

CLARIFICATION OF TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED BY GOVERNMENT OF AMERICAN SAMOA

MAY 20, 2002.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 1448]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1448) to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

The Amendment	Page 1
Purpose and Summary	2
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Vote of the Committee	3
Committee Oversight Findings	3
Performance Goals and Objectives	4
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Constitutional Authority Statement	5
Section-by-Section Analysis and Discussion	5
Changes in Existing Law Made by the Bill, as Reported	5
Markup Transcript	6

The amendment is as follows:
Strike all after the enacting clause and insert the following:

**SECTION 1. CLARIFICATION OF TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS
ISSUED BY GOVERNMENT OF AMERICAN SAMOA.**

(a) EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.—Subsection (b) of section 202 of Public Law 98–454 (48 U.S.C. 1670) is amended to read as follows:

“(b) EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.—

“(1) IN GENERAL.—The interest on any bond or other obligation issued by or on behalf of the Government of American Samoa shall be exempt from taxation by the Government of American Samoa and the governments of any of the several States, the District of Columbia, any territory or possession of the United States, and any subdivision thereof.

“(2) EXEMPTION APPLICABLE ONLY TO INCOME TAXES.—The exemption provided by paragraph (1) shall not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.”.

(b) EFFECTIVE DATE.—This Act shall apply to obligations issued after the date of the enactment of this Act.

PURPOSE AND SUMMARY

H.R. 1448, “To clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa,” amends current law to exempt bonds issued by the Government of American Samoa from local, State, and Federal income taxes. Currently, Federal law exempts government bonds issued by States, territories and possessions from these taxes.

BACKGROUND AND NEED FOR THE LEGISLATION

FEDERAL LAWS GOVERNING AMERICAN SAMOA

American Samoa was defined by a treaty signed by the United States, Britain, and Germany in 1899.¹ Unlike other U.S. Territories such as Guam, the Virgin Islands and Puerto Rico, Congress has not provided American Samoa with an organic act establishing its governmental institutions. Rather, American Samoa is an “unincorporated” territory whose administration was transferred from the Department of the Navy to the Department of the Interior in 1951. The Interior Secretary subsequently delegated authority to American Samoa to organize its own governmental institutions. While American Samoa ratified its own Constitution in 1966,² the Department of the Interior retains ultimate oversight over the territory.

SAMOAN GOVERNMENT BONDS

Like most States and localities, American Samoa issues government bonds to fund a variety of public projects. However, its bond raising activities are very limited. American Samoa’s last major bonding project was in 1988, when it raised \$22 million for a governmental office building.³ Currently, the Government of American Samoa owes about \$18 million in outstanding bonds.⁴ Relevant sections of the Internal Revenue Code exclude interest from State and local bonds from Federal taxation. This exemption specifically applies to the “District of Columbia and any possession of the United

¹ CIA: *The World Factbook, American Samoa*. <http://www.cia.gov/cia/publications/factbook/geos/aq.html>. [Visited February 26, 2002].

² 48 U.S.C. § 1661–1670 (2001).

³ *Samoa Seeks Further Debt Authorization*, BOND BUYER, vol. 336, no. 31122, Friday, April 20, 2001.

⁴ *American Samoan Governor Negotiates Refinancing of Loan*, PAC. ISLANDS BROAD. ASS’N NEWS SERV., Monday, December 27, 1999.

States.”⁵ This definition, however, does not explicitly encompass United States territories.

LEGISLATION PERTAINING TO THE TAX TREATMENT OF BONDS ISSUED
BY U.S. TERRITORIES OTHER THAN AMERICAN SAMOA

Bonds issued by almost all U.S. territories are exempt from Federal, State, and local taxes. For example, Federal statute provides that “all bonds issued by the government of Guam or by its authority shall be exempt . . . from taxation by the Government of the United States or by the government of Guam, or by any State or Territory of any political subdivision thereof, or by the District of Columbia.”⁶ Bonds issued by the Government of the Northern Mariana Islands are also “exempt, as to principal and interest, from taxation by the United States, or by any State [or locality] . . . or the District of Columbia.”⁷ In addition, Federal law provides that bonds issued by the Government of the Virgin Islands or any of its municipalities are exempt from State and local taxes.⁸ Finally, interest on bonds issued by the government of Puerto Rico are immune from State and Federal taxation.⁹ H.R. 1448 was introduced by Representative Eni Faleomovaega to harmonize the taxing status of Samoan government bonds with other States, territories, and possessions.

HEARINGS

The Committee’s Subcommittee on Commercial and Administrative Law held a hearing on H.R. 1448 on March 6, 2002.

COMMITTEE CONSIDERATION

On March 6, 2002, the Subcommittee on Commercial and Administrative Law met in open session and ordered favorably reported the bill H.R. 1448 by voice vote, a quorum being present. On May 8, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 1448, with amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 1448.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

⁵ 48 U.S.C. § 103 (c)(2) (2001).

⁶ 48 U.S.C. § 1423(a) (2000).

⁷ *Id.* § 1801.

⁸ *Id.* § 1403.

