110TH CONGRESS *1st Session* } HOUSE OF REPRESENTATIVES { REPORT 110–66

# KATRINA HOUSING TAX RELIEF ACT OF 2007

MARCH 23, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RANGEL, from the Committee on Ways and Means, submitted the following

# R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 1562]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1562) to amend the Internal Revenue Code of 1986 to extend and expand certain rules with respect to housing in the GO Zones, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Katrina Housing Tax Relief Act of 2007".

**SEC. 2. EXTENSION AND EXPANSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN THE GO ZONES.**

(a) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Subsection (c) of section 1400N of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2011.".

(b) EXTENSION OF PERIOD FOR TREATING GO ZONES AS DIFFICULT DEVELOPMENT AREAS.—

(1) IN GENERAL.—Subparagraph (A) of section 1400N(c)(3) of such Code is amended by striking "2006, 2007, or 2008" and inserting "the period beginning on January 1, 2006, and ending on December 31, 2010".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 1400N(c)(3)(B) of such Code is amended by striking "such period" and inserting "the period described in subparagraph (A)".

(c) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—Subsection (c) of section 1400N of such Code (relating to low-income housing credit), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—For purpose of applying section 42(i)(2)(D) to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.".

**SEC. 3. SPECIAL TAX-EXEMPT BOND FINANCING RULE FOR REPAIRS AND RECONSTRUCTIONS OF RESIDENCES IN THE GO ZONES.**

Subsection (a) of section 1400N of the Internal Revenue Code of 1986 (relating to tax-exempt bond financing) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULE FOR REPAIRS AND RECONSTRUCTIONS.—

"(A) IN GENERAL.—For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.

"(B) QUALIFIED GO ZONE REPAIR OR RECONSTRUCTION.—For purposes of subparagraph (A), the term 'qualified GO Zone repair or reconstruction' means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor's adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor's adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.

"(C) TERMINATION.—This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2011.".

**SEC. 4. GAO STUDY OF PRACTICES EMPLOYED BY STATE AND LOCAL GOVERNMENTS IN ALLOCATING AND UTILIZING TAX INCENTIVES PROVIDED PURSUANT TO THE GULF OPPORTUNITY ZONE ACT OF 2005.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the practices employed by State and local governments, and subdivisions thereof, in allocating and utilizing tax incentives provided pursuant to the Gulf Opportunity Zone Act of 2005 and this Act.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report on the findings of the study conducted under subsection (a) and shall include therein recommendations (if any) relating to such findings. The report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) CONGRESSIONAL HEARINGS.—In the case that the report submitted under this section includes findings of significant fraud, waste or abuse, each Committee specified in subsection (b) shall, within 60 days after the date the report is submitted under subsection (b), hold a public hearing to review such findings.

**SEC. 5. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.**

(a) IN GENERAL.—Section 6330(f) of the Internal Revenue Code of 1986 (relating to jeopardy and State refund collection) is amended—

(1) by striking "; or" at the end of paragraph (1) and inserting a comma,

(2) by adding "or" at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the Secretary has, on or before September 30, 2015, served a levy in connection with the collection of taxes under chapter 21, 22, 23, or 24,".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies served on or after the date that is 120 days after the date of the enactment of this Act.

**SEC. 6. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking "106.25 percent" and inserting "106.45 percent".

# I. SUMMARY AND BACKGROUND

## A. PURPOSE AND SUMMARY

### PURPOSE

The bill, H.R. 1562, the "Katrina Housing Tax Relief Act of 2007," as amended, includes provisions to extend certain housing incentives for the GO Zones.

