DESCRIPTION OF COMMUNITY RENEWAL AND NEW MARKETS ACT OF 2000

Scheduled for Markup

By the

SENATE COMMITTEE ON FINANCE

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the Chairman's Mark of an original bill, the "Community Renewal and New Markets Act of 2000", scheduled for markup by the Senate Committee on Finance on September 20, 2000.

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[1] This document may be cited as follows: Joint Committee on Taxation, *Description of the Chairman's Mark of the "Community Renewal and New Markets of 2000"* (JCX-99-00), September 18, 2000.

DESCRIPTION OF PROPOSALS

A. Tax Incentives for Distressed Areas

Present Law

In recent years, provisions have been added to the Internal Revenue Code that target specific geographic areas for special Federal income tax treatment. As described in greater detail below, empowerment zones and enterprise communities generally provide tax incentives for businesses that locate within certain geographic areas designated by the Secretaries of Housing and Urban Development ("HUD") and Agriculture.

Round I empowerment zones

The Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993") authorized the designation of nine empowerment zones ("Round I empowerment zones") to provide tax incentives for businesses to locate within targeted areas designated by the Secretaries of HUD and Agriculture. The Taxpayer Relief Act of 1997 ("1997 Act") authorized the designation of two additional Round I urban empowerment zones.

Businesses in the 11 Round I empowerment zones qualify for the following tax incentives: (1) a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the empowerment zone,[2] (2) an additional $20,000 of section 179 expensing for qualifying zone property, and (3) tax-exempt financing for certain qualifying zone facilities. The tax incentives with respect to the empowerment zones designated by OBRA 1993 generally are available during the 10-year period of 1995 through 2004. The tax incentives with respect to the two additional Round I empowerment zones generally are available during the 10-year period of 2000 through 2009.[3]

Round II empowerment zones

The 1997 Act also authorized the designation of 20 additional empowerment zones ("Round II empowerment zones"), of which 15 are located in urban areas and five are located in rural areas. Businesses in the Round II empowerment zones are not eligible for the wage credit, but are eligible to receive up to $20,000 of additional section 179 expensing. Businesses in the

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[2] For wages paid in calendar years during the period 1994 through 2001, the credit rate is 20 percent. The credit rate is reduced to 15 percent for calendar year 2002, 10 percent for calendar year 2003, and 5 percent for calendar year 2004. No wage credit is available after 2004 in the original nine empowerment zones.

[3] The wage credit, however, is reduced to 15 percent for calendar year 2005, and then reduced by five percentage points in each year in 2006 and 2007. No wage credit is available after 2007.

Round II empowerment zones also are eligible for more generous tax-exempt financing benefits than those available in the Round I empowerment zones. Specifically, the tax-exempt financing benefits for the Round II empowerment zones are not subject to the State private activity bond volume caps (but are subject to separate per-zone volume limitations), and the per-business size limitations that apply to the Round I empowerment zones and enterprise communities (i.e., $3 million for each qualified enterprise zone business with a maximum of $20 million for each principal user for all zones and communities) do not apply to qualifying bonds issued for Round II empowerment zones. The tax incentives with respect to the Round II empowerment zones generally are available during the 10-year period of 1999 through 2008.

District of Columbia Enterprise Zone

The 1997 Act also designated certain economically depressed census tracts within the District of Columbia as the "D.C. Enterprise Zone," within which businesses and individual residents are eligible for special tax incentives. The D.C. Enterprise Zone designation remains in effect for the period from January 1, 1998, through December 31, 2002. In addition to the tax incentives available with respect to a Round I empowerment zone, the D.C. Enterprise Zone also has a zero-percent capital gains rate that applies to gain from the sale of certain qualified D.C. zone assets acquired after December 31, 1997 and held for more than five years.

With respect to the tax-exempt financing incentives, the D.C. Enterprise Zone generally is treated like a Round I empowerment zone;[4] therefore, the issuance of such bonds is subject to the District of Columbia's annual private activity bond volume limitation. However, the aggregate face amount of all outstanding qualified enterprise zone facility bonds per qualified D.C. Zone business may not exceed $15 million (rather than $3 million, as is the case for Round I empowerment zones).[5]

Description of Proposal

Overview

As described in detail below, the proposal would conform the wage credit and tax-exempt bond incentives for the Round I and Round II empowerment zones and extend their designations through December 31, 2009. The proposal also would increase the incentives to existing empowerment zones by (1) increasing the additional section 179 deduction to $35,000, and (2) providing a zero-percent capital gain rate for qualifying assets held for more than five years.

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[4] Portions of the District of Columbia were designated as an enterprise community under section 1391 in 1994. Accordingly, the District of Columbia was entitled to issue tax-exempt enterprise zone facility bonds.

[5] Section 1400A(a).

In addition, the proposal would authorize the Secretaries of HUD and Agriculture to designate 30 new "renewal zones" that would have the same tax incentives as empowerment zones. The designations of the new renewal zones would take effect on January 1, 2002, and terminate on December 31, 2009.

