

103^D CONGRESS
1ST SESSION

H. R. 1465

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1993

Mr. ORTON introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 (a)(1) Subsection (c) of section 469 of the Internal
4 Revenue Code of 1986 (relating to passive activity losses
5 and credits limited) is amended by adding at the end the
6 following new paragraphs:

7 “(7) TAXPAYERS ENGAGED IN THE REAL PROP-
8 ERTY BUSINESS.—In the case of a taxpayer engaged
9 in the real property business, the determination of

1 what constitutes an activity and whether an activity
2 is a passive activity shall be made by treating the
3 taxpayer's rental real property operations, undertak-
4 ings and activities in the same manner as nonrental
5 trade or business operations, undertakings, and ac-
6 tivities.

7 “(8) INDIVIDUALS ENGAGED IN THE REAL
8 PROPERTY BUSINESS.—For purposes of paragraph
9 (7), an individual is engaged in the real property
10 business if—

11 “(A) such individual spends at least 50
12 percent of such individual's working time in
13 real property operations; and

14 “(B) such individual spends more than 500
15 hours during the taxable year in real property
16 operations.

17 “(9) REAL PROPERTY OPERATIONS.—For pur-
18 poses of paragraph (8), the term ‘real property oper-
19 ations’ means any real property development, rede-
20 velopment, construction, reconstruction, acquisition,
21 conversion, rental, operation, management, and leas-
22 ing.

23 “(10) WORKING TIME.—For purposes of para-
24 graph (8), the term ‘working time’ means any time
25 spent providing services or otherwise working in con-

1 nection with the activity, whether in the capacity of
2 an employee, sole proprietor, S corporation share-
3 holder, partner in a partnership, or beneficiary of a
4 trust or estate.

5 “(11) CLOSELY HELD C CORPORATIONS EN-
6 GAGED IN THE REAL PROPERTY BUSINESS.—For
7 purposes of paragraph (7), a closely held C corpora-
8 tion is engaged in the real property business if 1 or
9 more shareholders owning stock representing more
10 than 50 percent (by value) of the outstanding stock
11 of such corporation participate for more than 500
12 hours in the aggregate real property activities of
13 such corporation.”

14 (2) Subsection (h) of section 469 of such Code is
15 amended by adding at the end the following new para-
16 graph:

17 “(6) INDIVIDUALS ENGAGED IN THE REAL
18 PROPERTY BUSINESS.—In the case of an individual
19 engaged in the real property business (within the
20 meaning of paragraph (8) of subsection (c)), such
21 individual shall be treated as materially participating
22 in an activity which includes real property operations
23 (within the meaning of paragraph (9) of subsection
24 (c)) only if the individual participates for more than
25 500 hours in such real property operations. For pur-

1 poses of this paragraph, the number of hours which
2 an individual participates in real property operations
3 shall be determined without application of paragraph
4 (5) of this subsection (h).”

5 (b)(1) Paragraph (2) of section 469(c) of such Code
6 is amended to read as follows:

7 “(2) PASSIVE ACTIVITY INCLUDES CERTAIN
8 RENTAL ACTIVITIES.—Except for rental activities
9 treated in the same manner as nonrental trade or
10 business activities pursuant to paragraph (7), each
11 rental activity is a passive activity without regard to
12 whether or not the taxpayer materially participates
13 in the rental activity.”

14 (2) Paragraph (4) of such section 469(c) is amended
15 to read as follows:

16 “(4) MATERIAL PARTICIPATION NOT REQUIRED
17 FOR PARAGRAPH (3).—Paragraph (3) shall be ap-
18 plied without regard to whether or not the taxpayer
19 materially participates in the activity.”

20 (c) The amendments made by this section shall apply
21 to taxable years beginning after December 31, 1992.

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