

106TH CONGRESS
1ST SESSION

S. 1766

To amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 1999

Mr. MCCAIN (for himself and Mr. BURNS) 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 for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

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 “Telecommunications
5 Ownership Diversification Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress makes the following
3 findings:

4 (1) Current trends in the telecommunications
5 industry show that there is increasing convergence
6 among various media, including broadcasting, cable
7 television, and Internet-based businesses, and that
8 these media are providing competing sources of
9 news, information, and entertainment.

10 (2) This convergence and competitiveness will
11 continue, and therefore it should be recognized in
12 both telecommunications and tax policy.

13 (3) Notwithstanding these trends, diversifying
14 the ownership of telecommunications facilities re-
15 mains a pre-eminent public interest concern.

16 (4) A market-based, voluntary system of invest-
17 ment incentives is the most effective, lawful, and
18 economically sound means of facilitating entry into
19 the telecommunications industry.

20 (5) Opportunities for new entrants to partici-
21 pate in the telecommunications industry have sub-
22 stantially decreased since the end of the Federal
23 Communications Commission's tax certificate policy
24 in 1995, particularly in light of the increase in tax-
25 free like-kind exchanges despite the most robust pe-
26 riod of transfers of radio and television stations in

1 history. Small businesses, and businesses owned or
2 controlled by members of minority groups or by
3 women, have been at a particular disadvantage, as
4 indicated by their historic under representation as
5 owners of telecommunications facilities.

6 (6) Access to and cost of capital has been a
7 substantial obstacle to new entry into telecommuni-
8 cations by small businesses and businesses owned or
9 controlled by members of minority groups and by
10 women who want to be long-term, active participants
11 in the telecommunications industry, because they do
12 not currently own properties that can be utilized in
13 like-kind exchanges, they are either unable to secure
14 financing from lending institutions and equipment
15 manufacturers at all, or else cannot secure financing
16 terms as advantageous as those offered to large in-
17 dustry participants.

18 (7) Telecommunications facilities owned by new
19 entrants may not be as attractive to investors be-
20 cause their start-up costs are often high, their rev-
21 enue streams are uncertain, and their profit margins
22 are unknown.

23 (8) It is consistent with the public interest, and
24 with the pro-competition policies of the Tele-
25 communications Act of 1996, to provide incentives

1 that will facilitate the ability of existing owners of
2 converging telecommunications media to transact
3 business so as to improve their ability to compete,
4 while the reinvestment of gains realized from such
5 transactions will also facilitate the acquisition of
6 telecommunications facilities by small businesses, es-
7 pecially those owned or controlled by members of mi-
8 nority groups and by women, thereby diversifying
9 the ownership of telecommunications facilities.

10 (9) Permitting sellers of telecommunications fa-
11 cilities to defer taxation of gains from transactions
12 involving small businesses and businesses owned or
13 controlled by members of minority groups and by
14 women, and resulting from investments in capital
15 funds whose stated purpose is to provide capital for
16 such entities, will further the development of a com-
17 petitive and diverse United States information dis-
18 tribution economy without governmental intrusion in
19 private investment decisions.

20 (10) The public interest would not be served by
21 attempts to diversify the ownership of telecommuni-
22 cations businesses by small businesses or businesses
23 owned or controlled by minorities and women
24 through any approach that would involve the use of
25 mandated set-asides or quotas.

1 (b) PURPOSE.—The purpose of this Act is to facili-
2 tate voluntary, pro-competitive transactions involving con-
3 verging telecommunications media that will promote diver-
4 sification in, and broaden the participation in, the tele-
5 communications industry by small businesses, and busi-
6 nesses owned or controlled by members of minority groups
7 and women.

