

106TH CONGRESS  
2D SESSION

# H. R. 5569

To amend the Internal Revenue Code of 1986 to tax the net capital gain of closely held corporations in the same manner as individuals.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2000

Mr. ENGLISH introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to tax the net capital gain of closely held corporations in the same manner as individuals.

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. CAPITAL GAINS TAX ON CLOSELY HELD COR-**  
4 **PORATIONS.**

5 (a) IN GENERAL.—Section 1201 of the Internal Rev-  
6 enue Code of 1986 (relating to alternative tax for corpora-  
7 tions) is amended by striking all that follows subsection  
8 (a) and inserting the following:

9 “(b) SPECIAL RULE FOR CERTAIN CLOSELY HELD  
10 CORPORATIONS.—

1           “(1) IN GENERAL.—If for any taxable year a  
2 corporation that meets the stock ownership require-  
3 ment of section 542(a)(2) has a net capital gain and  
4 any rate of tax imposed by section 11 exceeds the  
5 applicable capital gains rate, then, in lieu of the tax  
6 imposed by section 11, there is hereby imposed a tax  
7 (if such tax is less than the tax imposed by section  
8 11) which shall consist of the sum of—

9           “(A) a tax computed on the taxable in-  
10 come, reduced by an amount equal to the net  
11 capital gain, at the applicable ordinary income  
12 rate,

13           “(B) a tax at the applicable capital gains  
14 rate on the lesser of—

15           “(i) the excess (if any) of—

16                   “(I) the net capital gain, over

17                   “(II) the unrecaptured section  
18 1250 gain, or

19           “(ii) taxable income, plus

20           “(C) a tax at the applicable recapture rate  
21 on the taxable income in excess of the sum of  
22 the amounts on which a tax is determined  
23 under subparagraphs (A) and (B).

24           “(2) DEFINITIONS.—For purposes of this  
25 subsection—

1           “(A) APPLICABLE CAPITAL GAINS RATE.—  
2           The term ‘applicable capital gains rate’ means  
3           the rate described in section 1(h)(1)(C).

4           “(B) APPLICABLE ORDINARY INCOME  
5           RATE.—The term ‘applicable ordinary income  
6           rate’ means the highest rate of tax imposed by  
7           section 1 on the taxable income of individuals.

8           “(C) APPLICABLE RECAPTURE RATE.—The  
9           term ‘applicable recapture rate’ means the rate  
10          described in section 1(h)(1)(D).

11          “(D) UNRECAPTURED SECTION 1250  
12          GAIN.—

13                 “(i) IN GENERAL.—The term  
14                 ‘unrecaptured section 1250 gain’ means  
15                 the excess (if any) of—

16                         “(I) the amount of long-term  
17                         capital gain (not otherwise treated as  
18                         ordinary income) which would be  
19                         treated as ordinary income if section  
20                         1250(b)(1) included all depreciation  
21                         and the applicable percentage under  
22                         section 1250(a) were 100 percent,  
23                         over

24                                 “(II) the net short-term capital  
25                                 loss.

1                   “(ii) LIMITATION WITH RESPECT TO  
2                   SECTION 1231 PROPERTY.—The amount de-  
3                   scribed in clause (i)(I) from sales, ex-  
4                   changes, and conversions described in sec-  
5                   tion 1231(a)(3)(A) for any taxable year  
6                   shall not exceed the net section 1231 gain  
7                   (as defined in section 1231(c)(3)) for such  
8                   year.

9                   “(c) CROSS REFERENCES.—For computation of the  
10 alternative tax—

11                   “(1) in the case of life insurance companies, see  
12 section 801(a)(2).

13                   “(2) in the case of regulated investment compa-  
14 nies and their shareholders, see section 852(b)(3)(A)  
15 and (D), and

16                   “(3) in the case of real estate investment  
17 trusts, see section 857(b)(3)(A).”

18                   (b) CONFORMING AMENDMENTS.—

19                   (1) Section 1201(a) of such Code is amended  
20 by inserting “(other than a corporation described in  
21 subsection (b))” after “a corporation”.

22                   (2) Section 1374(b)(4) of such Code is amend-  
23 ed to read as follows:

24                   “(4) COORDINATION WITH SECTION 1201.—For  
25 purposes of section 1201—

1           “(A) the tax imposed by subsection (a)  
2           shall be treated as if it were imposed by section  
3           11, and

4           “(B) the amount of the net recognized  
5           built-in gain shall be treated as the taxable in-  
6           come.”

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

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