The Contemporary Tax Journal

Volume 9
Issue 1 *The Contemporary Tax Journal Volume 9, No. 1 – Winter 2020*

Article 11

3-23-2020

Complete America's Great Trails Act S.809 (116th Congress)

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Tax Policy Analysis

Complete America's Great Trails Act

S.809 (116th Congress)

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On March 14, 2019, Senator Richard Blumenthal (D-CT) introduced the Complete America's Great Trails Act (S.809, 116th Congress) in the Senate and referred it to the Committee on Finance. Per Senator Blumenthal and other bill sponsors, the purpose of this proposal is to "to help expand and preserve National Scenic Trails."[1]

In general, S.809 provides an income tax credit to taxpayers who provide conservation easements to certified National Scenic Trails (or a portion thereof) and its trail corridor. There are some limitations and requirements to qualify for this tax credit. First, the length of the trail must be at least 200 miles long with a trail corridor between 150 and 2,640 feet wide on each side of the trail. There are some exceptions to these limitations, such as for buildings and structures near the trail. Also, the election is irrevocable. However, the bill does not specify how to make the election (presumably the IRS would provide the procedure). The credit can be carried forward but for no more than 10 years after the tax year in which the credit is generated.

The Department of the Interior, along with the Treasury Department is to issue a report within four years of enactment to address whether the credit increased the number of National Scenic Trails and the costs of doing so.

Next, S.809 is analyzed using the Guiding Principles of Good Tax Policy outlined in the AICPA Tax Policy Concept Statement No. 1.[2]

Principles of Good Tax Policy Worksheet

Criteria	Does the proposal satisfy the criteria? (explain)	Result

[1] Press release of Senator Feinstein, March 14, 2019; https://www.feinstein.senate.gov/public/index.cfm/2019/3/feinstein-blumenthal-warren-baldwin-and-connolly-introduce-bicameral-complete-america-s-great-trails-act.

[2] American Institute of Certified Public Accountants (AICPA) Tax Division. (January2017). *Tax Policy Concept Statement No. 1—Guiding Principles of Good Tax Policy: A Framework for Evaluation of Tax Proposals*; available at https://www.aicpa.org/ADVOCACY/TAX/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf.

Equity and Fairness – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer's income for different income levels of taxpayers.	*Horizontal equity:* Horizontal equity requires similarly situated taxpayers to be taxed similarly. U.S taxpayers with similar income but who own similar asset(s) in different locations will receive a different credit based on the fair market value (FMV) of the contribution. For, example, the FMV of similar real property assets significantly differs in California and Missouri. In addition, taxpayers of similar income with properties of equal value to donate will not receive equal tax benefits if one is eligible for the new credit and the other is not. Therefore, the bill does not meet the principle of horizontal equity. *Vertical equity:* The vertical equity principle is satisfied when taxpayers with higher income pay more tax than taxpayers with lower income. S.809 will provide a greater benefit to higher income taxpayers with eligible property to donate despite the benefit being a tax credit. Higher income taxpayers are more likely to have eligible property and with a high value relative to other taxpayers. There is no cap on the credit, and it could present a significant tax reduction for high income taxpayers with high-value eligible property.	-
Certainty – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly.	The bill specifies that taxpayers can claim a credit in the year of the National Scenic Trail conservation contribution. The amount is equal to the FMV of the National Scenic Trail conservation contribution. Also, the bill provides information about limitations. Since the eligible property is likely to be unique, valuation might be difficult with some uncertainty as to acceptance by the IRS. This is why taxpayers may not feel confident on how to apply the rule correctly. Based on the analysis above, the principle of certainty can be considered partially met.	+/-
Convenience of payment – Does the rule result in tax being paid at a time that is	The bill involves information about the tax credit which does not affect the due date to pay taxes or methods to pay them. Also, the credit can make it easier for taxpayers to pay their taxes as it decreases the amount owed.	+