8 **SEC. 3. AMENDMENTS TO INTERNAL REVENUE CODE.**

9 (a) NONRECOGNITION OF GAIN FROM SALE OF
10 TELECOMMUNICATIONS BUSINESS.—Part III of sub-
11 chapter O of chapter 1 of the Internal Revenue Code of
12 1986 is amended by adding at the end thereof the fol-
13 lowing:

14 **“SEC. 1046. SALE OF TELECOMMUNICATIONS BUSINESS.**

15 “(a) NONRECOGNITION OF GAIN.—

16 “(1) IN GENERAL.—At the election of a tax-
17 payer, made at such time and in such manner as the
18 Secretary may prescribe, no gain shall be recognized
19 on the sale of a telecommunications business if—

20 “(A) the business is sold to an eligible pur-
21 chaser and the taxpayer purchases 1 or more
22 telecommunications businesses within the re-
23 placement period; or

1 “(B) the taxpayer purchases, within the re-
2 placement period, 1 or more equity interests in
3 an entity that is an eligible purchaser that—

4 “(i) derives, directly or indirectly, 50
5 percent or more of its gross income from
6 a telecommunications business; or

7 “(ii) invests substantially all of the
8 gross proceeds received from the taxpayer
9 in the acquisition of a telecommunications
10 business and the acquisition occurs within
11 180 days after the expiration of the tax-
12 payer’s replacement period.

13 “(2) LIMITATIONS.—

14 “(A) REINVESTMENT CAP.—Gain is eligi-
15 ble for nonrecognition treatment under this
16 subsection only to the extent that it equals or
17 exceeds the aggregate amount paid or incurred
18 by the taxpayer for the telecommunications
19 businesses or equity interests purchased.

20 “(B) TAXABLE YEAR DOLLAR AMOUNT
21 PER TRANSACTION.—The amount of gain eligi-
22 ble for nonrecognition under paragraph (1)(A),
23 and the amount of gain eligible for nonrecogni-
24 tion under paragraph (1)(B), respectively, for
25 any taxable year may not exceed \$250,000,000

1 for each transaction to which such paragraph
2 applies. Any gain that would be eligible for non-
3 recognition under either such paragraph be-
4 cause of the limitation imposed by the pre-
5 ceding sentence shall be carried forward to each
6 of the next 2 taxable years, subject to that limi-
7 tation in each of those taxable years.

8 “(b) REPLACEMENT PERIOD.—For purposes of this
9 section, the term ‘replacement period’ means the period
10 beginning on the date on which the taxpayer’s sale of a
11 telecommunications business occurs and ending—

12 “(1) 2 years after the close of the first taxable
13 year of the taxpayer in which any part of the gain
14 from the sale is realized by the taxpayer; or

15 “(2) such later date as the Secretary may des-
16 ignate upon application made by the taxpayer, at
17 such time and in such manner as the Secretary may
18 prescribe, and subject to such terms and conditions
19 as the Secretary may require.

20 “(c) TIME FOR ASSESSMENT OF DEFICIENCY.—If
21 the taxpayer makes the election provided by subsection (a)
22 with respect to gain from the sale of property—

23 “(1) the period for the assessment of a defi-
24 ciency with respect to such gain for any taxable year
25 in which any part of the gain is realized does not ex-

1 pire before the expiration of the third taxable year
2 beginning after the taxable year in which the Sec-
3 retary is notified by the taxpayer of the taxpayer’s
4 purchase described in paragraph (1) or (2) of sub-
5 section (a), or of the taxpayer’s intention not to
6 make such a purchase; and

7 “(2) any such deficiency may be assessed at
8 anytime before the expiration of such third taxable
9 year, notwithstanding section 6212 or any other pro-
10 vision or rule of law.

11 “(d) BASIS.—

12 “(1) IN GENERAL.—In the case of a tele-
13 communications business purchased by the taxpayer
14 in a transaction described in subsection (a)(1), or an
15 equity interest purchased by the taxpayer in a trans-
16 action described in subsection (a)(2), the basis shall
17 be the cost of such business or equity interest de-
18 creased by the amount of the gain not recognized.
19 If the taxpayer purchases more than 1 such business
20 or equity interests, the basis determined under this
21 paragraph shall be allocated to such businesses or
22 equity interests in the same proportion as the
23 amount paid or incurred by the taxpayer for each
24 such business or equity interest bears to the sum of

1 the amounts paid or incurred by the taxpayer for all
2 such businesses or equity interests.

3 “(2) PROPERTY HELD BY CORPORATION THE
4 STOCK OF WHICH IS REPLACEMENT PROPERTY.—

5 “(A) IN GENERAL.—If the basis of stock
6 in a corporation is decreased under paragraph
7 (1), the basis of property held by the corpora-
8 tion at the time the taxpayer acquired control
9 of the corporation shall be reduced by an
10 amount equal to the amount of that decrease.

