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To amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 1993

Mr. MATSUI (for himself, Mr. RANGEL, Mr. JACOBS, Mrs. KENNELLY, Mr. CARDIN, Mr. NEAL of Massachusetts, and Mr. MINETA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to governmental bonds.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nonprofit Organiza-
5 tions Tax-Exempt Bond Reform Act of 1993”.

6 **SEC. 2. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO**
7 **GOVERNMENTAL BONDS.**

8 (a) IN GENERAL.—Subsection (a) of section 150 of
9 the Internal Revenue Code of 1986 (relating to definitions

1 and special rules) is amended by striking paragraphs (2)
2 and (4), by redesignating paragraphs (5) and (6) as para-
3 graphs (4) and (5), respectively, and by inserting after
4 paragraph (1) the following new paragraph:

5 “(2) EXEMPT PERSON.—

6 “(A) IN GENERAL.—The term ‘exempt per-
7 son’ means—

8 “(i) a governmental unit, or

9 “(ii) a 501(c)(3) organization, but
10 only with respect to its activities which do
11 not constitute unrelated trades or busi-
12 nesses as determined by applying section
13 513(a).

14 “(B) GOVERNMENTAL UNIT NOT TO IN-
15 CLUDE FEDERAL GOVERNMENT.—The term
16 ‘governmental unit’ does not include the United
17 States or any agency or instrumentality thereof.

18 “(C) 501(c)(3) ORGANIZATION.—The term
19 ‘501(c)(3) organization’ means any organization
20 described in section 501(c)(3) and exempt from
21 tax under section 501(a).”

22 (b) REPEAL OF QUALIFIED 501(c)(3) BOND DES-
23 IGNATION.—Section 145 of such Code (relating to quali-
24 fied 501(c)(3) bonds) is repealed.

25 (c) CONFORMING AMENDMENTS.—

1 (1) Paragraph (3) of section 141(b) of such
2 Code is amended—

3 (A) by striking “government use” in sub-
4 paragraph (A)(ii)(I) and subparagraph (B)(ii)
5 and inserting “exempt person use”,

6 (B) by striking “a government use” in sub-
7 paragraph (B) and inserting “an exempt person
8 use”,

9 (C) by striking “related business use” in
10 subparagraph (A)(ii)(II) and subparagraph (B)
11 and inserting “related private business use”,

12 (D) by striking “RELATED BUSINESS USE”
13 in the heading of subparagraph (B) and insert-
14 ing “RELATED PRIVATE BUSINESS USE”, and

15 (E) by striking “GOVERNMENT USE” in the
16 heading thereof and inserting “EXEMPT PERSON
17 USE”.

18 (2) Subparagraph (A) of section 141(b)(6) of
19 such Code is amended by striking “a governmental
20 unit” and inserting “an exempt person”.

21 (3) Paragraph (7) of section 141(b) of such
22 Code is amended—

23 (A) by striking “government use” and in-
24 serting “exempt person use”, and

1 (B) by striking “GOVERNMENT USE” in
2 the heading thereof and inserting “EXEMPT
3 PERSON USE”.

4 (4) Section 141(b) of such Code is amended by
5 striking paragraph (9).

6 (5) Paragraph (1) of section 141(c) of such
7 Code is amended by striking “governmental units”
8 and inserting “exempt persons”.

9 (6) Section 141 of such Code is amended by re-
10 designating subsection (e) as subsection (f) and by
11 inserting after subsection (d) the following new
12 subsection:

13 “(e) CERTAIN ISSUES USED TO PROVIDE RESIDEN-
14 TIAL RENTAL HOUSING FOR FAMILY UNITS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), for purposes of this title, the term ‘pri-
17 vate activity bond’ includes any bond issued as part
18 of an issue if any portion of the net proceeds of the
19 issue are to be used (directly or indirectly) by an ex-
20 empt person described in section 150(a)(2)(A)(ii) to
21 provide residential rental property for family units.