### SUMMARY

The bill extends and expands the low income housing tax credit rules for housing in the GO Zones. Specifically, it extends the time for placing in service buildings eligible for the enhanced credit for two additional years (2009 and 2010) and modifies the carryover allocation and Federally subsidized rules for homes built with the help of the low income housing credit that are placed in service after December 31, 2005 but before January 1, 2011 in the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone. Second, the bill treats qualified GO Zone repair or reconstruction loans as qualified rehabilitation loans for purposes of the qualified mortgage bond rules. Thus, such loans financed with the proceeds of qualified mortgage bonds or Gulf Opportunity Zone bonds may be used to acquire or replace existing mortgages, without regard to the retention of existing walls rule or the 20 year rule under present law. Third, the bill requires a Government Accountability Office study of practices employed by State and local governments in allocating and utilizing tax incentives in the GO Zones. Fourth, the bill exempts levies used to collect Federal employment taxes from the present-law pre-levy collection due process hearing requirement. Finally, the bill modifies the 2012 estimated tax payments requirements for corporations with assets of at least $1 billion.

## B. BACKGROUND AND NEED FOR LEGISLATION

The recovery process in the GO Zones, including repair and replacement of homes, has taken longer than anticipated. To fully utilize tax incentives provided in 2005 for the rebuilding of homes in the GO Zones, Congress finds it appropriate to extend these tax incentives.

## C. LEGISLATIVE HISTORY

*Background*

H.R. 1562 was introduced in the House of Representatives on March 19, 2007, and was referred to the Committee on Ways and Means.

*Committee hearing*

The Subcommittee on Oversight of the Committee on Ways and Means conducted a hearing on Katrina GO Zone redevelopment tax issues on March 13, 2007. Testimony from invited witnesses was received at this hearing.

*Committee action*

The Committee on Ways and Means marked up the bill on March 21, 2007, and ordered the bill, as amended, favorably reported.

## II. EXPLANATION OF THE BILL

### A. Extension and Expansion of Low-Income Housing Credit Rules for Buildings in the GO Zones

(SEC. 2 OF THE BILL AND 1400N OF THE CODE)

*Present law*

*In general*

The low-income housing credit may be claimed over a 10-year period for the cost of building rental housing occupied by tenants having incomes below specified levels. The amount of the credit for any taxable year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. The qualified basis of any qualified low-income building for any taxable year equals the applicable fraction of the eligible basis of the building.

The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments of the credit have a present value of 70 percent of the total qualified basis. The credit percentage for newly constructed or substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent of qualified basis. These are referred to as the 70-percent credit and 30-percent credit, respectively.

*Credit cap*

A low-income housing credit is allowable only if the owner of a qualified building receives a housing credit allocation from the State or local housing credit agency. Credit cap is provided to the States annually. For 2006, the amount is $1.90 per resident with a minimum annual cap of $2,180,000 for certain small population States. These amounts are indexed for inflation. These limits do not apply in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit.

Under the Gulf Opportunity Zone Act of 2005, the otherwise applicable housing credit ceiling amount is increased for each of the States within the Gulf Opportunity Zone (Alabama, Louisiana, and Mississippi). The additional credit cap for each of the affected States equals $18.00 times the number of such State's residents within the Gulf Opportunity Zone. This increase applies to calendar years 2006, 2007, and 2008. This amount is not adjusted for

inflation. For purposes of the additional credit cap amount, the determination of population for any calendar year is made on the basis of the most recent census estimate of the resident population of the State in the Gulf Opportunity Zone released by the Bureau of the Census before August 28, 2005. In addition, under the Gulf Opportunity Zone Act of 2005, the otherwise applicable housing credit ceiling amount is increased for Florida and Texas by $3,500,000 per State. This increase applies only to calendar year 2006.

*Carryover allocation rule*

A low-income housing credit is allowable only if the owner of a qualified building receives a housing credit allocation from the State or local housing credit agency. In general, the allocation must be made not later than the close of the calendar year in which the building is placed in service. One exception to this rule is a carryover allocation. In the case of a carryover allocation, an allocation may be made to a building that has not yet been placed in service, provided that: (1) more than ten percent of the taxpayer's reasonably expected basis in the project (as of the close of the second calendar year following the calendar year of the allocation) is incurred as of the later of six months after the allocation is made or the end of the calendar year in which the allocation is made; and (2) the building is placed in service not later than the close of the second calendar year following the calendar year of the allocation.

