

117TH CONGRESS
1ST SESSION

S. 2768

To amend the Internal Revenue Code of 1986 to provide a special rule
for certain casualty losses of uncut timber.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2021

Mr. CASSIDY (for himself and Mr. WARNOCK) 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 provide
a special rule for certain casualty losses of uncut timber.

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 Reforestation
5 Act”.

6 **SEC. 2. CASUALTY LOSSES OF UNCUT TIMBER.**

7 (a) IN GENERAL.—Section 165(b) of the Internal
8 Revenue Code of 1986 is amended—

9 (1) by striking “For purposes of subsection
10 (a)” and inserting the following:

1 “(1) IN GENERAL.—For purposes of subsection
2 (a)”, and

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) SPECIAL RULE FOR CASUALTY LOSS OF
6 UNCUT TIMBER.—

7 “(A) IN GENERAL.—In the case of the loss
8 of any uncut timber from fire, storm, or other
9 casualty, or from theft, the basis for deter-
10 mining the amount of the deduction for such
11 loss (as otherwise determined under paragraph
12 (1)) shall not be less than the excess of—

13 “(i) the appraised value of such uncut
14 timber determined immediately before such
15 loss was sustained, over

16 “(ii) the salvage value of such timber.

17 “(B) APPRAISAL METHODS.—

18 “(i) IN GENERAL.—With respect to
19 the appraisal of a timber casualty loss de-
20 scribed in subparagraph (A)—

21 “(I) the appraisal valuation date
22 shall be not later than 1 year after
23 the casualty loss, and

24 “(II) the appraisal shall—

1 “(aa) conform to the Uni-
2 form Standards of Professional
3 Appraisal Practice (USPAP),

4 “(bb) be limited to the value
5 of the lost timber, and

6 “(cc) be completed by a
7 Federal- or State-certified ap-
8 praiser.

9 “(ii) DELAY IN COMPLETION OF AP-
10 PRAISAL.—

11 “(I) IN GENERAL.—In the case
12 of any taxpayer who is unable to ob-
13 tain an appraisal described in clause
14 (i) before the due date of the return
15 of tax (including any extension of
16 time for filing such return) for the
17 taxable year in which the timber cas-
18 ualty loss occurred, the taxpayer may
19 elect to—

20 “(aa) with respect to the re-
21 turn of tax for such taxable year,
22 include an estimate of the value
23 of the uncut timber determined
24 immediately before the loss was
25 sustained, and

“(bb) upon completion of the appraisal within the period described in clause (i)(I), file an amended return for such taxable year with respect to any adjustment in taxable income as determined pursuant to subclause (II).

“(II) ADJUSTMENT OF TAXABLE INCOME.—With respect to any taxpayer who elects to provide an estimate described in subclause (I)(aa) for any taxable year in which a timber casualty loss occurred, the taxable income of the taxpayer for such taxable year shall be increased or decreased, as applicable, by an amount equal to the difference between—

“(aa) the appraised value of such uncut timber determined immediately before such loss was sustained, as determined pursuant to the appraisal described in clause (i), and

“(bb) the estimate provided by the taxpayer under subclause

1 (I)(aa) with respect to such
2 uncut timber.

3 “(C) EXCLUSION OF TIMBER NOT HELD
4 FOR SALE.—Subparagraph (A) shall not apply
5 to any timber unless such timber is held for the
6 purpose of being cut and sold in connection
7 with a trade or business that is not a passive
8 activity within the meaning of section 469.

9 “(D) INCLUSION OF PRE-MERCHANTABLE
10 TIMBER.—For purposes of this paragraph, the
11 term ‘uncut timber’ shall not fail to include pre-
12 merchantable timber.

13 “(E) REFORESTATION REQUIREMENT.—

14 “(i) IN GENERAL.—Subparagraph (A)
15 shall not apply unless the uncut timber
16 subject to the loss is reforested (with hard-
17 woods, softwoods, or any combination
18 thereof) by planting, seeding, or appro-
19 priate site preparation, not later than the
20 close of the 5-year period beginning on the
21 date of such loss.

22 “(ii) RECAPTURE.—The Secretary
23 shall, by regulations, provide for recap-
24 turing the benefit of any deduction allowed
25 under this section with respect to any

1 uncut timber subject to loss to which sub-
2 paragraph (A) applied if the taxpayer fails
3 to comply with clause (i) during the period
4 provided under such clause.

5 “(F) OTHER CASUALTIES.—For purposes
6 of subparagraph (A), the term ‘other casualty’
7 shall include loss of any uncut timber from—
8 “(i) wood-destroying insects,
9 “(ii) wood-destroying invasive species,
10 or
11 “(iii) severe drought.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to losses sustained in taxable years
14 beginning after the date of the enactment of this Act.

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