

103^D CONGRESS
1ST SESSION

H. R. 3239

To amend the Internal Revenue Code of 1986 to deny any deduction for certain oil cleanup costs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1993

Ms. BYRNE 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 deny any deduction for certain oil cleanup costs, 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. DISALLOWANCE OF DEDUCTION FOR CERTAIN**
4 **OIL CLEANUP COSTS.**

5 (a) GENERAL RULE.—Part IX of subchapter B of
6 chapter 1 of the Internal Revenue Code of 1986 (relating
7 to certain items not deductible) is amended by adding at
8 the end thereof the following new section:

1 **“SEC. 280I. DISALLOWANCE OF CERTAIN OIL CLEANUP**
2 **COSTS.**

3 “(a) GENERAL RULE.—Except as otherwise provided
4 in this section, no deduction shall be allowed for any appli-
5 cable discharge costs.

6 “(b) EXCEPTIONS.—

7 “(1) SMALL SPILLS.—Subsection (a) shall not
8 apply to any applicable discharge costs of any tax-
9 payer which are attributable to any oil discharge in-
10 volving less than 36,000 gallons of oil. For purposes
11 of the preceding sentence, all discharges at a facility
12 during any 6-month period shall be aggregated and
13 treated as one discharge.

14 “(2) FACILITY CLOSED AND CLEANUP COM-
15 PLETED.—Subsection (a) shall not apply to any ap-
16 plicable discharge costs of the taxpayer which are at-
17 tributable to any oil discharge from any facility if—

18 “(A) the Administrator of the Environ-
19 mental Protection Agency certifies to the Sec-
20 retary that all cleanup and other remediation
21 actions required by reason of such discharge
22 have been completed, and

23 “(B) all operations (whether by the tax-
24 payer or any other person) at such facility in-
25 volving the transportation, storage, or process-
26 ing of oil have been permanently terminated.

1 “(3) TAXPAYER WITH COMPLETE LIABILITY
2 DEFENSE.—

3 “(A) IN GENERAL.—Subsection (a) shall
4 not apply to any applicable discharge costs of
5 any taxpayer which are attributable to any oil
6 discharge if such taxpayer has a complete liabil-
7 ity defense with respect to such discharge.

8 “(B) COMPLETE LIABILITY DEFENSE.—
9 For purposes of subparagraph (A), a taxpayer
10 has a complete liability defense with respect to
11 any oil discharge, if it is determined under sec-
12 tion 1003 of the Oil Pollution Act of 1990 or
13 section 311 of the Clean Water Act that such
14 taxpayer has no liability under section 1002 of
15 the Oil Pollution Act of 1990 or section 311 of
16 the Clean Water Act.

17 “(c) APPLICABLE DISCHARGE COSTS.—For purposes
18 of this section, the term ‘applicable discharge costs’ means
19 any of the following costs incurred in connection with any
20 oil discharge:

21 “(1) Any costs incurred in removing or at-
22 tempting to remove the oil.

23 “(2) Any costs to prevent, minimize, or mitigate
24 pollution or other damages resulting from such dis-
25 charge.

1 “(3) Any costs attributable to liabilities for
2 damages, fines, or penalties from such discharge.

3 “(4) Any costs incurred in determining the
4 amount of the taxpayer’s liability for any of the fore-
5 going.

6 “(5) Any amount deductible on account of the
7 loss of the material discharged or released.

8 “(d) OIL DISCHARGE.—For purposes of this section,
9 the term ‘oil discharge’ means any discharge (as defined
10 in section 1001 of the Oil Pollution Act of 1990 or section
11 311 of the Clean Water Act) of oil (as defined in such
12 sections).

13 “(e) TREATMENT OF CERTAIN INSURANCE PRO-
14 CEEDS, ETC.—Gross income shall include any compensa-
15 tion by insurance or otherwise received with respect to
16 costs for which a deduction is disallowed under subsection
17 (a).”

18 “(b) PROHIBITION AGAINST OFFSET BY NET OPERAT-
19 ING LOSS DEDUCTION.—Section 172 of such Code is
20 amended by redesignating subsection (i) as subsection (j)
21 and by inserting after subsection (h) the following new
22 subsection:

23 “(i) LIMITATION ON USE TO OFFSET DEDUCTIONS
24 DISALLOWED UNDER SECTION 280I.—The deduction al-
25 lowed under this section shall not reduce taxable income

1 for any taxable year to an amount less than the amount
2 disallowed under section 280I for such taxable year. Ap-
3 propriate adjustments in the application of subsection
4 (b)(2) shall be made to take into account the provisions
5 of this subsection.”

6 (c) CLERICAL AMENDMENT.—The table of sections
7 for part IX of subchapter B of chapter 1 of such Code
8 is amended by adding at the end thereof the following new
9 item:

“Sec. 280I. Disallowance of certain oil cleanup costs.”

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply in the case of any applicable dis-
12 charge costs paid after the date of the enactment of this
13 Act.

14 **SEC. 2. EXPENSE TREATMENT FOR EXPENDITURE TO RE-**
15 **DUCE RISK OF OIL SPILLS.**

16 (a) GENERAL RULE.—Part VI of subchapter B of
17 chapter 1 of the Internal Revenue Code of 1986 (relating
18 to itemized deductions for individuals and corporations)
19 is amended by adding at the end thereof the following new
20 section:

21 **“SEC. 198. EXPENDITURES TO REDUCE RISKS OF OIL**
22 **SPILLS.**

23 “(a) TREATMENT AS EXPENSES.—Any qualified oil
24 facility expenditures paid or incurred by the taxpayer dur-
25 ing the taxable year shall be treated as expenses which

1 are not chargeable to capital account. The expenditures
2 so treated shall be allowed as a deduction for such taxable
3 year.

4 “(b) QUALIFIED OIL FACILITY EXPENDITURES.—
5 For purposes of this section—

6 “(1) IN GENERAL.—The term ‘qualified oil fa-
7 cility expenditures’ means expenditures which—

8 “(A) are paid or incurred in connection
9 with a trade or business of the taxpayer,

10 “(B) are paid or incurred for purposes of
11 reducing the risk of a discharge of oil from any
12 facility operated by the taxpayer,

13 “(C) the Administrator of the Environ-
14 mental Protection Agency has certified to the
15 Secretary as being necessary or appropriate for
16 purposes of reducing the risk of such dis-
17 charges; and

18 “(D) the taxpayer elects to take into ac-
19 count under this section.

20 “(2) DEFINITIONS.—For purposes of this sub-
21 section, the term ‘discharge’, has the meaning given
22 such term by section 1001 of the Oil Pollution Act
23 of 1990 or section 311 of the Clean Water Act and
24 the term ‘oil’ has the meaning given such term by
25 such sections.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for part VI of subchapter B of chapter 1 of such Code
3 is amended by adding at the end thereof the following new
4 item:

“Sec. 198. Expenditures to reduce risks of oil spills.”

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to expenditures paid or incurred
7 after the date of the enactment of this Act.

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