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H. R. 2340

To amend the Internal Revenue Code of 1986 to allow a credit for the cleanup of certain contaminated industrial sites.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1993

Mr. REYNOLDS 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 allow a credit for the cleanup of certain contaminated industrial sites.

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. ENVIRONMENTAL REMEDIATION TAX CREDIT.**

4 (a) GENERAL RULE.—Part IV of subchapter A of
5 chapter 1 of the Internal Revenue Code of 1986 (relating
6 to credits allowable) is amended by adding at the end
7 thereof the following new subpart:

8 **“Subpart H—Environmental Remediation Credit**

“Sec. 54. Amount of environmental remediation credit.

“Sec. 54A. Designation of eligible jurisdictions.

“Sec. 54B. Allocation of credit limits.

“Sec. 54C. Definitions and special rules.

1 **“SEC. 54. AMOUNT OF ENVIRONMENTAL REMEDIATION**
2 **CREDIT.**

3 “(a) GENERAL RULE.—For purposes of section 38,
4 the environmental remediation credit determined under
5 this section is 25 percent of the costs—

6 “(1) which are paid or incurred by the taxpayer
7 for environmental remediation with respect to any
8 qualified contaminated site which is owned by the
9 taxpayer, and

10 “(2) which are incurred by the taxpayer pursu-
11 ant to an environmental remediation plan for such
12 site which was approved by the Administrator of the
13 Environmental Protection Agency.

14 “(b) CREDIT MAY NOT EXCEED ALLOCATION.—The
15 environmental remediation credit determined under this
16 section with respect to any qualified contaminated site
17 shall not exceed the remediation credit amount allocated
18 to the taxpayer under section 54B with respect to such
19 site.

20 “(c) REMEDIATION PLAN MUST BE COMPLETED.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in paragraph (2)—

23 “(A) no environmental remediation credit
24 shall be determined under this section with re-
25 spect to any qualified contaminated site unless

1 the Administrator of the Environmental Protec-
2 tion Agency certifies the environmental remedi-
3 ation plan for such site has been completed,
4 and

5 “(B) if such Administrator certifies that
6 such plan has been completed, such credit shall
7 be taken into account under subsection (a) rat-
8 ably over the 5 taxable year period beginning
9 with the taxable year in which such plan was
10 completed.

11 “(2) SPECIAL RULE WHERE EXTRAORDINARY
12 COST INCREASES.—If—

13 “(A) the taxpayer determines that due to
14 unforeseen circumstances the cost of completing
15 the remediation plan for any qualified contami-
16 nated site exceeds 200 percent of the estimated
17 costs of completing such plan, and

18 “(B) the State or local official administer-
19 ing the remediation credit program agrees with
20 such determination,

21 the taxpayer may cease the implementation of such
22 plan and shall be entitled to an environmental reme-
23 diation credit with respect to costs incurred before
24 such cessation. Such credit shall be taken into ac-
25 count under subsection (a) ratably over the 5-tax-

1 able-year period beginning with the taxable year in
2 which such cessation occurs.

3 “(d) CERTAIN PARTIES NOT ELIGIBLE.—A taxpayer
4 shall not be eligible for any credit determined under this
5 section with respect to any qualified contaminated site if—

6 “(1) at any time on or before the date of the
7 enactment of this subpart such taxpayer was the
8 owner or operator of any business on such site,

9 “(2) at any time before, on, or after such date
10 of enactment such taxpayer—

11 “(A) had (by contract, agreement, or oth-
12 erwise) arranged for the disposal or treatment
13 of any hazardous materials at such site or ar-
14 ranged with a transporter for transport for dis-
15 posal or treatment of any hazardous materials
16 at such site, or

17 “(B) had accepted any hazardous mate-
18 rials for transport to such site, or

19 “(3) the taxpayer is related to any taxpayer re-
20 ferred to in paragraph (1) or (2).

21 “(e) QUALIFIED CONTAMINATED SITE.—For pur-
22 poses of this subpart, the term ‘qualified contaminated
23 site’ means any contaminated site if such site is within—

1 “(1) any large city or medium-size city des-
2 ignated under section 54A(a) for participation in the
3 environmental remediation credit program, or

4 “(2) the portion of any State designated under
5 section 54A(b) for participation in the environmental
6 remediation credit program which is not within the
7 borders of a large city or medium-size city.

8 “(f) ADMINISTRATION BY STATE OR LOCAL GOVERN-
9 MENT AGENCIES PERMITTED.—Any reference in this sec-
10 tion, section 144(d), or section 150(b)(7) to the Adminis-
11 trator of the Environmental Protection Agency shall in-
12 clude a reference to the head of any State or local govern-
13 ment agency designated by the Administrator to carry out
14 the Administrator’s functions under such sections with re-
15 spect to any site.

