

104TH CONGRESS
1ST SESSION

S. 702

To amend the Internal Revenue Code of 1986 to treat certain private foundations in the same manner as educational institutions and pension trusts for purposes of the unrelated debt-financed income rules.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1995

Mr. SIMON 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 treat certain private foundations in the same manner as educational institutions and pension trusts for purposes of the unrelated debt-financed income rules.

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. APPLICATION OF SECTION 514(c)(9) TO CER-**
4 **TAIN PRIVATE FOUNDATIONS.**

5 (a) QUALIFIED ORGANIZATION TO INCLUDE PRI-
6 VATE FOUNDATIONS.—Subparagraph (C) of section
7 514(c)(9) of the Internal Revenue Code of 1986 (defining
8 qualified organization) is amended by striking “or” at the

1 end of clause (ii), by striking the period at the end of
 2 clause (iii) and inserting “, or”, and by adding at the end
 3 the following new clause:

4 “(iv) an eligible private foundation (as
 5 defined in subparagraph (I)).”

6 (b) ELIGIBLE PRIVATE FOUNDATION.—Section
 7 514(c)(9) of the Internal Revenue Code of 1986 is amend-
 8 ed by adding at the end the following new subparagraph:

9 “(I) ELIGIBLE PRIVATE FOUNDATION.—
 10 For purposes of subparagraph (C)(iv), the term
 11 ‘eligible private foundation’ means, with respect
 12 to any indebtedness, a private foundation (as
 13 defined in section 509(a)) if—

14 “(i) at all times during its existence,
 15 at least one-half (on the basis of value) of
 16 its assets, other than exempt assets, con-
 17 sisted of real property acquired directly or
 18 indirectly by gift or devise,

19 “(ii) the fair market value of any such
 20 real property was, immediately before the
 21 indebtedness was incurred (or in the case
 22 of 1 or more refinancings, immediately be-
 23 fore the original indebtedness was in-
 24 curred), greater than 10 percent of the ag-
 25 gregate fair market value of all assets of

1 the foundation other than exempt assets,
2 and

3 “(iii) no member of the foundation’s
4 governing body was a disqualified person
5 (as defined in section 4946(a)(1) without
6 regard to subparagraph (B) thereof) at
7 any time during any taxable year in which
8 the indebtedness was outstanding.

9 For purposes of this subparagraph, exempt as-
10 sets are assets which are used (or held for use)
11 directly in carrying out the foundation’s exempt
12 purpose.”.

13 (c) CONFORMING AMENDMENT.—Clause (iii) of sec-
14 tion 514(c)(9)(F) of the Internal Revenue Code of 1986
15 is amended by striking all that follows “described in” and
16 inserting “clause (i), (ii), or (iv) of subparagraph (C).”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years ending after the
19 date of the enactment of this Act with respect to indebted-
20 ness incurred before, on, or after such date.

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