

105TH CONGRESS  
2D SESSION

# S. 1907

To amend the Internal Revenue Code of 1986 to allow a refundable tax credit for wetland restoration and conservation expenses.

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IN THE SENATE OF THE UNITED STATES

APRIL 2, 1998

Mr. DASCHLE 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 allow a refundable tax credit for wetland restoration and conservation expenses.

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. REFUNDABLE CREDIT FOR WETLAND RES-**  
4       **TORATION AND CONSERVATION EXPENSES.**

5       (a) IN GENERAL.—Subpart C of part IV of sub-  
6       chapter A of chapter 1 of the Internal Revenue Code of  
7       1986 (relating to refundable credits) is amended by redес-  
8       ignating section 35 as section 36 and by inserting after  
9       section 34 the following new section:

1 **“SEC. 35. WETLAND RESTORATION AND CONSERVATION EX-**  
 2 **PENSES.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
 4 gible taxpayer, there shall be allowed as a credit against  
 5 the tax imposed by this subtitle for the taxable year in  
 6 an amount equal to the sum of—

7 “(1) the wetland restoration credit, plus

8 “(2) the wetland conservation credit, plus

9 “(3) the wetland easement credit.

10 “(b) WETLAND RESTORATION CREDIT.—

11 “(1) IN GENERAL.—The wetland restoration  
 12 credit for any taxable year is an amount equal to the  
 13 wetland restoration expenditures paid or incurred by  
 14 the eligible taxpayer for such taxable year.

15 “(2) WETLAND RESTORATION EXPENDI-  
 16 TURES.—For purposes of this subsection, the term  
 17 ‘wetland restoration expenditure’ means an expendi-  
 18 ture for the restoration of farmed wetland or prior  
 19 converted wetland to fully functioning wetland condi-  
 20 tion—

21 “(A) pursuant to a restoration plan ap-  
 22 proved by the Natural Resources Conservation  
 23 Service of the Department of Agriculture, and

24 “(B) paid or incurred during the first 5  
 25 years of the qualified conservation agreement or

1 qualified conservation easement relating to such  
 2 farmed wetland or prior converted wetland.

3 Such term shall not include any expenditure which  
 4 is required to be made pursuant to any Federal or  
 5 State law.

6 “(c) WETLAND CONSERVATION CREDIT.—

7 “(1) IN GENERAL.—The wetland conservation  
 8 credit for any taxable year is an amount equal to the  
 9 sum of—

10 “(A) the applicable percentage of the soil-  
 11 specific Conservation Reserve Program rental  
 12 rate applicable to the eligible taxpayer’s quali-  
 13 fied wetland for such taxable year under title  
 14 XII of the Food Security Act of 1985, plus

15 “(B) any fee for certification of compliance  
 16 paid or incurred by the eligible taxpayer in such  
 17 taxable year with respect to the qualified con-  
 18 servation agreement relating to such qualified  
 19 wetland.

20 “(2) APPLICABLE PERCENTAGE.—For purposes  
 21 of paragraph (1)(A), the applicable percentage is  
 22 equal to, in the case of an eligible taxpayer who has  
 23 entered into a qualified conservation agreement with  
 24 a term of—

1           “(A) at least 10 years, but less than 20  
2           years, 50 percent,

3           “(B) at least 20 years, but less than 30  
4           years, 60 percent, and

5           “(C) 30 years, 70 percent.

6           “(3) DENIAL OF CREDIT IF WETLAND EASE-  
7           MENT CREDIT IS ELECTED.—With respect to any  
8           qualified wetland with respect to which the taxpayer  
9           makes an election under subsection (d) for any tax-  
10          able year, the wetland conservation credit with re-  
11          spect to such qualified wetland for such taxable year  
12          is zero.

13          “(d) WETLAND EASEMENT CREDIT.—

14               “(1) IN GENERAL.—At the election of the eligi-  
15          ble taxpayer, the wetland easement credit for any  
16          taxable year is an amount equal to the fair market  
17          value of any qualified wetland of the taxpayer sub-  
18          ject to a qualified conservation easement.

19               “(2) DETERMINATION OF VALUE.—For pur-  
20          poses of paragraph (1), the value of such qualified  
21          wetland is the fair market value of such qualified  
22          wetland in agricultural use (as determined by a cer-  
23          tified appraisal) during the taxable year (determined  
24          as of the date of the grant of the easement).

1           “(3) ELECTION.—An election under this sub-  
 2           section shall apply to the taxable year for which  
 3           made.

4           “(e) DEFINITIONS.—For purposes of this section—

5           “(1) ELIGIBLE TAXPAYER.—The term ‘eligible  
 6           taxpayer’ means a taxpayer who—

7                   “(A) owns property which consists of—

8                           “(i) wetlands, farmed wetlands, or  
 9                           prior converted wetlands, and

10                          “(ii) the surrounding or immediately  
 11                          adjacent actively farmed cropland, and

12                          “(B) with respect to such property, has en-  
 13                          tered into a qualified conservation agreement or  
 14                          a qualified conservation easement.

