

106TH CONGRESS
1ST SESSION

H. R. 2713

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for certain investments in businesses located in low-income communities.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

Mr. RANGEL (for himself, Mr. MATSUI, Mr. LEVIN, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. JEFFERSON, Mr. BECERRA, Mrs. THURMAN, Mr. ABERCROMBIE, Mr. ALLEN, Mr. FARR of California, Mr. FROST, Mr. GUTIERREZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. MCKINNEY, Mr. MARTINEZ, Mr. PASTOR, Ms. PELOSI, Mr. TRAFICANT, Mr. UDALL of New Mexico, Ms. WATERS, and Mr. WEINER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit against income tax for certain investments in businesses located in low-income communities.

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.**

4 This Act may be cited as the “New Markets Tax
5 Credit Act of 1999”.

1 **SEC. 2. NEW MARKETS TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 of the Internal Revenue Code of
4 1986 (relating to business-related credits) is amended by
5 adding at the end the following new section:

6 **“SEC. 45D. NEW MARKETS TAX CREDIT.**

7 “(a) ALLOWANCE OF CREDIT.—

8 “(1) IN GENERAL.—For purposes of section 38,
9 in the case of a taxpayer who holds a qualified eq-
10 uity investment on a credit allowance date of such
11 investment which occurs during the taxable year, the
12 new markets tax credit determined under this sec-
13 tion for such taxable year is an amount equal to 6
14 percent of the amount paid to the qualified commu-
15 nity development entity for such investment at its
16 original issue.

17 “(2) CREDIT ALLOWANCE DATE.—The term
18 ‘credit allowance date’ means, with respect to any
19 qualified equity investment—

20 “(A) the date on which such investment is
21 initially made, and

22 “(B) each of the 4 anniversary dates of
23 such date thereafter.

24 “(b) QUALIFIED EQUITY INVESTMENT.—For pur-
25 poses of this section—

1 “(1) IN GENERAL.—The term ‘qualified equity
2 investment’ means any equity investment in a quali-
3 fied community development entity if—

4 “(A) such investment is acquired by the
5 taxpayer at its original issue (directly or
6 through an underwriter) solely in exchange for
7 cash,

8 “(B) substantially all of such cash is used
9 by the qualified community development entity
10 to make qualified low-income community invest-
11 ments, and

12 “(C) such investment is designated for
13 purposes of this section by the qualified com-
14 munity development entity.

15 Such term shall not include any equity investment
16 issued by a qualified community development entity
17 more than 5 years after the date that such entity re-
18 ceives an allocation under subsection (f). Any alloca-
19 tion not used within such 5-year period may be re-
20 allocated by the Secretary under subsection (f).

21 “(2) LIMITATION.—The maximum amount of
22 equity investments issued by a qualified community
23 development entity which may be designated under
24 paragraph (1)(C) by such entity shall not exceed the

1 portion of the limitation amount allocated under
2 subsection (f) to such entity.

3 “(3) SAFE HARBOR FOR DETERMINING USE OF
4 CASH.—The requirement of paragraph (1)(B) shall
5 be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income
6 community investments.
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9 “(4) TREATMENT OF SUBSEQUENT PUR-
10 CHASERS.—The term ‘qualified equity investment’
11 includes any equity investment which would (but for
12 paragraph (1)(A)) be a qualified equity investment
13 in the hands of the taxpayer if such investment was
14 a qualified equity investment in the hands of a prior
15 holder.

16 “(5) REDEMPTIONS.—A rule similar to the rule
17 of section 1202(e)(3) shall apply for purposes of this
18 subsection.

19 “(6) EQUITY INVESTMENT.—The term ‘equity
20 investment’ means—

21 “(A) any stock in a qualified community
22 development entity which is a corporation, and

23 “(B) any capital interest in a qualified
24 community development entity which is a part-
25 nership.

1 “(c) QUALIFIED COMMUNITY DEVELOPMENT ENTI-
2 TY.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified com-
4 munity development entity’ means any domestic cor-
5 poration or partnership if—

6 “(A) the primary mission of the entity is
7 serving, or providing investment capital for,
8 low-income communities or low-income persons,

9 “(B) the entity maintains accountability to
10 residents of low-income communities through
11 representation on governing or advisory boards
12 or otherwise, and

13 “(C) the entity is certified by the Secretary
14 for purposes of this section as being a qualified
15 community development entity.

16 “(2) SPECIAL RULES FOR CERTAIN ORGANIZA-
17 TIONS.—The requirements of paragraph (1) shall be
18 treated as met by—

19 “(A) any specialized small business invest-
20 ment company (as defined in section
21 1044(c)(3)), and

22 “(B) any community development financial
23 institution (as defined in section 103 of the
24 Community Development Banking and Finan-
25 cial Institutions Act of 1994 (12 U.S.C. 4702)).

