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**Letters to Senator Russell B. Long, Chairman, Senate Finance
Committee and Representative Wilbur D. Mills, Chairman, House
Committee on Ways and Means Regarding Legislation to Expand
the Definition of Deductible Moving Expenses Incurred by an
Employee**

American Institute of Certified Public Accountants. Committee on Federal Taxation

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TAX COMMITTEE COMMENTS AND RECOMMENDATIONS

Letters to Senator Russell B. Long, Chairman, Senate Finance Committee and
Representative Wilbur D. Mills, Chairman, House Committee on Ways and
Means Regarding Legislation to Expand the Definition of
Deductible Moving Expenses Incurred by an Employee

Submitted to Senator Long and Representative Mills

October 31, 1967

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AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

615 S. FLOWER ST
LOS ANGELES, CALIF

October 31, 1967

The Honorable Wilbur D. Mills,
Chairman, House Ways and Means
Committee
1134 Longworth House Office Bldg.
Washington, D. C.

Dear Mr. Mills:

On May 24, 1967 Representative James A. Burke introduced H.R. 10275 to expand the definition of deductible moving expenses incurred by an employee.

The committee on federal taxation of the American Institute of Certified Public Accountants has long been in favor of more equitable tax treatment for expenses incurred by employees who relocate. We believe that a favorable tax attitude toward employee relocation expenses would improve labor mobility, relieve the substantial economic burden on employee-taxpayers who relocate and promote business growth and opportunity.

We heartily support the objectives of H.R. 10275. At the same time we feel certain modifications should be made in it as follows:

1. Proposed Section 217(b)(1)(E) appears to permit deductions for certain expenses incident to the sale or exchange of an employee-taxpayer's former residence. Presumably, these expenses would include legal fees and brokers' commissions. Under present law it would appear that expenses of this type reduce the selling price of the old residence thereby reducing the gain on its sale (whether or not this gain is recognized for tax purposes) or increasing the nondeductible loss. To the extent deductions are claimed for such expenses under H.R. 10275, they should not be duplicated under other provisions of the Internal Revenue Code; e.g., Section 1034--Sale or Exchange of Residence and Section 1001--Determination of Amount of and Recognition of Gain or Loss.

2. Proposed Section 217(b)(1)(F) appears to permit deductions for certain expenses incident to the purchase of a residence in the area of the new principal place of work of the employee-taxpayer. Presumably, the expenses contemplated are, for example, legal fees and brokers' commissions. To the extent deductions are claimed for these expenses under H.R. 10275, the expenses should not be given effect either in determining the basis of the residence purchased in the area of the new principal place of work (Section 1012 of the Internal Revenue Code--Basis of Property-Cost) or in measuring the amount expended in the purchase of a new residence in connection with the computation of the amount of tax to be postponed (if any) on the gain from the sale of the old residence (Section 1034 of the Internal Revenue Code--Sale or Exchange of Residence).

3. H.R. 10275 does not appear to provide for the deduction of expenses incurred in renting a new residence. For example, an employee-taxpayer may pay a commission to a broker for his assistance in locating a desirable rental apartment. In the interest of equity, provision should be made for deduction of this type of expense.

4. The limits which H.R. 10275 establishes regarding the maximum amount of deductible moving expenses distinguish between "a taxpayer who was the owner of his principal place of abode" and "any other taxpayer." We believe that if it is deemed desirable to set a ceiling on the amount of deductible moving expenses, that ceiling should apply uniformly to taxpayers who own their residences and those who lease.

5. It would appear desirable for H.R. 10275 to be amended to include a definition of the word "residence." For example, does "residence" include a tenant-stockholder in a cooperative housing corporation. Section 1034(f) of the Internal Revenue Code makes the provisions of Section 1034 regarding sale or exchange of residence applicable to tenant-stockholders in a cooperative housing corporation. It is recommended that H.R. 10275 be amended to take cognizance of the provisions of Section 1034(f).

6. Finally, with respect to several of the expenses provided for in H.R. 10275 as being deductible moving expenses, (specifically, see Proposed Section 217(b)(1)(E) and 217(b)(1)(F)) the deduction is permitted if the taxpayer-employee owned, leased or purchased.

