

103^D CONGRESS
1ST SESSION

S. 434

To amend the Internal Revenue Code of 1986 to allow taxpayers a bad debt deduction for certain partially unpaid child support payments and to require the inclusion in income of child support payments which a taxpayer does not pay, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, JANUARY 5), 1993

Mr. BUMPERS (for himself, Mr. DURENBERGER, Mr. LIEBERMAN, Mrs. KASSEBAUM, Mr. HARKIN, Mr. DOMENICI, Mr. KERRY, Mr. GRASSLEY, Mr. DECONCICI, Mr. LEVIN, Mr. GLENN, Mr. SHELBY, Mr. INOUE, Mr. REID, Mr. SIMON, Mr. CONRAD, Mr. JOHNSTON, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow taxpayers a bad debt deduction for certain partially unpaid child support payments and to require the inclusion in income of child support payments which a taxpayer does not pay, and for other purposes.

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 “Child Support Tax
5 Equity Act of 1993”.

1 **SEC. 2. NO EFFECT ON RIGHTS AND LIABILITIES.**

2 Nothing in this Act shall be construed to affect—

3 (1) the right of an individual or State to receive
4 any child support payment; or

5 (2) the obligation of an individual to pay child
6 support.

7 **SEC. 3. ALLOWANCE OF BAD DEBT DEDUCTION FOR PAR-**
8 **TIALLY UNPAID CHILD SUPPORT PAYMENTS.**

9 (a) IN GENERAL.—Section 166 of the Internal Reve-
10 nue Code of 1986 (relating to deduction for bad debts)
11 is amended by redesignating subsection (f) as subsection
12 (g) and by inserting after subsection (e) the following new
13 subsection:

14 “(f) CERTAIN UNPAID CHILD SUPPORT PAY-
15 MENTS.—

16 “(1) IN GENERAL.—In the case of any eligible
17 taxpayer who has any applicable child support pay-
18 ments remaining unpaid as of the close of the tax-
19 able year—

20 “(A) subsections (a) and (d) shall not
21 apply to such payments, and

22 “(B) there shall be allowed as a deduction
23 for such taxable year an amount equal to the
24 amount of such payments.

25 “(2) PER CHILD LIMITATION ON DEDUCTION.—

26 The aggregate amount allowable as a deduction for

1 any taxable year under paragraph (1) with respect
2 to any child for whom applicable child support pay-
3 ments are required to be paid shall not exceed
4 \$50,000.

5 “(3) ELIGIBLE TAXPAYER.—For purposes of
6 this subsection, the term ‘eligible taxpayer’ means
7 an individual—

8 “(A) whose adjusted gross income for the
9 taxable year does not exceed \$50,000,

10 “(B) with respect to whom the amount of
11 applicable child support payments remaining
12 unpaid as of the close of the taxable year is
13 equal to or greater than \$500, and

14 “(C) who meets the identification require-
15 ments of paragraph (5).

16 “(4) APPLICABLE CHILD SUPPORT PAYMENT.—

17 “(A) IN GENERAL.—The term ‘applicable
18 child support payment’ means, with respect to
19 any taxable year of the eligible taxpayer—

20 “(i) any periodic payment of a fixed
21 amount, or

22 “(ii) any payment of a medical or
23 educational expense, insurance premium,
24 or other similar item,

1 which is required to be paid to such taxpayer
2 during such taxable year by an individual under
3 a support instrument meeting the requirements
4 of paragraph (8) for the support of any qualify-
5 ing child of such individual.

6 “(B) QUALIFYING CHILD.—For purposes
7 of this paragraph, the term ‘qualifying child’
8 means a child of an eligible individual with re-
9 spect to whom a deduction is allowable under
10 section 151 for the taxable year (or would be so
11 allowable but for paragraph (2) or (4) of sec-
12 tion 152(e)) or, while eligible for such deduc-
13 tion, was determined to be disabled under sub-
14 titles 2 or 16 of chapter 42.

15 “(C) PAYMENTS MUST BE DELINQUENT
16 FOR AT LEAST ENTIRE YEAR.—Any payment
17 described in subparagraph (A) which is required
18 to be made by an individual to an eligible tax-
19 payer shall not be treated as an applicable un-
20 paid child support payment if at least half of
21 the payments which are required to be paid to
22 the eligible taxpayer during the 12-month pe-
23 riod ending on the last day of the taxable year
24 are paid. In the case of the 1st taxable year to
25 which this subsection applies to payments from

1 any individual, the preceding sentence shall be
2 applied by substituting ‘24-month’ for ‘12-
3 month’.

4 “(D) COORDINATION WITH AFDC.—The
5 term ‘applicable child support payment’ shall
6 not include any payment the right to which has
7 been assigned to a State under section
8 402(a)(26) of the Social Security Act (42
9 U.S.C. 602(a)(26)).

10 “(5) IDENTIFICATION REQUIREMENTS.—The
11 requirements of this paragraph are met if the eligi-
12 ble taxpayer includes on the return claiming the de-
13 duction under this subsection the name, address,
14 and taxpayer identification number of—

15 “(A) each child with respect to whom child
16 support payments to which this subsection ap-
17 plies are required to be paid, and

18 “(B) the individual who was required to
19 make such child support payments.

