

104TH CONGRESS
1ST SESSION

S. 1171

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

IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, JULY 10), 1995

Mr. McCONNELL (for himself and Mr. FORD) 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 modify the application of the passive loss limitations to equine 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 “Equine Tax Fairness
5 Act of 1995”.

6 **SEC. 2. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**
7 **EQUINE ACTIVITIES.**

8 (a) DETERMINATION OF MATERIAL PARTICIPA-
9 TION.—Subsection (h) of section 469 of the Internal Reve-
10 nue Code of 1986 (defining material participation) is

1 amended by adding at the end the following new para-
2 graph:

3 “(6) TREATMENT OF EQUINE ACTIVITIES.—

4 “(A) IN GENERAL.—A taxpayer shall be
5 treated as materially participating in an equine
6 activity for a taxable year if—

7 “(i) the taxpayer’s participation in
8 such activity for such year constitutes sub-
9 stantially all of the participation in the ac-
10 tivity of all individuals for such year, other
11 than individuals—

12 “(I) who are not owners of inter-
13 est in the activity,

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

16 “(III) whose activities are subject
17 to the oversight, supervision, and con-
18 trol of the taxpayer, or

19 “(ii) based on all of the facts and cir-
20 cumstances, the taxpayer participates in
21 the activity on a regular, continuous, and
22 substantial basis during such year, except
23 that for purposes of this clause—

24 “(I) the taxpayer shall not be re-
25 quired to participate in the activity

1 for any minimum period of time dur-
2 ing such year, and

3 “(II) the performance of services
4 by individuals who are not owners of
5 interests in the activity shall not be
6 considered if such services are rou-
7 tinely provided by individuals special-
8 izing in such services and such serv-
9 ices are subject to the oversight, su-
10 pervision, and control of the taxpayer.

11 “(B) PARTNERS AND S CORPORATION
12 SHAREHOLDERS.—Subject to paragraph (2),
13 the determination of whether a partner or S
14 corporation shareholder shall be treated as ma-
15 terially participating in any equine activity of
16 the partnership or S corporation shall be based
17 upon the combined participation of all of the
18 partners or shareholders in the activity.

19 “(C) EQUINE ACTIVITY.—For purposes of
20 this paragraph, the term ‘equine activity’ means
21 breeding, racing, or showing horses.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall take effect as if included in the amend-

1 ments made by section 501 of the Tax Reform Act of
2 1986.

