

103^D CONGRESS
1ST SESSION

H. R. 3630

To amend the Internal Revenue Code of 1986 with respect to the treatment of tax-exempt bonds.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. COYNE (for himself, Mr. CARDIN, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. HOAGLAND, Mr. KOPETSKI, Mr. JEFFERSON, Mr. BREWSTER, Mr. SHAW, and Mr. SUNDQUIST) 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 tax-exempt bonds.

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. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Public Finance and Infrastructure Investment Act of
7 1993”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
2 to, or repeal of, a section or other provision, the reference
3 shall be considered to be made to a section or other provi-
4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 code; table of contents.

Sec. 2. Definition of private activity bonds.

Sec. 3. Simplification of arbitrage rebate.

Sec. 4. Increase in small issuer exemption from pro rata allocation of interest
expense of financial institutions to tax-exempt interest.

Sec. 5. Indexation of volume cap.

Sec. 6. Clarification of investment-type property.

Sec. 7. Distressed community economic development bonds.

6 **SEC. 2. DEFINITION OF PRIVATE ACTIVITY BONDS.**

7 (a) REPEAL OF 5 PERCENT UNRELATED AND DIS-
8 PROPORTIONATE PRIVATE USE TEST.—Subsection (b) of
9 section 141 (relating to private business tests) is amended
10 by striking paragraph (3).

11 (b) REPEAL OF LOWER PRIVATE BUSINESS TEST
12 FOR CERTAIN OUTPUT FACILITIES.—Subsection (b) of
13 section 141 (relating to private business tests) is amended
14 by striking paragraph (4).

15 (c) PRIVATE LOAN TEST INCREASED.—Subpara-
16 graph (B) of section 141(c)(1) (relating to the private loan
17 financing test) is amended by striking “\$5,000,000” and
18 inserting “\$15,000,000”.

19 (d) CONFORMING AMENDMENTS.—

1 (1) Subsection (b) of section 141 is amended by
2 redesignating paragraphs (5) through (9) as para-
3 graphs (3) through (7), respectively.

4 (2) Paragraph (2) of section 141(d) is amended
5 by striking “(within the meaning of subsection
6 (b)(4)).”

7 (3) Sections 142(c)(2) and 146(k)(3) are each
8 amended by striking “141(b)(6)” and inserting
9 “141(b)(4)”.

10 (4) The following provisions are each amended
11 by striking “141(b)(5)” and inserting “141(b)(3)”:

12 (A) Section 146(k)(3).

13 (B) Section 146(m)(1).

14 (C) Section 146(m)(2).

15 (D) Section 149(f)(4)(B)(i).

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to bonds issued after the date of
18 the enactment of this Act.

19 **SEC. 3. SIMPLIFICATION OF ARBITRAGE REBATE.**

20 (a) EXPANSION OF EXCEPTION FROM REBATE FOR
21 SMALL ISSUERS.—Subparagraph (D) of section 148(f)(4)
22 (relating to the rebate exception for governmental units
23 issuing \$5,000,000 or less of bonds) is amended by strik-
24 ing “\$5,000,000” each place it appears and inserting
25 “\$10,000,000”.

1 (b) REPEAL OF \$100,000 LIMITATION ON UNSPENT
2 PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.—
3 Subclause (I) of section 148(f)(4)(B)(ii) (relating to addi-
4 tional period for certain bonds for purposes of the 6-month
5 expenditure exception to rebate) is amended by striking
6 “the lesser of 5 percent of the proceeds of the issuer or
7 \$100,000” and inserting “5 percent of the proceeds of the
8 issue”.

9 (c) REPEAL OF DEBT SERVICE-BASED LIMITATION
10 ON INVESTMENT IN CERTAIN NONPURPOSE INVEST-
11 MENTS.—Subsection (d) of section 148 (relating to special
12 rules for reasonably required reserve or replacement fund)
13 is amended by striking paragraph (3).

