

105TH CONGRESS
1ST SESSION

H. R. 3044

To amend the Internal Revenue Code of 1986 to provide that economic subsidies provided by a State or local government for a particular business to locate or remain within the government's jurisdiction shall be taxable to such business, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. MINGE 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 that economic subsidies provided by a State or local government for a particular business to locate or remain within the government's jurisdiction shall be taxable to such business, 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.**

4 This Act may be cited as the “Distorting Subsidies
5 Limitation Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Competition among State and local govern-
2 ments for new and existing businesses has become
3 the rule rather than the exception.

4 (2) State and local governments are being
5 forced to compete against each other for businesses
6 with scarce tax dollars that would otherwise be used
7 for essential public goods and services.

8 (3) When State and local government competi-
9 tion takes the form of preferential treatment for spe-
10 cific businesses, it undermines our national economic
11 union by distorting the allocation of resources.

12 (4) There is a role for competition between
13 States and localities when it takes the form of gen-
14 eral tax policies, regulation structures, and public
15 services because such competition leads States and
16 localities to provide better service, cost effective reg-
17 ulation, sound tax policies, and more efficient alloca-
18 tion of public and private goods.

19 (5) Federal program grants have been used by
20 State and local governments to subsidize business lo-
21 cation decisions to attract businesses from other
22 States and localities.

23 (6) Proceeds from tax-exempt municipal bonds
24 have been used by one State or locality to attract
25 business from other States and localities.

9 (a) IN GENERAL.—Subtitle D of the Internal Reve-
10 nue Code of 1986 (relating to miscellaneous excise taxes)
11 is amended by inserting after chapter 44 the following new
12 chapter:

“Sec. 4986. Targeted State or local government development subsidies.

18 “(a) GENERAL RULE.—There is hereby imposed for
19 each calendar year an excise tax on any person engaged
20 in a trade or business who derives any benefit during such
21 year from any targeted subsidy provided by any State or
22 local governmental unit.

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1 section 11(b) as though the aggregate value (determined
 2 under regulations prescribed by the Secretary) of benefits
 3 referred to in subsection (a) accruing during the calendar
 4 year were the taxable income referred to in section 11.

5 “(c) DEFINITIONS.—For purposes of this section—

6 “(1) TARGETED SUBSIDY.—

7 “(A) IN GENERAL.—The term ‘targeted
 8 subsidy’ means, with respect to any person, any
 9 subsidy—

10 “(i) which is designed to encourage
 11 any trade or business operation of such
 12 person to locate in a particular govern-
 13 mental jurisdiction or to remain in a par-
 14 ticular governmental jurisdiction, or

15 “(ii) which is reasonably expected to
 16 have the effect of a subsidy described in
 17 clause (i).

18 “(B) CERTAIN MORE BROADLY AVAILABLE
 19 SUBSIDIES TREATED AS TARGETED SUB-
 20 SIDIES.—

21 “(i) IN GENERAL.—A subsidy shall
 22 not fail to be a targeted subsidy by reason
 23 of applying to (or being available to) more
 24 than 1 trade or business operation if such
 25 subsidy is determined (under regulations

1 prescribed by the Secretary) not to be part
2 of the general long-term taxing or spend-
3 ing policies of the governmental unit.

4 “(ii) GENERAL LONG-TERM POLI-
5 CIES.—A subsidy shall be treated as part
6 of the general long-term taxing or spend-
7 ing policies of the governmental unit only
8 if the subsidy is available to all trade or
9 business operations within the jurisdiction
10 of such governmental unit without regard
11 to the period during which any operation
12 has been conducted within such jurisdic-
13 tion.

14 “(2) SUBSIDY.—The term ‘subsidy’ includes—

15 “(A) any grant,

16 “(B) any contribution of property or serv-
17 ices,

18 “(C) any right to use property or services,
19 or any loan, at rates below those commercially
20 available to the taxpayer,

21 “(D) any reduction or deferral of any tax
22 or any fee (including any payment by any State
23 or local governmental unit of any tax or fee),

24 “(E) any guarantee of any payment under
25 any loan, lease, or other obligation,

1 “(F) any use of governmental facilities (in-
2 cluding roads, facilities for the furnishing of
3 water, sewage facilities, and solid waste disposal
4 facilities) to the extent that the amount paid by
5 (or assessed against the property of) the trade
6 or business for such use is less than the amount
7 it would pay were the charge for its use (or the
8 assessment) determined under the same for-
9 mula or other basis as is used by the State or
10 local government with respect to other com-
11 parable facilities used by other trades or busi-
12 nesses, and

13 “(G) any other benefit specified in regula-
14 tions prescribed by the Secretary.