Thus, once the 30 new renewal zones have been designated, there will exist a total of 61 zones providing similar tax incentives for distressed areas, all of whose designations would terminate on December 31, 2009. The renewal zones would be treated as empowerment zones for all purposes of the Code.[6] After taking into account existing empowerment zones, each State would have at least one zone.

The proposal also would extend the D.C. Enterprise Zone designation through December 31, 2009.

Existing zones

Conforming and enhancing incentives for Round I and Round II empowerment zones.--The proposal would extend the designation of empowerment zone status for Round I and II empowerment zones through December 31, 2009. In addition, a 15-percent wage credit would be made available in all Round I and II empowerment zones, effective in 2002 (except in the case of the two additional Round I empowerment zones, for which the 15-percent wage credit would take effect in 2005 as scheduled under present law). For all the empowerment zones, the 15-percent wage credit would expire on December 31, 2009.

In addition, $35,000 (rather than $20,000) of additional section 179 expensing would be available for qualified zone property placed in service in taxable years beginning after December 31, 2001, by a qualified business in any of the empowerment zones.[7]

Businesses located in Round I empowerment zones would be eligible for the more generous tax-exempt bond rules that apply under present law to businesses in the Round II empowerment zones (sec. 1394(f)). The proposal would apply to tax-exempt bonds issued after December 31, 2001. Bonds that have been issued by businesses in Round I zones before January 1, 2002, would not be taken into account in applying the limitations on the amount of new empowerment zone facility bonds that can be issued under the proposal.

Businesses located in any empowerment zone also would qualify for a zero-percent capital gains rate for gain from the sale of a qualifying zone assets acquired after date of enactment and

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[6] This would include, for example, the proposals relating to the historic homes credit and the broadband Internet access tax credit described below.

[7] The additional $35,000 of section 179 expensing is available throughout all areas that are part of a designated empowerment zone, including the non-contiguous "developable sites" that were allowed to be part of the designated Round II empowerment zones under the 1997 Act.

before January 1, 2010, and held for more than five years. Assets that would qualify for this incentive would be similar to the types of assets that qualify for the present-law zero percent capital gains rate for qualifying D.C. Zone assets. The zero-percent capital gains rate would be limited to an aggregate amount not to exceed $25 million of gain per taxpayer. Any gain attributable to the period before the date of enactment or after December 31, 2014, would not be eligible for the zero-percent capital gains rate.

D.C. Enterprise Zone.--The proposal would extend the D.C. Enterprise Zone designation through December 31, 2009. The proposal also would conform the D.C. wage credit to the wage credit to the other zones, so that there would be a 15-percent wage credit with respect to qualifying wages beginning in 2003 (and ending on December 31, 2009).

Renewal zones

Designation of 30 renewal zones.--The Secretaries of HUD and Agriculture would be authorized to designate up to 30 renewal zones from areas nominated by States and local governments. At least six of the designated renewal zones must be in rural areas. The Secretary of HUD is required to publish (within four months after enactment) regulations describing the nomination and selection process. Designations of renewal zones would be made before January 1, 2002, and the designation (and tax incentives) would be effective for the period beginning on January 1, 2002 through December 31, 2009.

Eligibility criteria.--To be designated as a renewal zone, a nominated area must meet the following criteria: (1) each census tract must have a poverty rate of at least 20 percent; (2) in the case of an urban area, at least 70 percent of the households have incomes below 80 percent of the median income of households within the local government jurisdiction; (3) the unemployment rate is at least 1.5 times the national unemployment rate; and (4) the area is one of pervasive poverty, unemployment, and general distress.[8] In general, the areas with the highest average ranking of eligibility factors (1), (2) and (3), above would be designated as renewal zones. States without an empowerment zone would be given priority in the designation process. Moreover, after taking into account existing empowerment zones, each State would have at least one zone designation (empowerment or renewal zone).

There would be no geographic size limitations placed on renewal zones. Instead, the boundary of a renewal zone must be continuous. In addition, a renewal zone must have a minimum population of 4,000 if the area is located within a metropolitan statistical area (at least 1,000 in all other cases), and a maximum population of not more than 200,000. The population limitations would not apply to any renewal zone that is entirely within an Indian reservation.

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[8] For areas not within census tracts, the equivalent county division (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of defining poverty rates and median family income.

Required State and local commitments.--In order for an area to be designated as a renewal zone, State and local governments are required to submit a written course of action in which the State and local governments promise to take at least four of the following governmental actions: (1) a reduction of tax rates or fees; (2) an increase in the level of efficiency of local services; (3) crime reduction strategies; (4) actions to remove or streamline governmental requirements; (5) involvement by private entities and community groups, such as to provide jobs and job training and financial assistance; and (6) the gift (or sale at below fair market value) of surplus realty by the State or local government to community organizations or private companies.

Enterprise community seeking designation as renewal zones.--An enterprise community could apply for designation as a renewal zone. In making selections of renewal zones, the Secretary shall take into account the status of a nominated area as an enterprise community. If a renewal zone designation is granted, then an area's designation as an enterprise community would cease as of the date the area's designation as a renewal zone takes effect.

