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103D CONGRESS
1ST SESSION

S. 351

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEPOSITS IN CAPITAL CONSTRUCTION FUND ACCOUNT EXCLUDED FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Subparagraph (A) of section 607(d)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(d)(1)) is amended by striking ''taxable income (determined without regard to this section and section 7518 of such Code) for the taxable year shall be reduced'' and

by inserting ''taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without regard to this section and section 7518 of such Code) for the taxable year shall each be reduced''.

(b) NONQUALIFIED WITHDRAWALS.—Section 607(h) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(h)) is amended by adding at the end thereof the following new paragraph:

''(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

''(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 of the Internal Revenue Code of 1986 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

''(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable

year which did not reduce the taxpayer's liability for tax under section 1401 of such Code for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 7518(c)(1) of the Internal Revenue Code of 1986 is amended by striking ''taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall be reduced'' and by inserting ''taxable income and net earnings from self-employment attributable to the operation of the agreement vessels (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall each be reduced''.

(2) Section 7518(g) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

''(7) NONQUALIFIED WITHDRAWALS SUBJECT TO SELF-EMPLOYMENT TAX.—

''(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified

withdrawal (including any amount so treated under paragraph (5)), the tax imposed by section 1401 (at a rate for such taxable year unless otherwise established by the taxpayer to the satisfaction of the Secretary) shall be determined without regard to section 230 of the Social Security Act (42 U.S.C. 430).

''(B) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under section 1401 for any taxable year preceding the taxable year in which such withdrawal occurs, such portion shall not be taken into account under subparagraph (A).''.

(3) Section 1403(b) of the Internal Revenue Code of 1986 is amended by adding the following new paragraph.

''(3) For treatment of earnings of ship contractors deposited in special reserve funds, see subsections (d) and (h) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) and subsections (c) and (g) of section 7518''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

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