*Enhanced credit*

Generally, buildings located in high cost areas (i.e., qualified census tracts and difficult development areas) are eligible for an enhanced credit. Under the enhanced credit, the 70-percent and 30-percent credit is increased to a 91-percent and 39-percent credit, respectively. The mechanism for this increase is an increase from 100 to 130 percent of the otherwise applicable eligible basis of a new building or the rehabilitation expenditures of an existing building. A further requirement for the enhanced credit is that no area having more than 20 percent of the population of each metropolitan statistical area or nonmetropolitan statistical area can be a difficult to develop area and therefore a high cost area eligible for this treatment.

Under the Gulf Opportunity Zone Act of 2005, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone (the, "Go Zones') are treated as high-cost areas for purposes of the low income housing credit for property placed-in-service in calendar years 2006, 2007, and 2008. Therefore, buildings located in the GO Zones are eligible for the enhanced credit. Under the enhanced credit, the 70-percent and 30-percent credits are increased to 91-percent and 39-percent credits, respectively. The 20-percent of population restriction is waived for this purpose. This enhanced credit applies regardless of whether the building receives its credit allocation under the otherwise applicable low-income housing credit cap or the additional credit cap provided under the Gulf Opportunity Zone Act of 2005. The provision to treat the GO Zones as a high-cost area is generally effective for calendar years beginning after 2005 and before 2009, and for buildings placed-in-service during such period in the case of projects that also receive financing with the pro-

ceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued after December 31, 2005.

*Definition of Federally subsidized*

In general, any newly constructed or substantially rehabilitated building is treated as Federally subsidized for any taxable year if, at any time during such taxable year or prior taxable year, there is or was outstanding any obligation the interest on which is exempt under section 103, or any below market Federal loan, the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof. Exceptions are provided from this general rule: (1) if the taxpayer elects to reduce eligible basis; and (2) for certain subsidized construction financing. For purposes of this rule, a below market Federal loan generally is defined as a loan funded, in whole or in part, with Federal funds if the interest payable on such loan is less than the applicable Federal rate in effect under section 1274(d)(1) (as of the date the loan was made). A loan is not treated as a below market Federal loan for these purposes, if it is below market solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974, as in effect on December 19, 1989 (the date of enactment of the Omnibus Budget Reconciliation Act of 1989).

*Rehabilitation expenditures*

Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated as a separate new building for purposes of the credit. In general, rehabilitation expenditures are amounts chargeable to a capital account and incurred for property (or additions or improvements to property) of a character subject to depreciation in connection with the rehabilitation of a building. Such term does not include the cost of acquiring a building (or interest therein). Other rules, including a minimum expenditure requirement, apply.

*Reasons for change*

The Committee believes that it is appropriate to respond to the extended recovery period currently being experienced in the GO Zones. Further, the Committee believes that a temporary extension of certain tax incentives for housing construction is necessary to accommodate the recovery effort. The extension of the time period within which certain tax incentives must be utilized will help provide thousands of additional units of low income rental housing in the affected areas.

*Explanation of provision*

*Carryover allocation rule*

The provision makes two modifications to the carryover allocation rule for otherwise qualifying buildings located in the GO Zones placed in service before January 1, 2011. First, it repeals the requirement that 10 percent of the taxpayer's reasonably expected basis in the project (as of the close of the second calendar year following the calendar year of the allocation) must be incurred as of the later of six months after the allocation is made or the end of

the calendar year in which the allocation is made (the "10-percent rule"). Second, it repeals the requirement that such building be placed in service not later than the close of the second calendar year following the calendar year of the allocation (the "second-year placed in service rule"). These changes apply only to allocations made in 2006, 2007, or 2008 whether made out of the regular credit cap or the additional Gulf Opportunity Zone credit cap. Therefore, an otherwise qualifying building is treated as qualifying for the credit regardless of whether the 10-percent rule or the second-year placed in service rule are satisfied if such building in one of the GO Zones: (1) receives an allocation in 2006, 2007, or 2008; and (2) is placed in service before January 1, 2011.