Tax incentives for renewal zones.--Businesses in renewal zones would have the same tax incentives as businesses in existing empowerment zones (as modified by this proposal), which would be available during the period beginning January 1, 2002 and ending December 31, 2009 (i.e., a zero percent capital gains rate for qualifying assets;[9] a 15-percent wage credit with respect to qualifying wages; $35,000 in additional 179 expensing for qualifying property; and the enhanced tax-exempt bond rules that currently are available to businesses in the Round II empowerment zones).

Effective Date

The extension of the existing empowerment zone designations (including the D.C. Enterprise Zone) would be effective after the date of enactment.

The additional section 179 expensing and the more generous tax-exempt bond rules for the existing empowerment zones generally would be effective after December 31, 2001. The zero-percent capital gains rate would apply to qualifying property purchased after the date of enactment.

The 15-percent wage credit generally would be effective for qualifying wages paid after December 31, 2001. With respect to the two additional Round I empowerment zones, however, the wage credit would be effective for qualifying wages paid after December 31, 2004. For the D.C. Enterprise Zone, the 15-percent wage credit would be effective for qualifying wages paid after December 31, 2002.

The 30 new renewal zones would be designated by January 1, 2002, and the resulting tax benefits would be available for the period beginning January 1, 2002, and ending December 31, 2009.

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[9] Any gain attributable to the period before January 1, 2002, or after December 31, 2014, would not be eligible for the zero-percent capital gains rate.

B. New Markets Tax Credit

Present Law

Some tax incentives are available to taxpayers making investments and loans in low-income communities. For example, tax incentives are available to taxpayers that invest in specialized small business investment companies licensed by the Small Business Administration to make loans to, or equity investments in, small businesses owned by persons who are socially or economically disadvantaged.

Description of Proposal

The proposal would create a new tax credit for qualified equity investments made to acquire stock in a selected community development entity ("CDE"). The maximum annual amount of qualifying equity investments would be capped as follows:

Calendar Year	Maximum Qualifying Equity Investment
2002	$1.0 billion
2003-2006	$1.5 billion per year

The amount of the new tax credit to the investor (either the original purchaser or a subsequent holder) would be (1) a five-percent credit for the year in which the equity interest is purchased from the CDE and the first two anniversary dates after the interest is purchased from the CDE, and (2) a six percent credit on each anniversary date thereafter for the following four years.[10] The taxpayer's basis in the investment would be reduced by the amount of the credit (other than for purposes of calculating the zero-percent capital gains rules and section 1202). The credit would be subject to the general business credit rules.

A CDE is any domestic corporation or partnership (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons, (2) that maintains accountability to residents of low-income communities through representation on governing or advisory boards of the CDE, and (3) is certified by the Treasury Department as an eligible CDE.[11] No later than 120 days after enactment, the Treasury Department shall issue guidance that specifies objective criteria to be used by the Treasury to allocate the credits among eligible CDEs. In allocating the credits, the Treasury Department will give priority to entities

[10] Thus, a credit would be available on the date on which the investment is made and for each of the six anniversary dates thereafter.

[11] A specialized small business investment company and a community development financial institution are treated as satisfying the requirements for a CDE.

with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities.

If a CDE fails to sell equity interests to investors up to the amount authorized within five years of the authorization, then the remaining authorization is canceled. The Treasury Department can authorize another CDE to issue equity interests for the unused portion. No authorization can be made after 2015.

A "qualified equity investment" is defined as stock or a similar equity interest acquired directly from a CDE in exchange for cash. Substantially all of the investment proceeds must be used by the CDE to make "qualified low-income community investments." Qualified low-income community investments include: (1) equity investments in, or loans to, qualified active businesses located in low-income communities, (2) certain financial counseling and other services specified in regulations to businesses and residents in low-income communities, (3) the purchase from another CDE of any loan made by such entity that is a qualified low income community investment, or (4) an equity investment in, or loans to, another CDE if substantially all of the investment or loan by such entity is used to make the qualified low-income community investments described in (1), (2) or (3).[12]

The stock or equity interest cannot be redeemed (or otherwise cashed out) by the CDE for at least seven years. If the entity ceases to be a qualified CDE during the seven-year period following the taxpayer's investment, or if the equity interest is redeemed by the issuing CDE during that seven-year period, then any credits claimed with respect to the equity interest are recaptured (with interest) and no further credits are allowed.

A "low-income community" is defined as census tracts with: (1) poverty rates of at least 20 percent (based on the most recent census data), or (2) median family income which does not exceed 80 percent of the greater of metropolitan area income or statewide median family income (for a non-metropolitan census tract, 80 percent of non-metropolitan statewide median family income).[13] Pursuant to regulations to be prescribed by the Secretary, a "low-income community" also could be defined as a targeted population of low-income persons who satisfy the poverty rate and median income requirements set forth above within the targeted area and who otherwise lack adequate access to loans or equity investments.

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[12] If at least 85 percent of the aggregate gross assets of the CDE are invested (directly or indirectly) in equity interests in, or loans to, qualified active businesses located in low-income communities, then there would be no need to trace the use of the proceeds from the particular stock (or other equity ownership) issuance with respect to which the credit is claimed.

