

107TH CONGRESS  
1ST SESSION

# S. 222

To provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2001

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, 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 “All American Cruise

5       Act of 2001”.

1 **TITLE I—TAX INCENTIVES FOR**  
2 **CRUISE SHIP CONSTRUCTION**  
3 **AND OPERATION**

4 **SEC. 101. TAX TREATMENT OF UNITED STATES-BUILT**  
5 **CRUISE SHIPS DURING CONSTRUCTION PE-**  
6 **RIOD.**

7 (a) IN GENERAL.—Section 460(e) of the Internal  
8 Revenue Code of 1986 (relating to special rules for long-  
9 term contracts) is amended by adding at the end the fol-  
10 lowing new paragraph:

11 “(7) SPECIAL RULE FOR CRUISE SHIP CON-  
12 STRUCTION CONTRACTS.—In the case of any con-  
13 tract for the construction or overhaul of an ocean-  
14 going cruise ship of at least 20,000 gross tons, a  
15 contractor may, at the contractor’s election, use the  
16 completed contract method of accounting for each  
17 ship that is constructed or overhauled, provided  
18 that—

19 “(A) the construction or overhaul of the  
20 ship will take more than 12 months to complete  
21 from the contract commencement date to the  
22 date that the ship is delivered or returned to  
23 the owner,

24 “(B) the reporting of revenue and costs for  
25 each ship may not be deferred beyond the date

1                   of delivery or return of the ship to the owner,  
2                   and

3                   “(C) when a contract provides for the con-  
4                   struction or overhaul of more than 1 ship, each  
5                   ship covered by the contract will be treated as  
6                   an individual ship contract for the purpose of  
7                   applying the completed contract method of ac-  
8                   counting, and the reporting of revenue and  
9                   costs for each ship may not be deferred beyond  
10                  the date on which the ship is delivered or re-  
11                  turned to the owner.”.

12                 (b) EFFECTIVE DATE.—The amendment made by  
13                 this section shall apply to taxable years beginning after  
14                 December 31, 2001.

15                 **SEC. 102. GROSS INCOME EXCLUSION FOR CRUISE SHIP OP-  
16                   ERATIONS.**

17                 (a) IN GENERAL.—Part III of subchapter B of chap-  
18                 ter 1 of the Internal Revenue Code of 1986 (relating to  
19                 amounts specifically excluded from gross income) is  
20                 amended by redesignating section 139 as section 140 and  
21                 by inserting after section 138 the following new section:

22                 **SEC. 139. AMOUNTS DERIVED FROM CRUISE SHIP OPER-  
23                   ATIONS.**

24                 “(a) GENERAL RULE.—Gross income of a corpora-  
25                 tion organized in the United States shall not include

1 amounts derived by the corporation from the operation of  
2 a cruise ship which was built in the United States and  
3 has a certificate of documentation issued under chapter  
4 121 of title 46, United States Code.

5       “(b) DEFINITION.—For purposes of subsection (a),  
6 the term ‘cruise ship’ means a seagoing passenger vessel  
7 of at least 20,000 gross tons that provides a full range  
8 of overnight accommodations, entertainment, dining, and  
9 other services for its passengers.”.

10       (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2001.

13 **SEC. 103. CREDIT FOR INCOME FROM CRUISE SHIP CON-**  
14 **STRUCTURE CONTRACTS.**

15       (a) IN GENERAL.—Subpart B of part IV of sub-  
16 chapter A of chapter 1 of the Internal Revenue Code of  
17 1986 (relating to foreign tax credit, etc.) is amended by  
18 adding at the end the following new section:

19 **“SEC. 30B. CRUISE SHIP CONSTRUCTION CREDIT.**

20       “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
21 gible taxpayer, there shall be allowed a credit against the  
22 tax imposed by this chapter for the taxable year an  
23 amount equal the portion of such tax which is attributable  
24 to taxable income from any construction contract de-  
25 scribed in subsection (c).

