

107TH CONGRESS
2^D SESSION

H. R. 4675

To amend the Internal Revenue Code of 1986 to provide that the tax on recognized built-in gain of an S corporation shall not apply to amounts reinvested in the business.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2002

Mr. RAMSTAD (for himself, Mr. CRANE, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. ENGLISH, Mr. MCINNIS, Mr. FOLEY, and Mr. BRADY of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide that the tax on recognized built-in gain of an S corporation shall not apply to amounts reinvested in the business.

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 “Small Business Oppor-
5 tunity and Growth Act of 2002”.

1 **SEC. 2. EXCEPTION FROM TAX ON RECOGNIZED BUILT-IN**
2 **GAIN OF S CORPORATIONS.**

3 (a) IN GENERAL.—Section 1374 of the Internal Rev-
4 enue Code of 1986 (relating to tax imposed on certain
5 built-in gains) is amended by redesignating subsection (e)
6 as subsection (f) and by inserting after subsection (d) the
7 following new subsection:

8 “(e) EXCEPTION FOR REINVESTED AMOUNTS.—

9 “(1) IN GENERAL.—If an existing S corporation
10 has a net recognized built-in gain for any taxable
11 year in the recognition period and elects the applica-
12 tion of this subsection—

13 “(A) the tax (if any) imposed by sub-
14 section (a) on such gain shall not be imposed
15 until the second succeeding taxable year, and

16 “(B) the amount of such gain on which tax
17 is imposed by subsection (a) for such second
18 succeeding taxable year shall not exceed the
19 amount equal to the excess of—

20 “(i) the amount realized on the dis-
21 position of those assets that resulted in
22 such gain, over

23 “(ii) the excess of—

24 “(I) the aggregate qualified ex-
25 penditures made by the S corporation
26 during the nonrecognition period, over

1 “(II) the portion (if any) of such
2 expenditures previously taken into ac-
3 count under this subsection.

4 “(2) QUALIFIED EXPENDITURES.—For pur-
5 poses of this subsection, the term ‘qualified expendi-
6 tures’ means—

7 “(A) amounts chargeable to capital ac-
8 count for property used in a trade or business
9 of the S corporation,

10 “(B) payments of principal and interest on
11 pre-effective date debt of the S corporation, and

12 “(C) amounts distributed to shareholders
13 to the extent such amounts do not exceed the
14 aggregate of such shareholders’ tax imposed by
15 this chapter (and State and local taxes) on
16 amounts attributable to the disposition of those
17 assets that resulted in such net recognized
18 built-in gain.

19 Payments of principal as part of a refinancing of
20 pre-effective date debt shall not be taken into ac-
21 count under subparagraph (B).

22 “(3) NONRECOGNITION PERIOD.—For purposes
23 of this subsection, the term ‘nonrecognition period’
24 means, with respect to a taxable year for which an
25 S corporation has a net recognized built-in gain,

1 such taxable year and the first and second suc-
2 ceeding taxable years.

3 “(4) PRE-EFFECTIVE DATE DEBT.—For pur-
4 poses of paragraph (2)(B), the term ‘pre-effective
5 date debt’ means—

6 “(A) debt incurred before the date of the
7 enactment of this paragraph, and

8 “(B) debt incurred on or after such date to
9 refinance debt described in subparagraph (A)
10 (or refinanced indebtedness meeting the re-
11 quirements of this subparagraph) to the extent
12 that (immediately after the refinancing) the
13 principal amount of the indebtedness resulting
14 from the refinancing does not exceed the prin-
15 cipal amount of the refinanced indebtedness
16 (immediately before the refinancing).

17 “(5) ANTI-ABUSE RULE.—Solely for purposes of
18 determining the treatment of distributions to share-
19 holders under section 1368 during the recognition
20 period—

21 “(A) any increase in the accumulated ad-
22 justment account and shareholder basis by rea-
23 son of the disposition of those assets that re-
24 sulted in the net recognized built-in gain shall

1 not exceed the amounts described in paragraph
2 (2)(C), and

3 “(B) any increase in such account and
4 shareholder basis which is not permitted under
5 subparagraph (A) shall occur immediately after
6 the recognition period.

7 “(6) EXISTING S CORPORATION.—The term ‘ex-
8 isting S corporation’ means any S corporation for
9 which an election under section 1362 is filed before
10 May 7, 2002.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to taxable years beginning after
13 the date of the enactment of this Act.

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