

106TH CONGRESS
2D SESSION

S. 3174

To amend the Internal Revenue Code of 1986 to allow a long-term capital gains deduction for individuals.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 22), 2000

Mr. ABRAHAM 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 allow a long-term capital gains deduction for 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. LONG-TERM CAPITAL GAINS DEDUCTION FOR**
4 **INDIVIDUALS.**

5 (a) GENERAL RULE.—Part I of subchapter P of
6 chapter 1 of the Internal Revenue Code of 1986 (relating
7 to treatment of capital gains) is amended by redesignating
8 section 1202 as section 1203 and by inserting after section
9 1201 the following new section:

1 **“SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a deduction for the taxable year
4 an amount equal to the lesser of—

5 “(1) the net capital gain of the taxpayer for the
6 taxable year, or

7 “(2) \$5,000.

8 “(b) SALES BETWEEN RELATED PARTIES.—Gains
9 from sales and exchanges to any related person (within
10 the meaning of section 267(b) or 707(b)(1)) shall not be
11 taken into account in determining net capital gain.

12 “(c) SPECIAL RULE FOR SECTION 1250 PROP-
13 ERTY.—Solely for purposes of this section, in applying sec-
14 tion 1250 to any disposition of section 1250 property, all
15 depreciation adjustments in respect of the property shall
16 be treated as additional depreciation.

17 “(d) SECTION NOT TO APPLY TO CERTAIN TAX-
18 PAYERS.—No deduction shall be allowed under this section
19 to—

20 “(1) an individual with respect to whom a de-
21 duction under section 151 is allowable to another
22 taxpayer for a taxable year beginning in the cal-
23 endar year in which such individual’s taxable year
24 begins,

1 “(2) a married individual (within the meaning
2 of section 7703) filing a separate return for the tax-
3 able year, or

4 “(3) an estate or trust.

5 “(e) SPECIAL RULE FOR PASS-THRU ENTITIES.—

6 “(1) IN GENERAL.—In applying this section
7 with respect to any pass-thru entity, the determina-
8 tion of when the sale or exchange occurs shall be
9 made at the entity level.

10 “(2) PASS-THRU ENTITY DEFINED.—For pur-
11 poses of paragraph (1), the term ‘pass-thru entity’
12 means—

13 “(A) a regulated investment company,

14 “(B) a real estate investment trust,

15 “(C) an S corporation,

16 “(D) a partnership, and

17 “(E) a common trust fund.”.

18 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS
19 RATE.—Paragraph (3) of section 1(h) of the Internal Rev-
20 enue Code of 1986 (relating to maximum capital gains
21 rate) is amended to read as follows:

22 “(3) COORDINATION WITH OTHER PROVI-
23 SIONS.—For purposes of this subsection, the amount
24 of the net capital gain shall be reduced (but not
25 below zero) by the sum of—

1 “(A) the amount of the net capital gain
2 taken into account under section 1202(a) for
3 the taxable year, plus

4 “(B) the amount which the taxpayer elects
5 to take into account as investment income for
6 the taxable year under section
7 163(d)(4)(B)(iii).”.

8 (c) DEDUCTION ALLOWABLE IN COMPUTING AD-
9 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
10 the Internal Revenue Code of 1986 (defining adjusted
11 gross income) is amended by inserting after paragraph
12 (17) the following new paragraph:

13 “(18) LONG-TERM CAPITAL GAINS.—The de-
14 duction allowed by section 1202.”.

15 (d) TREATMENT OF COLLECTIBLES.—

16 (1) IN GENERAL.—Section 1222 of the Internal
17 Revenue Code of 1986 (relating to other terms relat-
18 ing to capital gains and losses) is amended by in-
19 serting after paragraph (11) the following new para-
20 graph:

21 “(12) SPECIAL RULE FOR COLLECTIBLES.—

22 “(A) IN GENERAL.—Any gain or loss from
23 the sale or exchange of a collectible shall be
24 treated as a short-term capital gain or loss (as
25 the case may be), without regard to the period

such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

“(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

“(C) COLLECTIBLE.—For purposes of this paragraph, the term ‘collectible’ means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).”.

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) of such Code is amended by adding at the end the following new sentence: “For purposes of this paragraph, section 1222 shall be applied with-

out regard to paragraph (12) thereof (relating to special rule for collectibles).”.

(B) Clause (iv) of section 170(b)(1)(C) of such Code is amended by inserting before the period at the end the following: “and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)”.

(e) CONFORMING AMENDMENTS.—

(1) Section 57(a)(7) of the Internal Revenue Code of 1986 is amended by striking “1202” and inserting “1203”.

(2) Clause (iii) of section 163(d)(4)(B) of such Code is amended to read as follows:

“(iii) the sum of—

“(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

“(II) so much of the gain described in subclause (I) which is not

1 taken into account under section 1202
2 and which the taxpayer elects to take
3 into account under this clause.”.

4 (3) Subparagraph (B) of section 172(d)(2) of
5 such Code is amended to read as follows:

6 “(B) the deduction under section 1202 and
7 the exclusion under section 1203 shall not be
8 allowed.”.

9 (4) Section 642(c)(4) of such Code is amended
10 by striking “1202” and inserting “1203”.

11 (5) Section 643(a)(3) of such Code is amended
12 by striking “1202” and inserting “1203”.

13 (6) Paragraph (4) of section 691(c) of such
14 Code is amended inserting “1203,” after “1202,”.

15 (7) The second sentence of section 871(a)(2) of
16 such Code is amended by inserting “or 1203” after
17 “section 1202”.

18 (8) The last sentence of section 1044(d) of such
19 Code is amended by striking “1202” and inserting
20 “1203”.

21 (9) Paragraph (1) of section 1402(i) of such
22 Code is amended by inserting “, and the deduction
23 provided by section 1202 and the exclusion provided
24 by section 1203 shall not apply” before the period
25 at the end.

1 (10) Section 121 of such Code is amended by
2 adding at the end the following new subsection:

3 “(h) CROSS REFERENCE.—

**“For treatment of eligible gain not excluded under
subsection (a), see section 1202.”.**

4 (11) Section 1203 of such Code, as redesign-
5 nated by subsection (a), is amended by adding at the
6 end the following new subsection:

7 “(l) CROSS REFERENCE.—

**“For treatment of eligible gain not excluded under
subsection (a), see section 1202.”.**

8 (12) The table of sections for part I of sub-
9 chapter P of chapter 1 of such Code is amended by
10 striking the item relating to section 1202 and by in-
11 sserting after the item relating to section 1201 the
12 following new items:

“Sec. 1202. Capital gains deduction for individuals.

“Sec. 1203. 50-percent exclusion for gain from certain small
business stock.”.

13 (f) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall apply to taxable years beginning after Decem-
17 ber 31, 2000.

18 (2) COLLECTIBLES.—The amendments made by
19 subsection (d) shall apply to sales and exchanges
20 after December 31, 2000.

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