11 “(B) LIMITATION.—Subparagraph (A)
12 does not apply to the extent that it would (but
13 for this subparagraph) require a reduction in
14 the aggregate adjusted bases of the property of
15 the corporation below the taxpayer’s adjusted
16 basis of the stock in the corporation (deter-
17 mined immediately after that basis is decreased
18 under paragraph (1)).

19 “(C) ALLOCATION OF BASIS REDUCTION.—
20 The decrease required under subparagraph (A)
21 shall be allocated—

22 “(i) first to assets of telecommuni-
23 cations businesses held by the corporation;

1 “(ii) second to depreciable property
2 (as defined in section 1017(b)(3)(B)) that
3 is not described in clause (i); and

4 “(iii) then to other property.

5 “(D) SPECIAL RULES.—

6 “(i) REDUCTION NOT TO EXCEED AD-
7 JUSTED BASIS OF PROPERTY.—No reduc-
8 tion in the basis of any property under this
9 paragraph shall exceed the adjusted basis
10 of such property (determined without re-
11 gard to the reduction).

12 “(ii) ALLOCATION OF REDUCTION
13 AMONG PROPERTIES.—If more than 1
14 property is described in a clause of sub-
15 paragraph (C), then the reduction under
16 this paragraph shall be allocated among
17 such property in proportion to the adjusted
18 bases of the property (as so determined).

19 “(e) ACQUISITION FROM UNRELATED PERSON RE-
20 QUIRED.—

21 “(1) IN GENERAL.—Subsection (a) does not
22 apply to a taxpayer described in paragraph (2) if the
23 telecommunications business described in subsection
24 (a)(1) is sold to, or the equity interest described in
25 subsection (a)(2), is purchased from, a related per-

1 son (within the meaning of section 267(b) or (e)).
2 The preceding sentence does not apply to the extent
3 that the related person acquired that telecommuni-
4 cations business or that equity interest from a per-
5 son that is not a related person (within the meaning
6 of section 267(b) or (e), or section 707(b)(1)) during
7 the replacement period.

8 “(2) TAXPAYERS TO WHICH PARAGRAPH (1) AP-
9 PLIES.—

10 “(A) IN GENERAL.—Paragraph (1) applies

11 to—

12 “(i) a C corporation;

13 “(ii) a partnership in which 1 or more
14 C corporations own, directly or indirectly
15 (determined under section 707(b)(3)),
16 more than 50 percent of the capital inter-
17 est or profits interest in the partnership at
18 the time of the sale of the telecommuni-
19 cations business; and

20 “(iii) any other taxpayer if, with re-
21 spect to a telecommunications business
22 that is sold during the taxpayer’s taxable
23 year, the aggregate of the amount of gain
24 realized on the sale of the telecommuni-
25 cations business exceeds \$100,000.

1 “(B) APPLICATION TO PARTNERSHIPS; S
2 CORPORATIONS.—Subparagraph (A)(iii) shall be
3 applied to—

4 “(i) a partnership both at the partner-
5 ship level and to each partner; and

6 “(ii) an S corporation at both the cor-
7 porate and shareholder level (under rules
8 prescribed by the Secretary).

9 “(f) CONSEQUENCES OF SUBSEQUENT DISPOSITION
10 BY ELIGIBLE PURCHASER.—

11 “(1) IN GENERAL.—If the eligible purchaser
12 disposes of the telecommunications business acquired
13 from the taxpayer (in the case of sale described in
14 subsection (a)(1)), or substantially all of its tele-
15 communications businesses (in the case of an equity
16 investment described in subsection (a)(2)), within 3
17 years after the date of that acquisition or equity in-
18 vestment to any person that is not an eligible pur-
19 chaser, the eligible purchaser shall recognize gain in
20 the year of disposition equal to the amount of gain
21 deferred by the taxpayer under subsection (a).

22 “(2) CERTAIN DISPOSITIONS.—If the taxpayer
23 or the eligible purchaser is an individual, paragraph
24 (1) does not apply to a disposition after the earlier
25 of—

1 “(A) the date of death or bankruptcy of
2 the eligible purchaser (in the case of an indi-
3 vidual); or

4 “(B) the date of death or bankruptcy of
5 the taxpayer.

