

116TH CONGRESS
1ST SESSION

S. 1958

To amend the Internal Revenue Code of 1986 to provide a credit against tax for disaster mitigation expenditures.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2019

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

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit against tax for disaster mitigation expenditures.

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 “SHELTER Act”.

5 **SEC. 2. NONREFUNDABLE PERSONAL CREDIT FOR DIS-**
6 **ASTER MITIGATION EXPENDITURES.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 25D the fol-
10 lowing new section:

1 **“SEC. 25E. DISASTER MITIGATION EXPENDITURES.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal to 25 percent of the qualified disaster mitigation ex-
6 penditures made by the taxpayer during such taxable year.

7 “(b) MAXIMUM CREDIT.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the credit allowed under subsection (a) for any tax-
10 able year shall not exceed \$5,000.

11 “(2) PHASEOUT.—

12 “(A) IN GENERAL.—The amount under
13 paragraph (1) for the taxable year shall be re-
14 duced (but not below zero) by an amount which
15 bears the same ratio to the amount under such
16 paragraph as—

17 “(i) the amount (not less than zero)
18 equal to the adjusted gross income of the
19 taxpayer for such taxable year minus
20 \$84,200, bears to

21 “(ii) \$40,800.

22 “(B) JOINT RETURN.—For purposes of de-
23 termining the amount of any reduction under
24 subparagraph (A) for any taxable year, if a
25 joint return was filed for such taxable year,

1 each of the dollar amounts under such subpara-
 2 graph shall be doubled.

3 “(C) INFLATION ADJUSTMENT.—In the
 4 case of any taxable year after 2020, each of the
 5 dollar amounts under subparagraph (A) shall
 6 be increased by an amount equal to—

7 “(i) such dollar amount, multiplied by

8 “(ii) the cost-of-living adjustment de-
 9 termined under section 1(f)(3) for the cal-
 10 endar year in which the taxable year be-
 11 gins, determined by substituting ‘calendar
 12 year 2019’ for ‘calendar year 2016’ in sub-
 13 paragraph (A)(ii) thereof.

14 “(D) ROUNDING.—If any reduction deter-
 15 mined under subparagraph (A) or (B) is not a
 16 multiple of \$50, or any increase under subpara-
 17 graph (C) is not a multiple of \$50, such
 18 amount shall be rounded to the nearest multiple
 19 of \$50.

20 “(c) DEFINITIONS.—For purposes of this section—

21 “(1) QUALIFIED DISASTER MITIGATION EX-
 22 PENDITURE.—

23 “(A) IN GENERAL.—The term ‘qualified
 24 disaster mitigation expenditure’ means an ex-
 25 penditure relating to a qualified dwelling unit—

1 “(i) for property to—

2 “(I) improve the strength of a
3 roof deck attachment,

4 “(II) create a secondary water
5 barrier to prevent water intrusion or
6 mitigate against potential water intru-
7 sion from wind-driven rain,

8 “(III) improve the durability, im-
9 pact resistance (not less than class 3
10 or 4 rating), or fire resistance (not
11 less than class A rating) of a roof cov-
12 ering,

13 “(IV) brace gable-end walls,

14 “(V) reinforce the connection be-
15 tween a roof and supporting wall,

16 “(VI) protect openings from pen-
17 etration by wind-borne debris,

18 “(VII) protect exterior doors and
19 garages from natural hazards,

20 “(VIII) complete measures con-
21 tained in the publication of the Fed-
22 eral Emergency Management Agency
23 entitled ‘Wind Retrofit Guide for Res-
24 idential Buildings’ (P-804),

1 “(IX) elevate the qualified dwell-
2 ing unit, as well as utilities, machin-
3 ery, or equipment, above the base
4 flood elevation or other applicable
5 minimum elevation requirement,

6 “(X) seal walls in the basement
7 of the qualified dwelling unit using
8 waterproofing compounds, or

9 “(XI) protect propane tanks or
10 other external fuel sources,

11 “(ii) to install—

12 “(I) check valves to prevent flood
13 water from backing up into drains,

14 “(II) flood vents, breakaway
15 walls or open lattice for homes located
16 in V zones,

17 “(III) a stormwater drainage sys-
18 tem or improve an existing system,

19 “(IV) natural or nature-based
20 features for flood control, including
21 living shorelines,

22 “(V) roof coverings, sheathing,
23 flashing, roof and attic vents, eaves,
24 or gutters that conform to ignition-re-
25 sistant construction standards,

1 “(VI) wall components for wall
2 assemblies that conform to ignition-re-
3 sistant construction standards,

4 “(VII) a wall-to-foundation an-
5 chor or connector, or a shear transfer
6 anchor or connector,