1 “(d) QUALIFIED LOW-INCOME COMMUNITY INVEST-
2 MENTS.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘qualified low-in-
4 come community investment’ means—

5 “(A) any equity investment in, or loan to,
6 any qualified active low-income community busi-
7 ness,

8 “(B) the purchase from another commu-
9 nity development entity of any loan made by
10 such entity which is a qualified low-income com-
11 munity investment if the amount received by
12 such other entity from such purchase is used by
13 such other entity to make qualified low-income
14 community investments,

15 “(C) financial counseling and other serv-
16 ices specified in regulations prescribed by the
17 Secretary to businesses located in, and resi-
18 dents of, low-income communities, and

19 “(D) any equity investment in, or loan to,
20 any qualified community development entity if
21 substantially all of the investment or loan is
22 used by such entity to make qualified low-in-
23 come community investments described in sub-
24 paragraphs (A), (B), and (C).

1 “(2) QUALIFIED ACTIVE LOW-INCOME COMMU-
2 NITY BUSINESS.—

3 “(A) IN GENERAL.—For purposes of para-
4 graph (1), the term ‘qualified active low-income
5 community business’ means, with respect to any
6 taxable year, any corporation or partnership if
7 for such year—

8 “(i) at least 50 percent of the total
9 gross income of such entity is derived from
10 the active conduct of a qualified business
11 within any low-income community,

12 “(ii) a substantial portion of the use
13 of the tangible property of such entity
14 (whether owned or leased) is within any
15 low-income community,

16 “(iii) a substantial portion of the serv-
17 ices performed for such entity by its em-
18 ployees are performed in any low-income
19 community,

20 “(iv) less than 5 percent of the aver-
21 age of the aggregate unadjusted bases of
22 the property of such entity is attributable
23 to collectibles (as defined in section
24 408(m)(2)) other than collectibles that are

1 held primarily for sale to customers in the
2 ordinary course of such business, and

3 “(v) less than 5 percent of the aver-
4 age of the aggregate unadjusted bases of
5 the property of such entity is attributable
6 to nonqualified financial property (as de-
7 fined in section 1397B(e)).

8 “(B) PROPRIETORSHIP.—Such term shall
9 include any business carried on by an individual
10 as a proprietor if such business would meet the
11 requirements of subparagraph (A) were it incor-
12 porated.

13 “(C) PORTIONS OF BUSINESS MAY BE
14 QUALIFIED ACTIVE LOW-INCOME COMMUNITY
15 BUSINESS.—The term ‘qualified active low-in-
16 come community business’ includes any trades
17 or businesses which would qualify as a qualified
18 active low-income community business if such
19 trades or businesses were separately incor-
20 porated.

21 “(3) QUALIFIED BUSINESS.—For purposes of
22 this subsection, the term ‘qualified business’ has the
23 meaning given to such term by section 1397B(d);
24 except that—

1 “(A) in lieu of applying paragraph (2)(B)
2 thereof, the rental to others of real property lo-
3 cated in any low-income community shall be
4 treated as a qualified business if there are sub-
5 stantial improvements located on such property,

6 “(B) paragraph (3) thereof shall not apply,
7 and

8 “(C) such term shall not include any busi-
9 ness if a significant portion of the equity inter-
10 ests in such business are held by any person
11 who holds a significant portion of the equity in-
12 vestments in the community development entity.

13 “(e) LOW-INCOME COMMUNITY.—For purposes of
14 this section—

15 “(1) IN GENERAL.—The term ‘low-income com-
16 munity’ means any population census tract if—

17 “(A) the poverty rate for such tract is at
18 least 20 percent, or

19 “(B)(i) in the case of a tract not located
20 within a metropolitan area, the median family
21 income for such tract does not exceed 80 per-
22 cent of statewide median family income, or

23 “(ii) in the case of a tract located within
24 a metropolitan area, the median family income
25 for such tract does not exceed 80 percent of the

1 greater of statewide median family income or
2 the metropolitan area median family income.

3 “(2) AREAS NOT WITHIN CENSUS TRACTS.—In
4 the case of an area which is not tracted for popu-
5 lation census tracts, the equivalent county divisions
6 (as defined by the Bureau of the Census for pur-
7 poses of defining poverty areas) shall be used for
8 purposes of determining poverty rates and median
9 family income.

10 “(f) NATIONAL LIMITATION ON AMOUNT OF INVEST-
11 MENTS DESIGNATED.—

12 “(1) IN GENERAL.—There is a new markets tax
13 credit limitation of \$1,200,000,000 for each of cal-
14 endar years 2000 through 2004.