October 31, 1967

Frequently, for various personal, business and tax reasons, the spouse of the taxpayer-employee owns, leases or purchases the residence either individually or jointly with her husband. Section 1034(g) of the Internal Revenue Code recognizes this fact in connection with the sale or exchange of a residence. We believe H.R. 10275 should be amended to include the taxpayer-employee's spouse.

We would be pleased to provide any amplification of these remarks which you may deem desirable.

Sincerely,

Donald T. Burns,

Donald T. Burns, General Chairman
Committee on Federal Taxation

cc: Other Members of the
House Ways and Means
Committee



AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

615 S. FLOWER ST
LOS ANGELES, CALIF

October 31, 1967

The Honorable Russell B. Long
Chairman, Senate Finance Committee
Senate Office Building
Washington, D.C.

Dear Mr. Long:

On June 15, 1967 Senator Eugene McCarthy introduced S.1947 to expand the definition of deductible moving expenses incurred by an employee.

The committee on federal taxation of the American Institute of Certified Public Accountants has long been in favor of more equitable tax treatment for expenses incurred by employees who relocate. We believe that a favorable tax attitude toward employee relocation expenses would improve labor mobility, relieve the substantial economic burden on employee-taxpayers who relocate and promote business growth and opportunity.

We heartily support the objectives of S.1947. At the same time we feel certain modifications should be made in it as follows:

1. Proposed Section 217(b)(1)(E) appears to permit deductions for certain expenses incident to the sale or exchange of an employee-taxpayer's former residence. Presumably, these expenses would include legal fees and brokers' commissions. Under present law it would appear that expenses of this type reduce the selling price of the old residence thereby reducing the gain on its sale (whether or not this gain is recognized for tax purposes) or increasing the nondeductible loss. To the extent deductions are claimed for such expenses under S.1947 they should not be duplicated under other provisions of the Internal Revenue Code; e.g., Section 1034--Sale or Exchange of Residence and Section 1001--Determination of Amount of and Recognition of Gain or Loss.

2. Proposed Section 217(b)(1)(F) appears to permit deductions for certain expenses incident to the purchase of a residence in the area of the new principal place of work of the employee-taxpayer. Presumably, the expenses contemplated are, for example, legal fees and brokers' commissions. To the extent deductions are claimed for these expenses under S.1947, the expenses should not be given effect either in determining the basis of the residence purchased in the area of the new principal place of work (Section 1012 of the Internal Revenue Code--Basis of Property-Cost) or in measuring the amount expended in the purchase of a new residence in connection with the computation of the amount of tax to be postponed (if any) on the gain from the sale of the old residence (Section 1034 of the Internal Revenue Code--Sale or Exchange of Residence).

3. S.1947 does not appear to provide for the deduction of expenses incurred in renting a new residence. For example, an employee-taxpayer may pay a commission to a broker for his assistance in locating a desirable rental apartment. In the interest of equity, provision should be made for deduction of this type of expense.

4. The limits which S.1947 establishes regarding the maximum amount of deductible moving expenses distinguish between "a taxpayer who was the owner of his principal place of abode" and "any other taxpayer." We believe that if it is deemed desirable to set a ceiling on the amount of deductible moving expenses, that ceiling should apply uniformly to taxpayers who own their residences and those who lease.

5. It would appear desirable for S.1947 to be amended to include a definition of the word "residence." For example, does "residence" include a tenant-stockholder in a cooperative housing corporation. Section 1034(f) of the Internal Revenue Code makes the provisions of Section 1034 regarding sale or exchange of residence applicable to tenant-stockholders in a cooperative housing corporation. It is recommended that S.1947 be amended to take cognizance of the provisions of Section 1034(f).

6. Finally, with respect to several of the expenses provided for in S.1947 as being deductible moving expenses, (specifically, see Proposed Section 217(b)(1)(E) and 217(b)(1)(F)) the deduction is permitted if the taxpayer-employee owned, leased or purchased.

Frequently, for various personal, business and tax reasons, the spouse of the taxpayer-employee owns, leases or purchases the residence either individually or jointly with her husband. Section 1034(g) of the Internal Revenue Code recognizes this fact in connection with the sale or exchange of a residence. We believe S.1947 should be amended to include the taxpayer-employee's spouse.

We would be pleased to provide any amplification of these remarks which you may deem desirable.

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