7 “(VIII) wood structural panel
8 sheathing for strengthening cripple
9 walls,

10 “(IX) anchorage of the masonry
11 chimney to the framing,

12 “(X) prefabricated lateral resist-
13 ing systems,

14 “(XI) a standby generator sys-
15 tem consisting of a standby generator
16 and an automatic transfer switch,

17 “(XII) a storm shelter that meets
18 the design and construction standards
19 established by the International Code
20 Council and the National Storm Shel-
21 ter Association (ICC–500), or a safe
22 room that satisfies the criteria con-
23 tained in—

24 “(aa) the publication of the
25 Federal Emergency Management

1 Agency entitled ‘Safe Rooms for
2 Tornadoes and Hurricanes’ (P-
3 361), or

4 “(bb) the publication of the
5 Federal Emergency Management
6 Agency entitled ‘Taking Shelter
7 from the Storm’ (P-320),

8 “(XIII) a lightning protection
9 system,

10 “(XIV) exterior walls, doors, win-
11 dows, or other exterior dwelling unit
12 elements that conform to ignition-re-
13 sistant construction standards,

14 “(XV) exterior deck or fence
15 components that conform to ignition-
16 resistant construction standards,

17 “(XVI) structure-specific water
18 hydration systems, including fire miti-
19 gation systems such as interior and
20 exterior sprinkler systems,

21 “(XVII) water capture and deliv-
22 ery systems to accommodate drought
23 events or to decrease water use, in-
24 cluding the design of such systems,

1 “(XVIII) flood openings for fully
2 enclosed areas below the lowest floor
3 of the dwelling unit,

4 “(XIX) lateral bracing for wall
5 elements, foundation elements, and
6 garage doors or other large openings
7 to resist seismic loads, or

8 “(XX) automatic shutoff valves
9 for water and gas lines, or

10 “(iii) for services or equipment to—

11 “(I) create buffers around the
12 qualified dwelling unit through the re-
13 moval or reduction of flammable vege-
14 tation, including vertical clearance of
15 tree branches,

16 “(II) create buffers around the
17 dwelling unit through—

18 “(aa) the removal of exterior
19 deck or fence components or igni-
20 tion-prone landscape features, or

21 “(bb) replacement of the
22 components or features described
23 in item (aa) with components or
24 features that conform to ignition-
25 resistant construction standards,

1 “(III) perform fire maintenance
 2 procedures identified by the Federal
 3 Emergency Management Agency or
 4 the United States Forest Service, in-
 5 cluding fuel management techniques
 6 such as creating fuel and fire breaks,

7 “(IV) gather and analyze water
 8 and weather data to better under-
 9 stand the local climate and drought
 10 history,

11 “(V) replace flammable vegeta-
 12 tion with less flammable species, or

13 “(VI) determine the risk of nat-
 14 ural disasters which may occur in the
 15 area in which the qualified dwelling
 16 unit is located, or

17 “(iv) for property relating to satis-
 18 fying the standards required for receipt of
 19 a FORTIFIED designation from the In-
 20 surance Institute for Business and Home
 21 Safety, provided that the qualified dwelling
 22 unit receives such designation following in-
 23 stallation of such property.

24 “(B) EXCEPTION.—The term ‘qualified
 25 disaster mitigation expenditure’ shall not in-

clude any expenditure or portion thereof which is paid, funded, or reimbursed by a Federal, State, or local government entity, or any political subdivision, agency, or instrumentality thereof.

“(2) QUALIFIED DWELLING UNIT.—The term ‘qualified dwelling unit’ means a dwelling unit which is—

“(A) located—

“(i) in the United States or in a territory of the United States, and

“(ii) in an area—

“(I) in which a Federal disaster declaration has been made within the preceding 10-year period, or

“(II) which is adjacent to an area described in subclause (I), and

“(B) used as a residence by the taxpayer.

“(d) LIMITATION.—

“(1) IN GENERAL.—In the case of an expenditure described in clause (i) or (ii) of subsection (c)(1)(A), such expenditure shall be taken into account in determining the qualified disaster mitigation expenditures made by the taxpayer during the taxable year only if the onsite preparation, assembly,

1 or original installation of the property with respect
2 to which such expenditure is made has been com-
3 pleted in a manner that is deemed to be in compli-
4 ance with the latest published editions of relevant
5 consensus-based codes, specifications, and standards
6 or any more restrictive Federal, State, or local flood-
7 plain management standards and consistent with
8 floodplain management regulations for the local ju-
9 risdiction in which the qualified dwelling unit is lo-
10 cated.

