

105TH CONGRESS  
2D SESSION

# H. R. 3860

To amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2001.

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IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1998

Mr. SCARBOROUGH introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2001.

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 “Capital Gains Sunset  
5       Act”.

6       **SEC. 2. 100 PERCENT CAPITAL GAINS DEDUCTION.**

7       (a) GENERAL RULE.—Section 1201 of the Internal  
8       Revenue Code of 1986 is amended to read as follows:

1 **“SEC. 1201. CAPITAL GAINS DEDUCTION.**

2       “(a) GENERAL RULE.—If for any taxable year a tax-  
3 payer has a net capital gain, 100 percent of such gain  
4 shall be a deduction from gross income.

5       “(b) ESTATES AND TRUSTS.—In the case of an es-  
6 tate or trust, the deduction shall be computed by excluding  
7 the portion (if any) of the gains for the taxable year from  
8 sales or exchanges of capital assets which, under sections  
9 652 and 662 (relating to inclusions of amounts in gross  
10 income of beneficiaries of trusts), is includible by the in-  
11 come beneficiaries as gain derived from the sale or ex-  
12 change of capital assets.

13       “(c) COORDINATION WITH TREATMENT OF CAPITAL  
14 GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—  
15 For purposes of this section, the net capital gain for any  
16 taxable year shall be reduced (but not below zero) by the  
17 amount which the taxpayer takes into account as invest-  
18 ment income under section 163(d)(4)(B)(iii).

19       “(d) TRANSITIONAL RULES.—

20               “(1) IN GENERAL.—In the case of a taxable  
21 year which includes January 1, 2002—

22                       “(A) the amount taken into account as the  
23 net capital gain under subsection (a) shall not  
24 exceed the net capital gain determined by only  
25 taking into account gains and losses properly

1 taken into account for the portion of the tax-  
 2 able year on or after January 1, 2002, and

3 “(B) the amount of the net capital gain  
 4 taken into account in applying section 1(h) for  
 5 such year shall be reduced by the amount taken  
 6 into account under subparagraph (A) for such  
 7 year.

8 “(2) SPECIAL RULES FOR PASS-THRU ENTI-  
 9 TIES.—

10 “(A) IN GENERAL.—In applying paragraph  
 11 (1) with respect to any pass-thru entity, the de-  
 12 termination of when gains and losses are prop-  
 13 erly taken into account shall be made at the en-  
 14 tity level.

15 “(B) PASS-THRU ENTITY DEFINED.—For  
 16 purposes of subparagraph (A), the term ‘pass-  
 17 thru entity’ means—

18 “(i) a regulated investment company,

19 “(ii) a real estate investment trust,

20 “(iii) an S corporation,

21 “(iv) a partnership,

22 “(v) an estate or trust, and

23 “(vi) a common trust fund.”

24 (b) DEDUCTION ALLOWABLE IN COMPUTING AD-  
 25 JUSTED GROSS INCOME.—Subsection (a) of section 62 of

1 such Code is amended by inserting after paragraph (17)  
2 the following new paragraph:

3 “(18) LONG-TERM CAPITAL GAINS.—The de-  
4 duction allowed by section 1201.”

5 (c) TECHNICAL AND CONFORMING CHANGES.—

6 (1) Section 1 of such Code is amended by strik-  
7 ing subsection (h).

8 (2) Section 12 of such Code is amended by  
9 striking paragraph (4) and redesignating the follow-  
10 ing paragraphs accordingly.

11 (3)(A) Subsection (a) of section 57 of such  
12 Code is amended by striking paragraph (7).

13 (B) Subclause (II) of section 53(d)(1)(B)(ii) of  
14 such Code is amended by striking “, (5), and (7)”  
15 and inserting “and (5)”.

16 (4) The first sentence of paragraph (1) of sec-  
17 tion 170(e) of such Code is amended by striking “re-  
18 duced by the sum of—” and all that follows and in-  
19 serting “reduced by the amount of gain which would  
20 not have been long-term capital gain if the property  
21 contributed had been sold by the taxpayer at its fair  
22 market value (determined at the time of such con-  
23 tribution).”

