

106TH CONGRESS  
1ST SESSION

# H. R. 1986

To amend the Internal Revenue Code of 1986 to clarify the rules relating to lessee construction allowances and to contributions to the capital of retailers.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1999

Ms. DUNN (for herself, and Mr. SHAW, and Mr. PORTMAN) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to clarify the rules relating to lessee construction allowances and to contributions to the capital of retailers.

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. EXCLUSION FROM GROSS INCOME OF QUALI-**  
4 **FIED LESSEE CONSTRUCTION ALLOWANCES**  
5 **NOT LIMITED TO SHORT-TERM LEASES.**

6 (a) IN GENERAL.—Paragraph (1) of section 110(a)  
7 of the Internal Revenue Code of 1986 (relating to quali-  
8 fied lessee construction allowances for short-term leases)  
9 is amended to read as follows:

1 “(1) under a lease of retail space, and”.

2 (b) CONFORMING AMENDMENTS.—

3 (1) Section 110(c) of such Code is amended by  
4 striking paragraph (2) and by redesignating para-  
5 graph (3) as paragraph (2).

6 (2) The section heading for section 110 of such  
7 Code is amended by striking “**FOR SHORT-TERM**  
8 **LEASES**”.

9 (3) The item relating to section 110 in the table  
10 of sections for part III of subchapter B of chapter  
11 1 of such Code is amended by striking “for short-  
12 term leases”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to leases entered into after the date  
15 of the enactment of this Act.

16 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR CERTAIN**  
17 **CONTRIBUTIONS TO THE CAPITAL OF RE-**  
18 **TAILERS.**

19 (a) IN GENERAL.—Section 118 of the Internal Rev-  
20 enue Code of 1986 (relating to contributions to the capital  
21 of a corporation) is amended by redesignating subsections  
22 (d) and (e) as subsections (e) and (f), respectively, and  
23 by inserting after subsection (c) the following new sub-  
24 section:

1       “(d) SAFE HARBOR FOR CONTRIBUTIONS TO RE-  
2 TAILERS.—

3           “(1) GENERAL RULE.—For purposes of this  
4 section, the term ‘contribution to the capital of the  
5 taxpayer’ includes any amount of money or other  
6 property received by the taxpayer if—

7           “(A) the taxpayer has entered into an  
8 agreement to operate (or cause to be operated)  
9 a qualified retail business at a particular loca-  
10 tion for a period of at least 15 years,

11           “(B)(i) immediately after the receipt of  
12 such money or other property, the taxpayer  
13 owns the land to be used by the taxpayer in  
14 carrying on a qualified retail business at such  
15 location, or

16           “(ii) the taxpayer uses such amount to ac-  
17 quire ownership of at least such land, and

18           “(C) such amount meets the requirements  
19 of the expenditure rule of paragraph (2).

20           “(2) EXPENDITURE RULE.—An amount meets  
21 the requirements of this paragraph if—

22           “(A) an amount equal to such amount is  
23 expended for the acquisition of land or for ac-  
24 quisition or construction of other property de-  
25 scribed in section 1231(b)—

1 “(i) which was the purpose motivating  
2 the contribution, and

3 “(ii) which is used predominantly in a  
4 qualified retail business at the location re-  
5 ferred to in paragraph (1)(A),

6 “(B) the expenditure referred to in sub-  
7 paragraph (A) occurs before the end of the sec-  
8 ond taxable year after the year in which such  
9 amount was received, and

10 “(C) accurate records are kept of the  
11 amounts contributed and expenditures made on  
12 the basis of the project for which the contribu-  
13 tion was made and on the basis of the year of  
14 the contribution expenditure.

15 “(3) DEFINITION OF QUALIFIED RETAIL BUSI-  
16 NESS.—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the term ‘qualified retail  
19 business’ means a trade or business of selling  
20 tangible personal property to the general public.

21 “(B) SERVICES.—A trade or business shall  
22 not fail to be treated as a qualified retail busi-  
23 ness by reason of sales of services if such sales  
24 are incident to the sale of tangible personal

1 property or if the services are de minimis in  
2 amount.

3 “(4) SPECIAL RULES.—

4 “(A) LEASES OF LAND.—For purposes of  
5 paragraph (1)(B)(i), the taxpayer shall be  
6 treated as owning the land referred to in such  
7 paragraph if the taxpayer is the lessee of such  
8 land under a lease having a term of at least 30  
9 years and on which only nominal rent is re-  
10 quired.

11 “(B) CONTROLLED GROUPS.—For pur-  
12 poses of this subsection, all taxpayers treated as  
13 a single employer under subsection (a) or (b) of  
14 section 52 shall be treated as 1 taxpayer.

15 “(5) DISALLOWANCE OF DEDUCTIONS AND  
16 CREDITS; ADJUSTED BASIS.—Notwithstanding any  
17 other provision of this subtitle, no deduction or cred-  
18 it shall be allowed for, or by reason of, the expendi-  
19 ture which constitutes a contribution to capital to  
20 which this subsection applies. The adjusted basis of  
21 any property acquired with the contributions to  
22 which this subsection applies shall be reduced by the  
23 amount of the contributions to which this subsection  
24 applies.”

1       (b) CONFORMING AMENDMENT.—Subsection (e) of  
2 section 118 of such Code (as redesignated by subsection  
3 (a)) is amended by adding at the end the following flush  
4 sentence:

5       “Rules similar to the rules of the preceding sentence shall  
6 apply to any amount treated as a contribution to the cap-  
7 ital of the taxpayer under subsection (d).”

8       (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to amounts received after the date  
10 of the enactment of this Act.

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