22 “(2) EXCEPTION FOR BONDS USED TO PROVIDE
23 QUALIFIED RESIDENTIAL RENTAL PROJECTS.—
24 Paragraph (1) shall not apply to any bond issued as
25 part of an issue if the portion of such issue which

1 is to be used as described in paragraph (1) is to be
2 used to provide—

3 “(A) a residential rental property for fam-
4 ily units if the first use of such property is pur-
5 suant to such issue,

6 “(B) qualified residential rental projects
7 (as defined in section 142(d)), or

8 “(C) property which is to be substantially
9 rehabilitated in a rehabilitation beginning with-
10 in the 2-year period ending 1 year after the
11 date of the acquisition of such property.

12 “(3) SUBSTANTIAL REHABILITATION.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), rules similar to the rules of
15 section 47(c)(1)(C) shall apply in determining
16 for purposes of paragraph (2)(C) whether prop-
17 erty is substantially rehabilitated.

18 “(B) EXCEPTION.—For purposes of sub-
19 paragraph (A), clause (ii) of section 47(c)(1)(C)
20 shall not apply, but the Secretary may extend
21 the 24-month period in section 47(c)(1)(C)(i)
22 where appropriate due to circumstances not
23 within the control of the owner.

24 “(4) CERTAIN PROPERTY TREATED AS NEW
25 PROPERTY.—Solely for purposes of determining

1 under paragraph (2)(A) whether the 1st use of prop-
2 erty is pursuant to tax-exempt financing—

3 “(A) IN GENERAL.—If—

4 “(i) the 1st use of property is pursu-
5 ant to taxable financing,

6 “(ii) there was a reasonable expecta-
7 tion (at the time such taxable financing
8 was provided) that such financing would be
9 replaced by tax-exempt financing, and

10 “(iii) the taxable financing is in fact
11 so replaced within a reasonable period
12 after the taxable financing was provided,

13 then the 1st use of such property shall be treat-
14 ed as being pursuant to the tax-exempt financ-
15 ing.

16 “(B) SPECIAL RULE WHERE NO OPERAT-
17 ING STATE OR LOCAL PROGRAM FOR TAX-EX-
18 EMPT FINANCING.—If, at the time of the 1st
19 use of property, there was no operating State or
20 local program for tax-exempt financing of the
21 property, the 1st use of the property shall be
22 treated as pursuant to the 1st tax-exempt fi-
23 nancing of the property.

24 “(C) DEFINITIONS.—For purposes of this
25 paragraph—

1 “(i) TAX-EXEMPT FINANCING.—The
2 term ‘tax-exempt financing’ means financ-
3 ing provided by tax-exempt bonds.

4 “(ii) TAXABLE FINANCING.—The
5 term ‘taxable financing’ means financing
6 which is not tax-exempt financing.”

7 (7) Section 141(f) of such Code, as redesignig-
8 nated by paragraph (6), is amended—

9 (A) by adding “or” at the end of subpara-
10 graph (E),

11 (B) by striking “, or” at the end of sub-
12 paragraph (F), and inserting in lieu thereof a
13 period, and

14 (C) by striking subparagraph (G).

15 (8) The last sentence of section 144(b)(1) of
16 such Code is amended by striking “(determined”
17 and all that follows to the period.

18 (9) Clause (ii) of section 144(c)(2)(C) of such
19 Code is amended by striking “governmental unit”
20 and inserting “exempt person”.

21 (10) Section 146(g) of such Code is amended—

22 (A) by striking paragraph (2), and

23 (B) by redesignating the remaining para-
24 graphs after paragraph (1) as paragraphs (2)
25 and (3), respectively.

1 (11) The heading of section 146(k)(3) of such
2 Code is amended by striking “GOVERNMENTAL” and
3 inserting “EXEMPT PERSON”.

4 (12) The heading of section 146(m) of such
5 Code is amended by striking “GOVERNMENT” and
6 inserting “EXEMPT PERSON”.

7 (13) Subsection (h) of section 147 of such Code
8 is amended to read as follows:

9 “(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE
10 REVENUE BONDS AND QUALIFIED STUDENT LOAN
11 BONDS.—Subsections (a), (b), (c), and (d) shall not apply
12 to any qualified mortgage bond, qualified veterans’ mort-
13 gage bond, or qualified student loan bond.”

14 (14) Section 147 of such Code is amended by
15 striking paragraph (4) of subsection (b) and redesign-
16 ating paragraph (5) of such subsection as para-
17 graph (4).

