

109TH CONGRESS
1ST SESSION

S. 1791

To amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2005

Mr. SMITH (for himself and Mrs. LINCOLN) 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 deduction for qualified timber gains.

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 “Timber Tax Act of
5 2005”.

6 **SEC. 2. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

7 (a) IN GENERAL.—Part I of subchapter P of chapter
8 1 of the Internal Revenue Code of 1986 is amended by
9 adding at the end the following new section:

1 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

2 “(a) IN GENERAL.—In the case of a taxpayer which
3 elects the application of this section for a taxable year,
4 there shall be allowed a deduction against gross income
5 equal to 60 percent of the lesser of—

6 “(1) the taxpayer’s qualified timber gain for
7 such year, or

8 “(2) the taxpayer’s net capital gain for such
9 year.

10 “(b) QUALIFIED TIMBER GAIN.—For purposes of
11 this section, the term ‘qualified timber gain’ means, with
12 respect to any taxpayer for any taxable year, the excess
13 (if any) of—

14 “(1) the sum of the taxpayer’s gains described
15 in subsections (a) and (b) of section 631 for such
16 year, over

17 “(2) the sum of the taxpayer’s losses described
18 in such subsections for such year.

19 “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—
20 In the case of any qualified timber gain of a pass-thru
21 entity (as defined in section 1(h)(10)), the election under
22 this section shall be made separately by each taxpayer sub-
23 ject to tax on such gain.”.

24 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS
25 RATES.—

1 (1) TAXPAYERS OTHER THAN CORPORA-
2 TIONS.—Paragraph (2) of section 1(h) of the Inter-
3 nal Revenue Code of 1986 is amended to read as fol-
4 lows:

5 “(2) REDUCTION OF NET CAPITAL GAIN.—For
6 purposes of this subsection, the net capital gain for
7 any taxable year shall be reduced (but not below
8 zero) by the sum of—

9 “(A) the amount which the taxpayer takes
10 into account as investment income under sec-
11 tion 163(d)(4)(B)(iii), and

12 “(B) the lesser of—

13 “(i) the amount described in para-
14 graph (1) of section 1203(a), or

15 “(ii) the amount described in para-
16 graph (2) of such section.”.

17 (2) CORPORATIONS.—Section 1201 of such
18 Code is amended by redesignating subsection (b) as
19 subsection (c) and inserting after subsection (a) the
20 following new subsection:

21 “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO
22 ACCOUNT.—For purposes of this section, in the case of
23 a corporation with respect to which an election is in effect
24 under section 1203, the net capital gain for any any tax-
25 able year shall be reduced (but not below zero) by the cor-

1 poration's qualified timber gain (as defined in section
2 1203(b)).”.

3 (c) DEDUCTION ALLOWED WHETHER OR NOT INDI-
4 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
5 of section 62 of the Internal Revenue Code of 1986 is
6 amended by inserting before the last sentence the fol-
7 lowing new paragraph:

8 “(21) QUALIFIED TIMBER GAINS.—The deduc-
9 tion allowed by section 1203.”.

10 (d) DEDUCTION ALLOWED IN COMPUTING AD-
11 JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-
12 tion 56(g)(4) of the Internal Revenue Code of 1986 is
13 amended by adding at the end the following new clause:

14 “(vii) DEDUCTION FOR QUALIFIED
15 TIMBER GAIN.—Clause (i) shall not apply
16 to any deduction allowed under section
17 1203.”.

18 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE
19 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-
20 paragraph (C) of section 641(c)(2) of the Internal Rev-
21 enue Code of 1986 is amended by inserting after clause
22 (iii) the following new clause:

23 “(iv) The deduction allowed under
24 section 1203.”.

25 (f) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (B) of section 172(d)(2) of
2 the Internal Revenue Code of 1986 is amended to
3 read as follows:

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

7 (2) Paragraph (4) of section 642(c) of such
8 Code is amended by striking the first sentence and
9 inserting the following: “To the extent that the
10 amount otherwise allowable as a deduction under
11 this subsection consists of gain described in section
12 1202(a) or qualified timber gain (as defined in sec-
13 tion 1203(b)), proper adjustment shall be made for
14 any exclusion allowable to the estate or trust under
15 section 1202 and for any deduction allowable to the
16 estate or trust under section 1203.”

17 (3) Paragraph (3) of section 643(a) of such
18 Code is amended by striking the last sentence and
19 inserting the following: “The exclusion under section
20 1202 and the deduction under section 1203 shall not
21 be taken into account.”

22 (4) Subparagraph (C) of section 643(a)(6) of
23 such Code is amended to read as follows:

24 “(C) Paragraph (3) shall not apply to a
25 foreign trust. In the case of such a trust—

1 “(i) there shall be included gains from
2 the sale or exchange of capital assets, re-
3 duced by losses from such sales or ex-
4 changes to the extent such losses do not
5 exceed gains from such sales or exchanges,
6 and

7 “(ii) the deduction under section 1203
8 shall not be taken into account.”.

9 (5) Paragraph (4) of section 691(c) of such
10 Code is amended by inserting “1203,” after
11 “1202,”.

12 (6) Paragraph (2) of section 871(a) of such
13 Code is amended by inserting “and 1203” after
14 “section 1202”.

15 (7) The table of sections for part I of sub-
16 chapter P of chapter 1 of such Code is amended by
17 adding at the end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

18 (g) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to taxable years ending after
21 the date of the enactment of this Act.

22 (2) TAXABLE YEARS WHICH INCLUDE DATE OF
23 ENACTMENT.—In the case of any taxable year which
24 includes the date of the enactment of this Act, for
25 purposes of the Internal Revenue Code of 1986, the

1 taxpayer's qualified timber gain shall not exceed the
2 excess that would be described in section 1203(b) of
3 such Code, as added by this section, if only disposi-
4 tions of timber after such date were taken into ac-
5 count.

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