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convenient for the payor?	This is why the bill satisfies the convenience of payment principle.	
Effective Tax Administration – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers?	This bill is complex because it contains limitations and special definitions. This can increase costs for both the government and taxpayers. For example, the cost of an appraisal to determine the FMV of donated property can be significant for the taxpayers. And the IRS, in turn, may need to increase the number of revenue agents necessary for the audit process. Also, taxpayers may spend more money and time on services of tax practitioners as it can be difficult for them to comply with the credit requirements. For instance, the burden of keeping track of the carryforward amount can be significant for a taxpayer particularly is donations are made in more than one year. In addition, there may be a need to update tax return forms and publications which can be costly and time consuming for the IRS. Based on this analysis, the bill does not meet the principle of effective tax administration.	-
Information Security – Will taxpayer information be protected from both unintended and improper disclosure?	The only new information the bill introduces is about National Scenic Trail conservation contribution. Other personal information such as taxpayers' Social Security number and address, for example, must already be reported on their tax returns. In general, it is unlikely that this information will be misused due to unintended and improper disclosure of taxpayer information.	N/A
Simplicity - Can taxpayers understand the rule and comply with it correctly and in a cost-efficient manner?	The calculation of the credit amount may be complicated as definitions and the determination of FMV may be unclear for the taxpayers. Also, the bill provides information about limitations and exceptions that also makes it difficult to understand the rule. In addition, the election process may be confusing for taxpayers because there is no information on how to make the election. This is why the probability of errors may increase. Also, adding a new credit to the tax	-

	system adds to complexity in calculations and addressing a taxpayer's overall donation strategy for tax planning. Therefore, the bill does not meet the principle of simplicity.	
Neutrality – Is the rule unlikely to change taxpayer behavior?	The proposed bill will affect taxpayers' decisions about how to utilize their property. The proposal encourages taxpayers to donate their eligible property and obtain the credit. This affects decisions about which organization the taxpayers make contributions to and what type of donation the taxpayer will make. For example, without this proposed new credit, taxpayers might prefer to grant their property to a different charitable organization or make cash contributions. Thus, the bill influences taxpayers' decisions, and the neutrality principle is not met. Of course, the sponsors of the bill intend to use the credit to influence decisions of taxpayers who own credit-eligible property.	-
Economic growth and efficiency – Will the rule not unduly impede or reduce the productive capacity of the economy?	The bill could have a positive impact on completing, extending, and increasing the number of National Scenic Trails. This could positively benefit the economy such as through tourism to parks. The costs to the government though of the new credit might require tax increases elsewhere which might adversely affect the economy. Savings for taxpayers who claim the credit might be used for investment that might stimulate the economy. Thus, the bill has mixed results in terms of meeting the economic growth and efficiency principle.	+/-
Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others?	It is likely that taxpayers can get the information about the bill from realtors and tax professionals. But there is no guarantee that others know if a taxpayer owns eligible property. Thus, the transparency principle is partially met.	+/-
Minimum tax gap – Is the likelihood of	Procedural rules needed to attain compliance are likely to be complicated. It is not straightforward for taxpayers to	

intentional and unintentional non-compliance likely to be low?	determine the FMV of their property and the possibility of overvaluation is high given the uniqueness of the eligible property. The likelihood of intentional and unintentional noncompliance may be high. The bill does not meet the principle of minimum tax gap.	-
Accountability to taxpayers – Will taxpayers know the purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule?	The bill has a strong intention to encourage taxpayers to make a National Scenic Trail conservation contribution in order to complete, extend, and increase the number of National Scenic Trails. The rationale for setting requirements and the purpose of limitations can be clear for the taxpayers. However, taxpayers need information on why this credit is needed rather than just allowing the current deduction rule to apply for charitable contributions. In addition, taxpayers won't know why the buildout of the trails is pursued via a tax credit rather than the government purchasing the desired land. Taxpayers will need information as to the rationale and effect of the proposed credit.	-
Appropriate government revenues – Will the government be able to determine how much tax revenue will likely be collected and when?	The government has access to the data about FMV of property qualified for this credit. However, it is difficult to forecast whether the bill would significantly influence taxpayers' behavior and how many taxpayers will decide to make a qualified contribution. That is why it is difficult to calculate and produce reasonable estimations on the potential revenue. Thus, the bill does not meet the principle of appropriate government revenues.	-

Based on this analysis, S.809 has a positive rating for the principle of convenience of payment, and a mixed positive/negative rating for a few principles. Several key principles, including equity, effective tax administration, simplicity, minimum tax gap, and appropriate government revenues are not met.

Suggestions for improvement (although overall principles of good tax policy are not well met for the proposal):

1. Consider the election rule and add more information about how to make the election. This will improve how the proposal meets the simplicity principle.

2. AGI limitations can help to better meet the principle of vertical equity. For example, if the taxpayer's AGI does not exceed a certain threshold, this taxpayer is eligible to claim a full tax credit. If the taxpayer's AGI exceeds the threshold, the credit must be reduced. This limitation will allow taxpayers with a lower AGI to receive a higher tax credit and pay less taxes than taxpayers with a higher AGI.

3. To better meet transparency and accountability to taxpayers, provide an explanation of why the credit is needed rather than the existing charitable contribution deduction rules and why this type of property donation warrants a more significant tax benefit than other types of donations, as well as why the tax system is used rather than the government purchasing appropriate land.