18 (15) Subparagraph (F) of section 148(d)(3) of
19 such Code is amended—

20 (A) by striking “or which is a qualified
21 501(c)(3) bond”, and

22 (B) by striking “GOVERNMENTAL USE
23 BONDS AND QUALIFIED 501(C)(3)” in the heading
24 thereof and inserting “EXEMPT PERSON”.

1 (16) Subclause (II) of section 148(f)(4)(B)(ii)
2 of such Code is amended by striking “(other than a
3 qualified 501(c)(3) bond)”.

4 (17) Clause (iv) of section 148(f)(4)(C) of such
5 Code is amended—

6 (A) by striking “a governmental unit or a
7 501(c)(3) organization” each place it appears
8 and inserting “an exempt person”, and

9 (B) by striking “qualified 501(c)(3)
10 bonds,”.

11 (18) Subparagraph (A) of section 148(f)(7) of
12 such Code is amended by striking “(other than a
13 qualified 501(c)(3) bond)”.

14 (19) Paragraph (2) of section 149(d) of such
15 Code is amended—

16 (A) by striking “(other than a qualified
17 501(c)(3) bond)”, and

18 (B) by striking “CERTAIN PRIVATE” in the
19 heading thereof and inserting in lieu thereof
20 “PRIVATE”.

21 (20) Section 149(e)(2) of such Code is amend-
22 ed—

23 (A) by striking “which is not a private ac-
24 tivity bond” in the second sentence and insert-

1 ing “which is a bond issued for an exempt per-
2 son described in section 150(a)(2)(A)(i)”, and

3 (B) by adding at the end thereof the fol-
4 lowing new sentence: “Subparagraph (D) shall
5 not apply to any bond which is not a private ac-
6 tivity bond but which would be such a bond if
7 the 501(c)(3) organization using the proceeds
8 thereof were not an exempt person.”

9 (21) The heading of subsection (b) of section
10 150 of such Code is amended by striking “TAX-EX-
11 EMPT PRIVATE ACTIVITY BONDS” and inserting
12 “CERTAIN TAX-EXEMPT BONDS”.

13 (22) Paragraph (3) of section 150(b) of such
14 Code is amended—

15 (A) by inserting “owned by a 501(c)(3) or-
16 ganization” after “any facility” in subpara-
17 graph (A),

18 (B) by striking “any private activity bond
19 which, when issued, purported to be a tax-ex-
20 empt qualified 501(c)(3) bond” in subpara-
21 graph (A) and inserting “any bond which, when
22 issued, purported to be a tax-exempt bond, and
23 which would be a private activity bond if the
24 501(c)(3) organization using the proceeds
25 thereof were not an exempt person”, and

1 (C) by striking the heading thereof and in-
2 serting “BONDS FOR EXEMPT PERSONS OTHER
3 THAN GOVERNMENTAL UNITS.—”.

4 (23) Paragraph (5) of section 150(b) of such
5 Code is amended—

6 (A) by striking “private activity” in sub-
7 paragraph (A),

8 (B) by inserting “and which would be a
9 private activity bond if the 501(c)(3) organiza-
10 tion using the proceeds thereof were not an ex-
11 empt person” after “tax-exempt bond” in sub-
12 paragraph (A),

13 (C) by striking subparagraph (B) and in-
14 serting the following new subparagraph:

15 “(B) such facility is required to be owned
16 by an exempt person, and”, and

17 (D) by striking “GOVERNMENTAL UNITS
18 OR 501(C)(3) ORGANIZATIONS” in the heading
19 thereof and inserting “EXEMPT PERSONS”.

20 (24) Section 150 of such Code is amended by
21 adding at the end thereof the following new sub-
22 section:

23 “(f) CERTAIN RULES TO APPLY TO BONDS FOR EX-
24 EMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

1 “(1) IN GENERAL.—Nothing in section 103(a)
2 or any other provision of law shall be construed to
3 provide an exemption from Federal income tax for
4 interest on any bond which would be a private activ-
5 ity bond if the 501(c)(3) organization using the pro-
6 ceeds thereof were not an exempt person unless such
7 bond satisfies the requirements of subsections (b)
8 and (f) of section 147.

