

108TH CONGRESS
1ST SESSION

H. R. 402

To amend the Internal Revenue Code of 1986 to expand the incentives for the environmental cleanup of certain contaminated industrial sites designated as brownfields.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2003

Mr. ANDREWS 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 expand the incentives for the environmental cleanup of certain contaminated industrial sites designated as brownfields.

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 Cleanup
5 Enhancement Act of 2003”.

6 SEC. 2. CREDIT TO HOLDERS OF QUALIFIED BROWNFIELDS

7 CLEANUP BONDS.

8 (a) IN GENERAL.—Subpart B of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 30B. CREDIT TO HOLDERS OF QUALIFIED**
4 **BROWNFIELDS CLEANUP BONDS.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
6 payer who holds a qualified brownfields cleanup bond on
7 a credit allowance date of such bond which occurs during
8 the taxable year, there shall be allowed as a credit against
9 the tax imposed by this chapter for such taxable year an
10 amount equal to the sum of the credits determined under
11 subsection (b) with respect to credit allowance dates dur-
12 ing such year on which the taxpayer holds such bond.

13 “(b) AMOUNT OF CREDIT.—

14 “(1) IN GENERAL.—The amount of the credit
15 determined under this subsection with respect to any
16 credit allowance date for a qualified brownfields
17 cleanup bond is 25 percent of the annual credit de-
18 termined with respect to such bond.

19 “(2) ANNUAL CREDIT.—The annual credit de-
20 termined with respect to any qualified brownfields
21 cleanup bond is the product of—

22 “(A) the applicable credit rate, multiplied
23 by

24 “(B) the outstanding face amount of the
25 bond.

1 “(3) APPLICABLE CREDIT RATE.—For purposes
2 of paragraph (1), the applicable credit rate with re-
3 spect to an issue is the rate equal to an average
4 market yield (as of the day before the date of
5 issuance of the issue) on outstanding long-term cor-
6 porate debt obligations (determined under regula-
7 tions prescribed by the Secretary).

8 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
9 DEMPTION.—In the case of a bond which is issued
10 during the 3-month period ending on a credit allow-
11 ance date, the amount of the credit determined
12 under this subsection with respect to such credit al-
13 lowance date shall be a ratable portion of the credit
14 otherwise determined based on the portion of the 3-
15 month period during which the bond is outstanding.
16 A similar rule shall apply when the bond is re-
17 deemed.

18 “(c) QUALIFIED BROWNFIELDS CLEANUP BOND.—
19 For purposes of this section—

20 “(1) IN GENERAL.—The term ‘qualified
21 brownfields cleanup bond’ means any bond issued as
22 part of an issue if—

23 “(A) 95 percent or more of the proceeds of
24 such issue are to be used for the abatement or

1 control of hazardous substances at a qualified
2 contaminated site,

3 “(B) the bond is issued by a State or local
4 government within the jurisdiction of which
5 such site is located,

6 “(C) the issuer designates such bond for
7 purposes of this section, and

8 “(D) the term of each bond which is part
9 of such issue does not exceed 15 years.

10 “(2) LIMITATION ON AMOUNT OF BONDS DES-
11 IGNATED.—The maximum aggregate face amount of
12 bonds issued during any calendar year which may be
13 designated under paragraph (1) by any issuer shall
14 not exceed the limitation amount allocated under
15 paragraph (3) for such calendar year to such issuer.

16 “(3) NATIONAL LIMITATION ON AMOUNT OF
17 BONDS DESIGNATED.—There is a national qualified
18 brownfields cleanup bond limitation for each cal-
19 endar year. Such limitation is—

20 “(A) \$100,000,000 for 2004, and

21 “(B) \$150,000,000 for 2005.

22 “(4) ALLOCATION OF LIMITATION AMONG
23 STATES.—The limitation applicable under paragraph
24 (3) for any calendar year shall be allocated among
25 the States by the Secretary of the Treasury.

1 “(5) CARRYOVER OF UNUSED LIMITATION.—If
2 for any calendar year—

3 “(A) the amount allocated under para-
4 graph (4) to any State, exceeds
5 “(B) the amount of bonds issued during
6 such year which are designated under para-
7 graph (1) pursuant to such allocation,

8 the limitation amount under paragraph (4) for such
9 State for the following calendar year shall be in-
10 creased by the amount of such excess.

11 “(6) BOND TO BE PAID BACK FROM ANY TAX
12 REVENUE INCREASE.—A bond shall not be treated
13 as a qualified brownfields cleanup bond unless any
14 increase in real property tax revenues (attributable
15 to increases in assessed value) by reason of the car-
16 rying out of the purposes described in paragraph
17 (1)(A) is reserved exclusively for debt service on the
18 issue referred to in paragraph (1) (and similar
19 issues) to the extent such increase does not exceed
20 such debt service.