1       “(b) ELIGIBLE TAXPAYER.—For purposes of sub-  
2 section (a), an eligible taxpayer is a resident of the United  
3 States, or a corporation organized in the United States,  
4 whose average annual gross receipts for the 3 taxable  
5 years preceding the taxable year in which such construc-  
6 tion contract is entered into are not less than  
7 \$30,000,000.

8       “(c) CONSTRUCTION CONTRACT.—A construction  
9 contract described in this subsection is a contract—  
10           “(1) for the construction of a cruise ship,  
11           “(2) entered into by the taxpayer, and  
12           “(3) for which the taxpayer estimates (at the  
13 time such contract is entered into) that the ship con-  
14 struction under the contract will be completed within  
15 a 2-year period beginning on the contract com-  
16 mencement date.

17       “(d) CRUISE SHIP.—For purposes of this section, the  
18 term ‘cruise ship’ means a seagoing passenger vessel of  
19 at least 20,000 gross tons that provides a full range of  
20 overnight accommodations, entertainment, dining, and  
21 other services for its passengers.

22       “(e) LIMITATION BASED ON AMOUNT OF TAX.—The  
23 aggregate amount of the credit allowed under subsection  
24 (a) shall not exceed—

1               “(1) the sum of the taxpayer’s regular tax li-  
2       ability and the tax imposed by section 55 for the  
3       taxable year, reduced by

4               “(2) the sum of the credits allowable under sub-  
5       parts A, B (other than this section), and D.”.

6       (b) CONFORMING AMENDMENT.—The table of sec-  
7       tions for subpart B of part IV of subchapter A of chapter  
8       1 of the Internal Revenue Code of 1986 is amended by  
9       inserting after the item relating to section 30A the fol-  
10      lowing new item:

“Sec. 30B. Cruise ship construction credit.”.

11       (c) EFFECTIVE DATE.—The amendment made by  
12      this section shall apply to taxable years beginning after  
13      December 31, 2001.

14 **SEC. 104. ACCELERATED DEPRECIATION.**

15       (a) IN GENERAL.—Section 168(e)(3)(C) of the Inter-  
16      nal Revenue Code of 1986 (relating to classification of cer-  
17      tain property) is amended by redesignating clause (ii) as  
18      clause (iii) and inserting after clause (i) the following new  
19      clause:

20               “(ii) a cruise ship (as defined in sec-  
21       tion 30B), and”.

22       (b) EFFECTIVE DATE.—The amendment made by  
23      this section shall apply to property placed in service after  
24      December 31, 2001.

1 **SEC. 105. DEDUCTION FOR CERTAIN BUSINESS EXPENSES**2 **ON CRUISE SHIPS.**

## 3 (a) DEDUCTION ALLOWED.—

4 (1) CONVENTIONS ON CRUISE SHIPS.—Section  
5 274(h) of the Internal Revenue Code of 1986 (relat-  
6 ing to conventions on cruise ships) is amended—7 (A) in paragraph (2), by striking “meets  
8 the requirements of paragraph (5)” and all that  
9 follows and inserting “establishes that the  
10 meeting is directly related to the active conduct  
11 of the individual’s trade or business and that  
12 the cruise ship is—13 “(A) a United States-built vessel registered  
14 in the United States, or15 “(B) a foreign-built vessel registered in the  
16 United States under section 8109 of Public  
17 Law 105-56 or title III of the All American  
18 Cruise Act of 2001.”, and19 (B) by striking paragraph (5) and by re-  
20 designating paragraphs (6) and (7) as para-  
21 graphs (5) and (6), respectively.22 (2) LUXURY WATER TRAVEL.—Section 274(m)  
23 of such Code (relating to additional limitations on  
24 travel expenses) is amended by striking paragraph  
25 (1) and redesignating paragraphs (2) and (3) as  
26 paragraphs (1) and (2), respectively.

1 (b) CONFORMING AMENDMENTS.—

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2001.

