

106TH CONGRESS
1ST SESSION

H. R. 2398

To amend the Internal Revenue Code of 1986 to clarify certain existing limitations on private business use of facilities financed with tax-exempt bonds.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1999

Mr. DELAY 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 clarify certain existing limitations on private business use of facilities financed with tax-exempt bonds.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Private Activity Bond Clarification Act of 1999”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or a repeal of, a section or other provision, the ref-

1 erence shall be considered to be made to a section of the
2 Internal Revenue Code of 1986.

3 **SEC. 2. CLARIFICATION OF EXISTING LIMITATIONS ON PRI-**
4 **VATE BUSINESS USE OF FACILITIES FI-**
5 **NANCED WITH TAX-EXEMPT BONDS.**

6 Section 141(b)(6) is amended by adding the following
7 new subparagraphs at the end thereof:

8 “(C) AGGREGATION OF CERTAIN PRIVATE
9 BUSINESS USES.—In determining whether an
10 arrangement for the use of financed property by
11 a nongovernmental person constitutes private
12 business use of the property within the meaning
13 of either subparagraph (A) or any regulation
14 under this section which excludes any use of the
15 property by a nongovernmental person from
16 classification as a private business use of the
17 property—

18 “(i) all nongovernmental persons that
19 have at any time acted, directly or indi-
20 rectly, collectively (or otherwise in concert)
21 to negotiate an arrangement to facilitate
22 the financing of property (by the prepay-
23 ment of rent or otherwise) in exchange for
24 the preferential use thereof, and enter into
25 an arrangement for the use of such prop-

erty, shall be treated as related parties;
and

“(ii) the terms of use of the financed property by such related parties under their respective arrangements with the issuer, including all renewal options (whether or not for fair market value consideration), shall be aggregated and treated as use of the financed property by a single nongovernmental person.

“(D) ADDITIONAL RULE FOR CERTAIN PRIVATE BUSINESS USES.—If, with respect to any 2 or more calendar years, the aggregate term of use determined under clause (ii) of subparagraph (C) exceeds 50 percent of the days on which the property practically and ordinarily would be used (based on custom and usage in the industry) by all persons (including the related parties) for the purpose for which it was designed—

“(i) the property shall be treated as financed for a principal purpose of providing the facility for use by the single nongovernmental person referred to in clause (ii) of subparagraph (C); and

1 “(ii) each of the related parties shall
2 be treated as using the property under an
3 arrangement with the issuer that conveys
4 priority rights or other preferential bene-
5 fits.

6 “(E) COMPUTATION OF PRIVATE BUSINESS
7 USE.—In computing the number of days to
8 which financed property is devoted to private
9 business use, there shall be included any days
10 (or fractions thereof) that the property is other-
11 wise unavailable for government use by reason
12 of such private business use.

13 “(F) NO INFERENCE.—The inapplicability
14 of the 50 percent limitation of subparagraph
15 (D) shall create no inference with respect to the
16 application of the principles set forth in clauses
17 (i) and (ii) of subparagraph (D) in other appro-
18 priate cases.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The amendments made by this Act shall apply with
21 respect to bonds issued on or after July 1, 1999.

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