14 (d) EXEMPTION FROM REBATE FOR CERTAIN
15 BONDS.—Subparagraph (C) of section 148(f)(4) is
16 amended to read as follows:

17 “(C) EXCEPTION FROM REBATE FROM
18 CERTAIN BONDS.—If all of the bonds which are
19 part of an issue (other than a refunding issue
20 or tax and revenue anticipation issue) are quali-
21 fied 501(c)(3) bonds, bonds which are not pri-
22 vate activity bonds, or private activity bonds is-
23 sued to finance property to be owned by a gov-
24 ernmental unit or a 501(c)(3) organization,

1 such issue shall be treated as meeting the re-
2 quirements of paragraph (2) if—

3 “(i) no later than the day which is 1
4 year after the date of issuance of such
5 issue, at least $33\frac{1}{3}$ percent of the gross
6 proceeds have been expended for the gov-
7 ernmental purpose of the issue;

8 “(ii) not later than the day which is
9 2 years after the date of issuance of such
10 issue, at least 75 percent of the gross pro-
11 ceeds have been expended for the govern-
12 mental purpose of the issue; and

13 “(iii) no later than the day which is 3
14 years after the date of issuance of such
15 issue, at least 100 percent of the gross
16 proceeds have been expended for the gov-
17 ernmental purpose of the issue.

18 For purposes of this paragraph only, only pro-
19 ceeds expended for construction, reconstruction,
20 or rehabilitation (including the acquisition of
21 land, equipment and furnishings) shall be con-
22 sidered to have been expended for the govern-
23 mental purpose of the issue.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after the date of
3 the enactment of this Act.

4 **SEC. 4. INCREASE IN SMALL ISSUER EXEMPTION FROM**
5 **PRO RATA ALLOCATION OF INTEREST EX-**
6 **PENSE OF FINANCIAL INSTITUTIONS TO TAX-**
7 **EXEMPT INTEREST.**

8 (a) IN GENERAL.—Subparagraphs (C) and (D) of
9 section 265(b)(3) are each amended by striking
10 “\$10,000,000” each place it appears and inserting
11 “\$25,000,000”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to bonds issued after the date
14 of enactment.

15 **SEC. 5. INDEXATION OF VOLUME CAP.**

16 (a) GENERAL RULE.—Paragraphs (1) and (2) of sec-
17 tion 146(d) are amended to read as follows:

18 “(1) IN GENERAL.—The State ceiling applicable
19 to any State for any calendar year shall be the
20 greater of—

21 “(A) an amount equal to \$50 multiplied by
22 the State population, or

23 “(B) \$150,000,000.”

24 Subparagraph (B) shall not apply to any possession
25 of the United States.

1 “(2) INFLATION ADJUSTMENT.—In the case of
2 any calendar year beginning after 1993, each dollar
3 amount contained in paragraph (1) shall be in-
4 creased by an amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost-of-living adjustment for such
7 calendar year as determined under section
8 1(h)(3).”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to calendar year 1993 and sub-
11 sequent calendar years.

12 **SEC. 6. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.**

13 (a) IN GENERAL.—Subparagraph (D) of section
14 148(b)(2) is amended to read as follows:

15 “(D) any investment-type property, or”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall take effect as if included in the
18 amendments made by section 1301 of the Tax Reform Act
19 of 1986.

20 **SEC. 7. DISTRESSED COMMUNITY ECONOMIC DEVELOP-**
21 **MENT BONDS.**

22 (a) IN GENERAL.—Paragraph (1) of section 141(e)
23 (defining qualified bond) is amended by striking “or” at
24 the end of subparagraph (F), by striking the period at
25 the end of subparagraph (G) and inserting “, or”, and

1 by adding at the end thereof the following new subpara-
2 graph:

3 “(H) a distressed community economic de-
4 velopment bond.”