*Enhanced credit*

The provision extends the placed in service dates for buildings eligible for the enhanced credit available under the Gulf Opportunity Zone Act of 2005 for two additional years (2009 and 2010) for allocations made in 2006, 2007, or 2008. The provision to treat the GO Zones as a high-cost area is generally effective for calendar years beginning after December 31, 2008 and before January 1, 2011, and for buildings placed-in-service during such period in the case of projects that also receive financing with the proceeds of tax-exempt bonds subject to the private activity bond volume limit which are issued during that period. Therefore, otherwise qualifying buildings located in the GO Zones generally are eligible for the enhanced credit for allocations made in 2006, 2007, or 2008, if placed in service after December 31, 2005 and before January 1, 2011.

*Definition of Federally subsidized*

The provision modifies the definition of below market Federal loan for otherwise qualifying buildings located in the GO Zones that are placed in service during the period beginning on January 1, 2006 and ending on December 31, 2010. Under the provision, a loan is not treated as a below market Federal loan solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of: (1) section 122 of that Act; (2) any provision of the Department of Defense Appropriations Act, 2006 (Pub. L. No. 109–141); or (3) the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. No. 109–234). Therefore, such assistance will not cause an otherwise qualifying building receiving such assistance to be treated as Federally subsidized for purposes of the low income housing credit.

*Rehabilitation expenditures*

The Committee expects that the present law rules treating rehabilitation expenses as a separate new building for purposes of the low-income housing credit will apply in the case of buildings in the GO Zones which have been destroyed and, therefore, must be rehabilitated. For example, if a building receiving the low-income housing credit (with an eligible basis of $100 for credit purposes) was destroyed and the cost of replacing the building is $150, then the Committee expects that present law rules may allow the expenditures that exceed $100 but do not exceed $150 to be treated as a separate building with separate credit and compliance periods, as-

suming the rehabilitation expenditure receives a credit allocation and meets the otherwise applicable low income housing tax credit requirements.

*Effective date*

The provisions are effective upon enactment.

B. TREATMENT OF CERTAIN LOANS MADE IN THE GULF OPPORTUNITY ZONE, THE RITA GO ZONE AND THE WILMA GO ZONE AS QUALIFIED REHABILITATION LOANS

(SEC. 3 OF THE BILL AND SECS. 143 AND 1400N OF THE CODE)

*Present law*

*In general*

Under present law, gross income does not include interest on State or local bonds. State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds"). The definition of a qualified private activity bond includes a qualified mortgage bond.

*Qualified mortgage bonds*

Qualified mortgage bonds are tax-exempt bonds issued to make mortgage loans to eligible mortgagors for the purchase, improvement, or rehabilitation of owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for eligible mortgagors, purchase price limitations on the home financed with bond proceeds, and a "first-time homebuyer" requirement. In addition, bond proceeds generally only can be used for new mortgages, i.e., proceeds cannot be used to acquire or replace existing mortgages.

Exceptions to the new mortgage requirement are provided for the replacement of construction period loans, bridge loans, and other similar temporary initial financing. In addition, qualified rehabilitation loans may be used, in part, to replace existing mortgages. A qualified rehabilitation loan means certain loans for the rehabilitation of a building if there is a period of at least 20 years between the date on which the building was first used (the "20 year rule") and the date on which the physical work on such rehabilitation begins and the existing walls and basis requirements are met. The existing walls requirement for a rehabilitated building is met if 50 percent or more of the existing external walls are retained in place as external walls, 75 percent or more of the existing external walls are retained in place as internal or external walls, and 75 percent or more of the existing internal structural framework is retained in place. The basis requirement is met if expenditures for rehabilitation are 25 percent or more of the mortgagor's adjusted basis in

the residence, determined as of the later of the completion of the rehabilitation or the date on which the mortgagor acquires the residence.

Qualified mortgage bonds also may be used to finance qualified home-improvement loans. Qualified home-improvement loans are defined as loans to finance alterations, repairs, and improvements on an existing residence, but only if such alterations, repairs, and improvements substantially protect or improve the basic livability or energy efficiency of the property. Qualified home-improvement loans may not exceed $15,000, and may not be used to refinance existing mortgages.

