

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to extend and expand tax relief for national disasters.

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IN THE SENATE OF THE UNITED STATES

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Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To amend the Internal Revenue Code of 1986 to extend and expand tax relief for national disasters.

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 “Disaster Tax Act of  
5 2011”.

6 **SEC. 2. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED**  
7 **DISASTERS.**

8 (a) **WAIVER OF ADJUSTED GROSS INCOME LIMITA-**  
9 **TION; INCREASE IN STANDARD DEDUCTION BY DISASTER**  
10 **CASUALTY LOSS.—**

1           (1) IN GENERAL.—Subclause (I) of section  
2           165(h)(3)(B)(i) of the Internal Revenue Code of  
3           1986 is amended by striking “before January 1,  
4           2010” and inserting “after December 31, 2010”.

5           (2) EFFECTIVE DATE.—The amendment made  
6           by this subsection shall apply to disasters declared  
7           in taxable years beginning after December 31, 2010.

8           (b) INCREASE IN LIMITATION ON INDIVIDUAL LOSS  
9 PER CASUALTY.—

10           (1) IN GENERAL.—Paragraph (1) of section  
11           165(h) of the Internal Revenue Code of 1986 is  
12           amended by striking “(\$100 for taxable years begin-  
13           ning after December 31, 2009)”.

14           (2) EFFECTIVE DATE.—The amendment made  
15           by this subsection shall apply to taxable years begin-  
16           ning after December 31, 2010.

17           (c) TECHNICAL AMENDMENT.—Clause (i) of section  
18           165(h)(3)(C) of the Internal Revenue Code of 1986 is  
19           amended by inserting “major” after “means any”.

20 **SEC. 3. EXPENSING OF QUALIFIED DISASTER EXPENSES.**

21           (a) IN GENERAL.—Subparagraph (A) of section  
22           198A(b)(2) of the Internal Revenue Code of 1986 is  
23           amended by striking “before January 1, 2010” and insert-  
24           ing “after December 31, 2010”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to amounts paid or incurred after  
3 December 31, 2010, in connection with disasters declared  
4 after such date.

5 **SEC. 4. NET OPERATING LOSSES ATTRIBUTABLE TO FED-**  
6 **ERALLY DECLARED DISASTERS.**

7 (a) IN GENERAL.—Subclause (I) of section  
8 172(j)(1)(A)(i) of the Internal Revenue Code of 1986 is  
9 amended by striking “before January 1, 2010” and insert-  
10 ing “after December 31, 2010”.

11 (b) ELIMINATION OF EXCLUSION.—Section 172(j) of  
12 the Internal Revenue Code of 1986 is amended by striking  
13 paragraph (4).

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to losses arising in taxable years  
16 beginning after December 31, 2010, in connection with  
17 disasters declared after such date.

18 **SEC. 5. WAIVER OF CERTAIN MORTGAGE REVENUE BOND**  
19 **REQUIREMENTS FOLLOWING FEDERALLY DE-**  
20 **CLARED DISASTERS.**

21 (a) IN GENERAL.—Subparagraphs (A)(i) and (B)(i)  
22 of section 143(k)(12) of the Internal Revenue Code of  
23 1986, as added by the Tax Extenders and Alternative  
24 Minimum Tax Relief Act of 2008, are each amended by

1 striking “before January 1, 2010” and inserting “after  
2 December 31, 2010”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to disasters occurring after Decem-  
5 ber 31, 2010.

6 **SEC. 6. INCREASED EXPENSING FOR QUALIFIED DISASTER**  
7 **ASSISTANCE PROPERTY.**

8 (a) IN GENERAL.—Paragraph (2) of section 179(e)  
9 of the Internal Revenue Code of 1986 is amended by in-  
10 serting “, except that ‘after December 31, 2010’ shall be  
11 substituted for ‘before January 1, 2010’ in subparagraph  
12 (A)(ii)(I) thereof” after “as defined in section 168(n)(2)”.

13 (b) ELIMINATION OF EXCLUSION.—Section  
14 168(n)(2)(B) of the Internal Revenue Code of 1986 is  
15 amended by inserting “and” at the end of clause (i), by  
16 striking “, and” at the end of clause (ii) and inserting  
17 a period, and by striking clause (iii).

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to property placed in service after  
20 December 31, 2010, with respect to disasters declared  
21 after such date.

22 **SEC. 7. INCREASED LIMITATION ON CHARITABLE CON-**  
23 **TRIBUTIONS FOR DISASTER RELIEF.**

24 (a) INDIVIDUALS.—Paragraph (1) of section 170(b)  
25 of the Internal Revenue Code of 1986 is amended by re-

1 designating subparagraphs (F) and (G) as subparagraphs  
2 (G) and (H), respectively, and by inserting after subpara-  
3 graph (E) the following new subparagraph:

4                   “(F) QUALIFIED DISASTER CONTRIBU-  
5                   TIONS.—

6                   “(i) IN GENERAL.—Any qualified dis-  
7                   aster contribution shall be allowed to the  
8                   extent that the aggregate of such contribu-  
9                   tions does not exceed the excess of 80 per-  
10                  cent of the taxpayer’s contribution base  
11                  over the amount of all other charitable  
12                  contributions allowable under this para-  
13                  graph.

14                  “(ii) CARRYOVER.—If the aggregate  
15                  amount of contributions described in clause  
16                  (i) exceeds the limitation under clause (i),  
17                  such excess shall be treated (in a manner  
18                  consistent with the rules of subsection  
19                  (d)(1)) as a charitable contribution to  
20                  which clause (i) applies in each of the 5  
21                  succeeding years in order of time.

