

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1799

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

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IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1995

Mr. ENGLISH of Pennsylvania (for himself, Mr. WELLER, Mr. ACKERMAN, and Mr. BLUTE) introduced the following bill; which was referred to the Committee on Ways and Means

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## 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 States.

“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 40 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-

1           spect to any qualified contaminated site unless  
2           the Administrator of the Environmental Protec-  
3           tion Agency certifies the environmental remedi-  
4           ation plan for such site has been completed,  
5           and

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

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

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

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

22          the taxpayer may cease the implementation of such  
23          plan and shall be entitled to an environmental reme-  
24          diation credit with respect to costs incurred before  
25          such cessation. Such credit shall be taken into ac-

1 count under subsection (a) ratably over the 5-tax-  
2 able-year period beginning with the taxable year in  
3 which such cessation occurs.

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

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

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

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

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

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

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

1 a State designated under section 54A(a) for participation  
2 in the environmental remediation credit program.

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

11 **“SEC. 54A. DESIGNATION OF ELIGIBLE STATES.**

12 “(a) IN GENERAL.—The Secretary of Housing and  
13 Urban Development shall designate States under this sec-  
14 tion for participation in the environmental remediation  
15 credit program.

16 “(b) ELIGIBILITY REQUIREMENTS.—No State may  
17 be designated under this section unless—

18 “(1) such State has submitted an application  
19 for such a designation to the Secretary of Housing  
20 and Urban Development in such manner as such  
21 Secretary may require,

22 “(2) such State has established an environ-  
23 mental credit remediation program which shall in-  
24 clude—

1           “(A) procedures for the assessment of con-  
2           taminated sites located within such State for  
3           purposes of determining whether such sites are  
4           appropriate for participation in the environ-  
5           mental remediation credit program,

6           “(B) a credit allocation plan which con-  
7           tains the selection criteria required under sub-  
8           section (c), and

9           “(C) provision for non-Federal contribu-  
10          tions to the environmental remediation of se-  
11          lected sites through grants, loans, property or  
12          income tax abatement, contributions by private  
13          parties or non-Federal governmental sources, or  
14          any other direct or indirect financial assistance;  
15          and

16          “(3) such State has designated a State official  
17          responsible for the administration of its environ-  
18          mental remediation credit program.

19          “(c) SELECTION CRITERIA.—The selection criteria  
20          required under this subsection are the following:

21                 “(1) The condition of the contaminated site is  
22                 such that without participation in the environmental  
23                 remediation credit program redevelopment is un-  
24                 likely.

1           “(2) The contaminated site has not been in pro-  
2           ductive use for at least 1 year before participation  
3           in the program.

4           “(3) There is a strong likelihood of redevelop-  
5           ment of the site for industrial or commercial use  
6           that will result in creation of jobs and expansion of  
7           the tax base.

8           “(4) Environmental remediation and redevelop-  
9           ment are likely to be completed within a reasonable  
10          period of time.

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

12          “(a) OVERALL LIMITATION.—For each calendar year  
13 after 1995, there shall be an overall credit limitation of  
14 \$200,000,000.

15          “(b) METHOD OF MAKING ALLOCATION.—

16           “(1) IN GENERAL.—Any State receiving a por-  
17           tion of the overall credit limitation under subsection  
18           (a) may use such portion to make allocations of en-  
19           vironmental remediation credit amounts to contami-  
20           nated sites selected under the credit allocation plan  
21           required under section 54A(b)(2)(B).

22           “(2) PERIOD DURING WHICH ALLOCATED  
23           AMOUNT MAY BE USED.—Any State receiving a por-  
24           tion of the overall credit limitation for any calendar  
25           year may use such portion only to make allocations

1 under paragraph (1) during such calendar year or  
2 the following calendar year.

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

4 “(a) CONTAMINATED SITE.—For purposes of this  
5 subpart—

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

9 “(A) A release or threatened release of any  
10 hazardous, toxic, or dangerous substance.

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

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

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

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

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

23 “(C) any State or local environmental law  
24 or ordinance.

1 The following materials shall in any event be treated  
2 as such a substance: petroleum or crude oil or any  
3 derivative thereof, friable asbestos or any asbestos  
4 containing material, polychlorinated biphenyls, or  
5 urea formaldehyde foam insulation.

