

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.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1998

Mr. SCARBOROUGH 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 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”.

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).”

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

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).

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.”

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

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)”.  
26

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.—

Q