24 (5) Paragraph (2) of section 172(d) of such  
25 Code is amended to read as follows:

1 “(2) CAPITAL GAINS AND LOSSES.—

2 “(A) LOSSES OF TAXPAYERS OTHER THAN  
3 CORPORATIONS.—In the case of a taxpayer  
4 other than a corporation, the amount deductible  
5 on account of losses from sales or exchanges of  
6 capital assets shall not exceed the amount in-  
7 cludible on account of gains from sales or ex-  
8 changes of capital assets.

9 “(B) DEDUCTION FOR CAPITAL GAINS.—  
10 The deduction under section 1201 shall not be  
11 allowed.”

12 (6) The last sentence of section 453A(c)(3) of  
13 such Code is amended by striking all that follows  
14 “long-term capital gain,” and inserting “the deduc-  
15 tion under section 1201 shall be taken into ac-  
16 count.”

17 (7) Paragraph (2) of section 468B(b) of such  
18 Code is amended by inserting “the deduction allowed  
19 by section 1201 and by” after “reduced by”.

20 (8) Paragraph (2) of section 527(b) such Code  
21 is hereby repealed.

22 (9) Subparagraph (A) of section 641(d)(2) of  
23 such Code is amended by striking “Except as pro-  
24 vided in section 1(h), the” and inserting “The”.

1           (10) Paragraph (4) of section 642(c) of such  
2 Code is amended to read as follows:

3           “(4) ADJUSTMENTS.—To the extent that the  
4 amount otherwise allowable as a deduction under  
5 this subsection consists of gain from the sale or ex-  
6 change of capital assets held for more than 1 year,  
7 proper adjustment shall be made for any deduction  
8 allowable to the estate or trust under section 1201  
9 (relating to capital gains deduction). In the case of  
10 a trust, the deduction allowed by this subsection  
11 shall be subject to section 681 (relating to unrelated  
12 business income).”

13           (11) The last sentence of section 643(a)(3) of  
14 such Code is amended to read as follows: “The de-  
15 duction under section 1201 (relating to capital gains  
16 deduction) shall not be taken into account.”

17           (12) Subparagraph (C) of section 643(a)(6) of  
18 such Code is amended by inserting “(i)” before  
19 “there shall” and by inserting before the period “,  
20 and (ii) the deduction under section 1201 (relating  
21 to capital gains deduction) shall not be taken into  
22 account”.

23           (13) Paragraph (4) of section 691(c) of such  
24 Code is amended by striking “1(h), 1201, 1202”  
25 and inserting “1201”.

1           (14) Paragraph (2) of section 801(a) of such  
2       Code is hereby repealed.

3           (15) Subsection (c) of section 831 of such Code  
4       is amended by striking paragraph (1) and redesign-  
5       nating the following paragraphs accordingly.

6           (16)(A) Paragraph (3) of section 852(b) of  
7       such Code is amended by striking subparagraph (A).

8           (B) Subparagraph (D) of section 852(b)(3) of  
9       such Code is amended—

10           (i) in clause (i) by striking “shall not ex-  
11           ceed” and all that follows and inserting “shall  
12           not exceed that part of the excess (if any) of  
13           the net capital gain over the deduction for divi-  
14           dends paid (as defined in section 561 and de-  
15           termined with reference to capital gain divi-  
16           dends only) which he would have received if all  
17           of such amount had been distributed as capital  
18           gain dividends by the company to the holders of  
19           such shares at the close of its taxable year.”,  
20           and

21           (ii) by striking clauses (ii), (iii), and (iv)  
22           and redesignating clause (v) as clause (ii).

23           (17)(A) Paragraph (2) of section 857(b) of  
24       such Code is amended by adding at the end the fol-  
25       lowing new subparagraph:

1           “(G) There shall be excluded the amount  
2           of the net capital gain, if any.”

3           (B) Paragraph (3) of section 857(b) of such  
4           Code is amended by striking subparagraph (A).