11 SEC. 106. CREDIT FOR USE OF CLEAN-BURNING GAS EN-

12 GINES.

13 (a) IN GENERAL.—Subpart B of part IV of sub-  
14 chapter A of chapter 1 of the Internal Revenue Code of  
15 1986 (relating to foreign tax credit, etc.), as amended by  
16 section 103, is amended by adding at the end the following  
17 new section:

## 18 "SEC. 30C. CREDIT FOR USE OF CLEAN-BURNING ENGINES.

19        "(a) ALLOWANCE OF CREDIT.—There shall be al-  
20 lowed as a credit against the tax imposed by this chapter  
21 for the taxable year an amount equal to 20 percent of the  
22 amount paid or incurred by the taxpayer for the taxable  
23 year with respect to fuel consumed by clean-burning en-  
24 gines of an eligible cruise ship.

25        "(b) DEFINITIONS.—For purposes of this section—

1                 “(1) CLEAN-BURNING ENGINE.—The term  
2         ‘clean-burning engine’ means a gas turbine engine,  
3         manufactured in the United States or a possession  
4         of the United States, that burns 100 percent dis-  
5         tillate fuel with less than 1.5 percent sulfur.

6                 “(2) CRUISE SHIP.—The term ‘cruise ship’ has  
7         the meaning given the same term in section 30B.

8                 “(3) ELIGIBLE CRUISE SHIP.—The term ‘eli-  
9         gible cruise ship’ means a cruise ship which is—

10                 “(A) built in the United States, and  
11                 “(B) documented under the laws of the  
12         United States.

13                 “(c) APPLICATION WITH OTHER CREDITS.—The  
14         credit allowed under subsection (a) for any taxable year  
15         shall not exceed the excess (if any) of—

16                 “(1) the regular tax for the taxable year re-  
17         duced by the sum of the credits allowable under sub-  
18         part A and sections 27, 29, 30, and 30A, over

19                 “(2) the tentative minimum tax for the taxable  
20         year.”.

21                 (b) CLERICAL AMENDMENT.—The table of sections  
22         for subpart B of part IV of subchapter A of chapter 1  
23         of the Internal Revenue Code of 1986, as amended by sec-  
24         tion 103, is amended by adding at the end the following  
25         new item:

“Sec. 30C. Credit for use of clean-burning engines.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2001.

4 **TITLE II—CAPITAL CONSTRUC-**  
5 **TION FUNDS FOR PASSENGER**  
6 **VESSEL CONSTRUCTION**

7 **SEC. 201. AMENDMENTS TO MERCHANT MARINE ACT, 1936.**

8       (a) CHANGES IN VESSELS TO WHICH CAPITAL CON-  
9 STRUCTION FUNDS APPLY.—

10           (1) INCLUSION OF PASSENGER VESSELS.—The  
11 second sentence of subsection (a) of section 607 of  
12 the Merchant Marine Act, 1936 (46 U.S.C. App.  
13 1178) is amended by striking “for operation in the  
14 United States foreign, Great Lakes, or noncontig-  
15 uous domestic trade or in the fisheries of the United  
16 States” and inserting “for operation in the fisheries  
17 of the United States or in the United States foreign,  
18 Great Lakes, or noncontiguous domestic trade, or  
19 for operation as a passenger vessel in the oceangoing  
20 domestic trade.”.

21           (2) DEFINITION OF ELIGIBLE VESSEL.—Para-  
22 graph (1) of section 607(k) of such Act is amended  
23 to read as follows:

24           “(1) The term ‘eligible vessel’ means any ves-  
25 sel—

1                 “(A) constructed in the United States and,  
2                 if reconstructed, reconstructed in the United  
3                 States,

4                 “(B) documented under the laws of the  
5                 United States, and

6                 “(C) operated in the foreign or domestic  
7                 commerce of the United States or in the fish-  
8                 eries of the United States.

9                 A foreign-built passenger vessel temporarily docu-  
10                 mented with a coastwise trade endorsement under  
11                 section 8109 of Public Law 105-56 or title III of  
12                 the All American Cruise Act of 2001 shall be treated  
13                 as satisfying the requirements of subparagraph (A)  
14                 of this paragraph.”.

