

105TH CONGRESS
1ST SESSION

H. R. 245

To amend the Internal Revenue Code of 1986 to phaseout the tax of capital gains, to increase the unified credit under the estate and gift taxes, and to increase the maximum benefit under section 2032A to \$1,000,000.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. PAPPAS 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 phaseout the tax of capital gains, to increase the unified credit under the estate and gift taxes, and to increase the maximum benefit under section 2032A to \$1,000,000.

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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business/Family Farm and Investment Fairness
6 Act of 1997”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. PHASEOUT OF CAPITAL GAINS RATE FOR INDIVID-**
 8 **UALS.**

9 (a) IN GENERAL.—Subsection (h) of section 1 (relat-
 10 ing to maximum capital gains rate) is amended to read
 11 as follows:

12 “(h) MAXIMUM CAPITAL GAINS RATE.—

13 “(1) IN GENERAL.—If a taxpayer has a net
 14 capital gain for any taxable year, the tax imposed by
 15 this section for such taxable year shall not exceed
 16 the sum of—

17 “(A) a tax computed at the rates and in
 18 the same manner as if this subsection had not
 19 been enacted on taxable income reduced by the
 20 net capital gain, plus

21 “(B) a tax equal to the applicable percent-
 22 age of the net capital gain.

23 “(2) APPLICABLE PERCENTAGE.—For purposes
 24 of paragraph (1), the term ‘applicable percentage’

1 means the percentage determined in accordance with
 2 the following table:

For taxable years beginning in:	The applicable percentage is:
1997	14
1998	13
1999	12
2000	11
2001	10
2002	9
2003	8
2004	7
2005	6
2006	5
2007	4
2008	3
2009	2
2010	1
2011 or thereafter	0.

3 “(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT
 4 AS INVESTMENT INCOME.—For purposes of this sub-
 5 section, the net capital gain for any taxable year
 6 shall be reduced (but not below zero) by the amount
 7 which the taxpayer elects to take into account as in-
 8 vestment income under section 163(d)(4)(B)(iii).”

9 (b) MINIMUM TAX.—

10 (1) IN GENERAL.—Subparagraph (A) of section
 11 55(b)(1) is amended by redesignating clauses (ii)
 12 and (iii) as clauses (iii) and (iv), respectively, and by
 13 inserting after clause (i) the following new clause:

14 “(ii) MAXIMUM RATE OF TAX ON NET
 15 CAPITAL GAIN.—The amount determined
 16 under the first sentence of clause (i) shall
 17 not exceed the sum of—

1 “(I) the amount determined
 2 under such first sentence computed at
 3 the rates and in the same manner as
 4 if this clause had not been enacted on
 5 the taxable excess reduced by the net
 6 capital gain, plus

7 “(II) a tax equal to the applica-
 8 ble percentage (as defined in section
 9 1(h)) of the lesser of the net capital
 10 gain or the taxable excess.”

11 (2) CONFORMING AMENDMENT.—Clause (iii) of
 12 section 55(a)(1)(A) (as redesignated by paragraph
 13 (1)) is amended by striking “clause (i)” and insert-
 14 ing “this subparagraph”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 1202 (relating to 50-percent exclu-
 17 sion for gain from certain small business stock) is
 18 hereby repealed.

19 (2)(A) Subsection (a) of section 57 is amended
 20 by striking paragraph (7).

21 (B) Subclause (II) of section 53(d)(1)(B)(ii) is
 22 amended by striking “, (5), and (7)” and inserting
 23 “and (5)”.

24 (3) Paragraph (1) of section 170(e) of such
 25 Code is amended—

1 (A) by striking “the amount of gain” in
2 the material following subparagraph (B)(ii) and
3 inserting “the appropriate percentage of the
4 amount of gain”, and

5 (B) by adding at the end the following new
6 sentence: “For purposes of subparagraph (B),
7 the term ‘appropriate percentage’ means the
8 percentage equal to the fraction the numerator
9 of which is the applicable percentage under sec-
10 tion 1(h) or 1201(b) (whichever is appropriate)
11 over 28 percent (35 percent in the case of a
12 corporation).”

13 (4) Paragraph (2) of section 172(d) is amended
14 to read as follows:

15 “(2) CAPITAL GAINS AND LOSSES OF TAX-
16 PAYERS OTHER THAN CORPORATIONS.—In the case
17 of a taxpayer other than a corporation, the amount
18 deductible on account of losses from sales or ex-
19 changes of capital assets shall not exceed the
20 amount includible on account of gains from sales or
21 exchanges of capital assets.”