[13] For areas not within census tracts, the equivalent county division (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of defining poverty rates and median family income.

A "qualified active business" is defined as a business which satisfies the following requirements: (1) at least 50 percent of the total gross income of the business is derived from the active conduct of trade or business activities in low-income communities; (2) a substantial portion of the use of the tangible property of such business is used within low-income communities; (3) a substantial portion of the services performed for such business by its employees is performed in low-income communities; and (4) less than 5 percent of the average aggregate of unadjusted bases of the property of such business is attributable to certain financial property or to collectibles (other than collectibles held for sale to customers). There is no requirement that employees of the business be residents of the low-income community.

Rental of improved commercial real estate located in a low-income community is a qualified active business, regardless of the characteristics of the commercial tenants of the property. The purchase and holding of unimproved real estate is not a qualified active business. In addition, a qualified active business does not include (a) any business consisting predominantly of the development or holding of intangibles for sale or license; (b) operation of any facility described in sec. 144(c)(6)(B); or (c) any business if a significant equity interest in such business is held by a person who also holds a significant equity interest in the CDE. A qualified active business can include an organization that is organized on a non-profit basis.

Effective Date

The proposal would be effective for qualified investments made after December 31, 2001.

C. Low-Income Housing Tax Credit Cap and Related Program Modifications

Present Law

In general

The low-income housing tax credit may be claimed annually over a 10-year period for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the IRS so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing also receiving most other Federal subsidies and for existing housing is calculated to have a present value of 30 percent of the total qualified expenditures. The new credit authority provided annually is $1.25 per resident of each State. Projects that receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit and receive the low income housing credit are outside the State's credit cap.

Stacking rule

The present-law stacking rule provides that a State is treated as using its annual allocation of credit authority ($1.25 per State resident) and any returns during the calendar year followed by any unused credits carried forward from the preceding year's credit ceiling and finally any applicable allocations from the National pool.

Description of Proposal

The proposal would increase the annual State credit caps from be $1.25 to $1.75 per resident beginning in 2001. Also beginning in 2001, the per capita cap would modified so that small population states are given a minimum of $2 million of annual credit cap. The $1.75 per capita credit cap and the $2 million amount are indexed for inflation beginning in calendar year 2002.

The proposal also would make two programmatic changes to the credit. First, the proposal would modify the stacking rule so that each State would be treated as using its allocation of the unused State housing credit ceiling (if any) from the preceding calendar before the current year's allocation of credit (including any credits returned to the State) and then finally any National pool allocations. Second, the proposal would provide that assistance received under the Native American Housing Assistance and Self-Determination Act of 1986 would not be taken into account in determining whether a building is Federally subsidized for purposes of the credit.

Effective Date

The proposals generally would be effective for calender years after December 31, 2000, and buildings placed in service after such date in the case of projects that also receive financing with proceeds of tax-exempt bonds which are issued after such date subject to the private activity bond volume limit.

D. Private Activity Bond State Volume Limits

Present Law

Interest on bonds issued by States and local governments is excluded from income if the proceeds of the bonds are used to finance activities conducted or paid for by the governmental units. Interest on bonds issued by these governmental units to finance activities carried out and paid for by private persons ("private activity bonds") is taxable unless the activities are specified in the Code. Private activity bonds on which interest may be tax exempt include bonds for privately-operated transportation facilities (airports, docks and wharves, mass transit, and high speed rail facilities), privately-owned or privately-provided municipal services (water, sewer, solid waste disposal, and certain electric and heating facilities), economic development (small manufacturing facilities and redevelopment in economically depressed areas), and certain social programs (low-income rental housing, qualified mortgage bonds, student loan bonds, and exempt activities of charitable organizations described in Code sec. 501(c)(3)).

The volume of tax-exempt private activity bonds that States and local governments may issue in each calendar year is limited by State-wide volume limits. The volume limits do not apply to private activity bonds to finance airports, docks and wharves, certain governmentally owned, but privately operated, solid waste disposal facilities, certain high speed rail facilities, and certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain empowerment zone and enterprise community bonds). The current annual volume limits are $50 per resident of the State or $150 million (if greater). An increase in these volume limits to $75 per resident or $225 million (if greater) is scheduled to be phased-in during calender years 2003-2007.

Description of Proposal

The bill accelerates the currently scheduled phased increase in the present-law annual State private activity bond volume limits to $75 per resident of each State or $225 million (if greater) beginning in calendar year 2001. In addition, the $75 per resident limit and the $225 million State limit would be indexed for inflation beginning in calendar year 2002.

Effective Date

The proposal would be effective for calendar years after December 31, 2000.

E. Mortgage Revenue Bonds

Present Law

Qualified mortgage bonds (QMBs) are tax-exempt bonds, the proceeds of which generally must be used to make mortgage loans to first-time homebuyers. The recipients of QMB-financed loans must meet purchase price, income, and other restrictions. Generally, the purchase price of an assisted home may not exceed 90 percent (110 percent in targeted areas) of the average area purchase price.

