

110TH CONGRESS
2D SESSION

S. 3254

To amend the Internal Revenue Code of 1986 to allow banks to be taxed as limited liability companies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2008

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

A BILL

To amend the Internal Revenue Code of 1986 to allow banks to be taxed as limited liability companies, 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. ELECTION FOR CERTAIN BANKING ENTITIES**
4 **TO BE TAXED AS LIMITED LIABILITY COMPA-**
5 **NIES.**

6 (a) IN GENERAL.—Section 7701 of the Internal Rev-
7 enue Code is amended by redesignating subsection (p) as
8 subsection (q) and by inserting after subsection (o) the
9 following new subsection:

1 “(p) CLASSIFICATION ELECTION FOR CERTAIN
2 BANKING ENTITIES.—

3 “(1) IN GENERAL.—For purposes of this title,
4 an entity described in paragraph (2) may elect to be
5 treated as a partnership or, if the entity has a single
6 owner, to be disregarded as an entity separate from
7 the owner.

8 “(2) ENTITY DESCRIBED.—An entity is de-
9 scribed in this paragraph if—

10 “(A) it is a State-chartered business entity
11 conducting banking activities,

12 “(B) any of its deposits are insured under
13 the Federal Deposit Insurance Act (12 U.S.C.
14 1811 et seq.) or a similar Federal law, and

15 “(C) it is organized as a limited liability
16 company under the laws of a State.

17 “(3) TREATMENT OF ENTITY.—An entity that
18 makes an election under paragraph (1) shall not be
19 considered a bank as defined in section 581.

20 “(4) TRANSITIONAL RULE.—

21 “(A) IN GENERAL.—In the case of an enti-
22 ty that makes an election under paragraph (1)
23 before the beginning of the third taxable year
24 beginning after the date of the enactment of
25 this subsection—

1 “(i) no gain or loss shall be recognized
2 to the entity or its owners by reason of
3 such election, and

4 “(ii) rules similar to the rules of sec-
5 tion 1374 shall apply to the entity.

6 “(B) EXCEPTION.—Subparagraph (A)(ii)
7 shall not apply to an entity that began con-
8 ducting banking activities after February 12,
9 2003.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to elections made after the date
12 of the enactment of this Act with respect to taxable years
13 ending on or after December 31, 2007.

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