

109TH CONGRESS
1ST SESSION

H. R. 3987

To amend the Internal Revenue Code of 1986 to provide tax incentives
for Hurricane Katrina recovery in the Gulf Opportunity Zone.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2005

Mr. JINDAL 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 provide
tax incentives for Hurricane Katrina recovery in the
Gulf Opportunity Zone.

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 “Katrina Economic Op-
5 portunity Act”.

6 **SEC. 2. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.**

7 (a) IN GENERAL.—Subchapter Y of chapter 1 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new section:

1 **“SEC. 1400M. TAX BENEFITS FOR GULF OPPORTUNITY**
2 **ZONE.**

3 “(a) ZERO PERCENT CAPITAL GAINS RATE.—

4 “(1) EXCLUSION.—Gross income shall not in-
5 clude qualified capital gain from the sale or ex-
6 change of any Gulf Opportunity Zone asset held for
7 more than 5 years.

8 “(2) GULF OPPORTUNITY ZONE.—For purposes
9 of this subsection, the term ‘Gulf Opportunity Zone
10 asset’ means—

11 “(A) any Gulf Opportunity Zone business
12 stock,

13 “(B) any Gulf Opportunity Zone partner-
14 ship interest, and

15 “(C) any Gulf Opportunity Zone business
16 property.

17 “(3) GULF OPPORTUNITY ZONE BUSINESS
18 STOCK.—For purposes of this subsection—

19 “(A) IN GENERAL.—The term ‘Gulf Op-
20 portunity Zone business stock’ means any stock
21 in a domestic corporation which is originally
22 issued after August 28, 2005, if—

23 “(i) such stock is acquired by the tax-
24 payer, before January 1, 2007, at its origi-
25 nal issue (directly or through an under-
26 writer) solely in exchange for cash,

1 “(ii) as of the time such stock was
2 issued, such corporation was a Gulf Oppor-
3 tunity Zone business (or, in the case of a
4 new corporation, such corporation was
5 being organized for purposes of being a
6 Gulf Opportunity Zone business), and

7 “(iii) during substantially all of the
8 taxpayer’s holding period for such stock,
9 such corporation qualified as a Gulf Op-
10 portunity Zone business.

11 “(B) REDEMPTIONS.—A rule similar to
12 the rule of section 1202(c)(3) shall apply for
13 purposes of this paragraph.

14 “(4) GULF OPPORTUNITY ZONE PARTNERSHIP
15 INTEREST.—For purposes of this subsection, the
16 term ‘Gulf Opportunity Zone partnership interest’
17 means any capital or profits interest in a domestic
18 partnership which is originally issued after August
19 28, 2005, if—

20 “(A) such interest is acquired by the tax-
21 payer, before January 1, 2007, from the part-
22 nership solely in exchange for cash,

23 “(B) as of the time such interest was ac-
24 quired, such partnership was a Gulf Oppor-
25 tunity Zone business (or, in the case of a new

1 partnership, such partnership was being orga-
2 nized for purposes of being a Gulf Opportunity
3 Zone business), and

4 “(C) during substantially all of the tax-
5 payer’s holding period for such interest, such
6 partnership qualified as a Gulf Opportunity
7 Zone business.

8 A rule similar to the rule of subparagraph (B)(ii)
9 shall apply for purposes of this paragraph.

10 “(5) GULF OPPORTUNITY ZONE BUSINESS
11 PROPERTY.—For purposes of this subsection—

12 “(A) IN GENERAL.—The term ‘Gulf Op-
13 portunity Zone business property’ means tan-
14 gible property if—

15 “(i) such property was acquired by
16 the taxpayer by purchase (as defined in
17 section 179(d)(2)) after August 28, 2005,
18 and before January 1, 2007,

19 “(ii) the original use of such property
20 in the Gulf Opportunity Zone commences
21 with the taxpayer, and

22 “(iii) during substantially all of the
23 taxpayer’s holding period for such prop-
24 erty, substantially all of the use of such

1 property was in a Gulf Opportunity Zone
2 business of the taxpayer.

3 “(B) SPECIAL RULE FOR BUILDINGS
4 WHICH ARE SUBSTANTIALLY IMPROVED.—

5 “(i) IN GENERAL.—The requirements
6 of clauses (i) and (ii) of subparagraph (A)
7 shall be treated as met with respect to—

8 “(I) property which is substan-
9 tially improved by the taxpayer before
10 January 1, 2007, and

11 “(II) any land on which such
12 property is located.

