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H. R. 2044

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 HOUSE OF REPRESENTATIVES

MAY 9, 2003

Mr. RUSH (for himself, Mr. STUPAK, Mr. GORDON, Mr. GREEN of Texas, Mr. ENGEL, Ms. LEE, Mr. TOWNS, Mr. WYNN, Mr. CUMMINGS, Ms. WATSON, Ms. JACKSON-LEE of Texas, Mr. WALDEN of Oregon, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCOTT of Virginia, Mr. CLAY, Mr. JACKSON of Illinois, Mr. OWENS, Mr. DAVIS of Illinois, Mr. DINGELL, Ms. MILLENDER-McDONALD, Mr. MEEKS of New York, Ms. DEGETTE, Ms. ESHOO, Mr. CONYERS, Mr. SHIMKUS, Mr. GONZALEZ, and Mr. UPTON) 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 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telecommunications
3 Ownership Diversification Act of 2003”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) Current trends in the telecommunications
8 industry show that there is increasing convergence
9 among various media, including broadcasting, cable
10 television, and Internet-based businesses, that pro-
11 vide news, information, and entertainment.

12 (2) This convergence will continue, and there-
13 fore, diversifying the ownership of telecommuni-
14 cations facilities remains a preeminent public inter-
15 est concern that should be reflected in both tele-
16 communications and tax policy.

17 (3) A market-based, voluntary system of invest-
18 ment incentives is an effective, lawful, and economi-
19 cally sound means of facilitating entry and diver-
20 sification of ownership in the telecommunications in-
21 dustry.

22 (4) Opportunities for new entrants to partici-
23 pate and grow in the telecommunications industry
24 have substantially decreased since the end of the
25 Federal Communications Commission’s tax certifi-
26 cate policy in 1995, particularly in light of the avail-

1 ability of tax-free like-kind exchanges, despite the
2 most robust period of transfers of radio and tele-
3 vision stations in history. During this time, busi-
4 nesses owned or controlled by socially disadvantaged
5 individuals, including, but not limited to, members of
6 minority groups and women, have continued to be
7 underrepresented as owners of telecommunications
8 facilities.

9 (5) Businesses owned or controlled by socially
10 disadvantaged individuals are, and historically have
11 been, economically disadvantaged in the tele-
12 communications industry. For these businesses, ac-
13 cess to and cost of capital are and have been sub-
14 stantial obstacles to new entry and growth. Con-
15 sequently, diversification of ownership in the tele-
16 communications industry has been limited.

17 (6) Telecommunications facilities owned by new
18 entrants may not be attractive to investors because
19 their start-up costs are often high, their revenue
20 streams are uncertain, and their profit margins are
21 unknown.

22 (7) It is consistent with the public interest and
23 with the pro-competition policies of the Tele-
24 communications Act of 1996 to provide incentives
25 that will facilitate investments in, and acquisition of,

1 telecommunications facilities by economically and so-
2 cially disadvantaged businesses, thereby diversifying
3 the ownership of telecommunications facilities.

4 (8) Increased participation by economically and
5 socially disadvantaged businesses in the ownership of
6 telecommunications facilities will enhance competi-
7 tion in the telecommunications industry. Permitting
8 sellers of telecommunications facilities to defer tax-
9 ation of gains from transactions involving economi-
10 cally and socially disadvantaged businesses, or cer-
11 tain small businesses supported by investments from
12 the Telecommunications Development Fund that
13 provides capital for such businesses, will further the
14 development of a competitive and diverse United
15 States telecommunications industry without govern-
16 mental intrusion in private investment decisions.

17 (9) The public interest would not be served by
18 attempts to diversify the ownership of telecommuni-
19 cations businesses through any approach that would
20 involve the use of mandated set-asides or quotas.

21 (10) Today, the telecommunications industry is
22 struggling to survive one of its most troubling times.
23 Therefore, facilitating voluntary, pro-competitive
24 transactions that will promote ownership of tele-
25 communications facilities by economically and so-

1 cially disadvantaged businesses and certain small
2 businesses will aid in providing the investment and
3 capital that is crucial to this sector.

4 (b) PURPOSE.—The purpose of this Act is to facili-
5 tate voluntary, pro-competitive transactions that will pro-
6 mote ownership of telecommunications facilities by eco-
7 nomically and socially disadvantaged businesses and cer-
8 tain small businesses.