As with most qualified private activity bonds, issuance of qualified mortgage bonds is subject to annual State volume limitations (the "State volume cap"). For calendar year 2007, the State volume cap, which is indexed for inflation, equals the greater of $85 per resident of the State, or $256.24 million. Exceptions from the State volume cap are provided for bonds issued for certain governmentally owned facilities (airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (public/private educational facilities, enterprise zone facility bonds, qualified green building/sustainable design projects, and qualified highway or surface freight transfer facility bonds).

*Gulf Opportunity Zone Bonds*

The Gulf Opportunity Zone Act of 2005 (the "Act") authorizes Alabama, Louisiana, and Mississippi (or any political subdivision of those States) to issue qualified private activity bonds to finance the construction and rehabilitation of residential and nonresidential property located in the Gulf Opportunity Zone ("Gulf Opportunity Zone Bonds"). Gulf Opportunity Zone Bonds are not subject to the State volume cap. Rather, the maximum aggregate amount of Gulf Opportunity Zone Bonds that may be issued in any eligible State is limited to $2,500 multiplied by the population of the respective State within the Gulf Opportunity Zone.

Gulf Opportunity Zone Bonds issued to finance residences located in the Gulf Opportunity Zone are treated as qualified mortgage bonds if the general requirements for qualified mortgage bonds are met. The Code also provides special rules for Gulf Opportunity Zone Bonds issued to finance residences located in the Gulf Opportunity Zone. For example, the first-time homebuyer rule is waived and the income and purchase price rules are relaxed for residences financed in the GO Zone, the Rita GO Zone, or the Wilma GO Zone. In addition, the Code increases from $15,000 to $150,000 the amount of a qualified home-improvement loan with respect to residences located in the specified disaster areas. Gulf Opportunity Zone Bonds must be issued before January 1, 2011.

*Reasons for change*

The Committee believes that it is appropriate to respond to the Iow recovery effort in the GO Zones. Further, the Committee believes that mortgage bond proceeds could be used to help expedite the rebuilding efforts. The Committee believes that these additional steps will assist the effort to reconstruct housing in the affected areas.

*Explanation of provision*

Under the provision, a qualified GO Zone repair or reconstruction loan is treated as a qualified rehabilitation loan for purposes of the qualified mortgage bond rules. Thus, such loans financed with the proceeds of qualified mortgage bonds and Gulf Opportunity Zone Bonds may be used to acquire or replace existing mortgages, without regard to the existing walls or 20 year rule under present law. The provision defines a qualified GO Zone repair or reconstruction loan as any loan used to repair damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the GO Zones (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor's adjusted basis in the residence. For purposes of the provision, the mortgagor's adjusted basis is determined as of the later of (1) the completion of the repair or reconstruction or (2) the date on which the mortgagor acquires the residence.

*Effective date*

The provision applies to owner-financing provided after the date of enactment and before January 1, 2011.

C. GAO Study of Practices Employed by State and Local Governments in Allocating and Utilizing Tax Incentives Provided Pursuant to the Gulf Opportunity Zone Tax Act of 2005 and the Katrina Housing Tax Credit Relief Act of 2007

(SEC. 4 OF THE BILL)

*Present law*

There is no requirement under present law that the Government Accountability Office ("GAO") study and report on the utilization of tax incentives in the GO Zones.

*Reasons for change*

The Committee believes it is appropriate to require oversight with respect to the tax incentives and other funds provided to assist rebuilding efforts in the GO Zones. To ensure that States and localities use best practices in regard to these incentives, the Committee has requested that an independent review be made by the GAO and a report on its findings be made to the House Ways and Means Committee and Senate Finance Committee.

*Explanation of provision*

The provision requires the GAO to conduct a study of the practices employed by State and local governments, and subdivisions thereof, in allocating and utilizing tax incentives provided pursuant to the Gulf Opportunity Act of 2005 (Pub. L. No. 109–135) and this bill.

Not more than one year after the date of enactment of this bill, the GAO must submit a report to the House Committee on Ways and Means and the Senate Committee on Finance on the findings of its study and recommendations, if any, relating to such findings. If the GAO report includes findings of significant fraud, waste or

abuse, then each of the two committees should hold public hearings to review such findings within 60 days of the submission of the report.