15                 (3) DEFINITION OF QUALIFIED VESSEL.—Para-  
16                 graph (2)(C) of section 607(k) of such Act is  
17                 amended to read as follows:

18                 “(C) which the person maintaining the  
19                 fund agrees with the Secretary will be operated  
20                 in the fisheries of the United States, in the  
21                 United States foreign, Great Lakes, or non-  
22                 contiguous domestic trade, or (only in the case  
23                 of a passenger vessel) in the oceangoing domes-  
24                 tic trade.”.

4                   “(10) The terms ‘foreign commerce’ and ‘for-  
5                   eign trade’ have the meanings given such terms in  
6                   section 905 of this Act, except that in the case of  
7                   a passenger vessel, these terms shall include com-  
8                   merce or trade between foreign ports.

9           “(11) The term ‘passenger vessel’ means a sea-  
10           going passenger vessel of at least 20,000 gross tons  
11           that provides a full range of overnight accommoda-  
12           tions, entertainment, dining, and other services for  
13           its passengers.

14                   “(12) The term ‘oceangoing domestic trade’  
15                   means—

16                   “(A) the operation of a passenger vessel on  
17                   a coastwise voyage between points in the United  
18                   States, or

19                   “(B) the operation of a passenger vessel on  
20                   a voyage to transport passengers to the high  
21                   seas beginning at a point in the United States  
22                   and returning to the same point without stop-  
23                   ping at any other point.”.

24 (b) TREATMENT OF CERTAIN LEASE PAYMENTS.—

7                     “(D) the payment of amounts which re-  
8                     duce the principal amount (as determined under  
9                     regulations promulgated by the Secretary) of a  
10                    qualified lease of a qualified vessel or container  
11                    which is part of the complement of an eligible  
12                    vessel.”.

21               “(13) The term ‘qualified lease’ means any  
22               lease with a term of at least 5 years.”.

23 (c) AUTHORITY TO MAKE DEPOSITS FOR PRIOR  
24 YEARS BASED ON AUDIT ADJUSTMENTS.—Subsection (b)

1 of section 607 of such Act is amended by adding at the  
2 end the following new paragraph:

3                 “(4) To the extent permitted by joint regula-  
4                 tions, deposits may be made in excess of the limita-  
5                 tion described in paragraph (1) (and any limitation  
6                 specified in the agreement) for the taxable year if,  
7                 by reason of a change in taxable income for a prior  
8                 taxable year that has become final pursuant to a  
9                 closing agreement or other similar agreement en-  
10                 tered into during the taxable year, the amount of the  
11                 deposit could have been made for such prior taxable  
12                 year.”.

13                 (d) TREATMENT OF CAPITAL GAINS AND LOSSES.—

14                 (1) CAPITAL GAIN ACCOUNT.—Paragraph (3) of  
15                 section 607(e) of such Act is amended to read as fol-  
16                 lows:

17                 “(3) The capital gain account shall consist of—  
18                         “(A) amounts representing long-term cap-  
19                         ital gains (as defined in section 1222 of such  
20                         Code) on assets referred to in subsection  
21                         (b)(1)(C), reduced by

22                         “(B) amounts representing long-term cap-  
23                         ital losses (as defined in such section) on assets  
24                         held in the fund.”.

4                   “(B)(i) amounts representing short-term capital  
5                   gains (as defined in section 1222 of such Code) on  
6                   assets referred to in subsection (b)(1)(C), reduced  
7                   by

8                   “(ii) amounts representing short-term capital  
9                   losses (as defined in such section) on assets held in  
10                  the fund.”.

22 (e) COMPUTATION OF INTEREST WITH RESPECT TO  
23 NONQUALIFIED WITHDRAWALS.—

24 (1) INTEREST.—Subparagraph (C) of section  
25 607(h)(3) of such Act is amended—

1 (A) by striking clause (i) and inserting the  
2 following new clause:

6 (B) in clause (ii), by striking “paid at the  
7 applicable rate (as defined in paragraph (4))”  
8 and inserting “paid in accordance with section  
9 6601 of such Code”.

