

105TH CONGRESS  
2D SESSION

# S. 2197

To amend the Internal Revenue Code of 1986 to provide an election of a deduction in lieu of a basis increase where indebtedness secured by property has original issue discount and is held by a cash method taxpayer.

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## IN THE SENATE OF THE UNITED STATES

JUNE 19, 1998

Mr. SANTORUM 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 provide an election of a deduction in lieu of a basis increase where indebtedness secured by property has original issue discount and is held by a cash method taxpayer.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ELECTION OF DEDUCTION IN LIEU OF BASIS**  
 2 **INCREASE WHERE INDEBTEDNESS SECURED**  
 3 **BY PROPERTY HAS ORIGINAL ISSUE DIS-**  
 4 **COUNT AND IS HELD BY CASH METHOD TAX-**  
 5 **PAYER.**

6 (a) IN GENERAL.—Section 1038 of the Internal Rev-  
 7 enue Code of 1986 is amended by adding at the end the  
 8 following new subsection:

9 “(h) ELECTION OF DEDUCTION IN LIEU OF BASIS  
 10 INCREASE WHERE INDEBTEDNESS SECURED BY PROP-  
 11 erty HAS ORIGINAL ISSUE DISCOUNT AND IS HELD BY  
 12 CASH METHOD TAXPAYER.—

13 “(1) IN GENERAL.—In the case of a reacquisi-  
 14 tion of real property to which subsection (a) applies,  
 15 if—

16 “(A) with respect to the indebtedness re-  
 17 ferred to in subsection (a)(1), amounts were in-  
 18 cludible in the gross income of the seller under  
 19 section 1272 for periods prior to such reacquisi-  
 20 tion, and

21 “(B) the seller used the cash receipts and  
 22 disbursements method of accounting for all  
 23 such periods,

24 at the election of such seller, the excess income in-  
 25 clusion with respect to such indebtedness shall be  
 26 treated for purposes of this title as a nonbusiness

1 debt (as defined in section 166(d)(2)) which became  
2 worthless within the taxable year in which such reac-  
3 quisition occurs.

4 “(2) EXCESS INCOME INCLUSION.—For pur-  
5 poses of paragraph (1), the term ‘excess income in-  
6 clusion’ means, with respect to any indebtedness, the  
7 sum of the amounts included in the gross income of  
8 the seller under section 1272 for the taxable years  
9 ending before such reacquisition.

10 “(3) ELECTION.—The election under this sub-  
11 section shall be made not later than the due date  
12 (including extensions) for filing the return of tax im-  
13 posed by this chapter for the taxable year in which  
14 such reacquisition occurs.”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to reacquisitions occurring after  
17 December 31, 1997.

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