9 “(2) SPECIAL RULE FOR POOLED FINANCING
10 OF 501(C)(3) ORGANIZATION.—

11 “(A) IN GENERAL.—At the election of the
12 issuer, a bond described in paragraph (1) shall
13 be treated as meeting the requirements of sec-
14 tion 147(b) if such bond meets the require-
15 ments of subparagraph (B).

16 “(B) REQUIREMENTS.—A bond meets the
17 requirements of this subparagraph if—

18 “(i) 95 percent or more of the net
19 proceeds of the issue of which such bond is
20 a part are to be used to make or finance
21 loans to 2 or more 501(c)(3) organizations
22 or governmental units for acquisition of
23 property to be used by such organizations,

24 “(ii) each loan described in clause (i)
25 satisfies the requirements of section 147(b)

1 (determined by treating each loan as a sep-
2 arate issue),

3 “(iii) before such bond is issued, a de-
4 mand survey was conducted which shows a
5 demand for financing greater than an
6 amount equal to 120 percent of the
7 lendable proceeds of such issue, and

8 “(iv) 95 percent or more of the net
9 proceeds of such issue are to be loaned to
10 501(c)(3) organizations or governmental
11 units within 1 year of issuance and, to the
12 extent there are any unspent proceeds
13 after such 1-year period, bonds issued as
14 part of such issue are to be redeemed as
15 soon as possible thereafter (and in no
16 event later than 18 months after issuance).

17 A bond shall not meet the requirements of this
18 subparagraph if the maturity date of any bond
19 issued as part of such issue is more than 30
20 years after the date on which the bond was is-
21 sued (or, in the case of a refunding or series of
22 refundings, the date on which the original bond
23 was issued).”

24 (25) Section 1302 of the Tax Reform Act of
25 1986 is repealed.

1 (26) Subparagraph (C) of section 57(a)(5) of
2 such Code is amended by striking clause (ii) and re-
3 designating clauses (iii) and (iv) as clauses (ii) and
4 (iii), respectively.

5 (27) Paragraph (3) of section 103(b) of such
6 Code is amended by inserting “and section 150(f)”
7 after “section 149”.

8 (28) Paragraph (3) of section 265(b) of such
9 Code is amended—

10 (A) by striking clause (ii) of subparagraph
11 (B) and inserting the following:

12 “(ii) CERTAIN BONDS NOT TREATED
13 AS PRIVATE ACTIVITY BONDS.—For pur-
14 poses of clause (i)(II), there shall not be
15 treated as a private activity bond any obli-
16 gation issued to refund (or which is part of
17 a series of obligations issued to refund) an
18 obligation issued before August 8, 1986,
19 which was not an industrial development
20 bond (as defined in section 103(b)(2) as in
21 effect on the day before the date of the en-
22 actment of the Tax Reform Act of 1986
23 (or a private loan bond (as defined in sec-
24 tion 103(o)(2)(A), as so in effect, but with-
25 out regard to any exemption from such

1 definition other than section
2 103(o)(2)(A))).”; and

3 (B) by striking “(other than a qualified
4 501(c)(3) bond, as defined in section 145)” in
5 subparagraph (C)(ii)(I).

6 (f) EFFECTIVE DATE; SPECIAL RULE.—

7 (1) EFFECTIVE DATE.—The amendments made
8 by this section shall apply to bonds issued after the
9 date of the enactment of this Act.

10 (2) SPECIAL RULE FOR CERTAIN BONDS ISSUED
11 AFTER DATE OF ENACTMENT.—

12 (A) IN GENERAL.—The amendments made
13 by this section shall not apply to any bond
14 which—

15 (i) is issued after the date of the en-
16 actment of this Act, and

17 (ii) is part of an issue which is subject
18 to any transitional rule under subtitle B of
19 title XIII of the Tax Reform Act of 1986.

20 (B) ELECTION OUT.—This paragraph shall
21 not apply to any issue with respect to which the
22 issuer elects not to have this paragraph apply.

23 (3) DELAYED EFFECTIVE DATE WITH RESPECT
24 TO SMALL ISSUER RULES.—For purposes of section
25 148(f)(4)(D) of the Internal Revenue Code of 1986,

1 the amendments made by this section shall apply to
2 bonds issued in calendar years beginning after the
3 date of the enactment of this Act.

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