

111TH CONGRESS
1ST SESSION

H. R. 4109

To amend the Internal Revenue Code of 1986 to allow the low income housing credit to be carried back 5 years, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2009

Mr. PASCRELL 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 allow the low income housing credit to be carried back 5 years, 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 “Low Income Housing
5 Tax Credit Act of 2009”.

1 **SEC. 2. ALLOWING LOW INCOME HOUSING CREDITS TO**
2 **OFFSET 100 PERCENT OF FEDERAL INCOME**
3 **TAX LIABILITY.**

4 (a) IN GENERAL.—Subsection (c) of section 38 of the
5 Internal Revenue Code of 1986 is amended by adding at
6 the end the following new paragraph:

7 “(6) ALLOWING LOW INCOME HOUSING CREDIT
8 TO OFFSET 100 PERCENT OF FEDERAL INCOME TAX
9 LIABILITY.—

10 “(A) IN GENERAL.—In the case of applica-
11 ble low income housing credits—

12 “(i) this section shall be applied sepa-
13 rately with respect to such credits,

14 “(ii) in applying paragraph (1) to
15 such credits—

16 “(I) the tentative minimum tax
17 shall be treated as being zero, and

18 “(II) the limitation under para-
19 graph (1) (as modified by subclause
20 (I)) shall be the net income tax (as
21 defined in paragraph (1)) reduced by
22 the credit allowed under subsection
23 (a) for the taxable year (other than
24 the applicable low income housing
25 credits), and

1 “(iii) the excess credit for such tax-
2 able year shall, solely for purposes of de-
3 termining the amount of such excess credit
4 which may be carried back to a preceding
5 taxable year, be increased by the amount
6 of business credit carryforwards which are
7 carried to such taxable year, to which this
8 subparagraph applies, and which are not
9 allowed for such taxable year by reason of
10 the limitation under paragraph (1) (as
11 modified by clause (ii)).

12 “(B) INCREASE IN LIMITATION FOR TAX-
13 ABLE YEARS TO WHICH EXCESS APPLICABLE
14 LOW INCOME HOUSING CREDITS ARE CARRIED
15 BACK.—

16 “(i) IN GENERAL.—Solely for pur-
17 poses of determining the portion of any ex-
18 cess credit described in subparagraph
19 (A)(iii) for which credit will be allowed
20 under subsection (a)(3) for any preceding
21 taxable year, the limitation under para-
22 graph (1) for such preceding taxable year
23 shall be determined under rules similar to
24 the rules described in subparagraph (A).

1 “(ii) ORDERING RULE.—If the excess
2 credit described in subparagraph (A)(iii)
3 includes business credit carryforwards
4 from preceding taxable years, such excess
5 credit shall be treated as allowed for any
6 preceding taxable year on a first-in first-
7 out basis.

8 “(C) APPLICABLE LOW INCOME HOUSING
9 CREDITS.—For purposes of this subpart, the
10 term ‘applicable low income housing credits’
11 means the credit determined under section 42—

12 “(i) to the extent attributable to
13 buildings placed in service after the date of
14 the enactment of this subparagraph, and

15 “(ii) in the case of any other build-
16 ings, for taxable years beginning in 2008,
17 2009, and 2010 (and to business credit
18 carryforwards with respect to such build-
19 ings carried to such taxable years) to the
20 extent provided in subparagraph (D).

21 “(D) PREVIOUSLY PLACED IN SERVICE
22 BUILDINGS.—

23 “(i) IN GENERAL.—Subparagraph
24 (C)(ii) shall apply to such credits for such
25 a taxable year only—

1 “(I) if the taxpayer and the
2 housing credit agency have entered
3 into an agreement, not later than the
4 applicable date, with respect to an in-
5 vestment in a future project (which is
6 binding on such agency, the taxpayer,
7 and all successors in interest) which
8 specifies the dollar amount of such in-
9 vestment and the housing credit dollar
10 amount to be allocated to such
11 project, and

12 “(II) to the extent such credits
13 do not exceed the dollar amount of
14 such proposed investment.

15 “(ii) APPLICABLE DATE.—For pur-
16 poses of this subparagraph, the applicable
17 date is—

18 “(I) in the case of taxable years
19 beginning in 2008 and 2009, Sep-
20 tember 15, 2010, or

21 “(II) in the case of a taxable
22 year beginning in 2010, the due date
23 (including extensions of time) for fil-
24 ing the taxpayer’s return for such tax-
25 able year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2007, and to carrybacks of credits from
4 such taxable years.

5 **SEC. 3. FIVE-YEAR CARRYBACK OF LOW INCOME HOUSING**
6 **CREDIT.**

7 (a) IN GENERAL.—Subsection (a) of section 39 of the
8 Internal Revenue Code of 1986 is amended by adding at
9 the end the following new paragraph:

10 “(4) 5-YEAR CARRYBACK OF LOW INCOME
11 HOUSING CREDIT.—

12 “(A) IN GENERAL.—In the case of an ap-
13 plicable low income housing credit—

14 “(i) this section shall be applied sepa-
15 rately from the business credit (other than
16 the low income housing credit), and

17 “(ii) paragraph (1) shall be applied by
18 substituting ‘each of the 5 taxable years’
19 for ‘the taxable year’ in subparagraph (A)
20 thereof.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2007, and to carrybacks of credits from
24 such taxable years.

○