*Effective date*

The provision is effective on the date of enactment.

## D. Modification of Collection Due Process Procedures for Employment Tax Liabilities

(SEC. 5 OF THE BILL AND SEC. 6330 OF THE CODE)

*Present law*

A levy is the IRS's administrative authority to seize a taxpayer's property to pay the taxpayer's tax liability. The IRS is entitled to seize a taxpayer's property by levy if a Federal tax lien has attached to such property. A Federal tax lien arises automatically when (1) a tax assessment has been made, (2) the taxpayer has been given notice of the assessment stating the amount and demanding payment, and (3) the taxpayer has failed to pay the amount assessed within 10 days after the notice and demand.

In general, the IRS is required to notify taxpayers that they have a right to a fair and impartial collection due process ("CDP") hearing before a levy may be made on any property or right to property.[1] Similar rules apply with respect to notices of tax liens, although the right to a hearing arises only on the filing of a notice.[2] The CDP hearing is held by an impartial officer from the IRS Office of Appeals, who is required to issue a determination with respect to the issues raised by the taxpayer at the hearing. The taxpayer is entitled to appeal that determination to a United States Tax Court. Under present law, taxpayers are not entitled to a prelevy CDP hearing if a levy is issued to collect a Federal tax liability from a State tax refund or if collection of the Federal tax is in jeopardy. However, levies related to State tax refunds or jeopardy determinations are subject to post-levy review through the CDP hearing process.

Employment taxes generally consist of the taxes under the Federal Insurance Contributions Act ("FICA"), the tax under the Federal Unemployment Tax Act ("FUTA"), and the requirement that employers withhold income taxes from wages paid to employees ("income tax withholding").[3] Income tax withholding rates vary depending on the amount of wages paid, the length of the payroll period, and the number of withholding allowances claimed by the employee.

*Reasons for change*

Congress enacted the CDP hearing procedures to afford taxpayers adequate notice of collection activity and a meaningful hearing before the IRS may seize the taxpayer's property. However, the Committee understands that some taxpayers abuse the CDP procedures by raising frivolous arguments simply for the purpose of de-

[1] Sec. 6330(a).
[2] Sec. 6320.
[3] Secs. 3101–3128 (FICA), 3301–3311 ("FUTA"), and 3401–3404 (income tax withholding). FICA taxes consist of an employer share and an employee share, which the employer withholds from employees' wages.

laying or evading payment of taxes owed. The opportunity to delay collection of employment tax liabilities presents a greater risk to the government than with respect to other taxes because employment tax liabilities to the government increase as ongoing wage payments are made to employees. Employment taxes also are unique because they represent, in significant part, funds withheld from employee wages and held in trust for the government. Thus, the Committee believes it is appropriate to revise the CDP procedures with respect to unpaid employment taxes.

*Explanation of provision*

Under the provision, levies issued to collect Federal employment taxes are excepted from the pre-levy CDP hearing requirement. Thus, under the provision, taxpayers do not have a right to a CDP hearing before a levy is issued to collect employment taxes. However, the taxpayer is provided an opportunity for a hearing within a reasonable period of time after the levy action. Collection by levy is permitted to continue during the hearing proceedings.

*Effective date*

The provision is effective for levies issued on or after the date that is 120 days after the date of enactment and before September 30, 2015.

## E. Modification to Corporate Estimated Tax Payments

(SEC. 6 OF THE BILL)

*Present law*

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. Fiscal year taxpayers make quarterly payments on corresponding dates.

The Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA") provided that in the case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2012, (for fiscal and calendar year taxpayers, respectively) shall be increased to 106.25 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

*Reasons for change*

The Committee believes it is appropriate to adjust the corporate estimated tax payments.

*Explanation of provision*

The provision increases the 106.25 percent enacted in TIPRA to 106.45 percent.

*Effective date*

The provision is effective on the date of enactment.

## III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1562, the "Katrina Housing Tax Relief Act of 2007."

The bill, H.R. 1562, as amended, was ordered favorably reported by voice vote (with a quorum being present).

## IV. BUDGET EFFECTS OF THE BILL

### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1562 as reported.