10 (2) CONFORMING AMENDMENTS.—

15 (B) Subparagraph (A) of section 607(h)(5)  
16 of such Act, as redesignated by subparagraph  
17 (A), is amended by striking “paragraph (5)”  
18 and inserting “paragraph (4)”.

19 (f) OTHER CHANGES.—

20 (1) TECHNICAL AMENDMENT.—Section 607 of  
21 such Act is amended by striking “the Internal Rev-  
22 enue Code of 1954” each place it appears and in-  
23 serting “the Internal Revenue Code of 1986”.

24 (2) INCOME-PRODUCING ASSETS.—Subsection  
25 (c) of section 607 of such Act is amended by strik-

1       ing “interest-bearing securities approved by the Sec-  
2       retary” and inserting “interest-bearing securities  
3       and other income-producing assets (including ac-  
4       counts receivable) approved by the Secretary”.

5 SEC. 202. AMENDMENTS OF INTERNAL REVENUE CODE OF  
6 1986.

7 (a) TREATMENT OF CERTAIN LEASE PAYMENTS.—  
8 (1) QUALIFIED WITHDRAWAL.—Paragraph (1)  
9 of section 7518(e) of the Internal Revenue Code of  
10 1986 (relating to purposes of qualified withdrawals)  
11 is amended by striking “or” at the end of subpara-  
12 graph (B), by striking the period at the end of sub-  
13 paragraph (C) and inserting “, or”, and by inserting  
14 after subparagraph (C) the following new subpara-  
15 graph:

16                   “(D) the payment of amounts which re-  
17                   duce the principal amount (as determined under  
18                   regulations) of a qualified lease of a qualified  
19                   vessel.”.

1       (b) AUTHORITY TO MAKE DEPOSITS FOR PRIOR  
2 YEARS BASED ON AUDIT ADJUSTMENTS.—Subsection (a)  
3 of section 7518 of the Internal Revenue Code of 1986 (re-  
4 lating to ceiling on deposits) is amended by adding at the  
5 end the following new paragraph:

6               “(4) AUTHORITY TO MAKE DEPOSITS FOR  
7 PRIOR YEARS BASED ON AUDIT ADJUSTMENTS.—To  
8 the extent permitted by joint regulations, deposits  
9 may be made in excess of the limitations described  
10 in paragraph (1) (and any limitation specified in the  
11 agreement) for the taxable year if, by reason of a  
12 change in taxable income for a prior taxable year  
13 that has become final pursuant to a closing agree-  
14 ment or other similar agreement entered into during  
15 the taxable year, the amount of the deposit could  
16 have been made for such prior taxable year.”.

17       (c) TREATMENT OF CAPITAL GAINS AND LOSSES.—  
18               (1) CAPITAL GAIN ACCOUNT.—Paragraph (3) of  
19 section 7518(d) of the Internal Revenue Code of  
20 1986 (relating to establishment of accounts) is  
21 amended to read as follows:

22               “(3) CAPITAL GAIN ACCOUNT.—The capital  
23 gain account shall consist of—

1               “(A) amount representing long-term cap-  
2       ital gains (as defined in section 1222) on assets  
3       referred to in subsection (a)(1)(C), reduced by

4               “(B) amounts representing long-term cap-  
5       ital losses (as defined in such section) on assets  
6       held in the fund.”.

7               (2) ORDINARY INCOME ACCOUNT.—Subpara-  
8       graph (B) of section 7518(d)(4) of such Code (relat-  
9       ing to ordinary income account) is amended to read  
10      as follows:

11               “(B)(i) amounts representing short-term  
12       capital gains (as defined in section 1222) on as-  
13       sets referred to in subsection (a)(1)(C), reduced  
14       by

15               “(ii) amounts representing short-term cap-  
16       ital losses (as defined in such section) on assets  
17       held in the fund.”.