5 (b) DISTRESSED COMMUNITY ECONOMIC DEVELOP-
6 MENT BOND DEFINED.—

7 (1) IN GENERAL.—Section 144 is amended by
8 adding at the end thereof the following new sub-
9 section:

10 “(d) DISTRESSED COMMUNITY ECONOMIC DEVELOP-
11 MENT BOND.—For purposes of this subpart—

12 “(1) IN GENERAL.—The term ‘distressed com-
13 munity economic development bond’ means any bond
14 issued as part of an issue 95 percent or more of the
15 net proceeds of which are to be used for distressed
16 community economic development purposes.

17 “(2) DISTRESSED COMMUNITY ECONOMIC DE-
18 VELOPMENT PURPOSES.—For purposes of this sub-
19 section, the net proceeds of any issue shall be treat-
20 ed as used for distressed community economic devel-
21 opment purposes to the extent such proceeds are
22 used—

23 “(A) to provide qualified economic develop-
24 ment facilities or land which is functionally re-
25 lated and subordinate to such facilities, or

1 “(B) to provide working capital required in
2 connection with the establishment of a qualified
3 business in a distressed community or the ex-
4 pansion of such a business in such a commu-
5 nity.

6 “(3) QUALIFIED ECONOMIC DEVELOPMENT FA-
7 CILITIES.—For purposes of this subsection, the term
8 ‘qualified economic development facilities’ means any
9 property to which section 168 applies (or would
10 apply but for section 179) if—

11 “(A) such property was acquired by pur-
12 chase (as defined in section 179(d)(2)) after the
13 date on which the designation of the distressed
14 community took effect,

15 “(B) the original use of which in the dis-
16 tressed community commences with the person
17 to whom the financing is provided under the
18 issue, and

19 “(C) substantially all the use of which is in
20 a distressed community and in the active con-
21 duct of a qualified business.

22 For purposes of the preceding sentence, rules similar
23 to the rules of subsections (a)(2) and (b) of section
24 1397C shall apply.

1 “(4) QUALIFIED BUSINESS.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—Except as otherwise
4 provided in this paragraph, the term ‘qualified
5 business’ means any trade or business.

6 “(B) RENTAL OF REAL PROPERTY.—The
7 rental of any building or structure located in a
8 distressed community shall be treated as a
9 qualified business if and only if—

10 “(i) the property is not residential
11 rental property (as defined in section
12 168(e)(2), and

13 “(ii) at least 50 percent of the gross
14 rental income from the building or struc-
15 ture is from other qualified businesses in
16 such community.

17 “(C) RENTAL OF TANGIBLE PERSONAL
18 PROPERTY.—The rental of tangible personal
19 property shall be treated as a qualified business
20 if and only if substantially all of the rental of
21 such property is by qualified businesses in the
22 distressed community or by individual residents
23 of the distressed community.

24 “(D) TREATMENT OF BUSINESS HOLDING
25 INTANGIBLES.—The term ‘qualified business’

1 shall not include any trade or business consist-
2 ing predominantly of the development or hold-
3 ing of intangibles for sale or license.

4 “(E) CERTAIN BUSINESSES EXCLUDED.—
5 The term ‘qualified business’ shall not include
6 any trade or business consisting of—

7 “(i) the operation of any facility de-
8 scribed in subsection (c)(6)(B), or

9 “(ii) operating a trade or business the
10 principal activity of which is farming
11 (within the meaning of subparagraph (A)
12 or (B) of section 2032A(e)(5)), but only if,
13 as of the close of the preceding taxable
14 year, the sum of the following exceeds
15 \$500,000—

16 “(I) the aggregate unadjusted
17 bases (or, if greater, the fair market
18 value) of the assets owned by the tax-
19 payer and used in such trade or busi-
20 ness, and

21 “(II) the aggregate value of the
22 assets leased by the taxpayer and
23 used in such trade or business.