Description of Proposal

The proposal would modify the purchase price rule for QMB financing. Specifically, QMB financing would be allowable to qualified residences the purchase price of which does not exceed the greater of (1) 90 percent of the average area purchase price; or (2) 3.5 times the applicable median family income. The applicable median family income would be defined as under the present-law QMB income restriction. The purchase price requirement applicable to targeted areas (i.e., 110 percent) would not be changed.

Effective Date

The proposal would be effective for bonds issued after the date of enactment.

F. Tax Credit for Renovating Historic Homes

Present Law

Present law provides an income tax credit for certain expenditures incurred in rehabilitating certified historic structures and certain nonresidential buildings placed in service before 1936 (sec. 47). The amount of the credit is determined by multiplying the applicable rehabilitation percentage by the basis of the property that is attributable to qualified rehabilitation expenditures. The applicable rehabilitation percentage is 20 percent for certified historic structures and 10 percent for qualified rehabilitated buildings (other than certified historic structures) that were originally placed in service before 1936.

A nonresidential building is eligible for the 10-percent credit only if the building is substantially rehabilitated and a specific portion of the existing structure of the building is retained in place upon completion of the rehabilitation. A residential or nonresidential building is eligible for the 20-percent credit that applies to certified historic structures only if the building is substantially rehabilitated (as determined under the eligibility rules for the 10-percent credit). In addition, the building must be listed in the National Register or the building must be located in a registered historic district and must be certified by the Secretary of the Interior as being of historical significance to the district.

Description of Proposal

The proposal would permit a taxpayer to claim a 20-percent credit for qualified rehabilitation expenditures made with respect to a qualified historic home which the taxpayer subsequently occupies as his or her principal residence for at least five years. The total credit which could be claimed by the taxpayer would be limited to $20,000. Any eligible credit not claimed by the taxpayer in the year in which the qualified rehabilitation expenditures are made may be carried forward to each of the succeeding 10 years.

The proposal would apply to (1) structures listed in the National Register; (2) structures located in a registered national, State, or local historic district, and certified by the Secretary of the Interior as being of historic significance to the district, but only if the median income of the census tract within which the building is located is less than twice the State median income; (3) any structure designated as being of historic significance under a State or local statute, if such statute is certified by the Secretary of the Interior as achieving the purpose of preserving and rehabilitating buildings of historic significance.

A building generally would be considered substantially rehabilitated if the qualified rehabilitation expenditures incurred during a 24-month measuring period exceed the greater of (1) the adjusted basis of the building as of the later of the first day of the 24-month period or the beginning of the taxpayer's holding period for the building, or (2) $5,000. In the case of structures in empowerment zones, in enterprise communities, in a census tract in which 70 percent of families have income which is 80 percent or less of the State median family income, and areas of chronic distress as designated by the State and approved by the Secretary of Housing and Urban Development, only the $5,000 expenditure requirement would apply. In addition, for all structures, at least 5 percent of the rehabilitation expenditures would have to be allocable to the exterior of the structure.

To qualify for the credit, the rehabilitation must be certified by a State or local government subject to conditions specified by the Secretary of the Interior.

A taxpayer who purchases a structure on which qualified rehabilitation expenditures have been made may claim credit for such expenditures if the taxpayer is the first purchaser of the structure within five years of the date the rehabilitation was completed and if no credit was allowed to the seller with respect to the qualified expenditures. Alternatively, a taxpayer may elect to receive a historic rehabilitation mortgage credit certificate in lieu of the credit otherwise allowable. A historic rehabilitation mortgage credit certificate may be transferred to a lending institution in exchange for which the lending institution provides the taxpayer with a reduction in interest rate on a mortgage on a qualifying structure. The lending institution would then claim the allowable credits against its tax liability. In the case of a targeted area or enterprise community or empowerment zone, the taxpayer may elect to allocate all or a portion of the mortgage credit certificate to reduce the down payment required for purchase of the structure.

If a taxpayer ceases to maintain the structure as his or her personal residence within five years from the date of the rehabilitation, the credit would be recaptured on a pro rata basis.

Effective Date

The proposal would be effective for expenditures paid or incurred beginning after December 31, 2001.

G. Expensing of Environmental Remediation Expenditures and Expansion of Qualifying Sites ("Brownfields")

Present Law

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance (so-called "brownfields"). Targeted areas are defined as: (1) empowerment zones and enterprise communities as designated under present law; (2) sites announced before February 1997, as being subject to one of the 76 Environmental Protection Agency ("EPA") Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures are those paid or incurred before January 1, 2002.

Description of Proposal

The proposal would extend the expiration date for eligible expenditures to include those paid or incurred before January 1, 2004.

In addition, the proposal would eliminate the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency. However, expenditures undertaken at sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 would continue to not qualify as eligible expenditures.

Effective Date

The proposal to extend the expiration date would be effective upon the date of enactment. The proposal to expand the class of eligible sites would be effective for expenditures paid or incurred after the date of enactment.