16 **“SEC. 54A. DESIGNATION OF ELIGIBLE JURISDICTIONS.**

17 “(a) DESIGNATION OF CITIES.—

18 “(1) IN GENERAL.—The Secretary of Housing
19 and Urban Development shall—

20 “(A) designate 4 large cities under this
21 subsection for participation in the environ-
22 mental remediation credit program, and

23 “(B) designate 20 medium-size cities under
24 this subsection for participation in such pro-
25 gram.

1 All such designations shall be made within the 180-
2 day period beginning on the date of the enactment
3 of this subpart.

4 “(2) ELIGIBILITY REQUIREMENTS.—No city
5 may be designated under paragraph (1) unless—

6 “(A) such city has submitted an applica-
7 tion for such a designation to the Secretary of
8 Housing and Urban Development in such man-
9 ner as such Secretary may require,

10 “(B) such city has established an environ-
11 mental credit remediation program which shall
12 include—

13 “(i) procedures for the assessment of
14 contaminated sites located within such city
15 for purposes of determining whether such
16 sites are appropriate for participation in
17 the environmental remediation credit pro-
18 gram,

19 “(ii) a credit allocation plan which
20 contains the selection criteria required
21 under paragraph (4), and

22 “(iii) provision for non-Federal con-
23 tributions to the environmental remedi-
24 ation of selected sites through grants,
25 loans, property or income tax abatement,

1 contributions by private parties or non-
2 Federal governmental sources, or any other
3 direct or indirect financial assistance; and

4 “(C) such city has designated a city official
5 responsible for the administration of its envi-
6 ronmental remediation credit program.

7 “(3) SELECTION CRITERIA.—From among the
8 cities eligible for designation under paragraph (1),
9 the Secretary of Housing and Urban Development
10 shall make designations under paragraph (1) on the
11 basis of the following factors (with the factor speci-
12 fied in subparagraph (A) weighted at 50 points and
13 the factors specified in subparagraphs (B) and (C)
14 weighted at 25 points each):

15 “(A) The comparative degree of economic
16 deterioration among cities of the same category,
17 as measured by the city’s manufacturing job
18 loss between 1970 and 1990.

19 “(B) The strength and quality of the es-
20 tablished local commitment to remediate con-
21 taminated sites.

22 “(C) The percentage of the total Com-
23 prehensive Environmental Response, and Liabil-
24 ity Information System sites which are located
25 in such city.

1 “(4) SELECTION CRITERIA.—The selection cri-
2 teria required under this paragraph are the follow-
3 ing:

4 “(A) The condition of the contaminated
5 site is such that without participation in the en-
6 vironmental remediation credit program redevel-
7 opment is unlikely.

8 “(B) The contaminated site has not been
9 in productive use for at least 1 year before par-
10 ticipation in the program.

11 “(C) There is a strong likelihood of rede-
12 velopment of the site for industrial or commer-
13 cial use that will result in creation of jobs and
14 expansion of the tax base.

15 “(D) Environmental remediation and rede-
16 velopment are likely to be completed within a
17 reasonable period of time.

18 “(b) DESIGNATION OF STATES.—

19 “(1) IN GENERAL.—The Secretary of Agri-
20 culture shall designate 5 States for participation in
21 the environmental remediation credit program. All
22 such designations shall be made before _____.

23 “(2) REQUIREMENTS FOR DESIGNATION.—No
24 State may be designated under paragraph (1) unless

1 such State meets requirements comparable to those
2 required under paragraph (2) of subsection (a).

3 “(3) SELECTION CRITERIA.—From among the
4 States eligible for designation under paragraph (1),
5 the Secretary of Agriculture shall make designations
6 under paragraph (1) on the basis of the following
7 factors (with the factors specified in subparagraphs
8 (A) and (B) weighted at 25 points each and the fac-
9 tor specified in subparagraph (C) weighted at 50
10 points):

11 “(A) The comparative degree of economic
12 deterioration among States as measured by the
13 State’s manufacturing job loss between 1970
14 and 1990.

15 “(B) The strength and quality of the es-
16 tablished State or local commitment to remedi-
17 ate contaminated sites.

18 “(C) The comparative prevalence of envi-
19 ronmentally contaminated sites as measured by
20 the ratio of the Comprehensive Environmental
21 Response, Compensation, and Liability Infor-
22 mation System sites in the State per capita.

1 **“SEC. 54B. ALLOCATION OF CREDIT LIMITS.**

2 “(a) OVERALL LIMITATION.—For each calendar year
3 after 1993, there shall be an overall credit limitation of
4 \$75,000,000 to be allocated as follows:

5 “(1) One-third of such overall credit limitation
6 shall be allocated equally among the large cities des-
7 ignated under section 54B(a).