9 **SEC. 3. NONRECOGNITION OF GAIN ON CERTAIN QUALI-**
10 **FIED SALES OF TELECOMMUNICATIONS BUSI-**
11 **NESSES.**

12 (a) IN GENERAL.—Subchapter O of chapter 1 of the
13 Internal Revenue Code of 1986 (relating to gain or loss
14 on disposition of property) is amended by inserting after
15 part IV the following new part:

16 **“PART V—CERTAIN SALES OF**
17 **TELECOMMUNICATIONS BUSINESSES**

“Sec. 1071. Nonrecognition of gain on certain sales of tele-
communications businesses.

18 **“SEC. 1071. NONRECOGNITION OF GAIN ON CERTAIN SALES**
19 **OF TELECOMMUNICATIONS BUSINESSES.**

20 “(a) IN GENERAL.—For purposes of this subtitle, if
21 a taxpayer elects the application of this section to a quali-
22 fied telecommunications sale, such sale shall be treated as
23 an involuntary conversion of property within the meaning
24 of section 1033.

1 “(b) LIMITATION ON AMOUNT OF GAIN ON WHICH
2 TAX MAY BE DEFERRED.—

3 “(1) IN GENERAL.—The amount of gain on any
4 qualified telecommunications sale which is not recog-
5 nized by reason of this section—

6 “(A) shall not exceed \$250,000,000 per
7 sale, and

8 “(B) shall not exceed $\frac{1}{3}$ of such dollar
9 amount per taxable year.

10 “(2) CARRYFORWARDS OF UNUSED
11 AMOUNTS.—If the amount of gain on any qualified
12 telecommunications sale which is not recognized by
13 reason of this section exceeds the limitation imposed
14 by paragraph (1)(B) for the taxable year, such ex-
15 cess shall be carried to the succeeding taxable year
16 and added to the amount allowable under this sec-
17 tion for such taxable year.

18 “(c) QUALIFIED TELECOMMUNICATIONS SALE.—For
19 purposes of this section, the term ‘qualified telecommuni-
20 cations sale’ means any sale to an eligible purchaser of—

21 “(1) the assets of a telecommunications busi-
22 ness, or

23 “(2) stock in a corporation if, immediately after
24 such sale—

1 “(A) the eligible purchaser controls (within
2 the meaning of section 368(c)) such corpora-
3 tion, and

4 “(B) substantially all of the assets of such
5 corporation are assets of 1 or more tele-
6 communications businesses, or

7 “(3) an interest in a partnership if, immediately
8 after such sale—

9 “(A) the eligible purchaser owns a partner-
10 ship interest possessing—

11 “(i) at least 80 percent of the total
12 combined voting power of all classes of
13 partnership interests entitled to vote,

14 “(ii) control over the management of
15 the partnership,

16 “(iii) at least 80 percent of the capital
17 interests of the partnership, and

18 “(iv) a distributive share of at least
19 80 percent of each item of the partner-
20 ship’s income, gain, loss, deduction or
21 credit, and

22 “(B) substantially all of the assets of such
23 partnership are assets of 1 or more tele-
24 communications businesses.

25 “(d) SPECIAL RULES.—

1 “(1) IN GENERAL.—In applying section 1033
2 for purposes of subsection (a), stock of a corporation
3 or an interest in a partnership operating a tele-
4 communications business, whether or not rep-
5 resenting control of such corporation or partnership,
6 shall be treated as property similar or related in
7 service or use to the property sold in the qualified
8 telecommunications sale.

9 “(2) ELECTION TO REDUCE BASIS RATHER
10 THAN RECOGNIZE REMAINDER OF GAIN.—If—

11 “(A) a taxpayer elects the treatment under
12 subsection (a) with respect to any qualified tele-
13 communications sale, and

14 “(B) an amount of gain would (but for
15 this paragraph) be recognized on such sale
16 under section 1033(a)(2)(A) in excess of the
17 amount required to be recognized by reason of
18 subsection (b),

19 then the amount of gain described in this subpara-
20 graph shall not be recognized to the extent that the
21 taxpayer elects to reduce the basis of depreciable
22 property (within the meaning of section 1017(b)(3))
23 held by the taxpayer immediately after the sale or
24 acquired in the same taxable year. The manner and

1 amount of such reduction shall be determined under
2 regulations prescribed by the Secretary.

