Pryor cited a May 1992 General Accounting Office study (GAO/GGD-92-72BR) he requested that showed that in 1987 drug companies with manufacturing operations in Puerto Rico received an average per employee tax benefit worth $70,788 for each job paying $26,471 (95 DTR G-2, 5/15/92).

The study also showed that, while the drug industry got about one-half the total tax benefits of Section 936, it provided less than 18 percent of the jobs of all Section 936 corporations.

Reaction

The Puerto Rico U.S.A. Foundation announced in a Feb. 16 press release its opposition to the proposal, calling it "unfortunate and ill-advised."

The foundation, a coalition of businesses with operations in Puerto Rico, criticized charges that the current possessions tax credit has failed to create sufficient jobs in Puerto Rico.

Carl Nordberg, executive director of PRUSA, said, "Sen. Pryor's charge that Section 936 has failed is patently false."

"The fact that Section 936 has created more than 300,000 jobs — nearly one-third the island's total workforce — has never before been challenged," he said.

"A wage credit substitute for Section 936 will result in the loss of tens of thousands of manufacturing jobs on the island. Even with the most generous wage credit, Puerto Rico simply cannot compete with Mexico or other low-wage countries of the Caribbean, Central America, and the Far East for jobs," he said.□

Health Care

WHITE HOUSE WEIGHS TAXES TO FUND REFORM; HILLARY CLINTON CONFERS WITH DEMOCRATS

The Clinton administration is considering a number of tax increases to finance the health care reform package it will present to Congress in May, White House Press Secretary Dee Dee Myers confirmed Feb. 16.

But speculation about health care tax increases is premature, according to Myers and Hillary Rodham Clinton, who met Feb. 16 with House Democrats to talk about reform approaches.

The president's Health Care Task Force is just beginning its deliberations and a number of working groups are looking at possible tax increases, Myers told reporters. "I think they're looking at a number of options right now and we're not going to comment on the specifics of that. It's way too early," she added.

Hillary Clinton, accompanied by White House policy officials, met with 40 House Democrats for several hours, and later met with House Republican leaders to discuss the broad health care problems in the country and the goals of the president's reform initiative. The sessions were similar to those she held two weeks ago with Senate lawmakers.

After meeting with the Democrats, Hillary Clinton, flanked by House Speaker Thomas Foley (D-Wash) and House Majority Leader Richard Gephardt (D-Mo), told reporters she would not comment on reports that the administration is considering $90 billion in new taxes to finance proposed health care reforms. "There isn't a plan yet, so I'm not going to comment on that," she said. "It's jumping to a conclusion to say there would have to be taxes," Gephardt said.

Hillary Clinton turned aside questions about GOP criticism of the president's pending economic program, which will include tax increases. "I don't know that it does any good for anyone to continue the blame game that has paralyzed Washington," she said. "What we ought to do as Americans is to face up to the fact that the deficit is eating up our economy... and is fueled by out-of-control health care costs."

President Clinton tonight will unveil his economic program before a joint session of Congress, calling for deficit reduction through spending cuts and tax increases that he hopes will spur economic growth and job creation. The president's plan, however, will not include long-range proposals for health care reform, which he repeatedly has said is a key ingredient to eliminating the federal deficit. President Clinton's task force on health care reform, headed by his wife, is trying to meet a May 1 deadline for presenting a comprehensive program to Congress.

The presentation of the health care program is expected in the midst of White House-congressional deliberations over President Clinton's budget, expected in March, and his long-range deficit-reduction proposals. Those negotiations are expected by many lawmakers to continue through the summer and perhaps into the fall.

As a presidential candidate, Clinton said his health care reform proposals could produce enough savings to pay for expanded access to health care for the estimated 37 million individuals who are uninsured. That goal now appears to be in some doubt among White House economic and health care policy advisers.

AFL-CIO Statement

Labor Health

In a related matter, the 35-member AFL-CIO Executive Council, meeting in Bal Harbour, Fla., Feb. 16 adopted a broad statement on health care reform that does not endorse a specific plan but rather sets forth principles that should be incorporated in any reform proposal.

While no one from the labor movement is included on the president's health care task force, AFL-CIO President Lane Kirkland and the 18-member AFL-CIO health care committee, chaired by John J. Sweeney, president of the Service Employees International Union, is scheduled to meet with Hillary Clinton March 3 to discuss reform issues.

The council called upon its affiliates to "redouble their efforts to organize support" for the following principles:

- Guarantee the right to a core set of health care benefits to all Americans.
- Establish a budget for the health care system that targets elimination of unnecessary services while at the same time ensuring the availability of quality care.

