

103^D CONGRESS
1ST SESSION

H. R. 537

To amend the Internal Revenue Code of 1986 with respect to the treatment of cooperative housing corporations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 1993

Mr. SCHUMER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of cooperative housing corporations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION I. SHORT TITLE.**

4 This Act may be cited as the “Housing Co-op Tax
5 Correction Act of 1993”.

6 **SEC. 2. SECTION 277 NOT TO APPLY TO COOPERATIVE**
7 **HOUSING CORPORATIONS.**

8 Section 277(b) of the Internal Revenue Code of 1986
9 (relating to exceptions) is amended by striking “or” at the
10 end of paragraph (3), by striking the period at the end

1 of paragraph (4) and inserting a comma and “or”, and
2 by adding at the end thereof the following new paragraph:

3 “(5) which for the taxable year is a cooperative
4 housing corporation described in section 216(b)(1)
5 (determined without regard to section
6 143(k)(9)(E)).”

7 **SEC. 3. APPLICATION OF RULES RELATING TO TAX TREAT-**
8 **MENT OF COOPERATIVES TO COOPERATIVE**
9 **HOUSING CORPORATIONS.**

10 (a) **NONPATRONAGE EARNINGS OF COOPERATIVE**
11 **HOUSING CORPORATIONS MAY NOT BE OFFSET BY PA-**
12 **TRONAGE LOSSES.**—Section 1388(j) of the Internal Reve-
13 nue Code of 1986 is amended by redesignating paragraph
14 (4) as paragraph (5) and by inserting after paragraph (3)
15 the following new paragraph:

16 “(4) **PATRONAGE LOSSES MAY NOT OFFSET**
17 **NONPATRONAGE EARNINGS.**—In no event shall any
18 patronage losses of an organization described in sec-
19 tion 277(b)(5) be used to offset earnings which are
20 not patronage earnings.”

21 (b) **PATRONAGE EARNINGS AND LOSSES OF COOPER-**
22 **ATIVE HOUSING CORPORATIONS.**—Section 1388(j)(5) of
23 such Code (as redesignated by subsection (a)) is amended
24 to read as follows:

1 “(5) PATRONAGE EARNINGS OR LOSSES DE-
2 FINED.—For purposes of this subsection—

3 “(A) IN GENERAL.—The terms ‘patronage
4 earnings’ and ‘patronage losses’ mean earnings
5 and losses, respectively, which are derived from
6 business done with or for patrons of the organi-
7 zation.

8 “(B) SPECIAL RULES FOR COOPERATIVE
9 HOUSING CORPORATION.—In the case of a co-
10 operative housing corporation, the following
11 earnings shall be treated as patronage earnings:

12 “(i) Interest on reasonable reserves
13 established in connection with the corpora-
14 tion, including reserves required by a gov-
15 ernmental agency or lender.

16 “(ii) Income from laundry and park-
17 ing facilities to the extent attributable to
18 use of the facilities by tenant-stockholders,
19 their subtenants and their guests.

20 “(iii) In the case of a limited equity
21 cooperative housing corporation, rental in-
22 come from other than tenant-stockholders
23 to the extent attributable to any housing
24 project operated by the corporation.

1 “(C) DEFINITIONS.—For purposes of sub-
2 paragraph (B)—

3 “(i) COOPERATIVE HOUSING COR-
4 PORATION.—The term ‘cooperative housing
5 corporation’ has the meaning given such
6 term by section 216(b)(1) (without regard
7 to section 143(k)(9)(E)).

8 “(ii) LIMITED EQUITY COOPERATIVE
9 HOUSING CORPORATION.—The term ‘lim-
10 ited equity cooperative housing corpora-
11 tion’ means a cooperative housing corpora-
12 tion with respect to which the require-
13 ments of clause (i) of section 143(k)(9)(D)
14 are met at all times during the taxable
15 year.

16 “(iii) TENANT-STOCKHOLDER.—The
17 term ‘tenant-stockholder’ has the meaning
18 given such term by section 216(b)(2).”

19 **SEC. 4. EFFECTIVE DATE.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), the amendments made by this Act shall apply to tax-
22 able years beginning after the date of the enactment of
23 this Act.

24 (b) ELECTION TO HAVE AMENDMENTS APPLY
25 RETROACTIVELY.—Any corporation may elect to have the

1 amendments made by this Act apply to any taxable year,
2 whether beginning before, on, or after the date of the en-
3 actment of this Act, to which such amendments do not
4 otherwise apply if the corporation was a cooperative hous-
5 ing corporation during such taxable year.

6 (c) NO INFERENCE.—Nothing in the provisions of
7 this Act shall be construed as a change in the treatment
8 of income derived by any cooperative housing corporation
9 or any corporation operating on a cooperative basis under
10 section 1381 of the Internal Revenue Code of 1986, and
11 the treatment of such income for any year to which the
12 amendments made by this Act does not apply shall be
13 made as if this Act had not been enacted.

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