3 “(3) BASIS.—For basis of property acquired on
4 a sale or exchange treated as an involuntary conver-
5 sion under subsection (a), see section 1033(b).

6 “(e) RECAPTURE OF TAX BENEFIT IF TELE-
7 COMMUNICATIONS BUSINESS RESOLD WITHIN 3 YEARS,
8 ETC.—

9 “(1) IN GENERAL.—If, within 3 years after the
10 date of any qualified telecommunications sale, there
11 is a recapture event with respect to the property in-
12 volved in such sale, then the purchaser’s tax imposed
13 by this chapter for the taxable year in which such
14 event occurs shall be increased by an amount equal
15 to the product of—

16 “(A) the highest marginal rate of income
17 tax imposed on corporations under section 11,
18 and

19 “(B) the lesser of—

20 “(i) the consideration furnished by the
21 purchaser in such sale, or

22 “(ii) the dollar amount specified in
23 subsection (b)(1)(A).

1 “(2) EXCEPTION FOR REINVESTED AMOUNTS.—
2 Paragraph (1) shall not apply to any recapture event
3 which is a sale if—

4 “(A) the sale is a qualified telecommuni-
5 cations sale, or

6 “(B) during the 60-day period beginning
7 on the date of such sale, the taxpayer is the
8 purchaser in another qualified telecommuni-
9 cations sale in which the consideration fur-
10 nished by the taxpayer is not less than the
11 amount realized on the recapture event sale.

12 “(3) RECAPTURE EVENT.—For purposes of this
13 subsection, the term ‘recapture event’ means, with
14 respect to any qualified telecommunications sale—

15 “(A) any sale or other disposition of the
16 assets, stock, or partnership interest referred to
17 in subsection (c) which were acquired by the
18 taxpayer in such sale, and

19 “(B) in the case of a qualified tele-
20 communications sale described in paragraph (2)
21 or (3) of subsection (c)—

22 “(i) any sale or other disposition of a
23 telecommunications business by the cor-
24 poration or partnership referred to in such
25 subsection, or

1 “(ii) any other transaction which re-
2 sults in the eligible purchaser ceasing to be
3 an eligible purchaser, or ceasing to have
4 control (as defined in subsection (c)(2)(A))
5 of such corporation or ownership of an in-
6 terest in such partnership sufficient to sat-
7 isfy the requirements of subsection
8 (c)(3)(A).

9 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
10 poses of this section—

11 “(1) ELIGIBLE PURCHASER.—The term ‘eligible
12 purchaser’ means—

13 “(A) any economically and socially dis-
14 advantaged business, or

15 “(B) any corporation or partnership if im-
16 mediately following the purchase—

17 “(i) substantially all the assets of
18 such corporation or partnership are assets
19 of 1 or more telecommunications busi-
20 nesses, and

21 “(ii) the Telecommunications Develop-
22 ment Fund established under section 714
23 of the Communications Act of 1934 (47
24 U.S.C. 614) or any wholly-owned affiliate
25 of such Fund owns at least 5 percent of—

1 “(I) the stock in such corpora-
2 tion,

3 “(II) the partnership interest in
4 such partnership, or

5 “(III) the indebtedness convert-
6 ible into such stock or partnership in-
7 terest.

8 “(2) ECONOMICALLY AND SOCIALLY DISADVAN-
9 TAGED BUSINESS.—The term ‘economically and so-
10 cially disadvantaged business’ means a person which
11 is designated by the Secretary as an economically
12 and socially disadvantaged business based on a de-
13 termination that such person—

14 “(A) meets the control requirements of
15 paragraph (6),

16 “(B) will be a telecommunications business
17 after the purchase for which the eligibility de-
18 termination is sought, and

19 “(C) before the purchase for which the eli-
20 gibility determination is sought does not have—

21 “(i) attributable ownership interest in
22 television broadcast stations having an ag-
23 gregate national audience reach of more
24 than 5 percent as defined by the Federal
25 Communications Commission under section

1 73.3555(e)(2)(i) of title 47 of the Code of
2 Federal Regulations as in effect on Janu-
3 ary 1, 2001,

4 “(ii) attributable ownership interest
5 in—

6 “(I) more than 50 radio stations
7 nationally, and

8 “(II) radio stations with a com-
9 bined market share exceeding 10 per-
10 cent of radio advertising revenues in
11 the relevant market as defined by the
12 Federal Communications Commission,
13 or

14 “(iii) attributable ownership interest
15 in any other telecommunications business
16 having more than 5 percent of national
17 subscribers of their respective service.

