

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 749

To amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1993

Mr. ANDREWS of Texas (for himself, Mr. THOMAS of California, Mr. MATSUI, Mr. SHAW, Mr. HERGER, Mr. SUNDQUIST, Mr. MCCRERY, Mr. JEFFERSON, Mr. BREWSTER, Mr. GRANDY, Mr. NEAL of Massachusetts, Mr. JACOBS, Mr. ARCHER, Mr. HANCOCK, Mr. CARDIN, Mr. SANTORUM, Mr. PAYNE of Virginia, Mr. BUNNING, Mr. PICKLE, Mr. KOPETSKI, Mr. HOUGHTON, Mr. McNULTY, Mr. DICKS, Mr. PETE GEREN of Texas, Mr. MORAN, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. LEHMAN, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. BEREUTER, Ms. DANNER, and Mr. GILMAN) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes.

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; REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Real Estate Stability and Recovery Amendments Act of  
6       1993”.

1 (b) REFERENCE.—Except as otherwise expressly pro-  
 2 vided, whenever in this Act an amendment or repeal is  
 3 expressed in terms of an amendment to, or repeal of, a  
 4 section or other provision, the reference shall be consid-  
 5 ered to be made to a section or other provision of the In-  
 6 ternal Revenue Code of 1986.

7 **TITLE I—MODIFICATION OF**  
 8 **PASSIVE LOSS RULES**

9 **SEC. 101. APPLICATION OF PASSIVE LOSS RULES TO RENT-**  
 10 **AL REAL ESTATE ACTIVITIES.**

11 (a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS  
 12 IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY  
 13 TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of sec-  
 14 tion 469 (defining passive activity) is amended by adding  
 15 at the end thereof the following new paragraph:

16 “(7) SPECIAL RULES FOR TAXPAYERS IN REAL  
 17 PROPERTY BUSINESS.—

18 “(A) IN GENERAL.—If this paragraph ap-  
 19 plies to any taxpayer for a taxable year—

20 “(i) paragraph (2) shall not apply to  
 21 any rental real estate activity of such tax-  
 22 payer for such taxable year, and

23 “(ii) this section shall be applied as if  
 24 each interest of the taxpayer in rental real  
 25 estate were a separate activity.

1           Notwithstanding clause (ii), a taxpayer may  
2           elect to treat all interests in rental real estate  
3           as one activity. Nothing in the preceding provi-  
4           sions of this subparagraph shall be construed as  
5           affecting the determination of whether the tax-  
6           payer materially participates with respect to  
7           any interest in a limited partnership as a lim-  
8           ited partner.

9           “(B) TAXPAYERS TO WHOM PARAGRAPH  
10          APPLIES.—This paragraph shall apply to a tax-  
11          payer for a taxable year if more than one-half  
12          of the personal services performed in trades or  
13          businesses by the taxpayer during such taxable  
14          year are performed in real property trades or  
15          businesses in which the taxpayer materially par-  
16          ticipates.

17          “(C) REAL PROPERTY TRADE OR BUSI-  
18          NESS.—For purposes of this paragraph, the  
19          term ‘real property trade or business’ means  
20          any real property development, redevelopment,  
21          construction, reconstruction, acquisition, con-  
22          version, rental, operation, management, leasing,  
23          or brokerage trade or business.

24          “(D) SPECIAL RULES FOR SUBPARAGRAPH  
25          (B).—

1           “(i) CLOSELY HELD C CORPORA-  
2           TIONS.—In the case of a closely held C  
3           corporation, the requirements of subpara-  
4           graph (B) shall be treated as met for any  
5           taxable year if more than 50 percent of the  
6           gross receipts of such corporation for such  
7           taxable year are derived from real property  
8           trades or businesses in which the corpora-  
9           tion materially participates.

10           “(ii) PERSONAL SERVICES AS AN EM-  
11           PLOYEE.—For purposes of subparagraph  
12           (B), personal services performed as an em-  
13           ployee shall not be treated as performed in  
14           real property trades or businesses. The  
15           preceding sentence shall not apply if such  
16           employee is a 5-percent owner (as defined  
17           in section 416(i)(1)(B)) in the employer.”

18           (b) CONFORMING AMENDMENTS.—

19           (1) Paragraph (2) of section 469(c) is amended  
20           by striking “The” and inserting “Except as provided  
21           in paragraph (7), the”.

22           (2) Clause (iv) of section 469(i)(3)(E) is  
23           amended by inserting “or any loss allowable by rea-  
24           son of subsection (c)(7)” after “loss”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1992.