22 (5) Paragraph (4) of section 642(c) is amended
23 by striking the first sentence.

24 (6) Paragraph (3) of section 643(a) is amended
25 by striking the last sentence.

1 (7) Paragraph (4) of section 691(c) is amended
2 by striking “1202,”.

3 (8) The second sentence of section 871(a)(2) is
4 amended by striking “such gains and losses shall be
5 determined without regard to section 1202 and”.

6 (9) Subsection (a) of section 1044 is amended
7 by striking the last sentence.

8 (10) Paragraph (1) of section 1445(e) is
9 amended by striking “28 percent” and inserting
10 “the applicable percentage under section 1(h)”.

11 (11) Section 6652 is amended by striking sub-
12 section (k) and by redesignating subsections (l) and
13 (m) as subsections (k) and (l), respectively.

14 (12)(A) The second sentence of section
15 7518(g)(6)(A) is amended by striking “28 percent”
16 and all that follows and inserting “the applicable
17 percentage under the appropriate such section.”.

18 (B) The second sentence of section
19 607(h)(6)(A) of the Merchant Marine Act, 1936 is
20 amended by striking “28 percent” and all that fol-
21 lows and inserting “the applicable percentage under
22 the appropriate such section.”.

23 (13) The table of sections for part I of sub-
24 chapter P of chapter 1 is amended by striking the
25 item relating to section 1202.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), the amendments made by this section
4 shall apply to taxable years beginning after Decem-
5 ber 31, 1996.

6 (2) WITHHOLDING.—The amendment made by
7 subsection (c)(10) shall apply to amounts paid after
8 the date of the enactment of this Act.

9 **SEC. 3. PHASEDOWN OF CAPITAL GAINS RATE FOR COR-**
10 **PORATIONS.**

11 (a) IN GENERAL.—Section 1201 is amended to read
12 as follows:

13 **“SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.**

14 “(a) GENERAL RULE.—If for any taxable year a cor-
15 poration has a net capital gain, then, in lieu of the tax
16 imposed by sections 11, 511, and 831 (a) and (b) (which-
17 ever is applicable), there is hereby imposed a tax (if such
18 tax is less than the tax imposed by such sections) which
19 shall consist of the sum of—

20 “(1) a tax computed on the taxable income re-
21 duced by the amount of the net capital gain, at the
22 rates and in the manner as if this subsection had
23 not been enacted, plus

24 “(2) a tax equal to the applicable percentage of
25 the net capital gain.

1 “(b) APPLICABLE PERCENTAGE.—For purposes of
 2 paragraph (1), the term ‘applicable percentage’ means the
 3 percentage determined in accordance with the following
 4 table:

For taxable years beginning in:	The applicable percentage is:
1997	28
1998	27
1999	26
2000	25
2001	24
2002	23
2003	22
2004	21
2005	20
2006	19
2007	18
2008	17
2009	16
2010	15
2011 or thereafter	14.

5 “(c) CROSS REFERENCES.—

“For computation of the alternative tax—
“(1) in the case of life insurance companies, see
section 801(a)(2),
“(2) in the case of regulated investment compa-
nies and their shareholders, see section 852(b)(3) (A
and (D), and
“(3) in the case of real estate investment trusts,
see section 857(b)(3)(A).”

6 (b) MINIMUM TAX.—Subparagraph (B) of section
 7 55(b)(1) is amended to read as follows:

8 “(B) CORPORATIONS.—

9 “(i) IN GENERAL.—In the case of a
 10 corporation, the tentative minimum tax for
 11 the taxable year is—

12 “(I) 20 percent of so much of the
 13 alternative minimum taxable income

1 for the taxable year as exceeds the ex-
 2 emption amount, reduced by

3 “(II) the alternative minimum
 4 tax foreign tax credit for the taxable
 5 year.

6 “(ii) MAXIMUM RATE OF TAX ON NET
 7 CAPITAL GAIN.—If for any taxable year the
 8 applicable percentage under section
 9 1201(b) is less than 20 percent, the
 10 amount determined under subclause (I) of
 11 clause (i) for such taxable year shall not
 12 exceed the sum of—

13 “(I) the amount determined
 14 under such subclause computed at the
 15 rates and in the same manner as if
 16 this clause had not been enacted on
 17 the excess described in such subclause
 18 reduced by the net capital gain, plus

19 “(II) a tax equal to the applica-
 20 ble percentage (as defined in section
 21 1201(b)) of the lesser of the net cap-
 22 ital gain or such excess.”