13 “(ii) SUBSTANTIAL IMPROVEMENT.—
14 For purposes of clause (i), property shall
15 be treated as substantially improved by the
16 taxpayer only if, during any 24-month pe-
17 riod beginning after August 28, 2005, ad-
18 ditions to basis with respect to such prop-
19 erty in the hands of the taxpayer exceed
20 the greater of—

21 “(I) an amount equal to the ad-
22 justed basis of such property at the
23 beginning of such 24-month period in
24 the hands of the taxpayer, or

25 “(II) \$5,000.

1 “(6) GULF OPPORTUNITY ZONE BUSINESS.—

2 For purposes of this subsection, the term ‘Gulf Op-
3 portunity Zone business’ means any corporation,
4 partnership, or business which would be an enter-
5 prise zone business (as defined in section 1397C) if
6 such section were applied by substituting ‘Gulf Op-
7 portunity Zone’ for ‘empowerment zone’ each place
8 it appears.

9 “(7) SPECIAL RULES RELATED TO GULF OP-
10 PORTUNITY ZONE ASSETS.—For purposes of this
11 subsection—

12 “(A) TREATMENT OF SUBSEQUENT PUR-
13 CHASERS, ETC.—For purposes of this sub-
14 section, the term ‘Gulf Opportunity Zone asset’
15 includes any property which would be a Gulf
16 Opportunity Zone asset but for paragraph
17 (3)(A)(i), (4)(A), or (5)(A)(i) or (ii) in the
18 hands of the taxpayer if such property was a
19 Gulf Opportunity Zone asset in the hands of a
20 prior holder.

21 “(B) 5-YEAR SAFE HARBOR.—If any prop-
22 erty ceases to be a Gulf Opportunity Zone asset
23 by reason of paragraph (3)(A)(iii), (4)(C), or
24 (5)(A)(iii) after the 5-year period beginning on
25 the date the taxpayer acquired such property,

1 such property shall continue to be treated as
2 meeting the requirements of such paragraph;
3 except that the amount of gain to which para-
4 graph (1) applies on any sale or exchange of
5 such property shall not exceed the amount
6 which would be qualified capital gain had such
7 property been sold on the date of such ces-
8 sation.

9 “(8) QUALIFIED CAPITAL GAIN.—For purposes
10 of this subsection—

11 “(A) IN GENERAL.—Except as otherwise
12 provided in this paragraph, the term ‘qualified
13 capital gain’ means any gain recognized on the
14 sale or exchange of—

15 “(i) a capital asset, or

16 “(ii) property used in the trade or
17 business (as defined in section 1231(b)).

18 “(B) GAIN BEFORE HURRICANE OR AFTER
19 2011 NOT QUALIFIED.—The term ‘qualified cap-
20 ital gain’ shall not include any gain attributable
21 to periods before August 29, 2005, or after De-
22 cember 31, 2011.

23 “(C) CERTAIN ORDINARY INCOME GAIN
24 NOT QUALIFIED.—The term ‘qualified capital
25 gain’ shall not include any gain which would be

1 treated as ordinary income under section 1245
2 or under section 1250 if section 1250 applied to
3 all depreciation rather than the additional de-
4 preciation.

5 “(D) INTANGIBLES AND LAND NOT INTE-
6 GRAL PART OF GULF OPPORTUNITY ZONE BUSI-
7 NESS.—The term ‘qualified capital gain’ shall
8 not include any gain which is attributable to
9 real property, or an intangible asset, which is
10 not an integral part of a Gulf Opportunity Zone
11 business.

12 “(E) RELATED PARTY TRANSACTIONS.—
13 The term ‘qualified capital gain’ shall not in-
14 clude any gain attributable, directly or indi-
15 rectly, in whole or in part, to a transaction with
16 a related person. For purposes of this subpara-
17 graph, persons are related to each other if such
18 persons are described in section 267(b) or
19 707(b)(1).

20 “(9) CERTAIN OTHER RULES TO APPLY.—Rules
21 similar to the rules of subsections (g), (h), (i)(2),
22 and (j) of section 1202 shall apply for purposes of
23 this subsection.

