

103D CONGRESS
1ST SESSION

S. 289

To amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3 (legislative day, JANUARY 5), 1993

Mr. REID (for himself, Mr. PRYOR, Mr. DANFORTH, Mr. KEMPTHORNE, Mr. LUGAR, Mr. MCCAIN, Mr. WARNER, Mr. BRYAN, Mr. COHEN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, 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. TREATMENT OF CONTRIBUTIONS IN AID OF**
4 **CONSTRUCTION.**

5 (a) TREATMENT OF CONTRIBUTIONS IN AID OF CON-
6 STRUCTION.—

1 (1) IN GENERAL.—Section 118 of the Internal
2 Revenue Code of 1986 (relating to contributions to
3 the capital of a corporation) is amended—

4 (A) by redesignating subsection (c) as sub-
5 section (e), and

6 (B) by inserting after subsection (b) the
7 following new subsections:

8 “(c) SPECIAL RULES FOR WATER AND SEWAGE DIS-
9 POSAL UTILITIES.—

10 “(1) GENERAL RULE.—For purposes of this
11 section, the term ‘contribution to the capital of the
12 taxpayer’ includes any amount of money or other
13 property received from any person (whether or not
14 a shareholder) by a regulated public utility which
15 provides water or sewerage disposal services if—

16 “(A) such amount is a contribution in aid
17 of construction,

18 “(B) in the case of contribution of prop-
19 erty other than water or sewerage disposal fa-
20 cilities, such amount meets the requirements of
21 the expenditure rule of paragraph (2), and

22 “(C) such amount (or any property ac-
23 quired or constructed with such amount) is not
24 included in the taxpayer’s rate base for rate-
25 making purposes.

1 “(2) EXPENDITURE RULE.—An amount meets
2 the requirements of this paragraph if—

3 “(A) an amount equal to such amount is
4 expended for the acquisition or construction of
5 tangible property described in section
6 1231(b)—

7 “(i) which is the property for which
8 the contribution was made or is of the
9 same type as such property, and

10 “(ii) which is used predominantly in
11 the trade or business of furnishing water
12 or sewerage disposal services,

13 “(B) the expenditure referred to in sub-
14 paragraph (A) occurs before the end of the sec-
15 ond taxable year after the year in which such
16 amount was received, and

17 “(C) accurate records are kept of the
18 amounts contributed and expenditures made,
19 the expenditures to which contributions are al-
20 located, and the year in which the contributions
21 and expenditures are received and made.

22 “(3) DEFINITIONS.—For purposes of this sub-
23 section—

24 “(A) CONTRIBUTION IN AID OF CONSTRUC-
25 TION.—The term ‘contribution in aid of con-

1 construction' shall be defined by regulations pre-
2 scribed by the Secretary, except that such term
3 shall not include amounts paid as service
4 charges for starting or stopping services.

5 “(B) PREDOMINANTLY.—The term ‘pre-
6 dominantly’ means 80 percent or more.

7 “(C) REGULATED PUBLIC UTILITY.—The
8 term ‘regulated public utility’ has the meaning
9 given such term by section 7701(a)(33), except
10 that such term shall not include any utility
11 which is not required to provide water or sewer-
12 age disposal services to members of the general
13 public in its service area.

14 “(4) DISALLOWANCE OF DEDUCTIONS AND IN-
15 VESTMENT CREDIT; ADJUSTED BASIS.—Notwith-
16 standing any other provision of this subtitle, no de-
17 duction or credit shall be allowed for, or by reason
18 of, any expenditure which constitutes a contribution
19 in aid of construction to which this subsection ap-
20 plies. The adjusted basis of any property acquired
21 with contributions in aid of construction to which
22 this subsection applies shall be zero.

23 “(d) STATUTE OF LIMITATIONS.—If the taxpayer for
24 any taxable year treats an amount as a contribution to

1 the capital of the taxpayer described in subsection (c),
2 then—

3 “(1) the statutory period for the assessment of
4 any deficiency attributable to any part of such
5 amount shall not expire before the expiration of 3
6 years from the date the Secretary is notified by the
7 taxpayer (in such manner as the Secretary may pre-
8 scribe) of—

9 “(A) the amount of the expenditure re-
10 ferred to in subparagraph (A) of subsection
11 (c)(2),

12 “(B) the taxpayer’s intention not to make
13 the expenditures referred to in such subpara-
14 graph, or

15 “(C) a failure to make such expenditure
16 within the period described in subparagraph
17 (B) of subsection (c)(2); and

18 “(2) such deficiency may be assessed before the
19 expiration of such 3-year period notwithstanding the
20 provisions of any other law or rule of law which
21 would otherwise prevent such assessment.”.

22 (2) CONFORMING AMENDMENT.—Section
23 118(b) of such Code is amended by inserting “except
24 as provided in subsection (c),” before “the term”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to amounts received
3 after the date of the enactment of this Act.

4 (b) RECOVERY METHOD AND PERIOD FOR WATER
5 UTILITY PROPERTY.—

6 (1) REQUIREMENT TO USE STRAIGHT LINE
7 METHOD.—Section 168(b)(3) of the Internal Reve-
8 nue Code of 1986 is amended by adding at the end
9 the following new subparagraph:

10 “(F) Water utility property described in
11 subsection (e)(5).”

12 (2) 25-YEAR RECOVERY PERIOD.—The table
13 contained in section 168(c)(1) of such Code is
14 amended by inserting the following item after the
15 item relating to 20-year property:

“Water utility property 25 years”.

16 (3) WATER UTILITY PROPERTY.—

17 (A) IN GENERAL.—Section 168(e) of such
18 Code is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(5) WATER UTILITY PROPERTY.—The term
21 ‘water utility property’ means property—

22 “(A) which is an integral part of the gath-
23 ering, treatment, or commercial distribution of
24 water, and

1 “(B) which, without regard to this para-
2 graph, would be 20-year property.”

3 (B) CONFORMING AMENDMENT.—Subpara-
4 graph (F) of section 168(e)(3) of such Code is
5 amended by adding at the end the following
6 new sentence: “Such term does not include
7 water utility property.”

8 (4) ALTERNATIVE SYSTEM.—Clause (iv) of sec-
9 tion 168(g)(2)(C) of such Code is amended by in-
10 serting “, water utility property,” after “grading”.

11 (5) EFFECTIVE DATE.—The amendments made
12 by this subsection shall apply to property placed in
13 service after the date of the enactment of this Act,
14 other than property placed in service pursuant to a
15 binding contract in effect on such date and at all
16 times thereafter before the property is placed in
17 service.

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