

106TH CONGRESS
2D SESSION

S. 2955

To amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. DEWINE (for himself, Mr. HATCH, Mr. VOINOVICH, and Mr. LEAHY) 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 relief for payment of asbestos-related claims.

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. EXEMPTION FOR ASBESTOS-RELATED SETTLE-**
4 **MENT FUNDS.**

5 (a) EXEMPTION FOR ASBESTOS-RELATED SETTLE-
6 MENT FUNDS.—Subsection (b) of section 468B of the In-
7 ternal Revenue Code of 1986 is amended by adding at the
8 end the following new paragraph:

9 “(6) EXEMPTION FROM TAX FOR ASBESTOS-RE-
10 LATED DESIGNATED SETTLEMENT FUNDS.—Not-

1 withstanding paragraph (1), no tax shall be imposed
 2 under this section or any other provision of this sub-
 3 title on any designated settlement fund established
 4 for the principal purpose of resolving and satisfying
 5 present and future claims relating to asbestos.”

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (1) of section 468B(b) of the In-
 8 ternal Revenue Code of 1986 is amended by striking
 9 “‘There’” and inserting “‘Except as provided in para-
 10 graph (6), there’”.

11 (2) Subsection (g) of section 468B of such Code
 12 is amended by inserting “(other than subsection
 13 (b)(6))” after “Nothing in any provision of law”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years ending after the
 16 date of enactment of this Act.

17 **SEC. 2. MODIFY TREATMENT OF ASBESTOS-RELATED NET**
 18 **OPERATING LOSSES.**

19 (a) ASBESTOS-RELATED NET OPERATING LOSSES.—
 20 Subsection (f) of section 172 of the Internal Revenue Code
 21 of 1986 is amended by redesignating paragraphs (4), (5),
 22 and (6) as paragraphs (5), (6), and (7), respectively, and
 23 by inserting after paragraph (3) the following new para-
 24 graph:

1 “(4) SPECIAL RULES FOR ASBESTOS LIABILITY
2 LOSSES.—

3 “(A) IN GENERAL.—At the election of the
4 taxpayer, the portion of any specified liability
5 loss that is attributable to asbestos may, for
6 purposes of subsection (b)(1)(C), be carried
7 back to the taxable year in which the taxpayer,
8 including any predecessor corporation, was first
9 involved in the production or distribution of
10 products containing asbestos and each subse-
11 quent taxable year.

12 “(B) COORDINATION WITH CREDITS.—If a
13 deduction is allowable for any taxable year by
14 reason of a carryback described in subpara-
15 graph (A)—

16 “(i) the credits allowable under part
17 IV (other than subpart C) of subchapter A
18 shall be determined without regard to such
19 deduction, and

20 “(ii) the amount of taxable income
21 taken into account with respect to the
22 carryback under subsection (b)(2) for such
23 taxable year shall be reduced by an
24 amount equal to—

1 “(I) the increase in the amount
2 of such credits allowable for such tax-
3 able year solely by reason of clause
4 (i), divided by

5 “(II) the maximum rate of tax
6 under section 1 or 11 (whichever is
7 applicable) for such taxable year.

8 “(C) CARRYFORWARDS TAKEN INTO AC-
9 COUNT BEFORE ASBESTOS-RELATED DEDUC-
10 TIONS.—For purposes of this section—

11 “(i) in determining whether a net op-
12 erating loss carryforward may be carried
13 under subsection (b)(2) to a taxable year,
14 taxable income for such year shall be de-
15 termined without regard to the deductions
16 referred to in paragraph (1)(A) with re-
17 spect to asbestos, and

18 “(ii) if there is a net operating loss
19 for such year after taking into account
20 such carryforwards and deductions, the
21 portion of such loss attributable to such
22 deductions shall be treated as a specified
23 liability loss that is attributable to asbes-
24 tos.

1 “(D) LIMITATION.—The amount of reduc-
 2 tion in income tax liability arising from the
 3 election described in subparagraph (A) that ex-
 4 ceeds the amount of reduction in income tax li-
 5 ability that would have resulted if the taxpayer
 6 utilized the 10-year carryback period under sub-
 7 section (b)(1)(C) shall be devoted by the tax-
 8 payer solely to asbestos claimant compensation
 9 and related costs, through a designated settle-
 10 ment fund or otherwise.

11 “(E) CONSOLIDATED GROUPS.—For pur-
 12 poses of this paragraph, all members of an af-
 13 filiated group of corporations that join in the
 14 filing of a consolidated return pursuant to sec-
 15 tion 1501 (or a predecessor section) shall be
 16 treated as 1 corporation.

17 “(F) PREDECESSOR CORPORATION.—For
 18 purposes of this paragraph, a predecessor cor-
 19 poration shall include a corporation that trans-
 20 ferred or distributed assets to the taxpayer in
 21 a transaction to which section 381(a) applies or
 22 that distributed the stock of the taxpayer in a
 23 transaction to which section 355 applies.”

24 (b) CONFORMING AMENDMENT.—Paragraph (7) of
 25 section 172(f) of the Internal Revenue Code of 1986, as

1 redesignated by this section, is amended by striking “10-
2 year”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of enactment of this Act.

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