⁹ *Id.* at § 745.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 1448 does not authorize funding. Therefore, clause 3(c) of rule XIII of the Rules of the House of Representatives is inapplicable.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the H.R. 3180, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 10, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1448, a bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for Federal costs), who can be reached at 226-2860, and Marjorie Miller (for the State and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 1448—A bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa.

H.R. 1448 would amend current law to make bonds issued by the government of American Samoa exempt from State, local, and territorial income tax. The bill would not affect Federal taxes, and CBO estimates that implementing H.R. 1448 would have no impact on the Federal budget. Because the bill would not affect direct spending or governmental receipts, pay-as-you-go procedures would not apply. The bill contains no private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 1448 contains an intergovernmental mandate as defined in UMRA, but CBO estimates that the cost of the mandate would be well below the threshold established in that act (\$58 million in 2002, adjusted annually for inflation). This mandate is a preemption of State and local taxing authority. The bill would exempt the

interest on any bond issued by the government of American Samoa from State, local, and territorial taxes. Because American Samoa generally has only a few million dollars in bonds outstanding at any time, this preemption would not have a significant cost for State, local, or territorial governments. Enacting this bill would benefit the government of American Samoa by reducing its borrowing costs.

On April 5, 2002, CBO transmitted a cost estimate for H.R. 1448 as ordered reported by the House Committee on Resources on March 20, 2002. The two versions of the legislation are identical, as are the cost estimates.

The CBO staff contacts for this estimate are Matthew Pickford (for Federal costs), who can be reached at 226–2860, and Marjorie Miller (for the State and local impact), who can be reached at 225–3220. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Clarification of Tax Treatment of Bonds and Other Obligations Issued by Government of American Samoa.

This section exempts bonds issued by the Government of American Samoa from Federal, State, and local taxes income taxes. This exemption does not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

Finally, this section repeals section 202 of Public Law 98–454 (48 U.S.C. 1670) and makes the legislation effective upon its enactment into law.

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 italics, existing law in which no change is proposed is shown in roman):

SECTION 202 OF THE ACT OF OCTOBER 5, 1984

(Public Law 98–454)

AN ACT To enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

SEC. 202. (a) * * *

[(b)(1) Except as provided in paragraph (2), any obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

[(2) Any obligation issued under subsection (a) shall not be exempt from State of local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

[(3) For purposes of this subsection—

[(A) The term “State” includes the District of Columbia.

[(B) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.]]

(b) *EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.*—

(1) *IN GENERAL.*—*The interest on any bond or other obligation issued by or on behalf of the Government of American Samoa shall be exempt from taxation by the Government of American Samoa and the governments of any of the several States, the District of Columbia, any territory or possession of the United States, and any subdivision thereof.*

(2) *EXEMPTION APPLICABLE ONLY TO INCOME TAXES.*—*The exemption provided by paragraph (1) shall not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.*

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, MAY 8, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. [Presiding.] The Committee will be in order.

[Intervening business.]

The next item on the agenda is H.R. 1448 to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa. The Chair recognizes the gentleman from Georgia, Mr. Barr, Chairman of the Subcommittee on Commercial and Administrative Law, for a motion.

Mr. BARR. Mr. Chairman, the Subcommittee on Commercial and Administrative Law reports favorably the bill H.R. 1448 with a single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill be considered as read and open for amendment at any point. And the Subcommittee amendment in the nature of a substitute, which the Members have before them, will be considered as read and be considered as the original text for purposes of amendment.

[The amendment follows:]

**SUBCOMMITTEE AMENDMENT IN THE NATURE OF
A SUBSTITUTE TO H.R. 1448
(AS ORDERED REPORTED BY THE SUBCOMMITTEE
ON COMMERCIAL AND ADMINISTRATIVE LAW ON
MARCH 6, 2002)**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. CLARIFICATION OF TAX TREATMENT OF BONDS**
2 **AND OTHER OBLIGATIONS ISSUED BY GOV-**
3 **ERNMENT OF AMERICAN SAMOA.**

4 (a) EXEMPTION OF ALL BONDS FROM INCOME TAX-
5 ATION BY STATE AND LOCAL GOVERNMENTS.—Sub-
6 section (b) of section 202 of Public Law 98-454 (48
7 U.S.C. 1670) is amended to read as follows:

8 “(b) EXEMPTION OF ALL BONDS FROM INCOME
9 TAXATION BY STATE AND LOCAL GOVERNMENTS.—

10 “(1) IN GENERAL.—The interest on any bond
11 or other obligation issued by or on behalf of the
12 Government of American Samoa shall be exempt
13 from taxation by the Government of American
14 Samoa and the governments of any of the several
15 States, the District of Columbia, any territory or
16 possession of the United States, and any subdivision
17 thereof.

1 “(2) EXEMPTION APPLICABLE ONLY TO INCOME
2 TAXES.—The exemption provided by paragraph (1)
3 shall not apply to gift, estate, inheritance, legacy,
4 succession, or other wealth transfer taxes.”.
5 (b) EFFECTIVE DATE.—This Act shall apply to obli-
6 gations issued after the date of the enactment of this Act.

