORMED SERVICES.**—For purposes of this section, the terms “civil service” and “uniformed services” have the meanings given to such terms by section 2101 of title 5, United States Code.

Tehran hostages.

(f) **APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.**—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting “earned income (as defined in section 911(b) of the Internal Revenue

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Code of 1954) attributable to" for "compensation from the United States received for", and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) **APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.**—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) **SPECIAL RULES.**—

(1) **COMPENSATION.**—For purposes of this title, the term "compensation" shall not include any amount received as an annuity or as retirement pay.

(2) **WAGE WITHHOLDING.**—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954.

SEC. 206. STUDY OF TAX TREATMENT OF HOSTAGES.

(a) **STUDY.**—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) **REPORT.**—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

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(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1349 Pt. 1 (Comm. on Post Office and Civil Service), No. 96-1349, Pt. 2 (Comm. on Foreign Affairs), and No. 96-1349, Pt. 3 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Sept. 22, considered and passed House.

Sept. 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:

Oct. 14, Presidential statement.

94 STAT. 1974