23 (c) TECHNICAL AMENDMENTS.—

24 (1) Clause (iii) of section 852(b)(3)(D) is
 25 amended—

1 (A) by striking “65 percent” and inserting
2 “the appropriate percentage”, and

3 (B) by adding at the end the following new
4 sentence: “For purposes of this clause, the term
5 ‘appropriate percentage’ means the percentage
6 equal to the excess of 100 percent over the ap-
7 plicable percentage under section 1201(b).”

8 (2) Subsection (e) of section 1445 is amended
9 by striking “35 percent” each place it appears and
10 inserting “the applicable percentage under section
11 1201(b)”.

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall apply to taxable years ending after December
16 31, 1996.

17 (2) WITHHOLDING.—The amendment made by
18 subsection (c)(2) shall apply to amounts paid after
19 the date of the enactment of this Act.

20 (e) TRANSITIONAL RULE.—

21 (1) IN GENERAL.—In the case of any taxable
22 year ending after December 31, 1996, and beginning
23 on or before such date, paragraph (2) of section
24 1201(a) of the Internal Revenue Code of 1986 (as

1 amended by this section) shall be applied as if it
2 read as follows:

3 “(2) the sum of—

4 “(A) a tax of 28 percent of the lesser of—

5 “(i) the net capital gain for the tax-
6 able year, or

7 “(ii) the net capital gain taking into
8 account only gain or loss properly taken
9 into account for the portion of the taxable
10 year after December 31, 1996, plus

11 “(B) a tax of 35 percent of the excess of—

12 “(i) the net capital gain for the tax-
13 able year, over

14 “(ii) the amount of net capital gain
15 taken into account under subparagraph
16 (A).”

17 (2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

18 (A) IN GENERAL.—In applying paragraph
19 (1) with respect to any pass-thru entity, the de-
20 termination of when gains and losses are prop-
21 erly taken into account shall be made at the en-
22 tity level.

23 (B) PASS-THRU ENTITY DEFINED.—For
24 purposes of subparagraph (A), the term “pass-
25 thru entity” means—

- 1 (i) a regulated investment company,
- 2 (ii) a real estate investment trust,
- 3 (iii) an S corporation,
- 4 (iv) a partnership,
- 5 (v) an estate or trust, and
- 6 (vi) a common trust fund.

7 **SEC. 4. INCREASE IN UNIFIED ESTATE AND GIFT TAX CRED-**

8 **IT.**

9 (a) IN GENERAL.—

10 (1) Subsection (a) of section 2010 (relating to
 11 unified credit against estate tax) is amended by
 12 striking “\$192,800” and inserting “the applicable
 13 credit amount”.

14 (2) Section 2010 is amended by redesignating
 15 subsection (c) as subsection (d) and by inserting
 16 after subsection (b) the following new subsection:

17 “(c) APPLICABLE CREDIT AMOUNT.—For purposes
 18 of this section, the applicable credit amount is the amount
 19 of the tentative tax which would be determined under the
 20 rate schedule set forth in section 2001(c) if the amount
 21 with respect to which such tentative tax is to be computed
 22 were \$1,000,000.”

23 (3) Paragraph (1) of section 6018(a) is amend-
 24 ed by striking “\$600,000” and inserting
 25 “\$1,000,000”.

1 (4) Paragraph (2) of section 2001(c) is amend-
 2 ed by striking “\$21,040,000” and inserting “the
 3 amount at which the average tax rate under this sec-
 4 tion is 55 percent”.

5 (5) Subparagraph (A) of section 2102(c)(3) is
 6 amended by striking “\$192,800” and inserting “the
 7 applicable credit amount under section 2010(c)”.

8 (b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of
 9 section 2505(a) is amended by striking “\$192,800” and
 10 inserting “the applicable credit amount under section
 11 2010(c)”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to the estates of decedents dying,
 14 and gifts made, after the date of the enactment of this
 15 Act.

16 **SEC. 5. INCREASE IN MAXIMUM BENEFIT UNDER SPECIAL**
 17 **ESTATE TAX VALUATION RULES FOR CER-**
 18 **TAIN FARM, ETC., REAL PROPERTY.**

19 (a) IN GENERAL.—Paragraph (2) of section
 20 2032A(a) (relating to limitation on aggregate reduction in
 21 fair market value) is amended by striking “\$750,000” and
 22 inserting “\$1,000,000”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to decedents dying after the date
3 of the enactment of this Act.

○