H. Tax Credit Bonds for the National Railroad Passenger Corporation ("Amtrak")

Present Law

Present law does not authorize the issuance by any private, for-profit corporation of bonds the interest on which is tax-exempt or eligible for an income tax credit. Tax-exempt bonds may be issued by States or local governments to finance their governmental activities or to finance certain capital expenditures of private businesses or loans to individuals. Additionally, States or local governments may issue tax-credit bonds to finance the operation of "qualified zone academies."

Tax-exempt bonds

Interest on bonds issued by States or local governments to finance direct activities of those governmental units is excluded from tax (sec. 103). In addition, interest on certain bonds ("private activity bonds") issued by States or local governments acting as conduits to provide financing for private businesses or individuals is excluded from income if the purpose of the borrowing is specifically approved in the Code (sec. 141). Examples of approved private activities for which States or local governments may provide tax-exempt financing include transportation facilities (airports, ports, mass commuting facilities, and certain high speed intercity rail facilities); public works facilities such as water, sewer, and solid waste disposal; and certain social welfare programs such as low-income rental housing, student loans, and mortgage loans to certain first-time homebuyers. High speed intercity rail facilities eligible for tax-exempt financing include land, rail, and stations (but not rolling stock) for fixed guideway rail transportation of passengers and their baggage using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops.

Issuance of most private activity bonds is subject to annual State volume limits of $50 per resident ($150 million if greater). These volume limits are scheduled to increase to $75 per resident ($225 million if greater) over the period 2003 through 2007.

Investment earnings on all tax-exempt bonds, including earnings on invested sinking funds associated with such bonds is restricted by the Code to prevent the issuance of bonds earlier or in a greater amount than necessary for the purpose of the borrowing. In general, all profits on investment of such proceeds must be rebated to the Federal Government. Interest on bonds associated with invested sinking funds is taxable.

Tax credit bonds for qualified zone academies

As an alternative to traditional tax-exempt bonds, certain States or local governments are given authority to issue "qualified zone academy bonds." A total of $400 million of qualified zone academy bonds is authorized to be issued in each year of 1998 through 2001. The $400 million is allocated to States according to their respective populations of individuals below the poverty line.

Qualified zone academy bonds are taxable bonds with respect to which the investor receives an income tax credit equal to an assumed interest rate set by the Treasury Department to allow issuance of the bonds without discount and without interest cost to the issuer. The bonds may be used for renovating, providing equipment to, developing course materials for, or training teachers in eligible schools. Eligible schools are elementary and secondary schools with respect to which private entities make contributions equaling at least 10 percent of the bond proceeds.

Only financial institutions are eligible to claim the credits on qualified zone academy bonds. The amount of the credit is taken into income. The credit may be claimed against both regular income tax and AMT liability.

There are no arbitrage restrictions applicable to investment earnings on qualified zone academy bond proceeds.

Description of Proposal

The proposal would authorize the National Railroad Passenger Corporation ("Amtrak") to issue an aggregate amount of $10 billion of tax credit bonds to finance its capital projects.[14] Annual issuance of the bonds could not exceed $1 billion per year (plus any authorized amount that was not issued in previous years) during the ten Federal fiscal year period, 2001-2010. Unused bond authority could be carried forward to succeeding years until used, subject to a limitation that no tax credit bonds could be issued after fiscal year 2015.

Projects eligible for tax-credit bond financing would be defined as the acquisition, financing, or refinancing of equipment, rolling stock, and other capital improvements for (1) the northeast rail corridor between Washington, D.C. and Boston, Massachusetts;[15] (2) high-speed rail corridors designated under section 104(d)(2) of Title 23 of the United States Code; and (3) non-designated high-speed rail corridors, including station rehabilitation, track or signal improvements, or grade crossing elimination. The last purpose would be limited to a maximum of 10 percent of the proceeds of any bond issue. At least 70 percent of the tax credit bonds would be required to be issued for the purposes described in (2) and (3).

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[14] The Secretary of Transportation could allocate a portion of Amtrak's tax credit bond authority in any year to the Alaska Railroad for use in financing projects of that railroad that would qualify under the restrictions applicable to Amtrak.

[15] $92 million of Amtrak's tax credit bond authority for Northeast corridor projects would be set aside for the acquisition and installation of platform facilities, performance of railroad force account work necessary to complete improvements below street grade, and any other necessary improvements related to construction at the new railroad station at the James A. Farley Post Office Building in New York City. Projects financed with this $92 million of tax credit bonds would not be subject to the State contribution requirement, described below.

As with qualified zone academy bonds, the interest rate on Amtrak tax credit bonds would be set to allow issuance of the bonds at par, i.e., without any interest cost to Amtrak. In general, proceeds of Amtrak tax credit bonds would have to be spent within 36 months after the bonds were issued.

Amtrak tax credit bonds could only be issued for projects that were approved by the Department of Transportation and with respect to which Amtrak had binding commitments from one or more States to make matching contributions of at least 20 percent of the project cost.[16] The State matching contributions, along with earnings on investment of the tax-credit bond proceeds would be invested in a trust account (i.e., an sinking fund) and used along with earnings on the trust account for repayment of the principal amount of the bonds.