6 “(g) DEFINITIONS; SPECIAL RULES.—For purposes
7 of this section—

8 “(1) ELIGIBLE PURCHASER.—The term ‘eligible
9 purchaser’ means—

10 “(A) the Telecommunications Development
11 Fund established under section 714 of the
12 Communications Act of 1934 (47 U.S.C. 614),
13 or any wholly-owned affiliate of that Fund;

14 “(B) an entity described in paragraph (2);
15 or

16 “(C) an individual described in paragraph
17 (3).

18 “(2) ENTITIES.—An entity is described in this
19 paragraph if it is a corporation or a partnership
20 that—

21 “(A) is controlled by individuals described
22 in paragraph (3); and

23 “(B) meets the requirements of paragraph
24 (4) at the time of the sale of the telecommuni-

1 cations business or the equity investment by the
2 taxpayer described in subsection (a).

3 “(3) INDIVIDUALS.—An individual is described
4 in this paragraph if that individual meets the re-
5 quirements of paragraph (4) at the time of the sale
6 of the telecommunications business or the equity in-
7 vestment by the taxpayer described in subsection (a)
8 and is—

9 “(A) a United States citizen; or

10 “(B) a United States citizen who is—

11 “(i) a woman;

12 “(ii) a Black or African American;

13 “(iii) a Latino or Hispanic American;

14 “(iv) an Asian American, Native Ha-
15 waiian or other Pacific Islander; or

16 “(v) an American Indian, Alaskan In-
17 dian, and American Eskimo, or an Aleut.

18 “(4) NET WORTH AND RELATED REQUIRE-
19 MENTS.—

20 “(A) IN GENERAL.—

21 “(i) SECRETARY OF COMMERCE REC-
22 COMMENDATIONS.—Within 90 days after
23 the date of enactment of the Telecommuni-
24 cations Ownership Diversification Act of
25 1999, the Secretary of Commerce shall

1 transmit to the Secretary of the Treasury
2 the Secretary of Commerce's recommenda-
3 tions for requirements with respect to the
4 maximum net worth, gross revenues, or
5 total assets of entities described in para-
6 graph (2) and the maximum net worth of
7 individuals described in paragraph (3).

8 “(ii) TREASURY REGULATIONS.—
9 Within 180 days after the date of enact-
10 ment of the Telecommunications Owner-
11 ship Diversification Act of 1999, the Sec-
12 retary of the Treasury shall promulgate
13 regulations establishing limits on the max-
14 imum net worth, gross revenues, or total
15 assets of entities described in paragraph
16 (2) and maximum net worth of individuals
17 described in paragraph (3), and revise
18 those regulations from time to time as may
19 be appropriate.

20 “(iii) INDIAN TRIBES AND ALASKA NA-
21 TIVE CORPORATIONS.—The regulations
22 shall comply with relevant standards of the
23 Small Business Administration and the
24 Federal Communications Commission ap-

1 applicable to American Indian Tribal entities
2 and Alaska Native Corporations.

3 “(B) CRITERIA; PROCEDURE.—The Sec-
4 retary of Commerce, in making recommenda-
5 tions, and the Secretary of the Treasury, in
6 promulgating regulations, under subparagraph
7 (A)—

8 “(i) shall ensure that the limits estab-
9 lished are consistent with market demands
10 by taking into account telecommunications
11 business transactions during the 9 months
12 preceding their establishment, giving great-
13 er weight to transactions occurring closest
14 in time to their establishment, and by tak-
15 ing into account changes in the laws and
16 regulations affecting telecommunications
17 businesses occurring within such 9 month
18 period;

19 “(ii) shall consult with the Attorney
20 General, the Federal Communications
21 Commission, the Administrator of the
22 Small Business Administration, and other
23 officers or agencies of the United States;

24 “(iii) may establish the limits without
25 regard to the provisions of chapter 5 of

1 title 5, United States Code, and sections
2 10 and 11 of the Federal Advisory Com-
3 mittee Act (5 U.S.C. App.); and

4 “(iv) may, to the extent otherwise
5 consistent with law, take into account such
6 factors as historical inability to access cap-
7 ital by particular groups, including mem-
8 bers of minority groups and women, in es-
9 tablishing limits, but nothing in this clause
10 is intended to prevent the Secretary of
11 Commerce from recommending or the Sec-
12 retary of the Treasury from establishing,
13 different gross revenue and net worth ceil-
14 ings for different classes of eligible pur-
15 chasers, whether individuals described in
16 paragraph (3) or entities described in
17 paragraph (2), to the extent necessary to
18 promote diversity of ownership in tele-
19 communications.