15 “(d) EXCEPTION FOR SUBSIDIES FOR EMPLOYEE
16 TRAINING AND EDUCATION.—No tax shall be imposed by
17 this section on the value of any subsidy provided for em-
18 ployee training or for other education programs.

19 “(e) SPECIAL RULES.—

20 “(1) EXCEPTION FOR SUBSIDIES PROVIDED TO
21 GOVERNMENTAL ENTITIES.—No tax shall be im-
22 posed by this section on the value of any subsidy
23 provided to—

1 “(A) an agency or instrumentality of any
 2 government or any political subdivision thereof,
 3 or

4 “(B) any entity which is owned and oper-
 5 ated by a government or any political subdivi-
 6 sion thereof or by any agency or instrumentality
 7 of one or more governments or political sub-
 8 divisions.

9 “(2) AVOIDANCE OF DOUBLE TAX.—No amount
 10 shall be includible in gross income for purposes of
 11 subtitle A by reason of any targeted subsidy on
 12 which tax is imposed under this section.

13 “(3) ADMINISTRATIVE PROVISIONS.—For pur-
 14 poses of subtitle F, any tax imposed by this section
 15 shall be treated as a tax imposed by subtitle A.”

16 (b) DENIAL OF INCOME TAX DEDUCTION FOR
 17 TAX.—Paragraph (6) of section 275(a) of such Code is
 18 amended by inserting “45,” after “44,”.

19 (c) CLERICAL AMENDMENT.—The table of chapters
 20 for subtitle D of such Code is amended by inserting after
 21 the item relating to chapter 44 the following new item:

“Chapter 45. Excise tax on targeted State or local government de-
 velopment subsidies.”

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to any subsidy which is provided
 24 pursuant to an agreement or arrangement entered into

1 more than 30 days after the date of the enactment of this
2 Act.

3 **SEC. 4. DENIAL OF EXEMPTION FROM TAX FOR INTEREST**
4 **ON BONDS PROVIDING TARGETED STATE OR**
5 **LOCAL GOVERNMENT DEVELOPMENT SUB-**
6 **SIDIES.**

7 (a) IN GENERAL.—Subsection (b) of section 103 of
8 the Internal Revenue Code of 1986 (relating to interest
9 on State and local bonds) is amended by adding at the
10 end the following new paragraph:

11 “(4) BONDS PROVIDING TARGETED DEVELOP-
12 MENT SUBSIDIES.—Any bond if any portion of the
13 proceeds of such bond is to be used to provide any
14 targeted subsidy (as defined in section 4986(c)).”

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to obligations issued after the
17 date of the enactment of this Act.

18 **SEC. 5. PROHIBITION OF USE OF FEDERAL FUNDS FOR**
19 **TARGETED SUBSIDIES.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
21 sion of law, none of the Federal funds provided to any
22 State or local government may be used to provide any tar-
23 geted subsidy (as defined in section 4986(c) of the Inter-
24 nal Revenue Code of 1986).

1 (b) RECOVERY OF FUNDS USED TO PROVIDE TAR-
2 GETED SUBSIDIES.—If the Secretary of the Treasury or
3 the Secretary’s delegate finds after reasonable notice and
4 opportunity for hearing that any State or local govern-
5 ment used Federal funds in violation of subsection (a),
6 the Secretary or the Secretary’s delegate shall take such
7 actions as are necessary (including referring the matter
8 to the Attorney General of the United States with a rec-
9 ommendation that an appropriate civil action be insti-
10 tuted) to recover the amount so used from the State or
11 local government or the trade or business, whichever the
12 Secretary determines to be appropriate.

13 (c) EFFECTIVE DATE.—This section shall apply to
14 funds provided after the date of the enactment of this Act.

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