The bill is estimated to have the following effects on Federal budget receipts for fiscal years 2007–2017:

**ESTIMATED REVENUE EFFECTS OF H.R. 1562,**
**THE "KATRINA HOUSING TAX RELIEF ACT OF 2007,"**
**AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS**

**Fiscal Years 2007 - 2017**

*[Millions of Dollars]*

| Provision | Effective | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2007-12 | 2007-17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1. Extend enhanced credit treatment for two additional years (2009 and 2010) and modify the carryover allocation and Federally subsidized rules for certain low income housing credit buildings placed in service after 12/31/05, and before 1/1/11 in the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone | DOE | --- | --- | -61 | -97 | -53 | -10 | --- | --- | --- | --- | --- | -221 | -221 |
| 2. Treatment of certain qualified GO Zone repairs or reconstruction as qualified rehabilitation for purposes of the mortgage revenue bond and Gulf Opportunity Zone bond rules | [1] | -1 | -4 | -7 | -4 | --- | --- | --- | --- | --- | --- | --- | -16 | -16 |
| 3. GAO study of certain tax incentives in the GO Zones | DOE | *No Revenue Effect* | | | | | | | | | | | | |
| 4. Modification of collection due process procedures for employment tax liabilities (sunset 9/30/15) | [2] | --- | 53 | 54 | 28 | 20 | 17 | 20 | 23 | 26 | --- | --- | 172 | 241 |
| 5. Increase corporate estimated tax payments due July through September for corporations with assets in excess of $1 billion in 2012 | DOE | --- | --- | --- | --- | --- | 107 | -107 | --- | --- | --- | --- | 107 | --- |
| **NET TOTAL** | | **-1** | **49** | **-14** | **-73** | **-33** | **114** | **-87** | **23** | **26** | **---** | **---** | **42** | **4** |

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be July 1, 2007.

Legend for "Effective" column: DOE = date of enactment

[1] Effective for owner-financing provided after the date of enactment and before January 1, 2011.
[2] Effective for levies issued on or after 120 days after the date of enactment.

### B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

### C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

[Due to time constraints, the Congressional Budget Office was unable to provide the letter before the report was filed.]

### D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

### E. PAY-GO Rule

In compliance with clause 10 of the rule XXI of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1562, as reported: the provisions of the bill affecting revenues have the net effect of not increasing the deficit or reducing the surplus for either: (1) the period comprising the current fiscal year and the five fiscal years beginning with the fiscal year that ends in the following calendar year; or (2) the period comprising the current fiscal year and the ten fiscal years beginning with the fiscal year that ends in the following calendar year.

## V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

### A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

### B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

## C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

## D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the revenue provisions of the bill contains no Federal private sector mandates or Federal intergovernmental mandates on State, local, or tribal governments.

## E. Applicability of House Rule XXI 5(b)

Clause 5 of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

## F. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses.

## G. Limited Tax Benefits

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that Rule.

## VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

# INTERNAL REVENUE CODE OF 1986

* * * * * * *

# Subtitle A—Income Taxes

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## CHAPTER 1—NORMAL TAXES AND SURTAXES

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### Subchapter Y—Short-Term Regional Benefits

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### PART II—TAX BENEFITS FOR GO ZONES

* * * * * * *

**SEC. 1400N. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.**

(a) TAX-EXEMPT BOND FINANCING.—

(1) * * *

* * * * * * *

*(7) SPECIAL RULE FOR REPAIRS AND RECONSTRUCTIONS.—*

*(A) IN GENERAL.—For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.*

*(B) QUALIFIED GO ZONE REPAIR OR RECONSTRUCTION.—For purposes of subparagraph (A), the term "qualified GO Zone repair or reconstruction" means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor's adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor's adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.*

*(C) TERMINATION.—This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2011.*

* * * * * * *

(c) LOW-INCOME HOUSING CREDIT.—

(1) * * *

* * * * * * *

(3) DIFFICULT DEVELOPMENT AREA.—

(A) IN GENERAL.—For purposes of section 42, in the case of property placed in service during **[**2006, 2007, or 2008**]** *the period beginning on January 1, 2006, and ending on December 31, 2010*, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone—

(i) * * *

* * * * * * *

(B) APPLICATION.—Subparagraph (A) shall apply only to—

(i) * * *

(ii) buildings placed in service during **[**such period**]** *the period described in subparagraph (A)* to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

* * * * * * *

*(5) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2011.*

*(6) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—For purpose of applying section 42(i)(2)(D) to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.*

**[**(5)**]** *(7)* DEFINITIONS.—Any term used in this subsection which is also used in section 42 shall have the same meaning as when used in such section.