5           (C) Subparagraph (C) of section 857(b)(3) of  
6           such Code is amended by striking “the excess de-  
7           scribed in subparagraph (A)(ii) of this paragraph”  
8           and inserting “the excess (if any) of the net capital  
9           gain over the deduction for dividends paid (as de-  
10          fined in section 561 and determined with reference  
11          to capital gain dividends only)”.

12          (18) The second sentence of section 871(a)(2)  
13          of such Code is amended by striking “1202” and in-  
14          serting “1201”.

15          (19) Paragraph (1) of section 882(a) of such  
16          Code is amended by striking “section 11, 55, 59A,  
17          or 1201(a)” and inserting “section 11, 55, or 59A”.

18          (20)(A) Paragraph (2) of section 904(b) of  
19          such Code is amended to read as follows:

20               “(2) CAPITAL GAINS.—Taxable income from  
21               sources outside the United States shall include gain  
22               from the sale or exchange of capital assets only to  
23               the extent of foreign source capital gain net in-  
24               come.”



1           (B) Paragraph (3) of section 904(b) of such  
2       Code is amended by striking subparagraphs (B),  
3       (D), and (E) and by redesignating subparagraph (C)  
4       as subparagraph (B).

5           (21) Section 1202 of such Code is hereby re-  
6       pealed.

7           (22) Subsection (b) of section 1374 of such  
8       Code is amended by striking paragraph (4).

9           (23) Subsection (b) of section 1381 of such  
10      Code is amended by striking “or 1201”.

11          (24) Paragraph (1) of section 1402(i) of such  
12      Code is amended by inserting “, and the deduction  
13      provided by section 1201 shall not apply” before the  
14      period at the end thereof.

15          (25) Subsection (e) of section 1445 of such  
16      Code is amended—

17                (A) in paragraph (1) by striking “35 per-  
18               cent (or, to the extent provided in regulations,  
19               28 percent)” and inserting “the rate specified  
20               by the Secretary”, and

21                (B) in paragraph (2) by striking “35 per-  
22               cent” and inserting “the rate specified by the  
23               Secretary”.

24          (26) Clause (i) of section 6425(c)(1)(A) of such  
25      Code is amended by striking “or 1201(a)”.

1           (27) Clause (i) of section 6655(g)(1)(A) of such  
2       Code is amended by striking “or 1201(a)”.

3           (28)(A) The second sentence of section  
4       7518(g)(6)(A) of such Code is amended to read as  
5       follows:

6           “No tax shall be imposed under the preceding  
7       sentence with respect to the portion of any non-  
8       qualified withdrawal made out of the capital  
9       gain account.”

10          (B) The second sentence of section  
11       607(h)(6)(A) of the Merchant Marine Act, 1936, is  
12       amended to read as follows:

13          “No tax shall be imposed under the preceding  
14       sentence with respect to the portion of any non-  
15       qualified withdrawal made out of the capital  
16       gain account.”

17          (29) The table of sections for part I of sub-  
18       chapter P of chapter 1 of such Code is amended to  
19       read as follows:

            “Sec. 1201. Capital gains deduction.”

20       (d) EFFECTIVE DATES.—

21           (1) IN GENERAL.—Except as otherwise pro-  
22       vided in this subsection, the amendments made by  
23       this section shall apply to taxable years ending after  
24       December 31, 2001.

1           (2) REPEAL OF SECTION 1(h).—The amend-  
2           ment made by subsection (c)(1) shall apply to tax-  
3           able years beginning after December 31, 2001.

4           (3) CONTRIBUTIONS.—The amendment made  
5           by subsection (c)(4) shall apply only to contributions  
6           on or after January 1, 2002.

7           (4) WITHHOLDING.—The amendment made by  
8           subsection (c)(25) shall apply only to amounts paid  
9           after the date of the enactment of this Act.

10          (5) COORDINATION WITH PRIOR TRANSITION  
11          RULE.—Any amount treated as long-term capital  
12          gain by reason of paragraph (3) of section 1122(h)  
13          of the Tax Reform Act of 1986 shall not be taken  
14          into account for purposes of applying section 1201  
15          of the Internal Revenue Code of 1986 (as added by  
16          this section).

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