

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1140

To amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income, and to offset the cost of such deduction by disallowing the deduction for amounts paid pursuant to settlements and for compensatory damages under certain environmental laws.

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IN THE SENATE OF THE UNITED STATES

JUNE 22, 1993

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

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income, and to offset the cost of such deduction by disallowing the deduction for amounts paid pursuant to settlements and for compensatory damages under certain environmental laws.

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 “Sewer and Water Fee  
5 Deductibility Act of 1993”.

1 **SEC. 2. DEDUCTION FOR LOCAL SEWER AND WATER FEES.**

2 (a) IN GENERAL.—Subsections (b) of section 164 of  
3 the Internal Revenue Code of 1986 is amended by redesi-  
4 gnating paragraphs (3) and (4) as paragraphs (4) and (5),  
5 respectively, and by inserting after paragraph (2) the fol-  
6 lowing new paragraph:

7 “(3) DEDUCTION ALLOWED FOR LOCAL SEWER  
8 AND WATER FEES.—

9 “(A) IN GENERAL.—To the extent that the  
10 amount of local sewer and water fees paid or  
11 accrued during any taxable year exceeds 1 per-  
12 cent of adjusted gross income, such fees shall  
13 be allowed as a deduction under subsection (a)  
14 in the same manner as local real property taxes.

15 “(B) DEFINITION.—For purposes of sub-  
16 paragraph (A), the term ‘local sewer and water  
17 fees’ means any amount imposed by a local gov-  
18 ernment, State government (or any agency or  
19 instrumentality thereof), or by the District of  
20 Columbia as a charge for sewer or water serv-  
21 ice. Such term shall not include any amount al-  
22 lowable as a deduction without regard to this  
23 paragraph.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply to taxable years beginning after  
26 December 31, 1993.

1 **SEC. 3. DENIAL OF DEDUCTION FOR PAYMENTS UNDER**  
 2 **SETTLEMENT AGREEMENTS AND FOR COM-**  
 3 **PENSATORY DAMAGES UNDER CERTAIN EN-**  
 4 **VIRONMENTAL LAWS.**

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

9 **“SEC. 280I. DISALLOWANCE OF PAYMENTS UNDER SETTLE-**  
 10 **MENT AGREEMENTS AND FOR COMPEN-**  
 11 **SATORY DAMAGES UNDER CERTAIN ENVI-**  
 12 **RONMENTAL LAWS.**

13 “(a) GENERAL RULE.—No deduction shall be allowed  
 14 for amounts paid—

15 “(1) to any agency of the United States pursu-  
 16 ant to any environmental settlement,

17 “(2) for costs of activities carried out pursuant  
 18 to any environmental settlement, or

19 “(3) to any person or government as a payment  
 20 in the nature of compensatory damages relating to  
 21 a violation or potential violation under any applica-  
 22 ble environmental law.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) ENVIRONMENTAL SETTLEMENT.—The  
 25 term ‘environmental settlement’ means any settle-  
 26 ment of a claim (or potential claim) of a violation of

1 any provision of an applicable environmental law if  
2 the payment of any fine or penalty for such violation  
3 would not be allowed as a deduction under this  
4 chapter.

5 “(2) APPLICABLE ENVIRONMENTAL LAW.—The  
6 term ‘applicable environmental law’ means—

7 “(A) the Oil Pollution Act of 1990,

8 “(B) the Federal Water Pollution Control  
9 Act,

10 “(C) the Comprehensive Environmental  
11 Response, Compensation, and Liability Act of  
12 1980,

13 “(D) the Solid Waste Disposal Act,

14 “(E) the Marine Protection, Research and  
15 Sanctuaries Act,

16 “(F) the Clean Air Act,

17 “(G) the Emergency Planning and Com-  
18 munity Right-To-Know Act, and

19 “(H) the Toxic Substances Control Act.

20 “(3) SETTLEMENT.—The term ‘settlement’ in-  
21 cludes any consent decree and any contractual un-  
22 derstanding.”.

23 (b) PROHIBITION AGAINST OFFSET BY NET OPERAT-  
24 ING LOSS DEDUCTION.—Section 172 of such Code is  
25 amended by redesignating subsection (i) as subsection (j)

1 and by inserting after subsection (h) the following new  
2 subsection:

3       “(i) LIMITATION ON USE TO OFFSET DEDUCTIONS  
4 DISALLOWED UNDER SECTION 280I.—The deduction al-  
5 lowed under this section shall not reduce taxable income  
6 for any taxable year to an amount less than the amount  
7 disallowed under section 280I for such taxable year. Ap-  
8 propriate adjustments in the application of subsection  
9 (b)(2) shall be made to take into account the provisions  
10 of this subsection.”.

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

“Sec. 280I. Disallowance of payments under settlement agree-  
ments and for compensatory damages under certain  
environmental laws.”.

15       (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to amounts paid after the date of  
17 the enactment of this Act.

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