Amtrak tax credit bonds could be owned (and income tax credits claimed) by any taxpayer. The amount of the credit would be includable in the bondholder's income. Additionally, provisions are included in the proposal to allow the credits to be stripped and sold to different investors than the investors in the bond principal.

The proposal requires Amtrak to issue a multi-year capital plan to Congress and the Administration. It also includes provisions for independent project management oversight by a professional non-Amtrak entity (similar to the Federal Transit Administration); provisions for vertification by the DOT Inspector General that the funds deposited in the escrow account are sufficient to ensure full repayment of the bond principal; and criteria to evaluate and select capital projects in order to optimize the investments made.

Effective Date

The proposal would be effective for tax credit bonds issued by Amtrak after September 30, 2000.

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[16] The required State matching contributions could not be derived from Federal monies. Any Federal Highway Trust Fund monies transferred to the States would be treated as Federal monies for this purpose.

I. Tax Treatment of Alaska Native Settlement Trusts

Present Law

An Alaska Native Settlement Corporation ("ANC") may establish a Settlement Trust ("Trust") under section 39 of the Alaska Native Claims Settlement Act ("ANCSA") [17] and transfer money or other property to such Trust for the benefit of beneficiaries who constitute all or a class of the shareholders of the ANC, to promote the health, education and welfare of the beneficiaries and preserve the heritage and culture of Alaska Natives.

With certain exceptions, once an ANC has made a conveyance to a Trust, the assets conveyed shall not be subject to attachment, distraint, or sale or execution of judgement, except with respect to the lawful debts and obligations of the Trust.

The Internal Revenue Service has indicated that contributions to a Trust constitute distributions to the beneficiary-shareholders at the time of the contribution and are treated as dividends to the extent of earnings and profits as provided under section 301 of the Code. The Trust and its beneficiaries are taxed in accordance with trust rules.

Description of Proposal

An Alaska Native Corporation may establish a Trust under section 39 of ANCSA and if the Trust makes an election for its first taxable year ending after the date of enactment of the proposal, no amount will be included in the gross income of a beneficiary of such Trust by reason of a contribution to the Trust. In addition, unless the Trust fails to meet the transferability requirements of the provision, income of the Trust, whether accumulated or distributed, will be taxed only to the Trust (and not to beneficiaries) at the lowest individual tax rates of 15 percent for ordinary income (and the capital gains rate applicable to individuals subject to such 15 percent rate), rather than at the higher rates generally applicable to trusts or to higher tax bracket beneficiaries.

The earnings and profits of the ANC would not be reduced by the amount of contributions to the Trust at the time of the contributions. However, the ANC earnings and profits would be reduced (up to the amount of the contributions) as distributions are thereafter made by the Trust that would exceed the Trusts's total undistributed net income (less taxes paid) plus tax-exempt income for all prior years during which an election is in effect plus for the current year, computed under Subchapter J. In addition, such distributions that exceed such amounts would be reported and taxed to beneficiaries as if distributed by the ANC in the year of the distribution by the Trust, and would be treated as dividends to beneficiaries to the extent the ANC then has current or accumulated earnings and profits.

If the beneficial interests in the Trust or the shares of the ANC may be sold or exchanged to a person in a manner that would not be permitted under ANCSA if the interests were Settlement

[17] 43 U.S.C. 1601 et. seq.

Common Stock (generally, to a person other than an Alaska Native), then all assets of the Trust that had not been distributed as of the beginning of that taxable year of the Trust are taxed to the extent they would be if they were distributed at that time. Thereafter, the Trust and its beneficiaries are generally subject to the rules of subchapter J and to the generally applicable trust income tax rates.

Effective Date

The provision would be effective for taxable years of electing Settlement Trusts, their beneficiaries, and sponsoring Native Corporations ending after the date of enactment, and to contributions made to electing Settlement Trusts during such year and thereafter.

J. Treatment of Indian Tribes as Non-Profit Organizations and State or Local Governments for Purposes of the Federal Unemployment Tax ("FUTA")

Present Law

Present law imposes a net tax on employers equal to 0.8 percent of the first $7,000 paid annually to each employee. The current gross FUTA tax is 6.2 percent, but employers in States meeting certain requirements and having no delinquent loans are eligible for a 5.4 percent credit making the net Federal tax rate 0.8 percent. Both non-profit organizations and State and local governments are not required to pay FUTA taxes. Instead they may elect to reimburse the unemployment compensation system for unemployment compensation benefits actually paid to their former employees. Generally, Indian tribes are not eligible for the reimbursement treatment allowable to non-profit organizations and State and local governments.

Description of Proposal

The proposal would provide that an Indian tribe (including any subdivision, subsidiary, or business enterprise chartered and wholly owned by an Indian tribe) would be treated like a non-profit organization or State or local government for FUTA purposes (i.e., given an election to choose the reimbursement treatment).

Effective Date

The proposal would be effective with respect to service performed in calendar years beginning after the date of enactment.

