

106TH CONGRESS  
2D SESSION

# H. R. 3648

To amend the Internal Revenue Code of 1986 to allow credits against income tax for an owner of a radio broadcasting station which donates the license and other assets of such station to a nonprofit corporation for purposes of supporting nonprofit fine arts and performing arts organizations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2000

Mr. ANDREWS (for himself and Mr. HOEFFEL) 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 credits against income tax for an owner of a radio broadcasting station which donates the license and other assets of such station to a nonprofit corporation for purposes of supporting nonprofit fine arts and performing arts organizations, 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,*

1 **SECTION 1. CREDIT FOR DONATION OF LICENSE AND**  
2 **OTHER ASSETS OF COMMERCIAL RADIO**  
3 **BROADCASTING STATIONS TO NONPROFIT**  
4 **CORPORATIONS.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 (relating to general business credits) is amended by  
8 adding at the end the following new section:

9 **“SEC. 45D. CREDIT FOR DONATION OF LICENSE AND**  
10 **OTHER ASSETS OF COMMERCIAL RADIO**  
11 **BROADCASTING STATION TO CERTAIN NON-**  
12 **PROFIT CORPORATIONS.**

13 “(a) RADIO BROADCASTING STATION DONATION  
14 CREDIT.—For purposes of section 38, the radio broad-  
15 casting station donation credit is an amount equal to the  
16 sum of—

17 “(1) 125 percent of the fair market value of a  
18 radio broadcasting commercial license which is do-  
19 nated to a qualified recipient,

20 “(2) 100 percent of the fair market value of  
21 any radio broadcasting station assets, including  
22 equipment and other real property owned by the sta-  
23 tion, which are donated to the same qualified recipi-  
24 ent, and

1           “(3) the total amount deposited into an oper-  
2           ations escrow fund established by the donor of the  
3           license and assets during the taxable year.

4           “(b) QUALIFIED RECIPIENT.—For purposes of this  
5           section, a qualified recipient is an entity which—

6           “(1) is a corporation described in section  
7           501(c)(3) which is exempt from taxation under sec-  
8           tion 501(a),

9           “(2) agrees to operate the radio broadcasting  
10          station being donated to it as a for-profit venture,  
11          with profits dedicated to the support of non-profit  
12          fine arts and performing arts organizations in its  
13          service area,

14          “(3) has at least 3 arts organizations from its  
15          service area on its board of trustees, or on a board  
16          of trustees of a subsidiary established to oversee op-  
17          eration of the radio broadcasting station,

18          “(4) agrees that, in the event that it ceases op-  
19          eration of the radio broadcasting station—

20                  “(A) it will not sell the station to a for-  
21                  profit broadcaster under any circumstances,  
22                  and

23                  “(B) it will either—

24                          “(i) transfer the license to another  
25                          corporation described in section 501(c)(3)

1           which is exempt from taxation under sec-  
2           tion 501(a) and which agrees to continue  
3           operation of the station for the support of  
4           nonprofit fine arts and performing arts or-  
5           ganizations in its service area, or

6                   “(ii) surrender the license to the Fed-  
7                   eral Communications Commission.

8           “(c) OPERATIONS ESCROW FUND.—

9                   “(1) IN GENERAL.—For purposes of this sec-  
10           tion, an operations escrow fund is a fund established  
11           by a taxpayer who has donated a radio broadcasting  
12           commercial license or radio broadcasting station as-  
13           sets to a qualified recipient for the purpose of cov-  
14           ering operating expenses during the recipient’s first  
15           year of operation of the radio broadcasting station  
16           if the station’s revenues are not adequate to cover  
17           such expenses. An operations escrow fund may be  
18           established only if the qualified recipient is not able  
19           to meet the financial responsibility requirement of  
20           the Federal Communications Commission.

21                   “(2) RECAPTURE OF CREDIT FOR AMOUNTS RE-  
22           MAINING IN ESCROW FUND.—In any case in which  
23           there is an amount remaining in an operations es-  
24           crow fund after the first year of operation of the  
25           radio broadcasting station for which the fund was

1 established, such amount (not including any interest  
2 that accrued on the amount in the fund) shall be  
3 added to the tax imposed by this chapter on the tax-  
4 payer for the taxpayer's taxable year which includes  
5 the end of such first year of operation.

6 “(d) SPECIAL RULES IN CASE OF SURRENDER OF LI-  
7 CENSE TO FCC.—If a qualified recipient surrenders its  
8 donated radio broadcasting license to the Federal Commu-  
9 nications Commission, the Commission shall notify the  
10 donor of the license that the donor may, within 6 months  
11 after such notification, post a bond equal to the amount  
12 of the tax credit under subsection (a) that it received for  
13 donating the station, plus interest. After such a bond is  
14 posted, the donor may apply for the license. If the Com-  
15 mission approves the donor's application for the license,  
16 the bond shall be used in lieu of an auction fee. If the  
17 donor does not exercise its option within such six months,  
18 or waives its option earlier, the license shall be auctioned  
19 in the same manner as a new license.

20 “(e) ELECTION.—This section shall apply to any tax-  
21 payer for any taxable year only if such taxpayer elects (at  
22 such time and in such manner as the Secretary may by  
23 regulations prescribe) to have this section apply for such  
24 taxable year.”.

25 (b) CONFORMING AMENDMENTS.—

1           (1) Subsection (b) of section 38 of such Code  
2 is amended by striking “plus” at the end of para-  
3 graph (11), by striking the period at the end of  
4 paragraph (12) and inserting “, plus”, and by add-  
5 ing at the end the following new paragraph:

6           “(13) the radio broadcasting station donation  
7 credit determined under section 45D(a).”.

8           (2) NO CARRYBACK BEFORE EFFECTIVE  
9 DATE.—Subsection (d) of section 39 of such Code  
10 (relating to carryback and carryforward of unused  
11 credits) is amended by adding at the end the fol-  
12 lowing new paragraph:

13           “(9) NO CARRYBACK OF SECTION 45D CREDIT  
14 BEFORE EFFECTIVE DATE.—No portion of the un-  
15 used business credit for any taxable year which is  
16 attributable to any credit determined under section  
17 45D may be carried back to a taxable year begin-  
18 ning before January 1, 2000.

19           (3) The table of sections for subpart D of part  
20 IV of subchapter A of chapter 1 of such Code is  
21 amended by adding at the end the following new  
22 item:

          “Sec. 45D. Credit for donation of license and other assets of com-  
          mercial radio broadcasting stations to certain non-  
          profit corporations.”

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1999.

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