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- Restructure the delivery system by establishing a unified purchasing and delivery system on a regional basis with federal standards.
- Create an independent commission to administer the system.
- Reduce Medicare eligibility to age 60 in line with the average retirement age.
- Finance the system through the use of "progressive, equitable funding mechanisms earmarked for health care." Employers would be required to contribute to the cost of coverage while subsidies would be provided for low- and moderate-income families and businesses that are adversely affected.

In unveiling the policy statement, Kirkland reiterated labor's opposition to the taxation of employer-provided health insurance. When asked whether the federation would reject any plan that includes such a provision, Kirkland said the question would become academic if there was a "comprehensive, publicly financed system that assured comprehensive health care and universal access to all, that was financed equitably and fairly."

Both Kirkland and Karen Ignagni, director of the federation's department of employee benefits, said the federation has not endorsed a funding mechanism but is waiting to see President Clinton's proposal and then make a recommendation. They both indicated that the federation is open to a variety of alternatives to taxing health benefits, such as a consumption tax, a payroll tax, or a dedicated tax (one that would be earmarked for health care.)☐

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OID

TREASURY OFFICIAL VOICES CONCERNS OVER ADDING MORE RULES ON HOLDER CONSISTENCY

The Treasury Department and Internal Revenue Service may be reluctant to add detailed rules in original issue discount guidance (FI-189-84) on the extent to which the federal income tax position of an issuer of a debt instrument is binding on the holder, and may instead leave those issues to holders and issuers to resolve among themselves, a Treasury official said at a Feb. 16 Internal Revenue Service hearing.

IRS issued new OID proposed rules in December, withdrawing prior proposed OID rules from 1986. The new rules are scheduled to apply to debt instruments issued on or after 60 days after the release of final rules (246 DTR G-5, SpSupp, 12/22/92).

Steven Conlon, with Chapman and Cutler, Chicago, questioned the fairness of the holder consistency rules in the proposed regulations.

The holder consistency rules are found in regulations Sections 1.1272-1(d)(2)(iii), dealing with whether a contingency with respect to a payment is likely to occur; 1.1273-2(f)(2), on the allocation of issue price between components of an investment unit; and 1.1274-3(d), on the existence of a potentially abusive situation.

Under those provisions, the federal income tax position of the issuer of debt instrument with respect to particular aspects of a transaction or debt instrument is binding on the holder, including a subsequent purchaser, of the debt instrument, unless the holder discloses in its tax return that it is taking a different tax position.

Conlon said he was concerned that certain positions taken may result in tax benefits to the issuer to the detriment of a holder of the debt instrument.

For example, positions that result in more OID or greater recognition of OID at an earlier date will generate greater or earlier OID deductions to an issuer, he said.

Those positions will have a potentially adverse corresponding income recognition effect on the holder of the debt instrument, Conlon explained.

In addition, the rules do not guarantee holders access to the information necessary to apply consistent tax return reporting positions, he said.

Sec. 1232 Proposal

Conlon proposed that the final rules adopt a modified version of rules in regulations Section 1.1232-3(b)(2)(ii)(b), which allowed the parties of a transaction to agree in writing to an assumed issue price of the debt instrument component of an investment unit on or prior to the date of purchase.

Judith Dunn, Treasury deputy tax legislative counsel for regulatory affairs, however, said Treasury assumed issuers and holders would address those issues in the documents relating to the issuance of a debt instrument.

Dunn suggested that it may be preferable for the parties to take care of that issue themselves, rather than requiring IRS and Treasury to draft detailed guidance on the issue.

In other areas, Henry Schmidt, wtih KPMG Peat Marwick, Washington, said that while the rules "logically and finally" resolved the treatment of points and other payments incident to a lending transaction, the specific method of accounting described in the proposed rules should be rewritten. He said the proposed methodology in the rules would be inflexible and burdensome to most lenders that are required to report points income.

The proposed requirement that lenders apply the loan liquidation method to de minimis OID on a loan-by-loan basis would defeat the purpose of providing simpler rules. Most lenders have applied the loan liquidation method to loans issued at a discount on an aggregate basis, Schmidt told the panel.

An aggregate approach allows lenders to determine the amount of earned discount with a single computation form information that is readily available, while a loan-by-loan requirement, however, would greatly increase burdens, he said.

Meanwhile, William Scott, with WSC Investment Services, New York, urged that the definition of qualified stated interest should be restated to equal stated interest at a rate that is less than or equal to the yield to maturity of the debt instrument, that is unconditionally payable in cash or other property, other than debt instruments of the issuer. If any of the stated interest payments are less than the yield to maturity, all of the stated interest payments should be considered non-qualified.

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