

108TH CONGRESS
1ST SESSION

H. R. 2836

To amend the Internal Revenue Code of 1986 to reduce corporate refunds by fines and penalties imposed by reason of improper accounting or reporting practices or misstatements of its financial position.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2003

Mr. MEEKS of New York 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 reduce corporate refunds by fines and penalties imposed by reason of improper accounting or reporting practices or misstatements of its financial position.

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 “Deadbeat Corporations
5 Tax Accountability Act of 2003”.

1 **SEC. 2. REDUCTION OF CORPORATE REFUNDS BY FINES**
2 **AND PENALTIES IMPOSED BY REASON OF IM-**
3 **PROPER ACCOUNTING OR REPORTING PRAC-**
4 **TICES OR MISSTATEMENTS OF ITS FINAN-**
5 **CIAL POSITION.**

6 (a) IN GENERAL.—Section 6402 of the Internal Rev-
7 enue Code of 1986 (relating to authority to make credits
8 or refunds) is amended by adding the following new sub-
9 section:

10 “(1) REDUCTION OF OVERPAYMENT IN CASE OF
11 OVERSTATED TAXABLE INCOME DUE TO ACCOUNTING
12 PRACTICES OR RELATED MISSTATEMENT OF FINANCIAL
13 POSITION.—

14 “(1) IN GENERAL.—Upon receiving notice from
15 the Securities and Exchange Commission that a cor-
16 poration has not paid the full amount of a fine or
17 penalty either imposed by a court of competent ju-
18 risdiction, or agreed to by the corporation, with re-
19 spect to—

20 “(A) the corporation’s accounting or re-
21 porting practices, or

22 “(B) a related misstatement of its financial
23 position,

24 the Secretary shall reduce the amount of any over-
25 payment to be refunded to such corporation by such
26 unpaid balance.

1 “(2) PRIORITIES FOR OFFSET.—Any overpay-
2 ment by a corporation shall be reduced pursuant to
3 this subsection after such overpayment is reduced
4 pursuant to subsection (a) with respect to any liabil-
5 ity for any internal revenue tax on the part of the
6 person who made the overpayment, subsection (d)
7 with respect to any past-due, legally enforceable debt
8 owed to a Federal agency, subsection (e) with re-
9 spect to past-due, legally enforceable state income
10 tax obligations, and before such overpayment is
11 credited to the future liability for any Federal inter-
12 nal revenue tax of such person pursuant to sub-
13 section (b).

14 “(3) REMITTANCE OF AMOUNT BY WHICH
15 OVERPAYMENT IS REDUCED.—The amount by which
16 any overpayment is reduced under paragraph (1)
17 shall be remitted by the Secretary to any
18 disbursement fund or account that has been estab-
19 lished under section 308 of Public Law 107–204,
20 116 stat. 745 (2002) with respect to the corpora-
21 tion, or, if no such fund or account is established,
22 retained by the Secretary.

23 “(4) NOTIFICATION.—The Securities and Ex-
24 change Commission shall provide notice to the Sec-
25 retary within 30 days after—

1 “(A) court approval of any settlement pro-
2 viding for less than full payment of a fine or
3 penalty described in paragraph (1), or

4 “(B) the Commission determines that such
5 fine or penalty, or some portion thereof, has be-
6 come past due, whichever is earlier.

7 “(5) TENTATIVE CARRYBACK ADJUSTMENTS.—
8 If a tentative refund or credit of tax under section
9 6411 has been issued with respect to a corporation
10 that has failed to fully pay a fine or penalty de-
11 scribed in paragraph (1), the amount of such unpaid
12 balance shall constitute an excessive allowance of a
13 tentative carryback adjustment that may be assessed
14 as a deficiency in the manner set forth in section
15 6213(b)(3) (relating to the assessment of an excess
16 tentative carryback or refund adjustment as a math-
17 ematical or clerical error).

18 “(6) REMITTANCE OF RECAPTURED TENTATIVE
19 CARRYBACK ADJUSTMENT.—The amount of any ten-
20 tative carryback adjustment assessed and collected
21 pursuant to paragraph (5) shall be remitted or re-
22 tained by the Secretary in accordance with para-
23 graph (3). The remittance of any such amount to a
24 fund or account described in paragraph (3) shall not
25 result in an unpaid tax liability of the corporation.

1 “(7) COORDINATION WITH TITLE 11.—The Sec-
2 retary shall take such actions as may be necessary
3 or appropriate to carry out the purposes of this sec-
4 tion where the corporation that has failed to pay the
5 full amount of a fine or penalty described in para-
6 graph (1) is a debtor in a case under title 11 of the
7 United States Code, including, but not limited to,
8 the filing of an administrative expense claim for any
9 amount that constitutes an excessive allowance of a
10 tentative carryback adjustment.”

11 (b) EFFECTIVE DATE.—This section shall be effec-
12 tive for fines and penalties imposed or agreed to with re-
13 spect to a corporation’s accounting or reporting practices,
14 or a related misstatement of its financial position, that
15 are not fully paid on the date of introduction of this Act,
16 and for all such fines and penalties that later become un-
17 paid or past due.

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