8 “(2) One-third of such overall credit limitation
9 shall be allocated equally among the medium-size
10 cities designated under section 54B(a).

11 “(3) One-third of such overall credit limitation
12 shall be allocated equally among the States des-
13 ignated under section 54B(b).

14 “(b) METHOD OF MAKING ALLOCATION.—

15 “(1) IN GENERAL.—Any jurisdiction receiving a
16 portion of the overall credit limitation under sub-
17 section (a) may use such portion to make allocations
18 of environmental remediation credit amounts to con-
19 taminated sites selected under the credit allocation
20 plan required under section 54A(a)(2)(B)(ii).

21 “(2) PERIOD DURING WHICH ALLOCATED
22 AMOUNT MAY BE USED.—Any jurisdiction receiving
23 a portion of the overall credit limitation for any cal-
24 endar year may use such portion only to make allo-
25 cations under paragraph (1) during such calendar
26 year or the following calendar year.

1 **“SEC. 54C. DEFINITIONS AND SPECIAL RULES.**

2 “(a) CONTAMINATED SITE.—For purposes of this
3 subpart—

4 “(1) IN GENERAL.—The term ‘contaminated
5 site’ means any site if at least 1 of the following en-
6 vironmental conditions are present on such site:

7 “(A) A release or threatened release of any
8 hazardous, toxic, or dangerous substance.

9 “(B) Any storage tanks which contain any
10 hazardous, toxic, or dangerous substance.

11 “(C) Any illegal disposal of solid waste.

12 “(2) HAZARDOUS, TOXIC, OR DANGEROUS SUB-
13 STANCE.—Any substance, waste, or material shall be
14 treated as a hazardous, toxic, or dangerous sub-
15 stance if it is so treated under—

16 “(A) the Comprehensive Environmental
17 Response, Compensation, and Liability Act (42
18 U.S.C. 9601 et seq.),

19 “(B) the Resource Conservation and Re-
20 covery Act (42 U.S.C. 6901 et seq.), or

21 “(C) any State or local environmental law
22 or ordinance.

23 The following materials shall in any event be treated
24 as such a substance: petroleum or crude oil or any
25 derivative thereof, friable asbestos or any asbestos

1 containing material, polychlorinated biphenyls, or
2 urea formaldehyde foam insulation.

3 “(b) ENVIRONMENTAL REMEDIATION.—For pur-
4 poses of this subpart, the term ‘environmental remedi-
5 ation’ means—

6 “(1) removal or remediation activity in accord-
7 ance with an approved environmental plan including
8 soil and ground water remediation,

9 “(2) restoration of natural, historic or cultural
10 resources at the site, or the mitigation of unavail-
11 able losses of such resources incurred in connection
12 with the remediation or response activity,

13 “(3) health assessments or health effects stud-
14 ies,

15 “(4) environmental audits,

16 “(5) remediation of off-site contamination
17 caused by activity on the site, and

18 “(6) any other costs reasonably required by rea-
19 son of the environmental conditions of the site in-
20 cluding demolition of existing contaminated struc-
21 tures, site security, and permit fees necessary for re-
22 mediation.

23 “(c) LARGE CITY.—For purposes of this subpart, the
24 term ‘large city’ means any city with a population of at

1 least 1,000,000 as determined on the basis of the most
2 recent decennial census.

3 “(d) MEDIUM SIZE CITY.—For purposes of this sub-
4 part, the term ‘medium size city’ means any city with a
5 population of at least 250,000 but less than 1,000,000 as
6 determined on the basis of the most recent decennial cen-
7 sus.

8 “(e) BASIS REDUCTION.—The basis of any qualified
9 contaminated site shall be reduced by the amount of any
10 credit determined under this subpart with respect to such
11 site.

12 “(f) RELATED PERSON.—For purposes of this sub-
13 part, persons shall be treated as related to each other if
14 such persons are treated as a single employer under the
15 regulations prescribed under section 52(b) or such persons
16 bear a relationship to each other specified in section
17 267(b) or 707(b).”

18 (b) CREDIT MADE PART OF GENERAL BUSINESS
19 CREDIT.—Subsection (b) of section 38 of such Code is
20 amended by striking “plus” at the end of paragraph (7),
21 by striking the period at the end of paragraph (8) and
22 inserting “, plus”, and by adding at the end thereof the
23 following new paragraph:

24 “(9) the environmental remediation credit
25 under section 54(a).”