4 **TITLE II—PROVISIONS RELAT-**  
5 **ING TO REAL ESTATE INVEST-**  
6 **MENTS BY PENSION FUNDS**

7 **SEC. 201. REAL ESTATE PROPERTY ACQUIRED BY A QUALI-**  
8 **FIED ORGANIZATION.**

9 (a) MODIFICATIONS OF EXCEPTIONS.—Paragraph  
10 (9) of section 514(c) (relating to real property acquired  
11 by a qualified organization) is amended by adding at the  
12 end thereof the following new subparagraphs:

13 “(G) SPECIAL RULES FOR PURPOSES OF  
14 THE EXCEPTIONS.—Except as otherwise pro-  
15 vided by regulations—

16 “(i) SMALL LEASES DISREGARDED.—  
17 For purposes of clauses (iii) and (iv) of  
18 subparagraph (B), a lease to a person de-  
19 scribed in such clause (iii) or (iv) shall be  
20 disregarded if no more than 25 percent of  
21 the leasable floor space in a building is  
22 covered by the lease and if the lease is on  
23 commercially reasonable terms.

24 “(ii) COMMERCIALY REASONABLE FI-  
25 NANCING.—Clause (v) of subparagraph (B)

1 shall not apply if the financing is on com-  
2 mercially reasonable terms.

3 “(H) QUALIFYING SALES BY FINANCIAL  
4 INSTITUTIONS.—

5 “(i) IN GENERAL.—In the case of a  
6 qualifying sale by a financial institution,  
7 except as provided in regulations, clauses  
8 (i) and (ii) of subparagraph (B) shall not  
9 apply with respect to financing provided by  
10 such institution for such sale.

11 “(ii) QUALIFYING SALE.—For pur-  
12 poses of this clause, there is a qualifying  
13 sale by a financial institution where—

14 “(I) a qualified organization ac-  
15 quires property described in clause  
16 (iii) from a financial institution and  
17 any gain recognized by the financial  
18 institution with respect to the prop-  
19 erty is ordinary income,

20 “(II) the stated principal amount  
21 of the financing provided by the finan-  
22 cial institution does not exceed the  
23 amount of the outstanding indebted-  
24 ness (including accrued but unpaid in-  
25 terest) of the financial institution with

1 respect to the property described in  
2 clause (iii) immediately before the ac-  
3 quisition referred to in clause (iii) or  
4 (v), whichever is applicable, and

5 “(III) the value (determined as  
6 of the time of the sale) of the amount  
7 pursuant to the financing that is de-  
8 termined by reference to the revenue,  
9 income, or profits derived from the  
10 property does not exceed 30 percent  
11 of the value of the property (deter-  
12 mined as of such time).

13 “(iii) PROPERTY TO WHICH SUBPARA-  
14 GRAPH APPLIES.—Property is described in  
15 this clause if such property is foreclosure  
16 property, or is real property which—

17 “(I) was acquired by the quali-  
18 fied organization from a financial in-  
19 stitution which is in conservatorship  
20 or receivership, or from the conserva-  
21 tor or receiver of such an institution,  
22 and

23 “(II) was held by the financial  
24 institution at the time it entered into  
25 conservatorship or receivership.

1           “(iv) FINANCIAL INSTITUTION.—For  
2 purposes of this subparagraph, the term  
3 ‘financial institution’ means—

4           “(I) any financial institution de-  
5 scribed in section 581 or 591(a),

6           “(II) any other corporation which  
7 is a direct or indirect subsidiary of an  
8 institution referred to in subclause (I)  
9 but only if, by virtue of being affili-  
10 ated with such institution, such other  
11 corporation is subject to supervision  
12 and examination by a Federal or  
13 State agency which regulates institu-  
14 tions referred to in subclause (I), and

15           “(III) any person acting as a  
16 conservator or receiver of an entity re-  
17 ferred to in subclause (I) or (II) (or  
18 any government agency or corporation  
19 succeeding to the rights or interest of  
20 such person).

21           “(v) FORECLOSURE PROPERTY.—For  
22 purposes of this subparagraph, the term  
23 ‘foreclosure property’ means any real prop-  
24 erty acquired by the financial institution as  
25 the result of having bid on such property

1 at foreclosure, or by operation of an agree-  
2 ment or process of law, after there was a  
3 default (or a default was imminent) on in-  
4 debtedness which such property secured.”.