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# Subtitle F—Procedure and Administration

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## CHAPTER 64—COLLECTION

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## Subchapter D—Seizure of Property for Collection of Taxes

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### PART I—DUE PROCESS FOR COLLECTIONS

* * * * * * *

**SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY**

(a) * * *

* * * * * * *

(f) JEOPARDY AND STATE REFUND COLLECTION.—

If—

(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy**[**; or**]**,

(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund, *or*

*(3) the Secretary has, on or before September 30, 2015, served a levy in connection with the collection of taxes under chapter 21, 22, 23, or 24,*

* * * * * * *

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## SECTION 401 OF THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

**SEC. 401. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

Notwithstanding section 6655 of the Internal Revenue Code of 1986—

(1) in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

(A) * * *

(B) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be **[**106.25 percent**]** *106.45 percent* of such amount,

* * * * * * *

## ADDITIONAL VIEWS OF MR. REYNOLDS AND MR. JOHNSON

While we do not oppose the provisions of this legislation extending certain tax relief for hurricane victims in the Gulf region, we have strong concerns about the bill's primary revenue offset and its likely impact on our nation's small businesses. In our view, the proposed modification to the collection due process ("CDP") procedures for employment tax liabilities removes an important layer of formal due process protection by eliminating the guarantee that taxpayers receive a statutory CDP hearing before the IRS can issue a levy. Under Sec. 5 of the Committee bill, a taxpayer would instead be guaranteed a CDP hearing only after the IRS has already seized the taxpayer's property. In our view, this elimination of a guaranteed pre-levy hearing constitutes an inappropriate and unfair erosion of taxpayer rights, denying "mom-and-pop" stores along Main Street, USA a formal opportunity to correct inadvertent errors or bring to light possible IRS mistakes before any government seizure of their property. Congress adopted numerous Taxpayer Bill of Rights protections in the last 10 years to prevent such abuses of seizure powers by the IRS.

This provision appears to be a well-intentioned effort to clamp down on potentially abusive practices by repeat bad actors. We do not dispute that the IRS should have appropriate authority to enforce collections against repeat offenders who intentionally try to evade their employment tax obligations. However, as presently drafted, Sec. 5 of the bill is far too broad. Rather than narrowly targeting perceived abuses, this provision denies pre-levy hearings to all taxpayers. Doing so risks dangerous IRS over-reaching with its property seizures, solely in the name of enhanced revenue collections. The purported "need" for additional federal revenue under the Democratic majority's new pay-as-you-go rules should not require—and does not justify—such sweeping disregard for fundamental taxpayer rights. Similarly, the closing of the "tax gap" cannot ensue at the expense of basic American rights and due process.

Basic fairness requires that taxpayers continue to have access to a guaranteed, formal mechanism enabling them to tell their side of the story prior to any property seizure by the IRS. Currently, the CDP hearing—enshrined in federal law—serves as this formal mechanism. Should Congress rescind the right to this pre-levy CDP hearing on such a sweeping, indiscriminate basis, it is our nation's small businesses that will undoubtedly bear the brunt of the IRS's stepped-up property seizure policies.

During the Committee's markup of the legislation, we received assurances from the Chair that the majority would work with us in an effort to resolve our concerns prior to the bill's consideration by the full House. We are hopeful that Chairman Rangel—in keeping with the bipartisan spirit he has worked so hard to cultivate during his first few months as Chair—will honor that commitment

so that this issue can be adequately addressed and the underlying legislation can move forward.

THOMAS M. REYNOLDS.
SAM JOHNSON.

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