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

9 “(1) removal or remediation activity in accord-  
10 ance with an approved environmental plan including  
11 soil and ground water remediation,

12 “(2) restoration of natural, historic or cultural  
13 resources at the site, or the mitigation of unavoid-  
14 able losses of such resources incurred in connection  
15 with the remediation or response activity,

16 “(3) health assessments or health effects stud-  
17 ies,

18 “(4) environmental audits,

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

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

1       “(c) BASIS REDUCTION.—The basis of any qualified  
2 contaminated site shall be reduced by the amount of any  
3 credit determined under this subpart with respect to such  
4 site.

5       “(d) RELATED PERSON.—For purposes of this sub-  
6 part, persons shall be treated as related to each other if  
7 such persons are treated as a single employer under the  
8 regulations prescribed under section 52(b) or such persons  
9 bear a relationship to each other specified in section  
10 267(b) or 707(b).”

11       (b) CREDIT MADE PART OF GENERAL BUSINESS  
12 CREDIT.—Subsection (b) of section 38 of such Code is  
13 amended by striking “plus” at the end of paragraph (10),  
14 by striking the period at the end of paragraph (11) and  
15 inserting “, plus”, and by adding at the end thereof the  
16 following new paragraph:

17               “(12) the environmental remediation credit  
18       under section 54(a).”

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

22               “(7) NO CARRYBACK OF ENVIRONMENTAL RE-  
23       MEDIATION CREDIT BEFORE EFFECTIVE DATE.—No  
24       portion of the unused business credit for any taxable  
25       year which is attributable to the credit under section

1       54 may be carried back to a taxable year ending  
2       before the date of the enactment of section 54.”

3       (d) DEDUCTION FOR UNUSED CREDIT.—Subsection  
4 (c) of section 196 of such Code is amended by striking  
5 “and” at the end of paragraph (6), by striking the period  
6 at the end of paragraph (7) and inserting “, and”, and  
7 by adding at the end thereof the following new paragraph:

8               “(8) the environmental remediation credit de-  
9       termined under section 54.”

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

                  “Subpart H—Environmental remediation credit.”

14       (f) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **SEC. 2. TAX-EXEMPT FINANCING OF ENVIRONMENTAL RE-**  
18                               **MEDIATION OF QUALIFIED CONTAMINATED**  
19                               **SITES.**

20       (a) IN GENERAL.—Subsection (e) of section 141 of  
21 the Internal Revenue Code of 1986 (defining qualified  
22 bond) is amended by striking “or” at the end of subpara-  
23 graph (F), by redesignating subparagraph (G) as subpara-  
24 graph (H), and by inserting after subparagraph (F) the  
25 following new subparagraph:

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

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

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

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

12           “(A) the acquisition of a qualified contami-  
13          nated site, or

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

16           “(i) with respect to such a site which  
17          is owned by the person incurring such  
18          costs, and

19           “(ii) which are incurred pursuant to  
20          an environmental remediation plan for  
21          such site which was approved by the Ad-  
22          ministrator of the Environmental Protec-  
23          tion Agency.

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

4                   “(A) any amount of such financing is pro-  
5                   vided directly or indirectly to any person who is  
6                   not eligible for the credit determined under sec-  
7                   tion 54 with respect to such site by reason of  
8                   section 54(d),

9                   “(B) less than 60 percent of the amount of  
10                  the financing so provided with respect to such  
11                  site is for costs described in paragraph (1)(B),  
12                  or

13                  “(C) the amount of the financing so pro-  
14                  vided to acquire such site exceeds the excess  
15                  of—

16                           “(i) the fair market value of the site  
17                           after the completion of the environmental  
18                           remediation plan, over

19                           “(ii) the amount of the financing so  
20                           provided with respect to such site for costs  
21                           described in paragraph (1)(B).

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

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

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

8           “(7) QUALIFIED CONTAMINATED SITE REMEDI-  
9 ATION BONDS.—In the case of financing provided by  
10 a qualified contaminated site remediation bond for  
11 costs described in section 144(d)(1)(C), no deduction  
12 shall be allowed under this chapter for interest on  
13 such financing during any period during which there  
14 is a determination by the Administrator of the Envi-  
15 ronmental Protection Agency that the remediation  
16 plan under which such costs were incurred was not  
17 satisfactorily completed.”

18           (d) CLERICAL AMENDMENTS.—

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

22           (2) The table of sections for subpart A of part  
23 IV of subchapter B of chapter 1 of such Code is  
24 amended by inserting before the period at the end

1 of the item relating to section 144 “; qualified con-  
2 taminated site remediation bond”.

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