5 (b) CONFORMING AMENDMENT.—Paragraph (9) of  
6 section 514(c) is amended—

7 (1) by adding the following new sentence at the  
8 end of subparagraph (A): “For purposes of this  
9 paragraph, an interest in a mortgage shall in no  
10 event be treated as real property.”, and

11 (2) by striking the last sentence of subpara-  
12 graph (B).

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by  
15 this section shall apply to acquisitions on or after  
16 January 1, 1993.

17 (2) SMALL LEASES.—The provisions of section  
18 514(c)(9)(G)(i) of the Internal Revenue Code of  
19 1986 shall, in addition to any leases to which the  
20 provisions apply by reason of paragraph (1), apply  
21 to leases entered into on or after January 1, 1993.

22 **SEC. 202. SPECIAL RULES FOR INVESTMENTS IN PARTNER-**  
23 **SHIPS.**

24 (a) MODIFICATION TO ANTI-ABUSE RULES.—Para-  
25 graph (9) of section 514(c) (as amended by section 201)

1 is amended by adding at the end thereof the following new  
2 subparagraph:

3 “(J) PARTNERSHIPS NOT INVOLVING TAX  
4 AVOIDANCE.—

5 “(i) DE MINIMIS RULE FOR CERTAIN  
6 LARGE PARTNERSHIPS.—The provisions of  
7 subparagraph (B) shall not apply to an in-  
8 vestment in a partnership having at least  
9 250 partners if—

10 “(I) interests in such partnership  
11 were offered for sale in an offering  
12 registered with the Securities and Ex-  
13 change Commission,

14 “(II) at least 50 percent of each  
15 class of interests in such partnership  
16 is owned by individuals who are not  
17 disqualified persons, and

18 “(III) the principal purpose of  
19 partnership allocations is not tax  
20 avoidance.

21 The Secretary may disregard inadvertent  
22 failures to meet the requirements of  
23 subclause (II). For purposes of subclause  
24 (II), interests owned by individual retire-  
25 ment plans (as defined in section

1           7701(a)(37)) shall not be taken into ac-  
2           count.

3           “(ii) DISQUALIFIED PERSONS.—For  
4           purposes of this subparagraph, the term  
5           ‘disqualified person’ means any person de-  
6           scribed in clause (iii) or (iv) of subpara-  
7           graph (B) and any person who is not a  
8           United States person.”.

9           (b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY  
10          TRADED PARTNERSHIPS.—Subsection (c) of section 512  
11          is amended—

12                 (1) by striking paragraph (2),

13                 (2) by redesignating paragraph (3) as para-  
14          graph (2), and

15                 (3) by striking “paragraph (1) or (2)” in para-  
16          graph (2) (as so redesignated) and inserting “para-  
17          graph (1)”.

18           (c) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to partnership years ending after  
20          December 31, 1992.

1 **SEC. 203. TITLE-HOLDING COMPANIES PERMITTED TO RE-**  
2 **CEIVE SMALL AMOUNTS OF UNRELATED**  
3 **BUSINESS TAXABLE INCOME.**

4 (a) GENERAL RULE.—Paragraph (25) of section  
5 501(c) is amended by adding at the end thereof the follow-  
6 ing new subparagraph:

7 “(G)(i) An organization shall not be treat-  
8 ed as failing to be described in this paragraph  
9 merely by reason of the receipt of any otherwise  
10 disqualifying income which is incidentally de-  
11 rived from the holding of real property.

12 “(ii) Clause (i) shall not apply if the  
13 amount of gross income described in such  
14 clause exceeds 10 percent of the organization’s  
15 gross income for the taxable year unless the or-  
16 ganization establishes to the satisfaction of the  
17 Secretary that the receipt of gross income de-  
18 scribed in clause (i) in excess of such limitation  
19 was inadvertent and reasonable steps are being  
20 taken to correct the circumstances giving rise to  
21 such income.”

22 (b) CONFORMING AMENDMENT.—Paragraph (2) of  
23 section 501(c) is amended by adding at the end thereof  
24 the following new sentence: “Rules similar to the rules of  
25 subparagraph (G) of paragraph (25) shall apply for pur-  
26 poses of this paragraph.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1992.