18 “(3) RELEVANT MARKET.—The term ‘relevant
19 market’ means the local radio market served by the
20 radio station or stations being purchased.

21 “(4) TELECOMMUNICATIONS BUSINESS.—The
22 term ‘telecommunications business’ means a busi-
23 ness which, as its primary purpose, engages in elec-
24 tronic communications and is regulated by the Fed-
25 eral Communications Commission pursuant to the

1 Communications Act of 1934, including a cable sys-
2 tem (as defined in section 602(7) of such Act (47
3 U.S.C. 522(7))), a radio station (as defined in sec-
4 tion 3(35) of such Act (47 U.S.C. 153(35))), a
5 broadcasting station providing television service (as
6 defined in section 3(49) of such Act (47 U.S.C.
7 153(49))), a provider of direct broadcast satellite
8 service (as defined in section 335(b)(5)(A) of such
9 Act (47 U.S.C. 335(b)(5)(A))), a provider of video
10 programming (as defined in section 602(20) of such
11 Act (47 U.S.C. 522(20))), a provider of commercial
12 mobile services (as defined in section 332(d)(1) of
13 such Act (47 U.S.C. 332(d)(1))), a telecommuni-
14 cations carrier (as defined in section 3(44) of such
15 Act (47 U.S.C. 153(44))), a provider of fixed sat-
16 ellite service, a reseller of the communications serv-
17 ice or commercial mobile service, or a provider of
18 multichannel multipoint distribution service.

19 “(5) PURCHASE.—A taxpayer shall be consid-
20 ered to have purchased a property if, but for sub-
21 section (d)(2) and the application of section 1033(b),
22 the basis of the property would be its cost within the
23 meaning of section 1012.

24 “(6) CONTROL.—

1 “(A) INDIVIDUALS.—For purposes of para-
2 graph (2)(A), an individual who meets the re-
3 quirements of paragraph (7) also meets the re-
4 quirements of this paragraph.

5 “(B) ENTITIES.—For purposes of para-
6 graph (2)(A), an entity meets the requirement
7 of this paragraph if the requirements of sub-
8 paragraphs (C), (D), or (E) are satisfied.

9 “(C) 30-PERCENT TEST.—The require-
10 ments of this subparagraph are satisfied if—

11 “(i) with respect to any entity which
12 is a corporation, individuals who meet the
13 requirements of paragraph (7) collectively
14 own at least 30 percent in value of the out-
15 standing stock of the corporation, and
16 more than 50 percent of the total com-
17 bined voting power of all classes of stock
18 entitled to vote of the corporation, and

19 “(ii) with respect to any entity which
20 is a partnership, individuals who meet the
21 requirements of paragraph (7) collectively
22 own at least 30 percent of the capital in-
23 terests in the partnership, a distributive
24 share of at least 30 percent of each item
25 of the partnership’s income, gain, loss, de-

1 duction, or credit, more than 50 percent of
2 the total combined voting power of all
3 partnership interests entitled to vote, and
4 control over the management of the part-
5 nership.

6 “(D) 15-PERCENT TEST.—The require-
7 ments of this subparagraph are satisfied if—

8 “(i) with respect to any entity which
9 is a corporation—

10 “(I) individuals who meet the re-
11 quirements of paragraph (7) collec-
12 tively own at least 15 percent in value
13 of the outstanding stock of the cor-
14 poration, and more than 50 percent of
15 the total combined voting power of all
16 classes of stock entitled to vote of the
17 corporation, and

18 “(II) no other person owns more
19 than 25 percent in value of the out-
20 standing stock of the corporation, and

21 “(ii) with respect to any entity which
22 is a partnership—

23 “(I) individuals who meet the re-
24 quirements of paragraph (7) collec-
25 tively own at least 15 percent of the

1 capital interests in the partnership, a
2 distributive share of at least 15 per-
3 cent of each item of the partnership's
4 income, gain, loss, deduction, or cred-
5 it, more than 50 percent of the total
6 combined voting power of all classes
7 of partnership interests entitled to
8 vote, and control over the manage-
9 ment of the partnership, and

10 “(II) no other person owns more
11 than 25 percent of the capital inter-
12 ests and profits interests in the part-
13 nership or a distributive share of more
14 than 25 percent of any item of the
15 partnership's income, gain, loss, de-
16 duction, or credit.

