

110TH CONGRESS
1ST SESSION

H. R. 1340

To amend the Internal Revenue Code of 1986 to promote freedom, fairness, and economic opportunity by establishing National Enterprise Zones to promote prosperity in economically depressed areas.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2007

Mr. FORTUÑO 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 promote freedom, fairness, and economic opportunity by establishing National Enterprise Zones to promote prosperity in economically depressed areas.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Enterprise Zone Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. National Enterprise Zones.

Sec. 4. Study.

Sec. 5. Effective date.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that the establishment of a Na-
3 tional Enterprise Zone program that offers a substantial
4 tax incentive to corporations, including controlled foreign
5 corporations in a possession of the United States, partner-
6 ships, and sole proprietorships conducting an active busi-
7 ness within such zones and electing to participate will
8 achieve—

9 (1) a higher level of private sector economic ac-
10 tivity necessary to alleviate poverty and unemploy-
11 ment in economically depressed regions of the
12 United States, including the possessions of the
13 United States;

14 (2) the removal of tax disincentives to do busi-
15 ness in economically depressed areas and thus pro-
16 mote economic growth, development, employment, a
17 higher standard of living and a higher quality of life
18 in economically depressed areas;

19 (3) improved taxation of business investment in
20 plant, equipment and inventories in economically de-
21 pressed areas, encouraging businesses to operate in
22 those areas; and

23 (4) comparable tax treatment of businesses in
24 economically depressed areas in all parts of the

1 United States and its possessions, thereby promoting
 2 universal economic prosperity.

3 **SEC. 3. NATIONAL ENTERPRISE ZONES.**

4 (a) IN GENERAL.—Subchapter Y of chapter 1 of the
 5 Internal Revenue Code of 1986 is amended by adding at
 6 the end the following new part:

7 **“PART III—NATIONAL ENTERPRISE ZONES**

“Sec. 1400U. National Enterprise Zone designation procedure.

“Sec. 1400U–1. National Enterprise Zone eligibility criteria.

“Sec. 1400U–2. Effect of National Enterprise Zone designation on individuals,
 estates and trusts conducting an active trade or business with-
 in a national enterprise zone.

“Sec. 1400U–3. National Enterprise Zone individual taxable income.

“Sec. 1400U–4. Effect of National Enterprise Zone designation on corpora-
 tions.

“Sec. 1400U–5. National Enterprise Zone corporate taxable income.

“Sec. 1400U–6. Conduct of an active trade or business within a National En-
 terprise Zone by corporations, partnerships, and sole propri-
 etors.

“Sec. 1400U–7. Definitions and special rules.

8 **“SEC. 1400U. NATIONAL ENTERPRISE ZONE DESIGNATION**
 9 **PROCEDURE.**

10 “(a) DESIGNATED ZONE.—The Secretary shall des-
 11 ignate the areas in the United States and possessions of
 12 the United States that meet the requirements of section
 13 1400U–1 and publish a list of such designated zones.

14 “(b) EFFECTIVE DATE OF ZONE DESIGNATION.—
 15 The effective date of the designation of any zone as a Na-
 16 tional Enterprise Zone pursuant to this section shall be
 17 January 1 of the year following its designation.

18 “(c) ELIGIBILITY REVIEW.—Between January 1 and
 19 April 30 of the year after the release of the decennial cen-

1 sus, the Secretary shall undertake a review of each Na-
2 tional Enterprise Zone designation whereby the Secretary
3 shall determine whether the zone continues to meet the
4 National Enterprise Zone Eligibility Criteria established
5 by section 1400U-1. If this review determines that a Na-
6 tional Enterprise Zone no longer meets the National En-
7 terprise Zone Eligibility Criteria established by section
8 1400U-1, then the Secretary shall revoke the designation
9 effective at the end of the calendar year. Not later than
10 June 30 after said determination, the Secretary shall issue
11 a notice to all taxpayers making National Enterprise Zone
12 elections with respect to said zone in the taxpayer's pre-
13 vious taxable year that the designation will be revoked at
14 the end of the calendar year for said National Enterprise
15 Zone. The Secretary shall publish the decennial eligibility
16 review results for all National Enterprise Zones no later
17 than June 30.

18 “(d) EFFECT OF REVOCATION OF DESIGNATION.—
19 An electing taxpayer with respect to a National Enterprise
20 Zone whose designation is revoked continues to qualify for
21 the Individual or Corporate Alternative National Enter-
22 prise Zone tax under sections 1400U-2 and 1400U-4
23 until the end of the taxpayer's 12th taxable year following
24 the year of zone designation revocation.