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Georgia, Mr. Barr, to strike the last word.

Mr. BARR. Thank you, Mr. Chairman.

Introduced by Representative Faleomavaega of American Samoa, H.R. 1448 amends Federal law to exempt bonds issued by the government of American Samoa from Federal, State, and local taxation.

Government bonds issued by States and U.S. territories, such as Guam, Puerto Rico, and the U.S. Virgin Islands, currently enjoy this exemption. Thus, the purpose of H.R. 1448 is not to craft a special exception to a general rule but to harmonize the tax treatment of American Samoan bonds and thereby enable the Samoan government to better attend to the public needs of its residents.

An amendment to limit this exemption strictly to government-issued bonds was reported by the Subcommittee. The House Resources Committee has reported identical legislation, and I urge support of this noncontroversial but necessary measure today.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. BARR. I yield back.

Chairman SENSENBRENNER. Does the gentleman from North Carolina wish to say anything? Good.

Without objection—

Mr. WATT. Let the record reflect my thumbs-up, Mr. Chairman.

Chairman SENSENBRENNER.—all Members by insert opening statements at this point in time.

Are there amendments?

The gentleman from California.

Mr. ISSA. I have no amendment. I have a statement and would like to put it in the record.

Chairman SENSENBRENNER. And move to strike the last word.

Mr. ISSA. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. ISSA. Thank you, Mr. Chairman.

I'd like to thank you and the Ranking Member for holding this markup of H.R. 1448. I welcome the opportunity to discuss the financial obligations as they relate to the government of American Samoa.

In January 1997, my constituent, Robert Shaffer, signed a special services employment contract with the government of American Samoa and as executive director of the Centennial 2000 program.

In August 2000, Mr. Shaffer was informed by the Governor's office that his employment contract had been terminated. As a result, reimbursements, per diem, travel expense, and salary were never fully paid under the terms of this contract. To date, Mr. Shaffer is still owed approximately \$90,000 by the government of American Samoa for services rendered.

On February 4th of this year, I sent a letter to the Governor, requesting assistance on behalf of Mr. Shaffer. Two months later, I received a letter from the Governor that cited various settlement offers that are significantly less than the \$90,000 owed, although there was no claim of a lesser amount actually owed.

Additionally, the settlement offer suggested that Mr. Shaffer keep the 3,000 centennial books that remained in his possession.

Let me tell you, the market for the American Samoa centennial book in southern California is small at best. In other words, this offer was clearly unacceptable and not in good faith.

Mr. Chairman, I have a problem with this Committee supporting legislation that will benefit this island territory when they are unable or unwilling to meet their financial obligation with their vendors.

I will support passage of 1448. However, I want the Governor to know that, regardless of the distance from the United States, he is still accountable for his actions. And I want him to know that this Congressman is putting him on notice.

Mr. Chairman, thank you for this opportunity to make an opening statement. And I look forward to the bill's passage.

[The prepared statement of Mr. Issa follows:]

PREPARED STATEMENT OF THE HONORABLE DARRELL ISSA, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and Ranking Member Conyers, I thank you for holding a markup on H.R. 1448. I welcome the opportunity to discuss the financial obligations as they relate to government of American Samoa.

In January of 1997, my constituent, Robert Shaffer signed a special services employment contract with the government of American Samoa as Executive Director of the Centennial 2000 program. In August of 2000, Mr. Shaffer was informed by the Governor's office that his employment and contract had been terminated. As a result, reimbursements, per diem, travel expenses, and salary were never fully paid under the terms of the contract. To date, Mr. Shaffer is still owed approximately \$90,000 by the government of American Samoa for services rendered.

On February 4th of this year, I sent a letter to the Governor of American Samoa, Tauese Sunia, requesting his assistance on behalf of Mr. Shaffer. Two months later, I received a letter from the Governor that cited various settlement offers that are significantly less than the \$90,000 owed to Mr. Shaffer, including a preposterous proposal that compensation should come from the proceeds of the sale of over 3,000 Centennial books that remain in Robert Shaffer's possession. Let me tell you, the market for American Samoa Centennial books in Southern California is very small. In other words, this offer is unacceptable.

Mr. Chairman, I have a problem with this committee supporting legislation that will benefit this island territory when they are unable to meet their financial obligations with their vendors. I will support passage of H.R. 1448. However, I want Governor Sunia to know that regardless of the distance to the United States, he is still accountable for his actions, and I want him to know that this Congressman is putting him on notice.

Thank you Mr. Chairman for holding this markup.

Chairman SENSENBRENNER. Are there amendments? If there are no amendments, the question is on the amendment in the nature of a substitute as reported by the Subcommittee.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the Subcommittee amendment in the nature of a substitute is agreed to.

The Chair notes the presence of a reporting quorum.

The question now occurs on the motion to report the bill H.R. 1448 favorably, as amended by the amendment in the nature of a substitute.

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes. And all

Members will be given 2 days, as provided by House rules, in which to submit additional, dissenting, supplemental, or minority views.