15 “(2) ALLOCATION OF LIMITATION.—The limita-
16 tion under paragraph (1) shall be allocated by the
17 Secretary among qualified community development
18 entities selected by the Secretary. In making alloca-
19 tions under the preceding sentence, the Secretary
20 shall give priority to entities with records of having
21 successfully provided capital or technical assistance
22 to disadvantaged businesses or communities.

23 “(3) CARRYOVER OF UNUSED LIMITATION.—If
24 the new markets tax credit limitation for any cal-
25 endar year exceeds the aggregate amount allocated

1 under paragraph (2) for such year, such limitation
2 for the succeeding calendar year shall be increased
3 by the amount of such excess.

4 “(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

5 “(1) IN GENERAL.—If, at any time during the
6 5-year period beginning on the date of the original
7 issue of a qualified equity investment in a qualified
8 community development entity, there is a recapture
9 event with respect to such investment, then the tax
10 imposed by this chapter for the taxable year in
11 which such event occurs shall be increased by the
12 credit recapture amount.

13 “(2) CREDIT RECAPTURE AMOUNT.—For pur-
14 poses of paragraph (1), the credit recapture amount
15 is an amount equal to the sum of—

16 “(A) the aggregate decrease in the credits
17 allowed to the taxpayer under section 38 for all
18 prior taxable years which would have resulted if
19 no credit had been determined under this sec-
20 tion with respect to such investment, plus

21 “(B) interest at the overpayment rate es-
22 tablished under section 6621 on the amount de-
23 termined under subparagraph (A) for each
24 prior taxable year for the period beginning on

1 the due date for filing the return for the prior
2 taxable year involved.

3 No deduction shall be allowed under this chapter for
4 interest described in subparagraph (B).

5 “(3) RECAPTURE EVENT.—For purposes of
6 paragraph (1), there is a recapture event with re-
7 spect to an equity investment in a qualified commu-
8 nity development entity if—

9 “(A) such entity ceases to be a qualified
10 community development entity,

11 “(B) the proceeds of the investment cease
12 to be used as required of subsection (b)(1)(B),
13 or

14 “(C) such investment is redeemed by such
15 entity.

16 “(4) SPECIAL RULES.—

17 “(A) TAX BENEFIT RULE.—The tax for
18 the taxable year shall be increased under para-
19 graph (1) only with respect to credits allowed
20 by reason of this section which were used to re-
21 duce tax liability. In the case of credits not so
22 used to reduce tax liability, the carryforwards
23 and carrybacks under section 39 shall be appro-
24 priately adjusted.

1 “(B) NO CREDITS AGAINST TAX.—Any in-
2 crease in tax under this subsection shall not be
3 treated as a tax imposed by this chapter for
4 purposes of determining the amount of any
5 credit under this chapter or for purposes of sec-
6 tion 55.

7 “(h) BASIS REDUCTION.—The basis of any qualified
8 equity investment shall be reduced by the amount of any
9 credit determined under this section with respect to such
10 investment.

11 “(i) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be appropriate to carry out this
13 section, including regulations—

14 “(1) which limit the credit for investments
15 which are directly or indirectly subsidized by other
16 Federal benefits (including the credit under section
17 42 and the exclusion from gross income under sec-
18 tion 103),

19 “(2) which prevent the abuse of the provisions
20 of this section through the use of related parties,

21 “(3) which impose appropriate reporting re-
22 quirements, and

23 “(4) which apply the provisions of this section
24 to newly formed entities.”

1 (b) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—

3 (1) IN GENERAL.—Subsection (b) of section 38
4 of such Code is amended by striking “plus” at the
5 end of paragraph (11), by striking the period at the
6 end of paragraph (12) and inserting “, plus”, and
7 by adding at the end the following new paragraph:

8 “(13) the new markets tax credit determined
9 under section 45D(a).”

10 (2) LIMITATION ON CARRYBACK.—Subsection
11 (d) of section 39 of such Code is amended by adding
12 at the end the following new paragraph:

13 “(9) NO CARRYBACK OF NEW MARKETS TAX
14 CREDIT BEFORE JANUARY 1, 2000.—No portion of
15 the unused business credit for any taxable year
16 which is attributable to the credit under section 45D
17 may be carried back to a taxable year ending before
18 January 1, 2000.”

19 (c) DEDUCTION FOR UNUSED CREDIT.—Subsection
20 (c) of section 196 of such Code is amended by striking
21 “and” at the end of paragraph (7), by striking the period
22 at the end of paragraph (8) and inserting “, and”, and
23 by adding at the end the following new paragraph:

24 “(9) the new markets tax credit determined
25 under section 45D(a).”

1 (d) CLERICAL AMENDMENT.—The table of sections
2 for subpart D of part IV of subchapter A of chapter 1
3 of such Code is amended by adding at the end the fol-
4 lowing new item:

“Sec. 45D. New markets tax credit.”

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to investments made after Decem-
7 ber 31, 1999.

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