17 “(E) PUBLICLY-TRADED CORPORATION
18 TEST.—The requirements of this subparagraph
19 are satisfied if, with respect to a corporation
20 the securities of which are traded on an estab-
21 lished securities market, individuals who meet
22 the requirements of paragraph (7) collectively
23 own more than 50 percent of the total combined
24 voting power of all classes of stock entitled to
25 vote of the corporation.

1 “(F) RESTRICTIONS ON AGREEMENTS CON-
2 CERNING VOTING OF STOCK OR PARTNERSHIP
3 INTERESTS.—For purposes of satisfying the re-
4 quirements of subparagraph (C), (D), or (E),
5 the stock or partnership interest relied upon to
6 establish compliance shall not be subject to any
7 agreement, arrangement, or understanding
8 which provides for, or relates to, the voting of
9 the stock or partnership interest in any manner
10 by, or at the direction of, any person other than
11 an eligible individual who meets the require-
12 ments of paragraph (7), or the right of any per-
13 son other than 1 of those individuals to acquire
14 the voting power through purchase of shares,
15 partnership interests, or otherwise.

16 “(G) CONSTRUCTIVE OWNERSHIP.—In ap-
17 plying subparagraphs (C), (D), (E), and (F),
18 the constructive ownership rules of section 318
19 shall apply, but only if the interests for which
20 constructive ownership is claimed are not
21 owned, directly or indirectly, by individuals who
22 do not meet the requirements of paragraph (7).

23 “(7) INDIVIDUALS.—An individual meets the
24 requirements of this paragraph if such individual
25 is—

1 “(A) a United States citizen, and

2 “(B) a member of an economically or so-
3 cially disadvantaged class determined by the
4 Secretary to be underrepresented in the owner-
5 ship of the relevant telecommunications busi-
6 ness.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Sections 1245(b)(5) and 1250(d)(5) of the
9 Internal Revenue Code of 1986 are each amended—

10 (A) by inserting “section 1071 (relating to
11 certain sales of telecommunications businesses)
12 or” before section 1081”, and

13 (B) by inserting “1071 AND” before “1081”
14 in the heading thereof.

15 (2) The table of parts for subchapter O of
16 chapter 1 of such Code is amended by inserting
17 after the item relating to part IV the following new
18 item:

“Part V. Certain sales of telecommunications businesses.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to elections made with respect to
21 any sale on or after the date of the enactment of this Act.

22 **SEC. 4. TELECOMMUNICATIONS BUSINESS CREDIT.**

23 (a) IN GENERAL.—Subpart E of part IV of sub-
24 chapter A of chapter 1 of the Internal Revenue Code of
25 1986 (relating to rules for computing investment credit)

1 is amended by inserting after section 48 the following new
2 section:

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

4 “For purposes of section 46, there is allowed as a
5 credit against the tax imposed by this chapter for any tax-
6 able year an amount equal to 10 percent of the taxable
7 income of any taxpayer which at all times during such tax-
8 able year—

9 “(1) is a local exchange carrier (as defined in
10 section 3(26) of the Communications Act of 1934
11 (47 U.S.C. 153(26))),

12 “(2) is not a Bell operating company (as de-
13 fined in section 3(4) of such Act (47 U.S.C.
14 153(4))), and

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

18 (b) TRANSITIONAL RULE.—Section 39(d) of the In-
19 ternal Revenue Code of 1986 (relating to transitional
20 rules) is amended by adding at the end the following new
21 paragraph:

22 “(11) NO CARRYBACK OF SECTION 48A CREDIT
23 BEFORE EFFECTIVE DATE.—No portion of the un-
24 used business credit for any taxable year which is
25 attributable to the telecommunications business