1 For purposes of subclause (II), rules simi-
2 lar to the rules of section 1397(b) shall
3 apply.

4 “(5) DISTRESSED COMMUNITY.—For purposes
5 of this subsection, the term ‘distressed community’
6 means, with respect to periods in any calendar year,
7 any area—

8 “(A) which is the area over which a gen-
9 eral purpose local governmental unit has juris-
10 diction and which is designated for purposes of
11 this subsection by the governing body of such
12 unit, and

13 “(B) which (as of the beginning of such
14 year) meets the requirements of clause (i), (ii),
15 or (iii) of this subparagraph:

16 “(i) CHRONIC ECONOMIC DISTRESS.—
17 An area meets the requirements of this
18 clause if—

19 “(I) the area has experienced
20 population loss (as determined by the
21 1990 or subsequent census data) of
22 not less than 5 percent, or

23 “(II) the area has experienced an
24 average unemployment rate over the
25 last 5 years (as determined by the

1 Bureau of Labor Statistics) of not
2 less than 8 percent.

3 “(ii) SLOW JOB GROWTH.—An area
4 meets the requirements of this clause if,
5 over the last 5 years—

6 “(I) the area has experienced job
7 growth in the retail and manufactur-
8 ing sectors of less than 3 percent, or

9 “(II) if data are available only
10 for the manufacturing sector, the
11 community has experienced no job
12 growth in such sector, or if data are
13 available only for the retail sector, the
14 area has experienced job growth in
15 such sector of less than 8.5 percent.

16 “(iii) MAJOR BASE CLOSING.—An
17 area meets the requirements of this clause
18 if—

19 “(I) there has been a military
20 base closing within its boundaries or
21 adjacent thereto within the last 2
22 years which has resulted, or will re-
23 sult, in the loss of not less than 500
24 jobs, or

1 “(II) there has been an official
2 notification of a military base closing
3 within its boundaries or adjacent
4 thereto within the next 6 months,
5 which will result in the loss of not less
6 than 500 jobs.

7 “(6) PROHIBITION OF ASSISTANCE FOR BUSI-
8 NESS RELOCATIONS.—

9 “(A) IN GENERAL.—This subsection shall
10 not apply to any bonds issued as part of an
11 issue if any of the proceeds of such an issue are
12 used to assist any establishment in relocating
13 from an area outside the distressed community
14 to the distressed community.

15 “(B) EXCEPTION.—The limitation estab-
16 lished in subparagraph (A) shall not be con-
17 strued to prohibit assistance for the expansion
18 of an existing business entity through the estab-
19 lishment of a new branch affiliate, or subsidiary
20 if—

21 “(i) the establishment of the new
22 branch, affiliate, or subsidiary will not re-
23 sult in a decrease in employment in the
24 area of original location or in any other

1 area where the existing business entity
2 conducts business operations, and

3 “(ii) there is no reason to believe that
4 the new branch, affiliate, or subsidiary is
5 being established with the intention of clos-
6 ing down the operations of the existing
7 business entity in the area of its original
8 location or in any other area where the ex-
9 isting business entity conducts business op-
10 erations.”

11 (2) CLERICAL AMENDMENTS.—

12 (A) The section heading for section 144 is
13 amended by striking “**QUALIFIED REDEVEL-**
14 **OPMENT BOND.**” and inserting “**ETC.**”.

15 (B) The table of sections for subpart A of
16 part IV of subchapter B of chapter 1 is amend-
17 ed by striking “qualified redevelopment bond.”
18 in the item relating to section 144 and inserting
19 “etc.”.

20 (c) CERTAIN RULES NOT TO APPLY.—

21 (1) Subsection (h) of section 147 (relating to
22 certain rules which do not apply) is amended by
23 adding at the end thereof the following new para-
24 graph:

1 “(3) BONDS FOR DISTRESSED COMMUNITY ECO-
2 NOMIC DEVELOPMENT FACILITIES.—Subsection
3 (c)(1)(A) shall be applied by substituting ‘50 per-
4 cent’ for ‘25 percent’ and subsection (d) shall not
5 apply to any bond issued as part of an issue de-
6 scribed in section 144(d)(1).”