1 **“SEC. 1400U-1. NATIONAL ENTERPRISE ZONE ELIGIBILITY**
2 **CRITERIA.**

3 “(a) NATIONAL ENTERPRISE ZONE ELIGIBILITY
4 CRITERIA.—A National Enterprise Zone must—

5 “(1) have greater than 50,000 residents;

6 “(2) have a poverty rate two times the national
7 poverty rate; and

8 “(3) have an unemployment rate 2 times the
9 national average unemployment rate.

10 “(b) NO OVERLAP WITH EXISTING ZONES OF DIF-
11 FERENT TYPE.—No part of a National Enterprise Zone
12 may also be a part of an Empowerment Zone, Enterprise
13 Community (Subchapter U zones), or District of Columbia
14 Enterprise Zone (Subchapter W zones).

15 **“SEC. 1400U-2. EFFECT OF NATIONAL ENTERPRISE ZONE**
16 **DESIGNATION ON INDIVIDUALS, ESTATES**
17 **AND TRUSTS CONDUCTING AN ACTIVE TRADE**
18 **OR BUSINESS WITHIN A NATIONAL ENTER-**
19 **PRISE ZONE.**

20 “(a) INDIVIDUAL ALTERNATIVE NATIONAL ENTER-
21 PRISE ZONE TAX.—In the case of a taxpayer other than
22 a corporation, if, for any taxable year, the taxpayer has
23 National Enterprise Zone individual taxable income, then,
24 in lieu of any tax imposed by section 1 or section 55, the
25 taxpayer may elect to pay a tax which shall consist of the
26 sum of—

1 “(1) a tax computed on the taxpayer’s taxable
2 income reduced by the amount of National Enter-
3 prise Zone tentative individual taxable income (if
4 greater than zero), at the rates and in the manner
5 as if this subsection had not been enacted, plus

6 “(2) a tax of 12 percent of the National Enter-
7 prise Zone individual taxable income.

8 “(b) YEARS FOR WHICH ELECTION IS EFFECTIVE.—
9 An election under subsection (a) shall be effective for the
10 three taxable years of the electing taxpayer following the
11 year in which the election is made and for all succeeding
12 taxable years of such taxpayer, unless—

13 “(1) the taxpayer ceases to have National En-
14 terprise Zone taxable income,

15 “(2) the taxpayer revokes the election (after the
16 initial three-year period), or

17 “(3) the period described in section 1400U(d)
18 has expired.

19 “(c) EFFECT OF CESSATION OF BUSINESS OPER-
20 ATIONS IN ZONE DURING INITIAL THREE-YEAR PE-
21 RIOD.—If a taxpayer has made an election under this sec-
22 tion and if such election has been terminated or revoked
23 under subsection (b)(1) due to cessation of business in the
24 zone during any of the three years immediately after the
25 year in which the election is made, such taxpayer shall

1 be treated as having been subject to tax under chapter
2 1 at the otherwise applicable rate for individuals for the
3 years the alternative National Enterprise Zone tax was ap-
4 plicable.

5 “(d) NEW ELECTION FOLLOWING TERMINATION.—
6 If a taxpayer has made an election under this section and
7 if such election has been terminated or revoked under sub-
8 section (b), such taxpayer shall not be eligible to make
9 an election under this section for any taxable year before
10 the 3rd taxable year which begins after the 1st taxable
11 year for which such termination is effective, unless the
12 Secretary consents to such election.

13 **“SEC. 1400U-3. NATIONAL ENTERPRISE ZONE INDIVIDUAL**
14 **TAXABLE INCOME.**

15 “(a) NATIONAL ENTERPRISE ZONE INDIVIDUAL
16 TENTATIVE TAXABLE INCOME.—National Enterprise
17 Zone tentative individual taxable income shall be equal to
18 taxable income (as defined by section 63 without regard
19 to section 179(e)) arising from the conduct of an active
20 trade or business (as defined in section 1400U-6) within
21 one or more National Enterprise Zones.

22 “(b) NATIONAL ENTERPRISE ZONE INDIVIDUAL
23 TAXABLE INCOME ADJUSTMENTS.—National Enterprise
24 Zone individual taxable income shall be equal to National
25 Enterprise Zone individual tentative taxable income less—

1 “(1) expenditures made to acquire inventory
2 property held in a National Enterprise Zone, and

3 “(2) the amount, if any, the taxpayer elects to
4 deduct pursuant to section 179(e) that exceeds the
5 limitations in section 179(b).

6 **“SEC. 1400U-4. EFFECT OF NATIONAL ENTERPRISE ZONE**
7 **DESIGNATION ON CORPORATIONS.**

8 “(a) CORPORATE ALTERNATIVE NATIONAL ENTER-
9 PRISE ZONE TAX.—In the case of a corporation (other
10 than an S corporation), if for any taxable year, the tax-
11 payer has National Enterprise Zone corporate taxable in-
12 come, then, in lieu of any tax imposed by section 11 or
13 section 55, the taxpayer may elect to pay a tax which shall
14 consist of the sum of—

15 “(1) a tax computed on taxable income reduced
16 by the amount of National Enterprise Zone tentative
17 corporate taxable income (if greater than zero) at
18 the rates and in the manner as if this subsection
19 had not been enacted, plus

20 “(2) a tax of 12 percent of the National Enter-
21 prise Zone corporate taxable income.

