

106TH CONGRESS
2D SESSION

H. R. 5279

To amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2000

Mr. MINGE (for himself, Mr. POMEROY, Mr. THUNE, Mr. EVANS, Mr. GUTKNECHT, and Mr. PETERSON of Minnesota) 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 allow allocation of small ethanol producer credit to patrons of cooperative, 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. SMALL ETHANOL PRODUCER CREDIT.**

4 (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO
5 PATRONS OF A COOPERATIVE.—Section 40(g) Internal
6 Revenue Code of 1986 (relating to definitions and special
7 rules for eligible small ethanol producer credit) is amended
8 by adding at the end the following:

1 “(6) ALLOCATION OF SMALL ETHANOL PRO-
2 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

3 “(A) ELECTION TO ALLOCATE.—

4 “(i) IN GENERAL.—Notwithstanding
5 paragraph (4), in the case of a cooperative
6 organization described in section 1381(a),
7 any portion of the credit determined under
8 subsection (a)(3) for the taxable year may,
9 at the election of the organization, be ap-
10 portioned pro rata among patrons of the
11 organization on the basis of the quantity
12 or value of business done with or for such
13 patrons for the taxable year.

14 “(ii) FORM AND EFFECT OF ELEC-
15 TION.—An election under clause (i) for any
16 taxable year shall be made on a timely
17 filed return for such year. Such election,
18 once made, shall be irrevocable for such
19 taxable year.

20 “(iii) SPECIAL RULE FOR 1998 AND
21 1999.—Notwithstanding clause (ii), an elec-
22 tion for any taxable year ending prior to
23 the date of the enactment of this para-
24 graph may be made at any time before the
25 expiration of the 3-year period beginning

1 on the last date prescribed by law for filing
2 the return of the taxpayer for such taxable
3 year (determined without regard to exten-
4 sions) by filing an amended return for
5 such year.

6 “(B) TREATMENT OF ORGANIZATIONS AND
7 PATRONS.—The amount of the credit appor-
8 tioned to patrons under subparagraph (A)—

9 “(i) shall not be included in the
10 amount determined under subsection (a)
11 with respect to the organization for the
12 taxable year,

13 “(ii) shall be included in the amount
14 determined under subsection (a) for the
15 taxable year of each patron for which the
16 patronage dividends for the taxable year
17 described in subparagraph (A) are included
18 in gross income, and

19 “(iii) shall be included in gross income
20 of such patrons for the taxable year in the
21 manner and to the extent provided in sec-
22 tion 87.

23 “(C) SPECIAL RULES FOR DECREASE IN
24 CREDITS FOR TAXABLE YEAR.—If the amount
25 of the credit of a cooperative organization (as

1 so defined) determined under subsection (a)(3)
 2 for a taxable year is less than the amount of
 3 such credit shown on the return of the coopera-
 4 tive organization for such year, an amount
 5 equal to the excess of—

6 “(i) such reduction, over

7 “(ii) the amount not apportioned to
 8 such patrons under subparagraph (A) for
 9 the taxable year,

10 shall be treated as an increase in tax imposed
 11 by this chapter on the organization. Such in-
 12 crease shall not be treated as tax imposed by
 13 this chapter for purposes of determining the
 14 amount of any credit under this subpart or sub-
 15 part A, B, E, or G.”.

16 (b) DEFINITION OF SMALL ETHANOL PRODUCER;
 17 IMPROVEMENTS TO SMALL ETHANOL PRODUCER
 18 CREDIT.—

19 (1) DEFINITION OF SMALL ETHANOL PRO-
 20 DUCER.—Section 40(g)(1) of the Internal Revenue
 21 Code of 1986 (relating to eligible small ethanol pro-
 22 ducer) is amended by striking “30,000,000” and in-
 23 serting “60,000,000”.

24 (2) SMALL ETHANOL PRODUCER CREDIT NOT A
 25 PASSIVE ACTIVITY CREDIT.—Clause (i) of section

1 469(d)(2)(A) of such Code (relating to passive activ-
2 ity credit) is amended by striking “subpart D” and
3 inserting “subpart D, other than section 40(a)(3),”.

4 (3) ALLOWING CREDIT AGAINST MINIMUM
5 TAX.—

6 (A) IN GENERAL.—Subsection (c) of sec-
7 tion 38 of such Code (relating to limitation
8 based on amount of tax) is amended by redesignig-
9 nating paragraph (3) as paragraph (4) and by
10 inserting after paragraph (2) the following:

11 “(3) SPECIAL RULES FOR SMALL ETHANOL
12 PRODUCER CREDIT.—

13 “(A) IN GENERAL.—In the case of the
14 small ethanol producer credit—

15 “(i) this section and section 39 shall
16 be applied separately with respect to the
17 credit, and

18 “(ii) in applying paragraph (1) to the
19 credit—

20 “(I) subparagraphs (A) and (B)
21 thereof shall not apply, and

22 “(II) the limitation under para-
23 graph (1) (as modified by subclause
24 (I)) shall be reduced by the credit al-
25 lowed under subsection (a) for the

1 taxable year (other than the small
2 ethanol producer credit).

3 “(B) SMALL ETHANOL PRODUCER CRED-
4 IT.—For purposes of this subsection, the term
5 ‘small ethanol producer credit’ means the credit
6 allowable under subsection (a) by reason of sec-
7 tion 40(a)(3).”.

8 (B) CONFORMING AMENDMENT.—Sub-
9 clause (II) of section 38(c)(2)(A)(ii) of such
10 Code is amended by inserting “or the small eth-
11 anol producer credit” after “employment
12 credit”.

13 (4) SMALL ETHANOL PRODUCER CREDIT NOT
14 ADDED BACK TO INCOME UNDER SECTION 87.—Sec-
15 tion 87 of such Code (relating to income inclusion
16 of alcohol fuel credit is amended to read as follows:

17 **“SEC. 87. ALCOHOL FUEL CREDIT.**

18 “Gross income includes an amount equal to the sum
19 of—

20 “(1) the amount of the alcohol mixture credit
21 determined with respect to the taxpayer for the tax-
22 able year under section 40(a)(1), and

23 “(2) the alcohol credit determined with respect
24 to the taxpayer for the taxable year under section
25 40(a)(2).”.

1 (c) CONFORMING AMENDMENT.—Section 1388 of the
2 Internal Revenue Code of 1986 (relating to definitions and
3 special rules for cooperative organizations) is amended by
4 adding at the end the following:

5 “(k) CROSS REFERENCE.—For provisions relating to
6 the apportionment of the alcohol fuels credit between coop-
7 erative organizations and their patrons, see section 40(d)
8 (6).”

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the amendments made by this section
12 shall apply to taxable years beginning after Decem-
13 ber 31, 1997.

14 (2) CERTAIN PROVISIONS.—The amendments
15 made by paragraphs (1) and (4) of subsection (b)
16 shall apply to taxable years ending after the date of
17 the enactment of this Act.

○