7 (2) The subsection heading for subsection (h) of
8 section 147 is amended to read as follows:

9 “(h) SPECIAL RULES FOR CERTAIN BONDS.—”.

10 (d) VOLUME CAP ONLY CHARGED WITH 50 PER-
11 CENT OF DISTRESSED COMMUNITY ECONOMIC DEVELOP-
12 MENT BONDS.—Subsection (g) of section 146 (relating to
13 an exception for certain bonds from volume cap) is amend-
14 ed by striking “and” at the end of paragraph (3), by strik-
15 ing the period at the end of paragraph (4) and inserting
16 “, and”, and by adding at the end thereof the following
17 new paragraph:

18 “(5) 50 percent of any bond issued as part of
19 an issue described in section 144(d)(1) (relating to
20 distressed community economic development facili-
21 ties).”

22 (e) PENALTIES FOR LOANS MADE TO BUSINESSES
23 THAT CEASE TO BE DISTRESSED COMMUNITY ECONOMIC
24 DEVELOPMENT BUSINESSES, ETC.—Subsection (b) of

1 section 150 (relating to change in use) is amended by add-
2 ing at the end thereof the following new paragraph:

3 “(6) DISTRESSED COMMUNITY ECONOMIC DE-
4 VELOPMENT BONDS.—In the case of any qualified
5 economic development facility with respect to which
6 financing was provided by an issue described in sec-
7 tion 144(d)(1):

8 “(A) NO DEDUCTION ALLOWED.—No de-
9 duction shall be allowed under this chapter for
10 interest on such financing which accrues during
11 the period beginning on the first day of the cal-
12 endar year which includes the date on which—

13 “(i) the trade or business to which the
14 financing was provided ceases to be a
15 qualified business, or

16 “(ii) substantially all of the use of
17 such facility with respect to which the fi-
18 nancing was provided ceases to be in a dis-
19 tressed community.

20 For purposes of this subparagraph, the term
21 ‘distressed community’ means any area which
22 qualifies as a distressed community under sec-
23 tion 144(d)(5) as of the time the financing was
24 provided without regard to any subsequent rev-
25 ocation or termination.

1 “(B) PENALTY IMPOSED ON DISTRESSED
2 COMMUNITY ECONOMIC DEVELOPMENT BUSI-
3 NESS.—If at any time while such financing is
4 outstanding—

5 “(i) such facility ceases to be in use in
6 a qualified business, or

7 “(ii) substantially all of the use of
8 such facility ceases to be in a distressed
9 community (as so defined),

10 there is hereby imposed on such business to
11 which such financing was provided a penalty
12 equal to 1.25 percent of the portion of such fi-
13 nancing which is outstanding immediately be-
14 fore such cessation. Such penalty shall be as-
15 sessed and collected by the Secretary.

16 “(C) EXCEPTION FOR BANKRUPTCY.—
17 Subparagraphs (A) and (B) shall not apply to
18 any cessation resulting from bankruptcy.”

19 (f) BANK INTEREST DEDUCTION.—

20 (1) IN GENERAL.—Clause (ii) of section
21 265(b)(3)(B) (relating to exception for certain tax-
22 exempt obligations) is amended—

23 (A) by striking “or” at the end of
24 subclause (I),

1 (B) by redesignating subclause (II) as
2 subclause (III), and

3 (C) by inserting after subclause (I) the fol-
4 lowing new subclause:

5 “(II) any bond issued as part of
6 an issue described in section
7 144(d)(1), or”.

8 (2) CONFORMING AGREEMENT.—Subclause (I)
9 of section 265(b)(3)(B)(i) (defining qualified tax-ex-
10 empt obligation) is amended by inserting “or is an
11 obligation issued as part of an issue described in
12 section 144(d)(1)” after “issuer”.

○

HR 3630 IH—2