4 **SEC. 204. EXCLUSION FROM UNRELATED BUSINESS TAX OF**  
5 **GAINS FROM CERTAIN PROPERTY.**

6 (a) GENERAL RULE.—Subsection (b) of section 512  
7 (relating to modifications) is amended by adding at the  
8 end thereof the following new paragraph:

9 “(16)(A) Notwithstanding paragraph (5)(B),  
10 there shall be excluded all gains or losses from the  
11 sale, exchange, or other disposition of any real prop-  
12 erty described in subparagraph (B) if—

13 “(i) such property was acquired by the or-  
14 ganization from—

15 “(I) a financial institution described  
16 in section 581 or 591(a) which is in  
17 conservatorship or receivership, or

18 “(II) the conservator or receiver of  
19 such an institution (or any government  
20 agency or corporation succeeding to the  
21 rights or interests of the conservator or re-  
22 ceiver),

23 “(ii) such property is designated by the or-  
24 ganization within the 9-month period beginning  
25 on the date of its acquisition as property held

1 for sale, except that not more than one-half (by  
2 value determined as of such date) of property  
3 acquired in a single transaction may be so  
4 designated,

5 “(iii) such sale, exchange, or disposition  
6 occurs before the later of—

7 “(I) the date which is 30 months after  
8 the date of the acquisition of such prop-  
9 erty, or

10 “(II) the date specified by the Sec-  
11 retary in order to assure an orderly dis-  
12 position of property held by persons de-  
13 scribed in subparagraph (A), and

14 “(iv) while such property was held by the  
15 organization, the aggregate expenditures on im-  
16 provements and development activities included  
17 in the basis of the property are (or were not)  
18 in excess of 20 percent of the net selling price  
19 of the property with respect to such property.

20 “(B) Property is described in this subparagraph  
21 if it is real property which—

22 “(i) was held by the financial institution at  
23 the time it entered into conservatorship or re-  
24 ceivership, or

1           “(ii) was foreclosure property (as defined  
2           in section 514(c)(9)(H)(v)) which secured in-  
3           debtedness held by the financial institution at  
4           such time.

5           For purposes of this subparagraph, real property in-  
6           cludes an interest in a mortgage.”

7           (b) EFFECTIVE DATE.—The amendment made by  
8           subsection (a) shall apply to property acquired on or after  
9           January 1, 1993.

10   **SEC. 205. EXCLUSION FROM UNRELATED BUSINESS TAX**  
11                           **OF CERTAIN FEES AND OPTION PREMIUMS.**

12           (a) LOAN COMMITMENT FEES.—Paragraph (1) of  
13           section 512(b) (relating to modifications) is amended by  
14           inserting “amounts received or accrued as consideration  
15           for entering into agreements to make loans,” before “and  
16           annuities”.

17           (b) OPTION PREMIUMS.—The second sentence of sec-  
18           tion 512(b)(5) is amended by inserting “or real property”  
19           before the period.

20           (c) EFFECTIVE DATE.—The amendments made by  
21           this section shall apply to amounts received on or after  
22           January 1, 1993.

1 **SEC. 206. TREATMENT OF PENSION FUND INVESTMENTS**  
2 **IN REAL ESTATE INVESTMENT TRUSTS.**

3 (a) GENERAL RULE.—Subsection (h) of section 856  
4 (relating to closely held determinations) is amended by  
5 adding at the end thereof the following new paragraph:

6 “(3) TREATMENT OF TRUSTS DESCRIBED IN  
7 SECTION 401(a).—

8 “(A) LOOK-THRU TREATMENT.—

9 “(i) IN GENERAL.—Except as pro-  
10 vided in clause (ii), in determining whether  
11 the stock ownership requirement of section  
12 542(a)(2) is met for purposes of paragraph  
13 (1)(A), any stock held by a qualified trust  
14 shall be treated as held directly by its  
15 beneficiaries in proportion to their actuar-  
16 ial interests in such trust and shall not be  
17 treated as held by such trust.

18 “(ii) CERTAIN RELATED TRUSTS NOT  
19 ELIGIBLE.—Clause (i) shall not apply to  
20 any qualified trust if one or more disquali-  
21 fied persons (as defined in section  
22 4975(e)(2), without regard to subpara-  
23 graphs (B) and (I) thereof) with respect to  
24 such qualified trust hold in the aggregate  
25 5 percent or more in value of the interests  
26 in the real estate investment trust and

1           such real estate investment trust has accu-  
2           mulated earnings and profits attributable  
3           to any period for which it did not qualify  
4           as a real estate investment trust.

5           “(B) COORDINATION WITH PERSONAL  
6           HOLDING COMPANY RULES.—If any entity  
7           qualifies as a real estate investment trust for  
8           any taxable year by reason of subparagraph  
9           (A), such entity shall not be treated as a per-  
10          sonal holding company for such taxable year for  
11          purposes of part II of subchapter G of this  
12          chapter.