18               (3) TAX TREATMENT.—Subparagraph (B) of  
19       section 7518(g)(3) of such Code (relating to oper-  
20       ating rules) is amended by striking “gain” and all  
21       that follows and inserting “long-term capital gain  
22       (as defined in section 1222), and”.

23               (4) RATE OF TAX.—The last sentence of sub-  
24       paragraph (A) of section 7518(g)(6) of such Code  
25       (relating to nonqualified withdrawals taxed at high-

1       est marginal rate) is amended by striking “20 per-  
2       cent (34 percent in the case of a corporation)” and  
3       inserting “the rate applicable to net capital gain  
4       under such section 1(h) or 1201(a), as the case may  
5       be”.

6       (d) COMPUTATION OF INTEREST WITH RESPECT TO

7       NONQUALIFIED WITHDRAWALS.—

8               (1) INTEREST.—Subparagraph (C) of section  
9       7518(g)(3) of the Internal Revenue Code of 1986  
10      (relating to operating rules) is amended—

11               (A) by striking clause (i) and inserting the  
12      following new clause:

13                       “(i) no addition to the tax shall be  
14      payable under section 6651,”, and

15               (B) in clause (ii), by striking “paid as the  
16      applicable rate (as defined in paragraph (4))”  
17      and inserting “paid in accordance with section  
18      6601”.

19       (2) CONFORMING AMENDMENTS.—

20               (A) Subsection (g) of section 7518 of such  
21      Code is amended by striking paragraph (4) and  
22      by redesignating paragraphs (5) and (6) as  
23      paragraphs (4) and (5), respectively.

24               (B) Subparagraph (A) of section  
25      7518(g)(5) of such Code, as redesignated by

1                   subparagraph (A), is amended by striking  
2                   “paragraph (5)” and inserting “paragraph  
3                   (4)”.  
4                   (e) OTHER CHANGES.—

5                   (1) INCOME-PRODUCING ASSETS.—Paragraph  
6                   (2) of section 7518(b) of the Internal Revenue Code  
7                   of 1986 (relating to requirements as to investments)  
8                   is amended by striking “interest-bearing securities  
9                   approved by the Secretary” and inserting “interest-  
10                  bearing securities and other income-producing assets  
11                  (including amounts receivable) approved by the Sec-  
12                  retary”.

13                  (2) Paragraph (1) of section 7518(e) of such  
14                  Code is amended by striking the last sentence.

15                  (3) Subsection (i) of section 7518 of such Code  
16                  (relating to definitions) is amended by striking “en-  
17                  actment of this section” and inserting “enactment of  
18                  the All American Cruise Act of 2001”.

19                  (4) Subparagraph (B) of section 543(a)(1) of  
20                  such Code is amended to read as follows:

21                   “(B) interest on amounts set aside in a  
22                  capital construction fund under section 607 of  
23                  the Merchant Marine Act, 1936 (46 App.  
24                  U.S.C. 1178), or in a construction reserve fund

1                   under section 511 of such Act (46 App. U.S.C.  
2                   1161)."

3                   (5) Subsection (c) of section 56 of such Code  
4                   is amended by striking paragraph (2) and by redes-  
5                   ignating paragraph (3) as paragraph (2).

6 **SEC. 203. EFFECTIVE DATE.**

7                   (a) IN GENERAL.—Except as otherwise provided in  
8 this section, the amendments made by this title shall apply  
9 to taxable years beginning after the date of the enactment  
10 of this Act.

11                  (b) CHANGES IN COMPUTATION OF INTEREST.—The  
12 amendments made by sections 201(e) and 202(d) shall  
13 apply to withdrawals made after December 31, 2001, in-  
14 cluding for purposes of computing interest on such a with-  
15 drawal for periods on or before such date.

16                  (c) QUALIFIED LEASES.—The amendments made by  
17 sections 201(b) and 202(a) shall apply to leases in effect  
18 on, or entered into after, December 31, 2001.