20 “(5) EQUITY INTEREST.—The term ‘equity in-
21 terest’ means stock in a corporation or, in the case
22 of a partnership, an interest in the capital and prof-
23 its of the partnership.

24 “(6) TELECOMMUNICATIONS BUSINESS.—The
25 term ‘telecommunications business’ means—

1 “(A) substantially all the assets of a facil-
2 ity engaged in electronic communications, in-
3 cluding a cable system (as defined in section
4 602(7) of the Communications Act of 1934 (47
5 U.S.C. 532(7)), a radio station (as defined in
6 section 3(35) of that Act (47 U.S.C. 153(35)),
7 a broadcasting station providing television serv-
8 ice (as defined in section 3(49) of that Act (47
9 U.S.C. 153(49)), a provider of direct broadcast
10 satellite service (as defined in section 335(b)(5)
11 of that Act (47 U.S.C. 335(b)(5)), a provider of
12 video programming (as defined in section
13 602(20) of that Act (47 U.S.C. 602(20)); a
14 provider of commercial mobile services (as de-
15 fined in section 332(d)(1) of that Act (47
16 U.S.C. 332(d)(1)), a telecommunications carrier
17 (as defined in section 3(44) of that Act (47
18 U.S.C. 153(44)), a reseller of telecommuni-
19 cations service or commercial mobile service; a
20 multichannel multipoint distribution service,
21 Internet service provider; Internet content pro-
22 vider; or a provider of telecommunications or
23 information service equipment or software;

24 “(B) stock possessing at least 80 percent
25 of the total combined voting power of all classes

1 of stock entitled to vote and at least 80 percent
2 of the total number of shares of all other class-
3 es of stock of a corporation substantially all of
4 the assets of which consist, directly or indi-
5 rectly, of assets described in subparagraph (A);
6 and

7 “(C) 80 percent or more of the total inter-
8 est in the capital and profits of a partnership
9 substantially all of the assets of which consist,
10 directly or indirectly, of assets described in sub-
11 paragraph (A).

12 “(7) PURCHASE.—The taxpayer shall be consid-
13 ered to have purchased a property if, but for sub-
14 section (d), the unadjusted basis of the property
15 would be its cost within the meaning of section
16 1012.

17 “(8) CONTROL.—

18 “(A) IN GENERAL.—For purposes of para-
19 graph (2)(A), an entity is controlled by individ-
20 uals described in paragraph (3) if the require-
21 ments of paragraph the requirements of sub-
22 paragraph (B), (C), or (D) are satisfied.

23 “(B) 30-PERCENT TEST.—The require-
24 ments of this subparagraph are satisfied if—

1 “(i) with respect to any entity which
2 is a corporation, individuals who meet the
3 requirements of paragraph (3) own 30 per-
4 cent or more in value of the outstanding
5 stock of the corporation, and more than 50
6 percent of the total combined voting power
7 of all classes of stock entitled to vote of the
8 corporation; and

9 “(ii) with respect to any entity which
10 is a partnership, individuals who meet the
11 requirements of paragraph (3) own 30 per-
12 cent or more of the capital interest and the
13 profits interest in the partnership, and
14 more than 50 percent of the total com-
15 bined voting power of all classes of part-
16 nership interests entitled to vote.

17 “(C) 15-PERCENT TEST.—The require-
18 ments of this subparagraph are satisfied if—

19 “(i) with respect to any entity which
20 is a corporation—

21 “(I) individuals who meet the re-
22 quirements of paragraph (3) own 15
23 percent or more in value of the out-
24 standing stock of the corporation, and
25 more than 50 percent of the total

1 combined voting power of all classes
2 of stock entitled to vote of the cor-
3 poration; and

4 “(II) no other person owns more
5 than 25 percent in value of the out-
6 standing stock of the corporation; and

7 “(ii) with respect to any entity which
8 is a partnership—

9 “(I) individuals who meet the re-
10 quirements of paragraph (3) own 15
11 percent or more of the capital interest
12 and profits interest of the partner-
13 ship, and more than 50 percent of the
14 total combined voting power of all
15 classes of partnership interests enti-
16 tled to vote; and

17 “(II) no other person owns more
18 than 25 percent of the capital interest
19 and profits interest of the partner-
20 ship.