13          “(C) TREATMENT FOR PURPOSES OF UN-  
14          RELATED BUSINESS TAX.—If any qualified  
15          trust holds more than 10 percent (by value) of  
16          the interests in any pension-held REIT at any  
17          time during a taxable year, the trust shall be  
18          treated as having for such taxable year gross  
19          income from an unrelated trade or business in  
20          an amount which bears the same ratio to the  
21          aggregate dividends paid (or treated as paid) by  
22          the REIT to the trust for the taxable year of  
23          the REIT with or within which the taxable year  
24          of the trust ends (the ‘REIT year’) as—

1           “(i) the gross income (less direct ex-  
2           penses related thereto) of the REIT for the  
3           REIT year from unrelated trades or busi-  
4           nesses (determined as if the REIT were a  
5           qualified trust), bears to

6           “(ii) the gross income (less direct ex-  
7           penses related thereto) of the REIT for the  
8           REIT year.

9           This subparagraph shall apply only if the ratio  
10          determined under the preceding sentence is at  
11          least 5 percent.

12          “(D) PENSION-HELD REIT.—For purposes  
13          of subparagraph (C)—

14               “(i) IN GENERAL.—A real estate in-  
15               vestment trust is a pension-held REIT if  
16               such trust would not have qualified as a  
17               real estate investment trust but for the  
18               provisions of this paragraph and if such  
19               trust is predominantly held by qualified  
20               trusts.

21               “(ii) PREDOMINANTLY HELD.—For  
22               purposes of clause (i), a real estate invest-  
23               ment trust is predominantly held by quali-  
24               fied trusts if—

1           “(I) at least 1 qualified trust  
2 holds more than 25 percent (by value)  
3 of the interests in such real estate in-  
4 vestment trust, or

5           “(II) 1 or more qualified trusts  
6 (each of whom own more than 10 per-  
7 cent by value of the interests in such  
8 real estate investment trust) hold in  
9 the aggregate more than 50 percent  
10 (by value) of the interests in such real  
11 estate investment trust.

12           “(E) QUALIFIED TRUST.—For purposes of  
13 this paragraph, the term ‘qualified trust’ means  
14 any trust described in section 401(a) and ex-  
15 empt from tax under section 501(a).”

16           (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 1992.

## 19           **TITLE III—DISCHARGE OF** 20           **INDEBTEDNESS**

### 21           **SEC. 301. EXCLUSION FROM GROSS INCOME FOR INCOME** 22           **FROM DISCHARGE OF QUALIFIED REAL** 23           **PROPERTY BUSINESS INDEBTEDNESS.**

24           (a) IN GENERAL.—Paragraph (1) of section 108(a)  
25 (relating to income from discharge of indebtedness) is

1 amended by striking “or” at the end of subparagraph (B),  
2 by striking the period at the end of subparagraph (C) and  
3 inserting “, or”, and by adding at the end thereof the fol-  
4 lowing new subparagraph:

5 “(D) in the case of an individual, the indebted-  
6 ness discharged is qualified real property business  
7 indebtedness.”

8 (b) QUALIFIED REAL PROPERTY BUSINESS INDEBT-  
9 EDNESS.—Section 108 is amended by inserting after sub-  
10 section (b) the following new subsection:

11 “(c) TREATMENT OF DISCHARGE OF QUALIFIED  
12 REAL PROPERTY BUSINESS INDEBTEDNESS.—

13 “(1) BASIS REDUCTION.—

14 “(A) IN GENERAL.—The amount excluded  
15 from gross income under subparagraph (D) of  
16 subsection (a)(1) shall be applied to reduce the  
17 basis of the depreciable real property of the tax-  
18 payer.

19 “(B) CROSS REFERENCE.—For provisions  
20 making the reduction described in subpara-  
21 graph (A), see section 1017.

22 “(2) LIMITATIONS.—

23 “(A) INDEBTEDNESS IN EXCESS OF  
24 VALUE.—The amount excluded under subpara-  
25 graph (D) of subsection (a)(1) with respect to

1 any qualified real property business indebted-  
2 ness shall not exceed the excess (if any) of—

3 “(i) the outstanding principal amount  
4 of such indebtedness (immediately before  
5 the discharge), over

6 “(ii) the fair market value of the real  
7 property described in paragraph (3)(A) (as  
8 of such time), reduced by the outstanding  
9 principal amount of any other qualified  
10 real property business indebtedness se-  
11 cured by such property (as of such time).