21 “(d) LIMITATION BASED ON AMOUNT OF TAX.—

22 “(1) IN GENERAL.—The credit allowed under
23 subsection (a) for any taxable year shall not exceed
24 the excess of—

1 “(A) the sum of the regular tax liability
2 (as defined in section 26(b)) plus the tax im-
3 posed by section 55, over

4 “(B) the sum of the credits allowable
5 under part IV of subchapter A (other than sub-
6 part C thereof, relating to refundable credits).

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the
9 limitation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year.

13 “(e) OTHER DEFINITIONS.—For purposes of this
14 section—

15 “(1) CREDIT ALLOWANCE DATE.—The term
16 ‘credit allowance date’ means—

17 “(A) March 15,

18 “(B) June 15,

19 “(C) September 15, and

20 “(D) December 15.

21 Such term includes the last day on which the bond
22 is outstanding.

23 “(2) BOND.—The term ‘bond’ includes any ob-
24 ligation.

1 “(3) STATE.—The term ‘State’ includes the
2 District of Columbia and any possession of the
3 United States.

4 “(4) QUALIFIED CONTAMINATED SITE.—The
5 term ‘qualified contaminated site’ means a
6 brownfield site designated by the Administrator of
7 the Environmental Protection Agency.

8 “(5) HAZARDOUS SUBSTANCE.—The term ‘haz-
9 ardous substance’ has the meaning provided by sec-
10 tion 198(d).

11 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
12 income includes the amount of the credit allowed to the
13 taxpayer under this section (determined without regard to
14 subsection (d)) and the amount so included shall be treat-
15 ed as interest income.

16 “(g) BONDS HELD BY REGULATED INVESTMENT
17 COMPANIES.—If any qualified brownfields cleanup bond
18 is held by a regulated investment company, the credit de-
19 termined under subsection (a) shall be allowed to share-
20 holders of such company under procedures prescribed by
21 the Secretary.

22 “(h) CREDITS MAY BE STRIPPED.—Under regula-
23 tions prescribed by the Secretary—

24 “(1) IN GENERAL.—There may be a separation
25 (including at issuance) of the ownership of a quali-

1 fied brownfields cleanup bond and the entitlement to
2 the credit under this section with respect to such
3 bond. In case of any such separation, the credit
4 under this section shall be allowed to the person who
5 on the credit allowance date holds the instrument ev-
6 idencing the entitlement to the credit and not to the
7 holder of the bond.

8 “(2) CERTAIN RULES TO APPLY.—In the case
9 of a separation described in paragraph (1), the rules
10 of section 1286 shall apply to the qualified
11 brownfields cleanup bond as if it were a stripped
12 bond and to the credit under this section as if it
13 were a stripped coupon.

14 “(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—
15 Solely for purposes of sections 6654 and 6655, the credit
16 allowed by this section to a taxpayer by reason of holding
17 a qualified brownfields cleanup bond on a credit allowance
18 date shall be treated as if it were a payment of estimated
19 tax made by the taxpayer on such date.

20 “(j) CREDIT MAY BE TRANSFERRED.—Nothing in
21 any law or rule of law shall be construed to limit the trans-
22 ferability of the credit allowed by this section through sale
23 and repurchase agreements.

1 “(k) REPORTING.—Issuers of qualified brownfields
2 cleanup bonds shall submit reports similar to the reports
3 required under section 149(e).”

4 (b) REPORTING.—Subsection (d) of section 6049 of
5 such Code (relating to returns regarding payments of in-
6 terest) is amended by adding at the end the following new
7 paragraph:

8 “(8) REPORTING OF CREDIT ON QUALIFIED
9 BROWNFIELDS CLEANUP BONDS.—

10 “(A) IN GENERAL.—For purposes of sub-
11 section (a), the term ‘interest’ includes amounts
12 includible in gross income under section 30B(f)
13 and such amounts shall be treated as paid on
14 the credit allowance date (as defined in section
15 30B(e)(1)).

16 “(B) REPORTING TO CORPORATIONS,
17 ETC.—Except as otherwise provided in regula-
18 tions, in the case of any interest described in
19 subparagraph (A) of this paragraph, subsection
20 (b)(4) of this section shall be applied without
21 regard to subparagraphs (A), (H), (I), (J), (K),
22 and (L)(i).

23 “(C) REGULATORY AUTHORITY.—The Sec-
24 retary may prescribe such regulations as are
25 necessary or appropriate to carry out the pur-

1 poses of this paragraph, including regulations
2 which require more frequent or more detailed
3 reporting.”

4 (c) CONFORMING AMENDMENT.—The table of sec-
5 tions for subpart B of part IV of subchapter A of chapter
6 1 of such Code is amended by adding at the end the fol-
7 lowing new item:

“Sec. 30B. Credit to holders of qualified public brownfields clean-
up bonds.”

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to obligations issued after Decem-
10 ber 31, 2003.

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