

104TH CONGRESS
2D SESSION

S. 1542

To amend the Internal Revenue Code of 1986 to provide for the expensing of environmental remediation costs in empowerment zones and enterprise communities.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1996

Mr. ABRAHAM (for himself and Mr. LIEBERMAN) 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 provide for the expensing of environmental remediation costs in empowerment zones and enterprise communities.

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. EXPENSING OF ENVIRONMENTAL REMEDI-**
4 **ATION COSTS.**

5 (a) IN GENERAL.—Part II of subchapter V of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

1 **“SEC. 1395. EXPENSING OF ENVIRONMENTAL REMEDIATION**

2 **COSTS.**

3 “(a) TREATMENT AS EXPENSE.—A taxpayer may
4 elect to treat any environmental remediation cost as an
5 expense which is not chargeable to capital account. Any
6 cost so treated shall be allowable as a deduction for the
7 taxable year in which the cost is paid or incurred.

8 “(b) ENVIRONMENTAL REMEDIATION COST.—For
9 purposes of this section—

10 “(1) IN GENERAL.—The term ‘environmental
11 remediation cost’ means any cost which—

12 “(A) is chargeable to capital account,

13 “(B) is paid or incurred in connection with
14 the abatement or control of environmental con-
15 taminants at a site located within an
16 empowerment zone or enterprise community,
17 and

18 “(C) is certified by the applicable Federal
19 or State authority as being required by, and in
20 compliance with, applicable Federal and State
21 laws governing abatement and control of envi-
22 ronmental contaminants.

23 “(2) EXCEPTIONS.—Such term shall not in-
24 clude any amount paid or incurred—

25 “(A) for equipment which is used in the
26 environmental remediation and which is of a

1 character subject to an allowance for deprecia-
 2 tion or amortization, or

3 “(B) in connection with a site which is on
 4 the national priorities list under section
 5 105(a)(8)(B) of the Comprehensive Environ-
 6 mental Response, Compensation, and Liability
 7 Act of 1980 (42 U.S.C. 9605(a)(8)(B)).

8 “(c) SPECIAL RULES.—For purposes of this sec-
 9 tion—

10 “(1) LIMITATION BASED ON INCOME FROM
 11 TRADE OR BUSINESS.—The amount allowed as a de-
 12 duction under subsection (a) for any taxable year
 13 shall not exceed the aggregate amount of taxable in-
 14 come of the taxpayer for such taxable year which is
 15 derived from the active conduct by the taxpayer of
 16 any trade or business during such taxable year. For
 17 purposes of this paragraph, rules similar to the rules
 18 of subparagraphs (B) and (C) of section 179(b)(3)
 19 shall apply. In the case of a partnership, S corpora-
 20 tion, trust or other pass thru entity, this paragraph
 21 shall be applied at both the entity and owner levels.

22 “(2) RECAPTURE RULES.—

23 “(A) PROPERTY NOT USED IN TRADE OR
 24 BUSINESS.—The Secretary shall, by regulations,
 25 provide for recapturing the benefit of any de-

duction allowable under subsection (a) with respect to any property not used predominantly in a trade or business at any time.

“(B) TREATMENT OF GAIN AS ORDINARY INCOME.—For purposes of section 1245—

“(i) the deduction allowable under subsection (a) shall be treated as a deduction allowable to the taxpayer for depreciation or amortization; and

“(ii) property (other than section 1245 property) to which the deduction would otherwise have been chargeable shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.”

(b) CONFORMING AMENDMENTS.—The table of sections for part II of subchapter U of chapter 1 of such Code is amended—

(1) by striking “**TAX-EXEMPT FACILITY BONDS**” in the heading for part II and inserting “**TAX-INCENTIVES**”, and

(2) by adding at the end the following new item:

“Sec. 1395. Expensing of environmental remediation costs.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 the date of the enactment of this Act.