11 “(2) LATEST PUBLISHED EDITIONS.—The term
12 ‘latest published editions means’, with respect to rel-
13 evant consensus-based codes, specifications, and
14 standards, either of the 2 most recently published
15 editions.

16 “(e) LABOR COSTS.—For purposes of this section,
17 expenditures for labor costs properly allocable to the onsite
18 preparation, assembly, or original installation of the prop-
19 erty described in clause (i) or (ii) of subsection (c)(1)(A)
20 shall be taken into account in determining the qualified
21 disaster mitigation expenditures made by the taxpayer
22 during the taxable year.

23 “(f) INSPECTION COSTS.—For purposes of this sec-
24 tion, expenditures for the cost of any inspection required
25 under subsection (d) which is properly allocable to the in-

1 spection of the preparation, assembly, or installation of
 2 the property described in clause (i) or (ii) of subsection
 3 (c)(1)(A) shall be taken into account in determining the
 4 qualified disaster mitigation expenditures made by the
 5 taxpayer during the taxable year.

6 “(g) DOCUMENTATION.—Any taxpayer claiming the
 7 credit under this section shall provide the Secretary with
 8 adequate documentation regarding the specific qualified
 9 disaster mitigation expenditures made by the taxpayer
 10 during the taxable year, as well as such other information
 11 or documentation as the Secretary may require.”.

12 (b) CONFORMING AMENDMENT.—The table of sec-
 13 tions for subpart A of part IV of subchapter A of chapter
 14 1 of such Code is amended by inserting after the item
 15 relating to section 25D the following new item:

“Sec. 25E. Disaster mitigation expenditures.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to taxable years beginning after
 18 December 31, 2019.

19 **SEC. 3. BUSINESS-RELATED CREDIT FOR DISASTER MITIGA-**
 20 **TION.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-
 22 chapter A of chapter 1 of the Internal Revenue Code of
 23 1986 is amended by inserting after section 45S the fol-
 24 lowing new section:

1 **“SEC. 45T. DISASTER MITIGATION CREDIT.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 the disaster mitigation credit determined under this sec-
4 tion for any taxable year is an amount equal to 25 percent
5 of the qualified disaster mitigation expenditures made by
6 the taxpayer during the taxable year.

7 “(b) MAXIMUM CREDIT.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 the amount of the credit determined under sub-
10 section (a) for any taxable year shall not exceed
11 \$5,000.

12 “(2) PHASEOUT.—

13 “(A) IN GENERAL.—The amount under
14 paragraph (1) for the taxable year shall be re-
15 duced (but not below zero) by an amount which
16 bears the same ratio to the amount under such
17 paragraph as—

18 “(i) the amount (not less than zero)
19 equal to the average gross receipts of the
20 taxpayer over the 3 preceding taxable
21 years minus \$5,000,000, bears to

22 “(ii) \$5,000,000.

23 “(B) INFLATION ADJUSTMENT.—In the
24 case of any taxable year after 2020, each of the
25 dollar amounts under subparagraph (A) shall
26 be increased by an amount equal to—

1 “(i) such dollar amount, multiplied by

2 “(ii) the cost-of-living adjustment de-
3 termined under section 1(f)(3) for the cal-
4 endar year in which the taxable year be-
5 gins, determined by substituting ‘calendar
6 year 2019’ for ‘calendar year 2016’ in sub-
7 paragraph (A)(ii) thereof.

8 “(C) ROUNDING.—If any reduction deter-
9 mined under subparagraph (A) is not a multiple
10 of \$50, or any increase under subparagraph (B)
11 is not a multiple of \$50, such amount shall be
12 rounded to the nearest multiple of \$50.

13 “(c) QUALIFIED DISASTER MITIGATION EXPENDI-
14 TURE.—For purposes of this section, the term ‘qualified
15 disaster mitigation expenditure’ has the same meaning
16 given such term under paragraph (1) of section 25E(c),
17 except that ‘place of business’ shall be substituted for
18 ‘qualified dwelling unit’ each place it appears in such para-
19 graph.

20 “(d) SPECIAL RULES.—Rules similar to the rules of
21 subsections (d) through (g) of section 25E shall apply for
22 purposes of this section.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 38(b) of such Code is amended by
25 striking “plus” at the end of paragraph (31), by

1 striking the period at the end of paragraph (32) and
2 inserting “, plus”, and by adding at the end the fol-
3 lowing new paragraph:

4 “(33) the disaster mitigation credit determined
5 under section 45T(a).”.

6 (2) The table of sections for subpart D of part
7 IV of subchapter A of chapter 1 of such Code is
8 amended by inserting after the item relating to sec-
9 tion 45S the following new item:

“Sec. 45T. Disaster mitigation credit.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2019.

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