21 “(D) PUBLICLY-TRADED CORPORATIONS
22 TEST.—The requirements of this subparagraph
23 are satisfied if, with respect to a corporation
24 the securities of which are traded on an estab-
25 lished securities market—

1 “(i) individuals who meet the require-
2 ments of paragraph (3) own 50 percent or
3 more of the total combined voting power of
4 all classes of stock entitled to vote of the
5 corporation; and

6 “(ii) the stock owned by those individ-
7 uals is not subject to any agreement, ar-
8 rangement, or understanding which pro-
9 vides for, or relates to, the voting of the
10 stock in any manner by, or at the direction
11 of, any person other than an eligible indi-
12 vidual who meets the requirements of para-
13 graph (3), or the right of any person other
14 than one of those individuals to acquire the
15 voting power through purchase of shares
16 or otherwise.

17 “(E) CONSTRUCTIVE OWNERSHIP.—In ap-
18 plying subparagraphs (B), (C), and (D), the
19 following rules apply:

20 “(i) Stock or partnership interests
21 owned, directly or indirectly, by or for a
22 corporation, partnership, estate, or trust
23 shall be considered as being owned propor-
24 tionately by or for its shareholders, part-
25 ners, or beneficiaries.

1 “(ii) An individual shall be considered
2 as owning stock and partnership interests
3 owned, directly or indirectly, by or for his
4 family.

5 “(iii) An individual owning (otherwise
6 than by the application of clause (ii)) any
7 stock in corporation shall be considered as
8 owning the stock or partnership interests
9 owned, directly or indirectly, by or for his
10 partner.

11 “(iv) An individual owning (otherwise
12 than by the application of clause (ii)) any
13 partnership interest in a partnership shall
14 be considered as owning the stock or part-
15 nership interests owned, directly or indi-
16 rectly, by or for his partner.

17 “(v) The family of an individual shall
18 include only his brothers and sisters
19 (whether by the whole or half blood),
20 spouse, ancestors, and lineal descendants.

21 “(vi) Stock or partnership interests
22 constructively owned by a person by reason
23 of the application of clause (i) shall, for
24 the purposes of applying clause (i), (ii),
25 (iii), or (iv), be treated as actually owned

1 by that person, but stock constructively
2 owned by an individual by reason of the
3 application of clause (ii), (iii), or (iv) shall
4 not be treated as owned by that individual
5 for the purpose of again applying any of
6 those clauses in order to make another the
7 constructive owner of the stock or partner-
8 ship interests.”.

9 (b) TAX CREDIT.—Subpart E of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of
11 1986 (relating to rules for computing investment credit)
12 is amended by inserting after section 48 the following:

13 **“SEC. 48A. TELECOMMUNICATIONS BUSINESS CREDIT.**

14 “For purposes of section 46, there is allowed as a
15 credit against the tax imposed by this chapter for any tax-
16 able year an amount equal to 10 percent of the taxable
17 income of any taxpayer that at all times during that tax-
18 able year—

19 “(1) is a local exchange carrier (as defined in
20 section 3(44) of the Communications Act of 1934
21 (47 U.S.C. 153(44)));

22 “(2) is not a Bell operating company (as de-
23 fined in section 3(4) of that Act (47 U.S.C.
24 153(4))); and

1 “(3) is headquartered in an area designated as
2 an empowerment zone by the Secretary of Housing
3 and Urban Development.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) AMENDMENT OF SECTION 46.—Section 46
6 of such Code (relating to amount of credit) is
7 amended by—

8 (A) striking “and” in paragraph (2);

9 (B) striking “credit.” in paragraph (3) and
10 inserting “credit; and”; and

11 (C) adding at the end the following:

12 “(4) the telecommunications business credit.”.

13 (2) CLERICAL AMENDMENTS.—

14 (A) The analysis for part III of subchapter
15 O of chapter 1 of such Code is amended by
16 adding at the end thereof the following:

“1046. Sale of telecommunications business.”.

17 (B) The table of sections for Subpart E of
18 part IV of subchapter A of chapter 1 of such
19 Code is amended by inserting after the item re-
20 lating to section 48 the following:

“48A. Telecommunications business credit.”.

