

115TH CONGRESS
2D SESSION

H. R. 5003

To amend the Internal Revenue Code of 1986 to reinstate advance refunding bonds.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2018

Mr. HULTGREN (for himself, Mr. RUPPERSBERGER, Mr. MESSER, Mr. ROYCE of California, Mr. KILDEE, and Mr. CAPUANO) 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 reinstate advance refunding bonds.

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. TREATMENT OF ADVANCE REFUNDING BONDS.**

4 (a) IN GENERAL.—Section 149(d) of the Internal
5 Revenue Code of 1986 is amended—

6 (1) in paragraph (1), by striking “to advance
7 refund another bond” and inserting “as part of an
8 issue described in paragraph (2), (3), or (4)”;

9 (2) by redesignating paragraphs (2) and (3) as
10 paragraphs (6) and (7), respectively; and

1 (3) by inserting after paragraph (1) the fol-
2 lowing new paragraphs:

3 “(2) CERTAIN PRIVATE ACTIVITY BONDS.—An
4 issue is described in this paragraph if any bond
5 (issued as part of such issue) is issued to advance
6 refund a private activity bond (other than a qualified
7 501(c)(3) bond).

8 “(3) OTHER BONDS.—

9 “(A) IN GENERAL.—An issue is described
10 in this paragraph if any bond (issued as part of
11 such issue), hereinafter in this paragraph re-
12 ferred to as the ‘refunding bond’, is issued to
13 advance refund a bond unless—

14 “(i) the refunding bond is only—

15 “(I) the 1st advance refunding of
16 the original bond if the original bond
17 is issued after 1985, or

18 “(II) the 1st or 2nd advance re-
19 funding of the original bond if the
20 original bond was issued before 1986,

21 “(ii) in the case of refunded bonds
22 issued before 1986, the refunded bond is
23 redeemed not later than the earliest date
24 on which such bond may be redeemed at
25 par or at a premium of 3 percent or less,

1 “(iii) in the case of refunded bonds
2 issued after 1985, the refunded bond is re-
3 deemed not later than the earliest date on
4 which such bond may be redeemed,

5 “(iv) the initial temporary period
6 under section 148(c) ends—

7 “(I) with respect to the proceeds
8 of the refunding bond not later than
9 30 days after the date of issue of such
10 bond, and

11 “(II) with respect to the proceeds
12 of the refunded bond on the date of
13 issue of the refunding bond, and

14 “(v) in the case of refunded bonds to
15 which section 148(e) did not apply, on and
16 after the date of issue of the refunding
17 bond, the amount of proceeds of the re-
18 funded bond invested in higher yielding in-
19 vestments (as defined in section 148(b))
20 which are nonpurpose investments (as de-
21 fined in section 148(f)(6)(A)) does not ex-
22 ceed—

23 “(I) the amount so invested as
24 part of a reasonably required reserve

1 or replacement fund or during an al-
2 lowable temporary period, and

3 “(II) the amount which is equal
4 to the lesser of 5 percent of the pro-
5 ceeds of the issue of which the re-
6 funded bond is a part or \$100,000 (to
7 the extent such amount is allocable to
8 the refunded bond).

9 “(B) SPECIAL RULES FOR REDEMP-
10 TIONS.—

11 “(i) ISSUER MUST REDEEM ONLY IF
12 DEBT SERVICE SAVINGS.—Clause (ii) and
13 (iii) of subparagraph (A) shall apply only
14 if the issuer may realize present value debt
15 service savings (determined without regard
16 to administrative expenses) in connection
17 with the issue of which the refunding bond
18 is a part.

19 “(ii) REDEMPTIONS NOT REQUIRED
20 BEFORE 90TH DAY.—For purposes of
21 clauses (ii) and (iii) of subparagraph (A),
22 the earliest date referred to in such clauses
23 shall not be earlier than the 90th day after
24 the date of issuance of the refunding bond.

1 “(4) ABUSIVE TRANSACTIONS PROHIBITED.—
2 An issue is described in this paragraph if any bond
3 (issued as part of such issue) is issued to advance
4 refund another bond and a device is employed in
5 connection with the issuance of such issue to obtain
6 a material financial advantage (based on arbitrage)
7 apart from savings attributable to lower interest
8 rates.

9 “(5) SPECIAL RULES FOR PURPOSES OF PARA-
10 GRAPH (3).—For purposes of paragraph (3), bonds
11 issued before the date of the enactment of this sub-
12 section shall be taken into account under subpara-
13 graph (A)(i) thereof except—

14 “(A) a refunding which occurred before
15 1986 shall be treated as an advance refunding
16 only if the refunding bond was issued more
17 than 180 days before the redemption of the re-
18 funded bond, and

19 “(B) a bond issued before 1986, shall be
20 treated as advance refunded no more than once
21 before March 15, 1986.”.

22 (b) CONFORMING AMENDMENT.—Section
23 148(f)(4)(C) of such Code is amended by redesignating
24 clauses (xiv) through (xvi) as clauses (xv) through (xvii)

1 and by inserting after clause (xiii) the following new
2 clause:

3 “(xiv) DETERMINATION OF INITIAL
4 TEMPORARY PERIOD.—For purposes of
5 this subparagraph, the end of the initial
6 temporary period shall be determined with-
7 out regard to section 149(d)(3)(A)(iv).”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to advance refunding bonds issued
10 after the date of the enactment of this Act.

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