1 (c) LIMITATION ON CARRYBACK.—Subsection (d) of
2 section 39 of such Code is amended by adding at the end
3 thereof the following new paragraph:

4 “(4) NO CARRYBACK OF ENVIRONMENTAL RE-
5 MEDIATION CREDIT BEFORE EFFECTIVE DATE.—No
6 portion of the unused business credit for any taxable
7 year which is attributable to the credit under section
8 54 may be carried back to a taxable year ending be-
9 fore the date of the enactment of section 54.”

10 (d) DEDUCTION FOR UNUSED CREDIT.—Subsection
11 (c) of section 196 of such Code is amended by striking
12 “and” at the end of paragraph (4), by striking the period
13 at the end of paragraph (5) and inserting “, and”, and
14 by adding at the end thereof the following new paragraph:

15 “(6) the environmental remediation credit de-
16 termined under section 54.”

17 (e) CLERICAL AMENDMENT.—The table of subparts
18 for part IV of subchapter A of chapter 1 of such Code
19 is amended by adding at the end thereof the following new
20 item:

“Subpart H—Environmental remediation credit.”

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 2. TAX-EXEMPT FINANCING OF ENVIRONMENTAL RE-**
2 **MEDIATION OF QUALIFIED CONTAMINATED**
3 **SITES.**

4 (a) IN GENERAL.—Subsection (e) of section 141 of
5 the Internal Revenue Code of 1986 (defining qualified
6 bond) is amended by striking “or” at the end of subpara-
7 graph (F), by redesignating subparagraph (G) as subpara-
8 graph (H), and by inserting after subparagraph (F) the
9 following new subparagraph:

10 “(G) a qualified contaminated site remedi-
11 ation bond, or”.

12 (b) QUALIFIED CONTAMINATED SITE REMEDIATION
13 BOND.—Section 144 of such Code is amended by adding
14 at the end thereof the following new subsection:

15 “(d) QUALIFIED CONTAMINATED SITE REMEDIATION
16 BOND.—For purposes of this part—

17 “(1) IN GENERAL.—The term ‘qualified con-
18 taminated site remediation bond’ means any bond is-
19 sued as part of an issue 95 percent or more of the
20 proceeds of which are to finance—

21 “(A) the acquisition of a qualified contami-
22 nated site, or

23 “(B) the costs of environmental remedi-
24 ation (as defined in section 54C(b))—

1 “(i) with respect to such a site which
2 is owned by the person incurring such
3 costs, and

4 “(ii) which are incurred pursuant to
5 an environmental remediation plan for
6 such site which was approved by the Ad-
7 ministrators of the Environmental Protec-
8 tion Agency.

9 “(2) LIMITATIONS.—Such term shall not in-
10 clude any bond issued to provide financing with re-
11 spect to a qualified contaminated site if—

12 “(A) any amount of such financing is pro-
13 vided directly or indirectly to any person who is
14 not eligible for the credit determined under sec-
15 tion 54 with respect to such site by reason of
16 section 54(d),

17 “(B) less than 60 percent of the amount of
18 the financing so provided with respect to such
19 site is for costs described in paragraph (1)(B),
20 or

21 “(C) the amount of the financing so pro-
22 vided to acquire such site exceeds the excess
23 of—

1 “(i) the fair market value of the site
2 after the completion of the environmental
3 remediation plan, over

4 “(ii) the amount of the financing so
5 provided with respect to such site for costs
6 described in paragraph (1)(B).

7 “(3) QUALIFIED CONTAMINATED SITE.—For
8 purposes of this subsection, the term ‘qualified con-
9 taminated site’ has the meaning given such term by
10 section 54(e).

11 “(4) RESTRICTION ON LAND ACQUISITION NOT
12 TO APPLY.—Section 147(c) shall not apply to any
13 qualified contaminated site remediation bond.”

14 (c) PENALTY FOR FAILURE TO SATISFACTORILY
15 COMPLETE REMEDIATION PLAN.—Subsection (b) of sec-
16 tion 150 of such Code is amended by adding at the end
17 thereof the following new paragraph:

18 “(7) QUALIFIED CONTAMINATED SITE REMEDI-
19 ATION BONDS.—In the case of financing provided by
20 a qualified contaminated site remediation bond for
21 costs described in section 144(d)(1)(C), no deduction
22 shall be allowed under this chapter for interest on
23 such financing during any period during which there
24 is a determination by the Administrator of the Envi-
25 ronmental Protection Agency that the remediation

1 plan under which such costs were incurred was not
2 satisfactorily completed.”

3 (d) CLERICAL AMENDMENTS.—

4 (1) The section heading for section 144 of such
5 Code is amended by inserting before the period
6 “qualified contaminated site remediation bond”.

7 (2) The table of sections for subpart A of part
8 IV of subchapter B of chapter 1 of such Code is
9 amended by inserting before the period at the end
10 of the item relating to section 144 “; qualified con-
11 taminated site remediation bond”.

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