

108TH CONGRESS
2D SESSION

H. R. 3892

To amend the Internal Revenue Code of 1986 to encourage businesses to establish hazardous waste remediation reserves, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2004

Ms. HART 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 encourage businesses to establish hazardous waste remediation reserves, 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 “Brownfield Redevelop-
5 ment Reserve Act”.

6 **SEC. 2. BROWNFIELDS IRA.**

7 (a) IN GENERAL.—Subpart C of part II of sub-
8 chapter E of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 468B the fol-
10 lowing new section:

1 **“SEC. 468C. SPECIAL RULES FOR HAZARDOUS WASTE RE-**
2 **MEDIATION RESERVES.**

3 “(a) IN GENERAL.—There shall be allowed as a de-
4 duction for any taxable year the amount of payments
5 made by the taxpayer to a Hazardous Waste Remediation
6 Reserve (hereinafter referred to as the ‘Reserve’) during
7 such taxable year.

8 “(b) LIMITATION ON AMOUNTS PAID INTO RE-
9 SERVE.—The amount which a taxpayer may pay into the
10 Reserve for any taxable year shall not exceed the lesser
11 of—

12 “(1) \$1,000,000, or

13 “(2) the excess (if any) of \$1,000,000 over the
14 amount paid into the Reserve for all prior taxable
15 years.

16 “(c) INCOME AND DEDUCTIONS OF THE TAX-
17 PAYER.—

18 “(1) INCLUSION OF AMOUNTS DISTRIBUTED.—
19 There shall be includible in the gross income of the
20 taxpayer for any taxable year—

21 “(A) any amount distributed from the Re-
22 serve during such taxable year, and

23 “(B) any deemed distribution under sub-
24 section (e).

25 “(2) DEDUCTION WHEN ECONOMIC PERFORM-
26 ANCE OCCURS.—In addition to any deduction under

1 subsection (a), there shall be allowable as a deduc-
2 tion for any taxable year the amount of the qualified
3 hazardous waste costs with respect to which eco-
4 nomic performance (within the meaning of section
5 461(h)(2)) occurs during such taxable year.

6 “(d) HAZARDOUS WASTE REMEDIATION RESERVE.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, the term ‘Hazardous Waste Remediation Re-
9 serve’ means a reserve established by the taxpayer
10 for purposes of this section.

11 “(2) RESERVE EXEMPT FROM TAXATION.—Any
12 Hazardous Waste Remediation Reserve is exempt
13 from taxation under this subtitle unless such Re-
14 serve has ceased to be a Hazardous Waste Remedi-
15 ation Reserve by reason of subsection (e). Notwith-
16 standing the preceding sentence, any such Reserve
17 shall be subject to the taxes imposed by section 511
18 (relating to imposition of tax on unrelated business
19 income of charitable, etc. organizations).

20 “(3) CONTRIBUTIONS TO RESERVE.—The Re-
21 serve shall not accept any payments (or other
22 amounts) other than payments with respect to which
23 a deduction is allowable under subsection (a).

1 “(4) USE OF RESERVE.—The Reserve shall be
2 used exclusively to pay the qualified hazardous waste
3 costs of the taxpayer.

4 “(5) PROHIBITIONS AGAINST SELF-DEALING.—
5 Under regulations prescribed by the Secretary, for
6 purposes of section 4951 (and so much of this title
7 as relates to such section), the Reserve shall be
8 treated in the same manner as a trust described in
9 section 501(c)(21).

10 “(e) DEEMED DISTRIBUTIONS.—

11 “(1) DISQUALIFICATION OF RESERVE FOR
12 SELF-DEALING.—In any case in which a Reserve vio-
13 lates any provision of this section or section 4951,
14 the Secretary may disqualify such Reserve from the
15 application of this section. In any case to which this
16 paragraph applies, the Reserve shall be treated as
17 having distributed all of its funds on the date such
18 determination takes effect.

19 “(2) FAILURE TO SPEND FUNDS.—A Reserve
20 shall be treated as having distributed all of its
21 funds—

22 “(A) on the date which is 10 years after
23 the date such Reserve was established unless,
24 as of such date—

1 “(i) it has been determined that some
2 property of the taxpayer is contaminated
3 with hazardous waste, and

4 “(ii) a remediation plan has been pre-
5 pared for such site, and

6 “(B) except as otherwise provided by the
7 Secretary, on the date which is 10 years after
8 the date such Reserve was established unless,
9 as of such date, it is reasonably anticipated that
10 the remaining funds in the Reserve will be dis-
11 tributed before the date which is 15 years after
12 the date such Reserve was established.

13 “(f) PENALTY FOR DISTRIBUTIONS NOT USED FOR
14 QUALIFIED HAZARDOUS WASTE COSTS.—The tax im-
15 posed by this chapter for any taxable year in which any
16 amount distributed from a Reserve is not used exclusively
17 to pay qualified hazardous waste costs shall be increased
18 by 10 percent of such amount.

19 “(g) QUALIFIED HAZARDOUS WASTE COSTS.—For
20 purposes of this section, the term ‘qualified hazardous
21 waste costs’ means—

22 “(1) the costs paid or incurred by the taxpayer
23 in connection with the assessment of—

1 “(A) the extent of the environmental con-
 2 tamination of a site which is owned by the tax-
 3 payer, and

4 “(B) the expected cost of environmental
 5 remediation required for such site, and

6 “(2) the costs paid or incurred by the taxpayer
 7 to remediate such contamination.

8 “(h) CONTROLLED GROUPS.—All persons treated as
 9 a single employer under subsection (a) or (b) of section
 10 52 shall be treated as one person for purposes of sub-
 11 section (b), and the dollar amount contained in such sub-
 12 section shall be allocated among such persons in such
 13 manner as the Secretary shall prescribe.

14 “(i) TIME WHEN PAYMENTS DEEMED MADE.—For
 15 purposes of this section, a taxpayer shall be deemed to
 16 have made a payment to the Reserve on the last day of
 17 a taxable year if such payment is made on account of such
 18 taxable year and is made within 2½ months after the close
 19 of such taxable year.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 for subpart C of part II of subchapter E of chapter 1 of
 22 such Code is amended by inserting after the item relating
 23 to section 468B the following new item:

“468C. Special rules for hazardous waste remediation reserves.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