15           “(2) QUALIFIED WETLAND.—

16                   “(A) IN GENERAL.—The term ‘qualified  
 17                   wetland’ means—

18                           “(i) wetland, including farmed wet-  
 19                           land or prior converted wetland, which  
 20                           through the use of wetland restoration ex-  
 21                           penditures is being converted to fully func-  
 22                           tioning wetland condition, plus

23                           “(ii) as determined under a qualified  
 24                           conservation agreement or a qualified con-  
 25                           servation easement, such surrounding or

1 immediately adjacent nonwetland as is ap-  
 2 propriate to buffer the water quality or  
 3 wildlife habitat values associated with the  
 4 wetland, but only to the extent the nonwet-  
 5 land acreage is not more than 3 times  
 6 greater than the wetland acreage.

7 “(B) CERTAIN PROPERTY EXCLUDED.—

8 Such term shall not include any acre of land  
 9 with respect to which contract or easement pay-  
 10 ments are received in the taxable year from the  
 11 Conservation Reserve Program or the Wetlands  
 12 Reserve Program under title XII of the Food  
 13 Security Act of 1985.

14 “(3) WETLAND, FARMED WETLAND, AND PRIOR

15 CONVERTED WETLAND.—The terms ‘wetland’,  
 16 ‘farmed wetland’, and ‘prior converted wetland’ shall  
 17 have the meanings given such terms by title XII of  
 18 the Food Security Act of 1985.

19 “(4) QUALIFIED CONSERVATION AGREE-

20 MENT.—

21 “(A) IN GENERAL.—The term ‘qualified  
 22 conservation agreement’ means an agreement  
 23 by the eligible taxpayer—

24 “(i) with a governmental unit referred  
 25 to in section 170(c)(1),

1 “(ii) for a term of not less than 10  
2 years and not more than 30 years,

3 “(iii) under which the taxpayer agrees  
4 to comply with the conservation require-  
5 ments of subparagraph (B) with respect to  
6 the qualified wetland, and

7 “(iv) under which the taxpayer agrees  
8 to obtain a certification of compliance not  
9 less than every 5 years during the period  
10 of the agreement.

11 “(B) CONSERVATION REQUIREMENTS.—An  
12 eligible taxpayer complies with the conservation  
13 requirements of this subparagraph if—

14 “(i) the taxpayer does not use the  
15 qualified wetland for agricultural produc-  
16 tion, and

17 “(ii) the taxpayer does not drain,  
18 dredge, fill, level, or otherwise manipulate  
19 the qualified wetland (including the re-  
20 moval of woody vegetation, or any activity  
21 which results in impairing or reducing the  
22 flow, circulation, or reach of water) for the  
23 purpose, or that has the effect, of making  
24 production of an agricultural commodity or

1 development of built structures on such  
2 wetland possible.

3 “(5) QUALIFIED CONSERVATION EASEMENT.—

4 The term ‘qualified conservation easement’ means  
5 an easement granted in perpetuity by the eligible  
6 taxpayer restricting the use which may be made of  
7 the qualified wetland to a qualified organization ex-  
8 clusively for conservation purposes (as defined in  
9 section 170(h)).

10 “(f) SPECIAL RULES.—

11 “(1) DENIAL OF DOUBLE BENEFIT.—

12 “(A) IN GENERAL.—No credit shall be al-  
13 lowed under subsection (a) for any expense for  
14 which a deduction or credit is allowed under  
15 any other provision of this chapter.

16 “(B) GRANTS.—No credit shall be allowed  
17 under subsection (a) for any expense to the ex-  
18 tent that funds for such expense are received  
19 under any Federal, State, or local program.

20 “(2) MARRIED COUPLES MUST FILE JOINT RE-  
21 TURNS.—If the taxpayer is a married individual  
22 (within the meaning of section 7703), this section  
23 shall apply only if the taxpayer and the taxpayer’s  
24 spouse file a joint return for the taxable year.”

25 (b) CONFORMING AMENDMENTS.—



1           (1) Paragraph (2) of section 1324(b) of title  
2       31, United States Code, is amended by inserting be-  
3       fore the period “, or from section 35 of such Code”.

4           (2) The table of sections for subpart C of part  
5       IV of subchapter A of chapter 1 of the Internal Rev-  
6       enue Code of 1986 is amended by striking the last  
7       item and inserting the following:

          “Sec. 35. Wetland restoration and conservation expenses.  
          “Sec. 36. Overpayments of tax.”

8       (c) EFFECTIVE DATE.—The amendments made by  
9       this section shall apply to taxable years beginning after  
10      December 31, 1998.

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