21 (c) TECHNICAL AND CONFORMING CHANGES.—The
22 Secretary of the Treasury shall, within 150 days after the
23 date of enactment of this Act, submit to the Committee
24 on Ways and Means of the House of Representatives and

1 the Committee on Finance of the Senate, a draft of any
 2 technical and conforming changes in the Internal Revenue
 3 Code of 1986 which are necessary to reflect throughout
 4 the Code the changes in the substantive provisions of the
 5 Code made by subsection (a) of this section.

6 (d) EFFECTIVE DATE.—The amendments made by
 7 this section apply with respect to a purchase described in
 8 section 1046(a)(1) of the Internal Revenue Code of 1986
 9 (as added by this section) of a telecommunications busi-
 10 ness or any equity interest on or after the date of enact-
 11 ment of this Act.

12 **SEC. 4. ADDITIONAL SPECIAL TAX RULES FOR CERTAIN**
 13 **TELECOMMUNICATIONS INVESTMENTS.**

14 (a) DEPRECIATION-RELATED PROVISIONS.—

15 (1) DEPRECIATION OF CERTAIN TELECOMMUNI-
 16 CATIONS INTANGIBLES.—Section 167(f) of the Inter-
 17 nal Revenue Code of 1986 (relating to treatment of
 18 certain property excluded from section 197) is
 19 amended by adding at the end thereof the following:

20 “(4) CERTAIN INTANGIBLE ASSETS.—If a de-
 21 preciation deduction is allowable under subsection
 22 (a) with respect to an intangible asset described in
 23 section 197(e)(9), the deduction shall be computed
 24 by using the method described in section
 25 168(b)(1).”.

1 (2) TREATMENT AS INTANGIBLE ASSET.—Sec-
2 tion 197 of such Code (relating to amortization of
3 goodwill and certain other intangibles) is amended—

4 (A) by striking “and” after the semicolon
5 in subsection (d)(1)(E);

6 (B) by striking “tradename.” in subsection
7 (d)(1)(F) and inserting “tradename; and”;

8 (C) by adding at the end of subsection
9 (d)(1) the following:

10 “(G) stock in a C corporation which is an
11 eligible purchaser (as defined in section
12 1046(g)(1)) engaged in a telecommunications
13 business (as defined in section 1046(g)(6)) to
14 the extent that the cost of such stock does not
15 exceed \$5,000,000.”; and

16 (D) by adding at the end of subsection (e)
17 the following:

18 “(9) TELECOMMUNICATIONS INTANGIBLES NOT
19 A SECTION 197 INTANGIBLE ASSET.—Any item de-
20 scribed in subsection (d) which is owned by an eligi-
21 ble purchaser (as defined in section 1046(g)(1)) en-
22 gaged in a telecommunications business (as defined
23 in section 1046(g)(6)).”.

24 (b) ORDINARY LOSS TREATMENT FOR CERTAIN
25 TELECOMMUNICATIONS LOSSES.—

1 “(a) 50-PERCENT EXCLUSION.—

2 “(1) TAXPAYERS NOT CORPORATIONS.—In the
3 case of a taxpayer other than a corporation, gross
4 income does not include 50 percent of any gain from
5 the sale or exchange of qualified small business
6 stock held for more than 5 years.

7 “(2) CERTAIN TELECOMMUNICATIONS INVEST-
8 MENTS BY CORPORATIONS AND INVESTMENT COMPA-
9 NIES.—Gross income does not include 50 percent of
10 any gain from the sale or exchange of stock in an
11 eligible purchaser (as defined in section 1046(g)(1))
12 engaged in a telecommunications business (as de-
13 fined in section 1046(g)(6)) held for more than 5
14 years.”;

15 (2) by striking subparagraphs (A) and (B) of
16 subsection (b)(1) and inserting the following:

17 “(A) in the case of gain from the sale or
18 exchange of qualified small business stock held
19 for more than 5 years—

20 “(i) \$10,000,000 reduced by the ag-
21 gregate amount of eligible gain taken into
22 account by the taxpayer under subsection
23 (a) for prior taxable years and attributable
24 to dispositions of stock issued by such cor-
25 porations; or

1 “(ii) 10 times the aggregate adjusted
2 bases of qualified small business stock
3 issued by such corporations and disposed
4 of by the taxpayer during the taxable year;

