

110TH CONGRESS
2D SESSION

H. R. 5908

To amend the Internal Revenue Code of 1986 to provide a permanent zero percent capital gains rate for individuals and corporations.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mr. HERGER (for himself, Mr. DREIER, Mr. SAM JOHNSON of Texas, Mr. BRADY of Texas, Mr. CANTOR, Mr. LINDER, Mr. CAMPBELL of California, and Mr. CONAWAY) 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 a permanent zero percent capital gains rate for individuals and corporations.

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. ZERO PERCENT CAPITAL GAINS RATE FOR IN-**
4 **DIVIDUALS AND CORPORATIONS.**

5 (a) ZERO PERCENT CAPITAL GAINS RATE FOR INDI-
6 VIDUALS.—

7 (1) IN GENERAL.—Paragraph (1) of section
8 1(h) of the Internal Revenue Code of 1986 is
9 amended by striking subparagraph (C), by redesignig-

1 nating subparagraphs (D) and (E) and subpara-
2 graphs (C) and (D), respectively, and by amending
3 subparagraph (B) to read as follows:

4 “(B) 0 percent of the adjusted net capital
5 gain (or, if less, taxable income);”.

6 (2) ALTERNATIVE MINIMUM TAX.—Paragraph
7 (3) of section 55(b) is amended by striking subpara-
8 graph (C), by redesignating subparagraph (D) as
9 subparagraph (C), and by amending subparagraph
10 (B) to read as follows:

11 “(B) 0 percent of the adjusted net capital
12 gain (or, if less, taxable excess), plus”.

13 (3) REPEAL OF SUNSET OF REDUCTION IN CAP-
14 ITAL GAINS RATES FOR INDIVIDUALS.—Section 303
15 of the Jobs and Growth Tax Relief Reconciliation
16 Act of 2003 shall not apply to section 301 of such
17 Act.

18 (b) ZERO PERCENT CAPITAL GAINS RATE FOR COR-
19 PORATIONS.—

20 (1) IN GENERAL.—Section 1201 of the Internal
21 Revenue Code of 1986 is amended by redesignating
22 subsection (b) as subsection (c), and by striking sub-
23 section (a) and inserting the following new sub-
24 sections:

1 “(a) GENERAL RULE.—If for any taxable year a cor-
2 poration has a net capital gain, then, in lieu of the tax
3 imposed by sections 11, 511, 821(a) or (c), and 831(a),
4 there is hereby imposed a tax (if such tax is less than
5 the tax imposed by such sections) which shall consist of
6 the sum of—

7 “(1) a tax computed on the taxable income re-
8 duced by the amount of the net capital gain, at the
9 rates and in the manner as if this subsection had
10 not been enacted,

11 “(2) 0 percent of the adjusted net capital gain
12 (or, if less, taxable income),

13 “(3) 25 percent of the excess (if any) of—

14 “(A) the unrecaptured section 1250 gain
15 (or, if less, the net capital gain (determined
16 without regard to subsection (b)(2))), over

17 “(B) the excess (if any) of—

18 “(i) the sum of the amount on which
19 tax is determined under paragraph (1)
20 plus the net capital gain, over

21 “(ii) taxable income, plus

22 “(4) 28 percent of the amount of taxable in-
23 come in excess of the sum of the amounts on which
24 tax is determined under the preceding paragraphs of
25 this subsection.

1 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) IN GENERAL.—The terms ‘adjusted net
4 capital gain’ and ‘unrecaptured section 1250 gain’
5 shall have the respective meanings given such terms
6 in section 1(h).

7 “(2) DIVIDENDS TAXED AT NET CAPITAL
8 GAIN.—Except as otherwise provided in this section,
9 the term ‘net capital gain’ has the meaning given
10 such term in section 1(h)(11).”.

11 (2) ALTERNATIVE MINIMUM TAX.—Section
12 55(b) of such Code is amended by adding at the end
13 the following new paragraph:

14 “(4) MAXIMUM RATE OF TAX ON NET CAPITAL
15 GAIN OF CORPORATIONS.—The amount determined
16 under paragraph (1)(B)(i) shall not exceed the sum
17 of—

18 “(A) the amount determined under such
19 paragraph computed at the rates and in the
20 same manner as if this paragraph had not been
21 enacted on the taxable excess reduced by the
22 net capital gain, plus

23 “(B) the amount determined under section
24 1201.”.

25 (3) TECHNICAL AMENDMENTS.—

1 (A) Section 1445(e)(1) of such Code is
2 amended by striking “35 percent (or, to the ex-
3 tent provided in regulations, 15 percent)” and
4 inserting “0 percent”.

5 (B) Section 1445(e)(2) of such Code is
6 amended by striking “35 percent” and inserting
7 “0 percent”.

8 (C) Section 7518(g)(6)(A) of such Code is
9 amended by striking “15 percent (34 percent in
10 the case of a corporation)” and inserting “0
11 percent”.

12 (D) Section 607(h)(6)(A) of the Merchant
13 Marine Act, 1936 is amended by striking “15
14 percent (34 percent in the case of a corpora-
15 tion)” and inserting “0 percent”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply to taxable years ending after the date of
20 the enactment of this Act.

21 (2) WITHHOLDING.—The amendments made by
22 subparagraphs (A) and (B) of subsection (b)(3)
23 shall take apply to dispositions and distributions
24 after the date of the enactment of this Act.

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