II

111TH CONGRESS
1ST SESSION

S. 279

To amend the Internal Revenue Code of 1986 to modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2009

Mr. BINGAMAN (for himself, Mr. CRAPO, Mr. KERRY, Ms. SNOWE, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Municipal Bond Market Support Act of 2009''.

SEC. 2. MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) INCREASE IN LIMITATION.—Subparagraphs (C)(i), (D)(i), and (D)(iii)(II) of section 265(b)(3) of the Internal Revenue Code of 1986 are each amended by striking "$10,000,000" and inserting "$30,000,000".

(b) REPEAL OF AGGREGATION RULES APPLICABLE TO SMALL ISSUER DETERMINATION.—Paragraph (3) of section 265(b) of such Code is amended by striking subparagraphs (E) and (F).

(c) ELECTION TO APPLY LIMITATION AT BORROWER LEVEL.—Paragraph (3) of section 265(b) of such Code, as amended by subsection (b), is amended by adding at the end the following new subparagraph:

"(E) ELECTION TO APPLY LIMITATION ON AMOUNT OF OBLIGATIONS AT BORROWER LEVEL.—

"(i) IN GENERAL.—An issuer, the proceeds of the obligations of which are to be used to make or finance eligible loans, may elect to apply subparagraphs (C) and (D) by treating each borrower as the issuer of a separate issue.

"(ii) ELIGIBLE LOAN.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'eligible loan' means one or more loans to a qualified borrower the proceeds of which are used by the borrower and the outstanding balance of which in the aggregate does not exceed $30,000,000.

"(II) QUALIFIED BORROWER.—The term 'qualified borrower' means a borrower which is an organization described in section 501(c)(3) and exempt from taxation under section 501(a) or a State or political subdivision thereof.

"(iii) MANNER OF ELECTION.—The election described in clause (i) may be made by an issuer for any calendar year at any time prior to its first issuance during such year of obligations the proceeds of which will be used to make or finance one or more eligible loans.".

(d) INFLATION ADJUSTMENT.—Paragraph (3) of section 265(b) of such Code, as amended by subsections (b) and (c), is amended by adding at the end the following new subparagraph:

"(F) INFLATION ADJUSTMENT.—In the case of any calendar year after 2009, the $30,000,000 amounts contained in subparagraphs (C)(i), (D)(i), (D)(iii)(II), and (E)(ii)(I) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100,000.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SEC. 3. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS AND BROKERS.

(a) FINANCIAL INSTITUTIONS.—Subsection (b) of section 265 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

"(A) IN GENERAL.—In applying paragraph (2)(A) there shall not be taken into account tax-exempt obligations issued during 2009 or 2010 (and paragraph (3)(A) shall be applied without regard to section 291(e)(1)(b) with respect to such obligations).

"(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the amount determined under paragraph (2)(B).".

(b) BROKERS.—Subsection (a) of section 265 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(7) DE MINIMIS EXCEPTION FOR BONDS ISSUED DURING 2009 OR 2010.—

"(A) IN GENERAL.—In applying paragraph (2) to any broker (as defined in section 6045(c)(1)) there shall not be taken into account tax-exempt obligations issued during 2009 or 2010 (and paragraph (3)(A) shall be applied without regard to section 291(e)(1)(b) with respect to such obligations).

"(B) LIMITATION.—The amount of tax-exempt obligations not taken into account by reason of subparagraph (A) shall not exceed 2 percent of the taxpayer's assets.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

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