1 credit determined under section 48A may be carried
2 back to a taxable year ending on or before the date
3 of the enactment of section 48A.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 46 of the Internal Revenue Code of
6 1986 (relating to amount of credit) is amended by
7 striking “and” at the end of paragraph (2), by strik-
8 ing the period at the end of paragraph (3) and in-
9 serting “, and”, and by adding at the end the fol-
10 lowing new paragraph:

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

12 (2) The table of sections for subpart E of part
13 IV of subchapter A of chapter 1 of such Code is
14 amended by inserting after the item relating to sec-
15 tion 48 the following new item:

“Sec. 48A. Telecommunications business credit.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years ending after the
18 date of the enactment of this Act.

19 **SEC. 5. EXCLUSION OF 50 PERCENT OF GAIN.**

20 (a) IN GENERAL.—Section 1202 of the Internal Rev-
21 enue Code of 1986 (relating to partial exclusion for gain
22 from certain small business stock) is amended—

23 (1) by adding at the end of subsection (a) the
24 following new paragraph:

1 “(3) CERTAIN TELECOMMUNICATIONS INVEST-
2 MENTS BY CORPORATIONS AND INVESTMENT COMPA-
3 NIES.—Gross income shall not include 50 percent of
4 any gain from the sale or exchange of stock in an
5 eligible purchaser (as defined in section 1071(f)(1)),
6 engaged in a telecommunications business (as de-
7 fined in section 1071(f)(4)) held for more than 5
8 years.”,

9 (2) by striking subparagraphs (A) and (B) of
10 subsection (b)(1) and inserting the following new
11 subparagraphs:

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

15 “(i) \$10,000,000 reduced by the ag-
16 gregate amount of eligible gain taken into
17 account by the taxpayer under subsection
18 (a) for prior taxable years attributable to
19 dispositions of stock issued by such cor-
20 poration, or

21 “(ii) 10 times the aggregate adjusted
22 bases of qualified small business stock
23 issued by such corporation and disposed of
24 by the taxpayer during the taxable year,
25 and

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

5 “(i) \$20,000,000 reduced by the ag-
6 gregate amount of eligible gain taken into
7 account by the taxpayer under subsection
8 (a) for prior taxable years attributable to
9 dispositions of stock issued by an eligible
10 purchaser engaged in a telecommunications
11 business, or

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

18 (3) by striking “subparagraph (B)” in the last
19 sentence of subsection (b)(1) and inserting “sub-
20 paragraphs (A)(ii) and (B)(ii)”,

21 (4) by striking “years.” in subsection (b)(2)
22 and inserting “years or any gain from the sale or ex-
23 change of stock in an eligible purchaser engaged in
24 a telecommunications business held for more than 5
25 years.”, and

1 chaser” as defined in section 1071(f) of the Internal Rev-
2 enue Code of 1986 (as added by section 3(a)). The regula-
3 tions shall further provide that such determinations of eli-
4 gibility shall be made not later than 45 calendar days after
5 an application is filed with the Secretary of the Treasury.
6 The regulations implementing section 1071(f)(7) of such
7 Code (as added by section 3) shall be updated on an ongo-
8 ing basis not less frequently than every 5 years.

9 **SEC. 7. BIENNIAL PROGRAM AUDITS BY GAO.**

10 Not later than January 1, 2005, and not later than
11 2 years thereafter, the Comptroller General of the United
12 States shall audit the administration of the sections of the
13 Internal Revenue Code of 1986 added or amended by this
14 Act, and issue a report on the results of that audit. The
15 Comptroller General shall include in the report, notwith-
16 standing any provision of section 6103 of the Internal
17 Revenue Code of 1986 to the contrary—

18 (1) a list of eligible purchasers (as defined in
19 section 1071(f)(1) of such Code) and any other tax-
20 payer receiving a benefit from the operation of sec-
21 tion 48A or 1202 of such Code as such section was
22 added or amended by this Act, and

23 (2) an assessment of the effect the amendments
24 made by this Act have on increasing new entry and
25 growth in the telecommunications industry by eco-

1 nominally and socially disadvantaged businesses, and
2 the effect of this Act on enhancing the competitive-
3 ness of the telecommunications industry.

○