5 “(B) in the case of gain from the sale or
6 exchange of stock in an eligible purchaser en-
7 gaged in a telecommunications business for
8 more than 5 years—

9 “(i) \$20,000,000 reduced by the ag-
10 gregate amount of eligible gain taken into
11 account by the taxpayer under subsection
12 (a) for prior taxable years and attributable
13 to dispositions of stock issued by an eligi-
14 ble purchaser engaged in a telecommuni-
15 cations business; or

16 “(ii) 15 times the aggregate adjusted
17 bases of stock of an eligible purchaser en-
18 gaged in a telecommunications business
19 issued by such eligible purchaser and dis-
20 posed of by the taxpayer during the tax-
21 able year.”;

22 (2) by striking “years.” in subsection (b)(2)
23 and inserting “years or any gain from the sale or ex-
24 change of stock in an eligible purchaser engaged in

1 a telecommunications business held for more than 5
2 years.”; and

3 (3) by striking “ ‘\$10,000,000’.” in subsection
4 (b)(3)(A) and inserting “ ‘\$10,000,000’, and para-
5 graph (1)(B) shall be applied by substituting
6 ‘\$10,000,000’ for ‘\$20,000,000’.”.

7 (d) DEFERRAL OF CERTAIN TELECOMMUNICATIONS
8 CAPITAL GAINS BY CORPORATIONS AND INVESTMENT
9 COMPANIES.—Section 1044 of the Internal Revenue Code
10 of 1986 (relating to rollover of publicly-traded securities
11 gains into specialized small business investment compa-
12 nies) is amended—

13 (1) by striking subsection (a)(1) and inserting
14 the following:

15 “(1) the cost of any common stock or partner-
16 ship interest in—

17 “(A) a specialized small business invest-
18 ment company purchased by the taxpayer dur-
19 ing the 60-day period beginning on the date of
20 such sale; or

21 “(B) an eligible purchaser (as defined in
22 section 1046(g)(1)) engaged in a telecommuni-
23 cations business (as defined in section
24 1046(g)(6)) purchased by the taxpayer during

1 the 60-day period beginning on the date of such
2 sale,
3 reduced by—”; and

4 (2) by redesignating paragraph (4) of sub-
5 section (b) as paragraph (5) and inserting after
6 paragraph (3) the following:

7 “(4) LIMITATION ON CERTAIN C CORPORATIONS
8 AND INVESTMENT COMPANIES.—In the case of a C
9 corporation or an investment company acquiring
10 common stock or a partnership interest described in
11 subsection (a)(1)(B), the amount of gain that may
12 be excluded under subsection (a) for any taxable
13 year shall not exceed the lesser of—

14 “(A) \$750,000; or

15 “(B) \$4,500,000, reduced by the amount
16 of gain excluded under subsection (a) for all
17 preceding taxable years.”.

18 (e) EFFECTIVE DATE.—

19 (1) The amendments made by subsection (a)
20 shall apply to property placed in service after June
21 30, 1999.

22 (2) The amendments made by subsections (b)
23 and (c) shall apply to stock acquired after June 30,
24 1999.

1 (3) The amendments made by subsection (d)
2 shall apply to sales after June 30, 1999.

3 **SEC. 5. BIENNIAL PROGRAM AUDITS BY GAO.**

4 No later than January 1, 2003, and no less fre-
5 quently than every 2 years thereafter, the Comptroller
6 General shall audit the administration of sections of the
7 Internal Revenue Code of 1986 added or amended by sec-
8 tions 3 and 4 of this Act, and issue a report on the results
9 of that audit. The Comptroller General shall include in
10 the report, notwithstanding any provision of section 6103
11 of the Internal Revenue Code of 1986 to the contrary—

12 (1) a list of eligible purchasers (as defined in
13 section 1046(g)(1) of such Code) and any other tax-
14 payer receiving a benefit from the operation of sec-
15 tion 48A, 167, 197, 1044, 1046, 1202, or 1244A of
16 such Code as that section was added or amended by
17 section 3 of this Act; and

18 (2) an assessment of the effect the amendments
19 made by sections 3 and 4 of this Act have had with
20 respect to increasing new entry into the tele-
21 communications industry by small businesses and
22 businesses owned or controlled by members of mi-
23 nority groups and women.

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