

105TH CONGRESS  
2D SESSION

# S. 2346

To amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 23, 1998

Mr. ALLARD (for himself, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS) 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 expand S corporation eligibility for banks, 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 “Small Business and  
5 Financial Institutions Tax Relief Act of 1998”.

### 6 **SEC. 2. EXPANSION OF S CORPORATION ELIGIBLE SHARE-** 7 **HOLDERS TO INCLUDE IRAS.**

8 (a) IN GENERAL.—Section 1361(c)(2)(A) of the In-  
9 ternal Revenue Code of 1986 (relating to certain trusts

1 permitted as shareholders) is amended by inserting after  
 2 clause (v) the following:

3 “(vi) A trust described in section  
 4 408(a).”

5 (b) TREATMENT AS SHAREHOLDER.—Section  
 6 1361(c)(2)(B) of the Internal Revenue Code of 1986 (re-  
 7 lating to treatment as shareholders) is amended by adding  
 8 at the end the following:

9 “(vi) In the case of a trust described  
 10 in clause (vi) of subparagraph (A), the in-  
 11 dividual for whose benefit the trust was  
 12 created shall be treated as a shareholder.”

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

16 **SEC. 3. EXCLUSION OF INVESTMENT SECURITIES INCOME**  
 17 **FROM PASSIVE INCOME TEST FOR BANK S**  
 18 **CORPORATIONS.**

19 (a) IN GENERAL.—Section 1362(d)(3)(C) of the In-  
 20 ternal Revenue Code of 1986 (relating to passive invest-  
 21 ment income defined) is amended by adding at the end  
 22 the following:

23 “(v) EXCEPTION FOR BANK INVEST-  
 24 MENT SECURITIES INCOME.—In the case of  
 25 a bank (as defined in section 581), the

1 term ‘passive investment income’ shall not  
 2 include interest on investment securities  
 3 held by a bank.”

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 1998.

7 **SEC. 4. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLD-**  
 8 **ERS TO 150.**

9 (a) IN GENERAL.—Section 1361(b)(1)(A) of the In-  
 10 ternal Revenue Code of 1986 (defining small business cor-  
 11 poration) is amended by striking “75” and inserting  
 12 “150”.

13 (b) EFFECTIVE DATE.—The amendment made by  
 14 this section shall apply to taxable years beginning after  
 15 December 31, 1998.

16 **SEC. 5. TREATMENT OF DIRECTOR QUALIFYING STOCK.**

17 (a) IN GENERAL.—Section 1361(c) of the Internal  
 18 Revenue Code of 1986 (relating to special rules for apply-  
 19 ing subsection (b)) is amended by adding at the end the  
 20 following:

21 “(7) DIRECTOR QUALIFYING STOCK.—

22 “(A) IN GENERAL.—For purposes of sub-  
 23 section (b)(1)(D), director qualifying stock shall  
 24 not be treated as a second class of stock.

1           “(B) DIRECTOR QUALIFYING STOCK DE-  
 2           FINED.—For purposes of this paragraph, the  
 3           term ‘director qualifying stock’ means any stock  
 4           held by any director of a bank (as defined in  
 5           section 581) as mandated by banking regu-  
 6           latory requirements.”

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

10   **SEC. 6. BAD DEBT CHARGE OFFS IN YEARS AFTER ELEC-**  
 11                   **TION YEAR TREATED AS ITEMS OF BUILT IN**  
 12                   **LOSS.**

13           The Secretary of the Treasury shall modify Regula-  
 14           tion 1.1374–4(f) for taxable years beginning after Decem-  
 15           ber 31, 1998, with respect to bad debt deductions under  
 16           section 166 of the Internal Revenue Code of 1986 by al-  
 17           lowing such deductions to be properly taken into account  
 18           throughout the recognition period (as defined in section  
 19           1374(d)(7) of such Code).

20   **SEC. 7. INCLUSION OF BANKS IN 3-YEAR S CORPORATION**  
 21                   **RULE FOR CORPORATE PREFERENCE ITEMS.**

22           (a) IN GENERAL.—Section 1363(b) of the Internal  
 23           Revenue Code of 1986 (relating to computation of cor-  
 24           poration’s taxable income) is amended by adding at the  
 25           end the following new flush sentence:

1 “Paragraph (4) shall apply to any bank whether such  
2 bank is an S corporation of a qualified subchapter S sub-  
3 sidiary.”

4 (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to taxable years beginning after  
6 December 31, 1998.

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