

110TH CONGRESS  
2D SESSION

# S. 3518

To amend the Internal Revenue Code of 1986 to modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Mr. BINGAMAN (for himself and Mr. CRAPO) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, 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 “Municipal Bond Mar-  
5       ket Support Act of 2008”.

1 **SEC. 2. MODIFICATION OF SMALL ISSUER EXCEPTION TO**  
 2 **TAX-EXEMPT INTEREST EXPENSE ALLOCA-**  
 3 **TION RULES FOR FINANCIAL INSTITUTIONS.**

4 (a) INCREASE IN LIMITATION.—Subparagraphs  
 5 (C)(i), (D)(i), and (D)(iii)(II) of section 265(b)(3) of the  
 6 Internal Revenue Code of 1986 are each amended by  
 7 striking “\$10,000,000” and inserting “\$30,000,000”.

8 (b) REPEAL OF AGGREGATION RULES APPLICABLE  
 9 TO SMALL ISSUER DETERMINATION.—Paragraph (3) of  
 10 section 265(b) of such Code is amended by striking sub-  
 11 paragraphs (E) and (F).

12 (c) ELECTION TO APPLY LIMITATION AT BORROWER  
 13 LEVEL.—Paragraph (3) of section 265(b) of such Code,  
 14 as amended by subsection (b), is amended by adding at  
 15 the end the following new subparagraph:

16 “(E) ELECTION TO APPLY LIMITATION ON  
 17 AMOUNT OF OBLIGATIONS AT BORROWER  
 18 LEVEL.—

19 “(i) IN GENERAL.—An issuer, the  
 20 proceeds of the obligations of which are to  
 21 be used to make or finance eligible loans,  
 22 may elect to apply subparagraphs (C) and  
 23 (D) by treating each borrower as the issuer  
 24 of a separate issue.

25 “(ii) ELIGIBLE LOAN.—For purposes  
 26 of this subparagraph—

1 “(I) IN GENERAL.—The term ‘el-  
 2 igible loan’ means one or more loans  
 3 to a qualified borrower the proceeds of  
 4 which are used by the borrower and  
 5 the outstanding balance of which in  
 6 the aggregate does not exceed  
 7 \$30,000,000.

8 “(II) QUALIFIED BORROWER.—  
 9 The term ‘qualified borrower’ means a  
 10 borrower which is an organization de-  
 11 scribed in section 501(c)(3) and ex-  
 12 empt from taxation under section  
 13 501(a) or a State or political subdivi-  
 14 sion thereof.

15 “(iii) MANNER OF ELECTION.—The  
 16 election described in clause (i) may be  
 17 made by an issuer for any calendar year at  
 18 any time prior to its first issuance during  
 19 such year of obligations the proceeds of  
 20 which will be used to make or finance one  
 21 or more eligible loans.”.

22 (d) INFLATION ADJUSTMENT.—Paragraph (3) of sec-  
 23 tion 265(b) of such Code, as amended by subsections (b)  
 24 and (c), is amended by adding at the end the following  
 25 new subparagraph:

“(F) INFLATION ADJUSTMENT.—In the case of any calendar year after 2009, the \$30,000,000 amounts contained in subparagraphs (C)(i), (D)(i), (D)(iii)(II), and (E)(ii)(I) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2008’ ‘for calendar year 1992’ in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$100,000.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

**SEC. 3. DE MINIMIS SAFE HARBOR EXCEPTION FOR TAX-EXEMPT INTEREST EXPENSE OF FINANCIAL INSTITUTIONS AND BROKERS.**

(a) FINANCIAL INSTITUTIONS.—Subsection (b) of section 265 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

1           “(7) DE MINIMIS EXCEPTION.—Paragraph (1)  
2       shall not apply to any financial institution if the por-  
3       tion of the taxpayer’s holdings of tax-exempt securi-  
4       ties is less than 2 percent of the taxpayer’s assets.”.

5       (b) BROKERS.—Subsection (a) of section 265 of the  
6 Internal Revenue Code of 1986 is amended by adding at  
7 the end the following new paragraph:

8           “(7) DE MINIMIS EXCEPTION.—Paragraph (2)  
9       shall not apply to any broker (as defined in section  
10      6045(c)(1)) if the portion of the taxpayer’s holdings  
11      of tax-exempt securities is less than 2 percent of the  
12      taxpayer’s assets.”.

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

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