22                  “(iii) COORDINATION WITH OTHER  
23                  SUBPARAGRAPHS.—For purposes of apply-  
24                  ing this subsection and subsection (d)(1),  
25                  contributions described in clause (i) shall

1 not be treated as described in subpara-  
2 graphs (A) and such subparagraph shall be  
3 applied without regard to such contribu-  
4 tions.

5 “(iv) QUALIFIED DISASTER CON-  
6 TRIBUTIONS.—For purposes of this sub-  
7 paragraph, the term ‘qualified disaster  
8 contribution’ means any charitable con-  
9 tribution if—

10 “(I) such contribution is made  
11 after the date of the enactment of this  
12 paragraph,

13 “(II) such contribution is made  
14 in cash to an organization described  
15 in subparagraph (A) (other than an  
16 organization described in section  
17 509(a)(3)), and

18 “(III) such contribution is for re-  
19 lief efforts related to a federally de-  
20 clared disaster (as defined in section  
21 165(h)(3)(C)(i)).

22 Such term shall not include a contribution  
23 if the contribution is for establishment of  
24 a new, or maintenance in an existing,

1 donor advised fund (as defined in section  
2 4966(d)(2)).

3 “(v) SUBSTANTIATION REQUIRE-  
4 MENT.—This paragraph shall not apply to  
5 any qualified disaster contribution unless  
6 the taxpayer obtains from such organiza-  
7 tion to which the contribution was made a  
8 contemporaneous written acknowledgment  
9 (within the meaning of subsection (f)(8))  
10 that such contribution was used (or is to  
11 be used) for a purpose described in clause  
12 (iv)(III).”.

13 (b) CORPORATIONS.—

14 (1) IN GENERAL.—Paragraph (2) of section  
15 170(b) of the Internal Revenue Code of 1986 is  
16 amended by redesignating subparagraph (C) as sub-  
17 paragraph (D) and by inserting after subparagraph  
18 (B) the following new subparagraph:

19 “(C) QUALIFIED DISASTER CONTRIBU-  
20 TIONS.—

21 “(i) IN GENERAL.—Any qualified dis-  
22 aster contribution shall be allowed to the  
23 extent that the aggregate of such contribu-  
24 tions does not exceed the excess of 20 per-  
25 cent of the taxpayer’s taxable income over

1 the amount of charitable contributions al-  
2 lowed under subparagraph (A).

3 “(ii) CARRYOVER.—If the aggregate  
4 amount of contributions described in clause  
5 (i) exceeds the limitation under clause (i),  
6 such excess shall be treated (in a manner  
7 consistent with the rules of subsection  
8 (d)(1)) as a charitable contribution to  
9 which clause (i) applies in each of the 5  
10 succeeding years in order of time.

11 “(iii) QUALIFIED DISASTER CON-  
12 TRIBUTION.—The term ‘qualified disaster  
13 contribution’ has the meaning given such  
14 term under paragraph (2)(F)(iv).

15 “(iv) SUBSTANTIATION REQUIRE-  
16 MENT.—This paragraph shall not apply to  
17 any qualified disaster contribution unless  
18 the taxpayer obtains from such organiza-  
19 tion to which the contribution was made a  
20 contemporaneous written acknowledgment  
21 (within the meaning of subsection (f)(8))  
22 that such contribution was used (or is to  
23 be used) for a purpose described in para-  
24 graph (1)(F)(iv)(III).”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Subparagraph (A) of section 170(b)(2)  
2 of such Code is amended by striking “subpara-  
3 graph (B) applies” and inserting “subpara-  
4 graphs (B) and (C) apply”.

5 (B) Subparagraph (B) of section 170(b)(2)  
6 of such Code is amended by striking “subpara-  
7 graph (A)” and inserting “subparagraphs (A)  
8 and (C)”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years ending after the  
11 date of the enactment of this Act.

12 **SEC. 8. INCREASE IN NEW MARKETS TAX CREDIT FOR IN-**  
13 **VESTMENTS IN COMMUNITY DEVELOPMENT**  
14 **ENTITIES SERVING DISASTER AREAS.**

15 (a) IN GENERAL.—Subsection (f) of section 45D of  
16 the Internal Revenue Code of 1986 is amended by adding  
17 at the end the following new paragraph:

18 “(4) INCREASED SPECIAL ALLOCATION FOR  
19 COMMUNITY DEVELOPMENT ENTITIES SERVING FED-  
20 ERAL DISASTER AREAS.—

21 “(A) IN GENERAL.—In the case of any cal-  
22 endar year which begins after 2010, the limita-  
23 tion under paragraph (1) shall be increased by  
24 an amount equal to \$250,000,000, to be allo-  
25 cated among qualified community development

1 entities to make qualified low-income commu-  
2 nity investments within a federally declared dis-  
3 aster area.

4 “(B) ALLOCATION OF INCREASE.—The  
5 amount of the increase in limitation under sub-  
6 paragraph (A) shall be allocated by the Sec-  
7 retary under paragraph (2) to qualified commu-  
8 nity development entities and shall give priority  
9 to such entities with a record of having success-  
10 fully provided capital or technical assistance to  
11 businesses or communities within the federally  
12 declared disaster area or areas for which the al-  
13 location is requested.

14 “(C) DENIAL OF CARRYFORWARD.—Para-  
15 graph (3) shall not apply with respect to the  
16 amount of any increase under subparagraph  
17 (A).

18 “(D) FEDERALLY DECLARED DISASTER  
19 AREA.—For purposes of this paragraph, the  
20 term ‘Federally declared disaster area’ means  
21 an area determined to warrant assistance under  
22 the Robert T. Stafford Disaster Relief and  
23 Emergency Assistance Act pursuant to a feder-  
24 ally declared disaster (as defined in section  
25 165(h)(3)(C)).”.

1           (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to calendar years beginning after  
3 2010.