22 “(b) SPECIAL RULE FOR NON-DOMESTIC CORPORA-
23 TIONS.—In the case of an electing corporation organized
24 under the laws of a possession of the United States doing
25 business in a National Enterprise Zone, this section shall

1 apply as if such corporation were a domestic corporation
2 subject to tax under this title.

3 “(c) YEARS FOR WHICH ELECTION IS EFFECTIVE.—

4 An election under subsection (a) shall be effective for the
5 three taxable years of the electing corporation following
6 the year in which the election is made and for all suc-
7 ceeding taxable years of such corporation, unless—

8 “(1) the corporation ceases to have National
9 Enterprise Zone taxable income,

10 “(2) the corporation revokes the election, or

11 “(3) the period described in section 1400U(d)
12 has expired.

13 “(d) EFFECT OF CESSATION OF BUSINESS OPER-
14 ATIONS IN ZONE DURING INITIAL THREE-YEAR PE-
15 RIOD.—If a taxpayer has made an election under this sec-
16 tion and if such election has been terminated or revoked
17 under subsection (c)(1) due to cessation of business in the
18 zone during any of the three years immediately after the
19 year in which the election is made, such taxpayer shall
20 be treated as having been subject to tax under chapter
21 1 at the otherwise applicable rate for domestic corpora-
22 tions for the years the alternative National Enterprise
23 Zone tax was applicable.

24 “(e) NEW ELECTION BY NATIONAL ENTERPRISE
25 ZONE CORPORATION FOLLOWING TERMINATION.—If an

1 electing corporation has made an election under this sec-
2 tion and if such election has been terminated or revoked
3 under subsection (c), such corporation (and any successor
4 corporation) shall not be eligible to make an election under
5 this section for any taxable year before the 3rd taxable
6 year which begins after the 1st taxable year for which such
7 termination is effective, unless the Secretary consents to
8 such election.

9 **“SEC. 1400U-5. NATIONAL ENTERPRISE ZONE CORPORATE**
10 **TAXABLE INCOME.**

11 “(a) IN GENERAL.—National Enterprise Zone cor-
12 porate tentative corporate taxable income shall be taxable
13 income (without regard to section 179(e)) arising from the
14 conduct of an active trade or business within one or more
15 National Enterprise Zones.

16 “(b) ADJUSTMENTS.—National Enterprise Zone cor-
17 porate taxable income shall be equal to National Enter-
18 prise Zone corporate tentative taxable income less—

19 “(1) expenditures made to acquire inventory
20 property held in a National Enterprise Zone, and

21 “(2) the amount, if any, the taxpayer elects to
22 deduct pursuant to 179(e) that exceeds the limita-
23 tions in section 179(b).

1 **“SEC. 1400U-6. CONDUCT OF AN ACTIVE TRADE OR BUSI-**
2 **NESS WITHIN A NATIONAL ENTERPRISE ZONE**
3 **BY CORPORATIONS, PARTNERSHIPS, AND**
4 **SOLE PROPRIETORS.**

5 “(a) ACTIVE TRADE OR BUSINESS.—For purposes of
6 this part, the conduct of active trade or business means
7 the conduct of a trade or business that derives no more
8 than 25 percent of its gross income from passive activities
9 (as defined by section 469).

10 “(b) INCOME AND EXPENSES WITHIN A NATIONAL
11 ENTERPRISE ZONE.—For purposes of this part—

12 “(1) GROSS INCOME.—Gross income from with-
13 in a National Enterprise Zone shall mean—

14 “(A) compensation for labor or services
15 performed by the electing corporation, partner-
16 ship, or sole proprietor within a National En-
17 terprise Zone;

18 “(B) rentals or royalties from property lo-
19 cated in a National Enterprise Zone;

20 “(C) gains, profits, and income derived
21 from the sale of inventory property held within
22 a National Enterprise Zone; and

23 “(D) income from the sale of property that
24 is produced, created, fabricated, manufactured,
25 extracted, processed, cured, aged, grown or har-
26 vested within the National Enterprise Zone.

1 “(2) EXPENSES.—Expenses shall be allocated
2 and apportioned to the income producing activities
3 to which they are related. Expenses which are not
4 allocable or apportioned to any specific income pro-
5 ducing activities shall be allocated on the basis of
6 gross income such that the ratio of the expense allo-
7 cated to the National Enterprise Zone is the same
8 as the ratio of gross income within the National En-
9 terprise Zone to all gross income within the United
10 States and a possession of the United States of the
11 taxpayer or controlled group (in the case of a cor-
12 poration that is a member of a controlled group of
13 corporations as defined in section 1563(a)).

