

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

# H. R. 902

To amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to timber activities.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1995

Mr. WYDEN (for himself, Mr. HERGER, Mr. CALLAHAN, Mr. DEAL of Georgia, Mr. CRAMER, Mr. COOLEY, Mr. EMERSON, Mr. DEFazio, Mr. KLUG, Mr. WILSON, Mr. OBERSTAR, Mr. SPRATT, Mr. HAYES, Ms. FURSE, Mr. CHAPMAN, Mr. BAKER of Louisiana, and Mr. STUPAK) 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 modify the application of the passive loss limitations to timber activities.

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 “Forest Stewardship  
5 Tax Act of 1995”.

1 **SEC. 2. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**  
2 **TIMBER ACTIVITIES.**

3 (a) DETERMINATION OF MATERIAL PARTICIPA-  
4 TION.—Subsection (h) of section 469 of the Internal Reve-  
5 nue Code of 1986 (defining material participation) is  
6 amended by adding at the end the following new para-  
7 graph:

8 “(6) TREATMENT OF TIMBER ACTIVITIES.—

9 “(A) IN GENERAL.—A taxpayer shall be  
10 treated as materially participating in any tim-  
11 ber activity for a taxable year if—

12 “(i) the taxpayer’s participation in the  
13 activity for such year constitutes substan-  
14 tially all of the participation in the activity  
15 of all individuals for such year, other than  
16 individuals—

17 “(I) who are not owners of inter-  
18 ests in the activity,

19 “(II) who are retained and com-  
20 pensated directly by the taxpayer, and

21 “(III) whose activities are subject  
22 to the oversight, supervision, and con-  
23 trol of the taxpayer, or

24 “(ii) based on all of the facts and cir-  
25 cumstances, the taxpayer participates in  
26 the activity on a regular, continuous, and

1 substantial basis during such year, except  
2 that for purposes of this clause—

3 “(I) the taxpayer shall not be re-  
4 quired to participate in the activity  
5 for any minimum period of time dur-  
6 ing such year, and

7 “(II) the performance of services  
8 by individuals who are not owners of  
9 interests in the activity shall not be  
10 considered if the services are routinely  
11 provided by individuals specializing in  
12 such services and such services are  
13 subject to the oversight, supervision,  
14 and control of the taxpayer.

15 “(B) PARTNERS AND S CORPORATION  
16 SHAREHOLDERS—Subject to paragraph (2), the  
17 determination of whether a partner or S cor-  
18 poration shareholder shall be treated as materi-  
19 ally participating in any timber activity of the  
20 partnership or S corporation shall be based  
21 upon the combined participation of all of the  
22 partners or shareholders in the activity.

23 “(C) TIMBER ACTIVITY.—For purposes of  
24 this paragraph, the term ‘timber activity’ means  
25 the planting, cultivating, caring, cutting, or

1           preparation (other than milling) for market, of  
2           trees.”

3           (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall take effect as if included in the amend-  
5 ments made by section 501 of the Tax Reform Act of  
6 1986.

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