20 In the case of a failure to provide the information
21 under subparagraph (B), the preceding sentence
22 shall not apply if the eligible taxpayer certifies that
23 any such information is not known.

24 “(6) COST-OF-LIVING ADJUSTMENTS.—In the
25 case of any taxable year beginning after 1992, the

1 \$50,000 amount under paragraph (2)(A), the
2 \$50,000 amount under paragraph (3)(A), and the
3 \$500 amount under paragraph (3)(B) shall each be
4 increased by an amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost-of-living adjustment deter-
7 mined under section 1(f)(3) for the calendar
8 year in which the taxable year begins, except
9 that section 1(f)(3)(B) shall be applied by sub-
10 stituting ‘1991’ for ‘1989’.

11 “(7) SUBSEQUENT PAYMENTS.—If any payment
12 with respect to which a deduction was allowed under
13 paragraph (1) is subsequently made, such payment
14 shall be included in gross income of the eligible tax-
15 payer for the taxable year in which paid. This para-
16 graph shall not apply to any amount if an individual
17 has assigned the right to receive such amount to a
18 State (and the State does not pay such amount to
19 such individual).

20 “(8) SUPPORT INSTRUMENT.—For purposes of
21 this subsection, a support instrument meets the re-
22 quirements of this paragraph if it is—

23 “(A) a decree of divorce or separate main-
24 tenance or a written instrument incident to
25 such a decree,

1 “(B) a written separation agreement, or

2 “(C) a decree (not described in subpara-
3 graph (A)) of a court or administrative agency
4 requiring a parent to make payments for the
5 support or maintenance of 1 or more children
6 of such parent.”

7 (b) DEDUCTION FOR NONITEMIZERS.—Section 62(a)
8 of such Code is amended by adding at the end thereof
9 the following new paragraph:

10 “(14) UNPAID CHILD SUPPORT PAYMENTS.—
11 The deduction allowed by section 166(f).”

12 (c) CONFORMING AMENDMENT.—Section 166(d)(2)
13 of such Code is amended by striking “or” at the end of
14 subparagraph (A), by striking the period at the end of
15 subparagraph (B) and inserting “, or” and by adding at
16 the end thereof the following new subparagraph:

17 “(C) a debt which is an applicable child
18 support payment under subsection (f).”

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1991.

22 **SEC. 4. INCLUSION IN INCOME OF AMOUNT OF UNPAID**
23 **CHILD SUPPORT PAYMENTS.**

24 (a) IN GENERAL.—Section 108 of the Internal Reve-
25 nue Code of 1986 (relating to discharge of indebtedness

1 income) is amended by adding at the end thereof the fol-
2 lowing new subsection:

3 “(h) UNPAID CHILD SUPPORT PAYMENTS.—

4 “(1) IN GENERAL.—For purposes of this chap-
5 ter, any taxable unpaid child support payments of a
6 taxpayer for any taxable year shall be treated as
7 amounts includible in gross income of the taxpayer
8 for the taxable year by reason of the discharge of in-
9 debtedness of the taxpayer.

10 “(2) TAXABLE UNPAID CHILD SUPPORT PAY-
11 MENTS.—For purposes of this subsection, the term
12 ‘taxable unpaid child support payments’ means pay-
13 ments—

14 “(A) which were applicable child support
15 payments which the taxpayer was required to
16 pay under a support instrument for the support
17 of a child of the taxpayer, and

18 “(B) with respect to which the notice re-
19 quirements of paragraph (3) are met.

20 “(3) NOTICE REQUIREMENTS.—

21 “(A) IN GENERAL.—During January of
22 the second calendar year following a calendar
23 year in which there begins a taxable year for
24 which a deduction allowed under section 166(f)
25 was claimed, the eligible taxpayer shall send a

1 notice (in such form as the Secretary may pre-
2 scribe) to the individual who failed to make
3 payments which contains—

4 “(i) the amount of the applicable child
5 support payments for such taxable year,
6 and

7 “(ii) notice that the individual is re-
8 quired to include such amount in gross in-
9 come for the taxable year beginning in the
10 preceding calendar year.

11 “(B) NOTICE BY SECRETARY.—If notice
12 cannot be provided under subparagraph (A) be-
13 cause the address is not known to the eligible
14 taxpayer, the Secretary shall send such notice if
15 the address is available to the Secretary.

16 “(C) ADDRESS UNKNOWN.—If notice can-
17 not be provided under subparagraph (A) or (B)
18 because there is no known address, no income
19 shall be included in gross income for any tax-
20 able year beginning before the calendar year
21 preceding the calendar year in which such no-
22 tice may be sent.

23 “(4) SUBSEQUENT PAYMENTS.—If any payment
24 required to be included in gross income under para-
25 graph (1) is subsequently made, the amount of such

1 payment shall be allowed as a deduction for the tax-
2 able year in which such payment is made.

3 “(5) DEFINITIONS.—For purposes of this sub-
4 section, the terms ‘applicable child support pay-
5 ments’ and ‘eligible taxpayer’ have the meanings
6 given such terms by section 166(f).

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1993.

○