14 “(c) ALTERNATIVE FORMULARY METHOD.—

15 “(1) IN GENERAL.—A corporation (or con-
16 trolled group in the case of a corporation that is a
17 member of a controlled group of corporations (as de-
18 fined in section 1563(a))), partnership, or sole pro-
19 prietor that so elects, in a form and manner pre-
20 scribed by the Secretary, may determine the share of
21 its income, expense, and other items attributable to
22 the conduct of an active trade or business within a
23 National Enterprise Zone by multiplying its appor-
24 tionment ratio by the amount of the income, ex-
25 pense, and other items for purposes of determining

1 its National Enterprise Zone corporate taxable in-
2 come.

3 “(2) APPORTIONMENT RATIO.—The apportion-
4 ment ratio shall be the ratio of—

5 “(A) the sum of the remaining basis in de-
6 preciable property held in a National Enterprise
7 Zone for the entire taxable year, of the inven-
8 tory property held in a National Enterprise
9 Zone at the end of the taxable year, and of the
10 compensation paid to National Enterprise Zone-
11 based employees during the taxable year, and

12 “(B) the sum of the remaining basis in de-
13 preciable property held in the United States
14 and its possessions for the entire taxable year,
15 of the inventory property held in the United
16 States and its possessions at the end of the tax-
17 able year, and of the compensation paid to em-
18 ployees within the United States and its posses-
19 sions during the taxable year.

20 “(3) MANDATORY USE OF ALTERNATIVE FOR-
21 MULARY METHOD.—If a taxpayer—

22 “(A) derives greater than 10 percent of its
23 gross income from sales to related parties (as
24 defined in section 1313(c)), or

1 “(B) expenses attributable to purchases
2 from related parties (as defined in section
3 1313(c)) account for greater than 10 percent of
4 its expenses, then said taxpayer shall use the al-
5 ternative formulary method.

6 **“SEC. 1400U-7. DEFINITIONS AND SPECIAL RULES.**

7 “For purposes of this part—

8 “(1) POSSESSION OF THE UNITED STATES.—

9 The term ‘possession of the United States’ means
10 the Virgin Islands, Guam, American Samoa, the
11 Commonwealth of Puerto Rico, and the Common-
12 wealth of the Northern Mariana Islands.

13 “(2) INVENTORY.—

14 “(A) INVENTORY PROPERTY.—The term
15 ‘inventory property’ means property described
16 in section 1221(a)(1) and any expenditures that
17 were capitalized pursuant to section 263A.

18 “(B) NO DOUBLE COUNTING.—The deduc-
19 tion afforded by section 1400U-3(b)(1) is in
20 lieu of the deduction provided upon the sale of
21 inventory property.

22 “(3) SPECIAL RULE.—For purposes of a cor-
23 poration making an election under this part, section
24 7701(a)(4) shall include an electing corporation or-

1 ganized under the laws of a possession of the United
2 States and section 7701(a)(5) shall not apply.”.

3 (b) CONFORMING AMENDMENTS.—Section 179 of the
4 Internal Revenue Code of 1986 is amended by inserting
5 at the end the following new subsection:

6 “(e) NO LIMITATION ON AMOUNT IN NATIONAL EN-
7 TERPRISE ZONES.—

8 “(1) IN GENERAL.—The limitations of sub-
9 section (b) shall not apply with respect to property
10 placed in service in a National Enterprise Zone.

11 “(2) PROPERTY REMOVED FROM NATIONAL EN-
12 TERPRISE ZONE.—Property expensed pursuant to
13 this section that is removed from service within a
14 National Enterprise Zone but not disposed of by the
15 taxpayer shall be treated as if it had been, as of the
16 date of the removal, disposed of by the taxpayer and
17 repurchased by the taxpayer at a price equal to what
18 its remaining basis would have been if the election
19 under this section had not been exercised with re-
20 spect to the property.”.

21 (c) CLERICAL AMENDMENT.—The table of parts for
22 subchapter Y of chapter 1 of such Code is amended by
23 inserting after the item relating to part II the following
24 new item:

“PART III. NATIONAL ENTERPRISE ZONES.”.

1 **SEC. 4. STUDY.**

2 The Secretary shall undertake a study of the Na-
3 tional Enterprise Zone program established by this Act to
4 determine its effectiveness in promoting economic growth
5 and reducing poverty in the designated zone areas. The
6 study shall be submitted to the Committee on Ways and
7 Means of the House of Representatives and the Committee
8 on Finance of the Senate no later than December 31,
9 2012.

10 **SEC. 5. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply to tax-
12 able years beginning after December 31, 2007.

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