K. Elimination of the Tax on Awards Under National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program

Present Law

The National Health Service Corps Scholarship Program (the "NHSC Scholarship Program") and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (the "Armed Forces Scholarship Program") provide education awards to participants on condition that the participants provide certain services. In the case of the NHSC Scholarship Program, the recipient of the scholarship is obligated to provide medical services in a geographic area (or to an underserved population group or designated facility) identified by the Public Health Service as having a shortage of health-care professionals. In the case of the Armed Forces Scholarship Program, the recipient of the scholarship is obligated to serve a certain number of years in the military at an armed forces medical facility. Because the recipients are required to perform services in exchange for the education awards, the awards used to pay higher education expenses are taxable income to the recipient.

Section 117 excludes from gross income amounts received as a qualified scholarship by an individual who is a candidate for a degree and used for tuition and fees required for the enrollment or attendance (or for fees, books, supplies, and equipment required for courses of instruction) at a primary, secondary, or post-secondary educational institution. The tax-free treatment provided by section 117 does not extend to scholarship amounts covering regular living expenses, such as room and board. In addition to the exclusion for qualified scholarships, section 117 provides an exclusion from gross income for qualified tuition reductions for certain education provided to employees (and their spouses and dependents) of certain educational organizations.

Section 117(c) specifically provides that the exclusion for qualified scholarships and qualified tuition reductions does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the scholarship or tuition reduction.

Section 134 provides that any "qualified military benefit," which includes any allowance, is excluded from gross income if received by a member or former member of the uniformed services if such benefit was excludable from gross income on September 9, 1986.

Description of Proposal

The proposal would provide that amounts received by an individual under the NHSC Scholarship Program or the Armed Forces Scholarship Program are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient.

Effective Date

The proposal would be effective for education awards received after December 31, 1993.

L. Broadband Internet Access Tax Credit

Present Law

Present law does not provide a credit for investments in telecommunications infrastructure.

Description of Proposal

The proposal would provide a 10 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers "current generation" broadband services to subscribers in rural and underserved areas. In the addition, the proposal would provide a 20 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers "next generation" broadband services to subscribers in rural areas, underserved areas, and to residential subscribers. Current generation broadband services would be defined as the transmission of signals at a rate of at least 1.5 million bits per second to the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services would be defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 10 million bits per second from the subscriber.

Qualified expenditures would be those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168.[18] In the case of current generation broadband services, qualified expenditures would be those which are incurred by the taxpayer before January 1, 2003. In the case of next generation broadband services, qualified expenditures would be those which are incurred by the taxpayer after December 31, 2001, and before January 1, 2005. The expenditures would be taken into account for purposes of claiming the credit in the first taxable year in which the taxpayer provides broadband service to at least 10 percent of the potential subscribers. In the case of a taxpayer who incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualifying expenditures are determined by multiplying otherwise qualifying expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualifying equipment would be capable of serving.

Qualifying equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. In the case of a telecommunications carrier, qualifying equipment is only that equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualifying equipment is only that equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualifying equipment is only that equipment that extends from the customer side of the headend to the outside of the

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[18] The taxpayer's basis in the equipment would be reduced by the amount of credit claimed.

building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualifying equipment is only that equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. In addition, any packet switching equipment deployed in connection with other qualifying equipment would be qualifying equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber.

A rural area would be any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area would be any census tract which is located in an empowerment zone, enterprise community, renewal zone, or any census tract in which the poverty level is greater than or equal to 30 percent and in which the median family income is less than 70 percent of the greater of metropolitan area median family income or statewide median family income.[19] A residential subscriber would be any individual who purchases broadband service to be delivered to his or her dwelling.

Effective Date

The proposal would be effective for expenditures incurred after December 31, 2000.

[19] In the case of an area outside of a metropolitan area, this area median family income must be less than 70 percent of statewide median family income.

M. Contribution in Aid of Construction

Present Law

Section 118(a) provides that gross income of a corporation does not include a contribution to its capital. In general, section 118(b) provides that a contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer and, as such, is includible in gross income of the corporation. However, for any amount of money or property received by a regulated public utility that provides water or sewerage disposal services such amount shall be considered a contribution to capital (excludible from gross income) so long as such amount: (1) is a contribution in aid of construction, and (2) is not included in the taxpayer's rate base for rate-making purposes. If the contribution is in property other than water or sewerage disposal facilities, the amount is generally excludible from gross income only if the amount is expended to acquire or construct water or sewerage disposal facilities within a specified time period. A contribution in aid of construction does not include customer connection fees or amounts paid as service charges for starting or stopping services.

Description of Proposal

The proposal would define contribution in aid of construction to include customer connection fees (including amounts paid to connect the customer's line to, or extend, a main water or sewer line). Thus, the proposal would permit customer connection fees received by a regulated public utility that provides water or sewerage disposal services to be treated as nontaxable contributions to capital (excludible from gross income). Amounts paid as a service charge for starting or stopping services to a customer would continue to be includible in gross income of a taxpayer.

Effective Date

The proposal would be effective for amounts received after date of enactment.