24 “(10) SALES AND EXCHANGES OF INTERESTS
25 IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE

1 GULF OPPORTUNITY ZONE BUSINESSES.—In the
2 case of the sale or exchange of an interest in a part-
3 nership, or of stock in an S corporation, which was
4 a Gulf Opportunity Zone business during substan-
5 tially all of the period the taxpayer held such inter-
6 est or stock, the amount of qualified capital gain
7 shall be determined without regard to—

8 “(A) any gain which is attributable to real
9 property, or an intangible asset, which is not an
10 integral part of a Gulf Opportunity Zone busi-
11 ness, and

12 “(B) any gain attributable to periods be-
13 fore August 29, 2005, or after December 31,
14 2011.

15 “(b) INCREASE AND EXPANSION OF EXPENSING OF
16 BUSINESS PROPERTY.—

17 “(1) WAIVER OF DOLLAR LIMITATIONS.—The
18 limitations of paragraphs (1) and (2) of section
19 179(b) shall not apply to Gulf Opportunity Zone
20 property and shall be applied to other property with-
21 out regard to Gulf Opportunity Zone property.

22 “(2) INCLUSION OF REAL PROPERTY, ETC.—
23 Gulf Opportunity Zone property shall be treated as
24 section 179 property (as defined in section 179(d))

1 without regard to the limitation of subparagraph (B)
2 of section 179(d)(1).

3 “(3) GULF OPPORTUNITY ZONE PROPERTY.—
4 The term ‘Gulf Opportunity Zone property’ means
5 any property—

6 “(A) placed in service by the taxpayer dur-
7 ing the period beginning on August 28, 2005,
8 and ending on December 31, 2007, in the Gulf
9 Opportunity Zone, and

10 “(B) substantially all of the use of which
11 is in such Zone and is in the active conduct of
12 a trade or business by the taxpayer in such
13 Zone.

14 “(4) RECAPTURE.—Rules similar to the rules
15 under section 170(d)(10) shall apply with respect to
16 any Gulf Opportunity Zone property which ceases to
17 be used in the Gulf Opportunity Zone.

18 “(c) APPLICATION OF NEW MARKETS TAX CRED-
19 IT.—

20 “(1) IN GENERAL.—The Gulf Opportunity Zone
21 shall be treated as a low-income community for pur-
22 poses of section 45D.

23 “(2) COORDINATION WITH NATIONAL LIMITA-
24 TION.—

1 “(A) IN GENERAL.—Any credit allowed
2 under section 45D by reason of paragraph (1)
3 shall not be taken into account under section
4 45D(f).

5 “(B) SEPARATE LIMITATION.—There is a
6 limitation on the aggregate credits allowed
7 under section 45D by reason of paragraph (1).
8 Such limitation is—

9 “(i) \$32,200,000 for 2005,

10 “(ii) \$56,300,000 for 2006, and

11 “(iii) \$56,300,000 for 2007.

12 “(C) ALLOCATION OF LIMITATION.—The
13 limitation under subparagraph (B) shall be allo-
14 cated by the Secretary among those qualified
15 community development entities (as defined in
16 section 45D(c)) with respect to the Gulf Oppor-
17 tunity Zone which are selected by the Secretary.
18 In making allocations under the preceding sen-
19 tence, the Secretary shall give priority to enti-
20 ties described in subparagraph (A) or (B) of
21 section 45D(f)(2).

22 “(D) CARRYOVER OF UNUSED LIMITA-
23 TION.—The rules of paragraph (3) of section
24 45D(f) shall apply for purposes of this para-
25 graph.

1 “(d) GULF OPPORTUNITY ZONE.—For purposes of
 2 this section, the term ‘Gulf Opportunity Zone’ means an
 3 area determined by the President to warrant individual
 4 or individual and public assistance from the Federal Gov-
 5 ernment under the Robert T. Stafford Disaster Relief and
 6 Emergency Assistance Act by reason of Hurricane
 7 Katrina.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) The heading for subchapter Y of chapter 1
 10 of such Code is amended to read as follows:

11 **“Subchapter Y—Temporary Regional**
 12 **Benefits”.**

13 (2) The table of sections for such subchapter is
 14 amended by adding at the end the following new
 15 item:

“Sec. 1400M. Tax benefits for Gulf Opportunity Zone.”.