12 “(B) OVERALL LIMITATION.—The amount  
13 excluded under subparagraph (D) of subsection  
14 (a)(1) shall not exceed the aggregate adjusted  
15 bases of depreciable real property (determined  
16 after any reductions under subsections (b) and  
17 (g)) held by the taxpayer immediately before  
18 the discharge (other than depreciable real prop-  
19 erty acquired in contemplation of such dis-  
20 charge).

21 “(3) QUALIFIED REAL PROPERTY BUSINESS IN-  
22 DEBTEDNESS.—The term ‘qualified real property  
23 business indebtedness’ means indebtedness which—

24 “(A) was incurred or assumed by an indi-  
25 vidual in connection with real property used in

1 a trade or business and is secured by such real  
2 property,

3 “(B) was incurred or assumed before Jan-  
4 uary 1, 1993, or if incurred or assumed on or  
5 after such date, is qualified acquisition indebt-  
6 edness, and

7 “(C) with respect to which such taxpayer  
8 makes an election to have this paragraph apply.

9 Such term shall not include qualified farm indebted-  
10 ness. Indebtedness under subparagraph (B) shall in-  
11 clude indebtedness resulting from the refinancing of  
12 indebtedness under subparagraph (B) (or this sen-  
13 tence), but only to the extent it does not exceed the  
14 amount of the indebtedness being refinanced.

15 “(4) QUALIFIED ACQUISITION INDEBTED-  
16 NESS.—For purposes of paragraph (3)(B), the term  
17 ‘qualified acquisition indebtedness’ means, with re-  
18 spect to any real property described in paragraph  
19 (3)(A), indebtedness incurred or assumed to acquire,  
20 construct, reconstruct, or substantially improve such  
21 property.

22 “(5) REGULATIONS.—The Secretary shall issue  
23 such regulations as are necessary to carry out this  
24 subsection, including regulations preventing the

1 abuse of this subsection through cross-  
2 collateralization or other means.”

3 (c) TECHNICAL AMENDMENTS.—

4 (1) Subparagraph (A) of section 108(a)(2) is  
5 amended by striking “and (C)” and inserting “, (C),  
6 and (D)”.

7 (2) Subparagraph (B) of section 108(a)(2) is  
8 amended to read as follows:

9 “(B) INSOLVENCY EXCLUSION TAKES  
10 PRECEDENCE OVER QUALIFIED FARM EXCLU-  
11 SION AND QUALIFIED REAL PROPERTY BUSI-  
12 NESS EXCLUSION.—Subparagraphs (C) and (D)  
13 of paragraph (1) shall not apply to a discharge  
14 to the extent the taxpayer is insolvent.”

15 (3) Subsection (d) of section 108 is amended by  
16 striking “Subsections (a), (b), and (g)” each place  
17 it appears in the heading thereof and in the text and  
18 headings of paragraphs (6) and (7)(A) and inserting  
19 “Subsections (a), (b), (c), and (g)”.

20 (4) Subparagraph (B) of section 108(d)(7) is  
21 amended by adding at the end thereof the following  
22 new sentence: “The preceding sentence shall not  
23 apply to any discharge to the extent that subsection  
24 (a)(1)(D) applies to such discharge.”

1           (5) Subparagraph (A) of section 108(d)(9) is  
2 amended by inserting “or under paragraph (3)(B) of  
3 subsection (c)” after “subsection (b)”.

4           (6) Paragraph (2) of section 1017(a) is amend-  
5 ed by striking “or (b)(5)” and inserting “, (b)(5), or  
6 (c)(1)”.

7           (7) Subparagraph (A) of section 1017(b)(3) is  
8 amended by inserting “or (c)(1)” after “subsection  
9 (b)(5)”.

10           (8) Section 1017(b)(3) is amended by adding at  
11 the end the following new subparagraph:

12                   “(F) SPECIAL RULES FOR QUALIFIED  
13 REAL PROPERTY BUSINESS INDEBTEDNESS.—  
14 In the case of any amount which under section  
15 108(c)(1) is to be applied to reduce basis—

16                           “(i) depreciable property shall only in-  
17 clude depreciable real property for pur-  
18 poses of subparagraphs (A) and (C),

19                           “(ii) subparagraph (E) shall not  
20 apply, and

21                           “(iii) in the case of property taken  
22 into account under section 108(c)(2)(B),  
23 the reduction with respect to such property  
24 shall be made as of the time immediately

1                   before disposition if earlier than the time  
2                   under subsection (a).”

3           (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to discharges after December 31,  
5 1992, in taxable years ending after such date.

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