

106TH CONGRESS  
1ST SESSION

# S. 1347

To amend the Internal Revenue Code of 1986 to exclude from gross income capital gain from the disposition of certain urban property, Indian reservation property, or farm property which has been held for more than 5 years.

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## IN THE SENATE OF THE UNITED STATES

JULY 12, 1999

Mr. BROWNBACK introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income capital gain from the disposition of certain urban property, Indian reservation property, or farm property which has been held for more than 5 years.

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. EXCLUSION OF CAPITAL GAIN FROM CERTAIN**  
4 **INVESTMENTS WITHIN URBAN AREAS AND IN-**  
5 **DIAN RESERVATIONS.**

6 (a) IN GENERAL.—Part I of subchapter P of chapter  
7 1 of the Internal Revenue Code of 1986 (relating to treat-

1 ment of capital gains) is amended by adding at the end  
 2 the following:

3 **“SEC. 1203. 100 PERCENT EXCLUSION FOR CAPITAL GAIN**  
 4 **FROM URBAN AND INDIAN RESERVATION IN-**  
 5 **VESTMENTS.**

6 “(a) EXCLUSION.—Gross income shall not include  
 7 qualified capital gain from the sale or exchange of any  
 8 qualified area asset held for more than 5 years.

9 “(b) QUALIFIED AREA ASSET.—For purposes of this  
 10 section—

11 “(1) IN GENERAL.—The term ‘qualified area  
 12 asset’ means—

13 “(A) any qualified area business stock,

14 “(B) any qualified area partnership inter-  
 15 est, and

16 “(C) any qualified area business property.

17 “(2) QUALIFIED AREA BUSINESS STOCK.—

18 “(A) IN GENERAL.—Except as provided in  
 19 subparagraph (B), the term ‘qualified area  
 20 business stock’ means any stock in a domestic  
 21 corporation if—

22 “(i) such stock is acquired by the tax-  
 23 payer on original issue from the corpora-  
 24 tion solely in exchange for cash,

1 “(ii) as of the time such stock was  
 2 issued, such corporation was a qualified  
 3 area business (or, in the case of a new cor-  
 4 poration, such corporation was being orga-  
 5 nized for purposes of being a qualified area  
 6 business), and

7 “(iii) during substantially all of the  
 8 taxpayer’s holding period for such stock,  
 9 such corporation qualified as a qualified  
 10 area business.

11 “(B) REDEMPTIONS.—A rule similar to  
 12 the rule of section 1202(c)(3) shall apply for  
 13 purposes of this paragraph.

14 “(3) QUALIFIED AREA PARTNERSHIP INTER-  
 15 EST.—The term ‘qualified area partnership interest’  
 16 means any capital or profits interest in a domestic  
 17 partnership if—

18 “(A) such interest is acquired by the tax-  
 19 payer from the partnership solely in exchange  
 20 for cash,

21 “(B) as of the time such interest was ac-  
 22 quired, such partnership was a qualified area  
 23 business (or, in the case of a new partnership,  
 24 such partnership was being organized for pur-  
 25 poses of being a qualified area business), and

1           “(C) during substantially all of the tax-  
 2           payer’s holding period for such interest, such  
 3           partnership qualified as a qualified area busi-  
 4           ness.

5           A rule similar to the rule of paragraph (2)(B) shall  
 6           apply for purposes of this paragraph.

7           “(4) QUALIFIED AREA BUSINESS PROPERTY.—

8           “(A) GENERAL RULE.—

9           “(i) IN GENERAL.—The term ‘quali-  
 10          fied area business property’ means any  
 11          property to which section 168 applies (or  
 12          would apply but for section 179) if—

13           “(I) such property was acquired  
 14           by the taxpayer by purchase (as de-  
 15           fined in section 179(d)(2)) after De-  
 16           cember 31, 1999,

17           “(II) the original use of which in  
 18           a qualified area commences with the  
 19           taxpayer, and

20           “(III) substantially all of the use  
 21           of which is in a qualified area and is  
 22           in active conduct of a qualified area  
 23           business by the taxpayer in such area.

24           “(ii) SPECIAL RULE FOR SUBSTAN-  
 25          TIAL RENOVATIONS.—In the case of any

property which is substantially renovated by the taxpayer, the requirements of subclauses (I) and (II) of clause (i) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after December 31, 1999, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

“(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

“(II) \$5,000.

“(B) SPECIAL RULES FOR SALE-LEASE-BACKS.—For purposes of subparagraph (A)(i)(II), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease-back.

1           “(5) TREATMENT OF SUBSEQUENT PUR-  
 2 CHASERS.—The term ‘qualified area asset’ includes  
 3 any property which would be a qualified asset but  
 4 for paragraph (2)(A)(i), (3)(A), or (4)(A)(i)(II) in  
 5 the hands of the taxpayer if such property was a  
 6 qualified area asset in the hands of any prior holder.

7           “(6) 5-YEAR SAFE HARBOR.—If any property  
 8 ceases to be a qualified area asset by reason of para-  
 9 graph (2)(A)(iii), (3)(C), or (4)(A)(i)(III) after the  
 10 5-year period beginning on the date the taxpayer ac-  
 11 quired such property, such property shall continue to  
 12 be treated as meeting the requirements of such  
 13 paragraph; except that the amount of gain to which  
 14 subsection (a) applies on any sale or exchange of  
 15 such property shall not exceed the amount which  
 16 would be qualified capital gain had such property  
 17 been sold on the date of such cessation.

18           “(c) OTHER DEFINITIONS AND SPECIAL RULES.—  
 19 For purposes of this section—

20           “(1) QUALIFIED AREA.—

21           “(A) IN GENERAL.—The term ‘qualified  
 22 area’ means—

23                   “(i) any urban area, or

24                   “(ii) any area within an Indian res-  
 25 ervation.

1           “(B) INDIAN RESERVATION.—The term  
2           ‘Indian reservation’ has the meaning given such  
3           term in section 168(j)(6).

4           “(C) URBAN AREA.—The term ‘urban  
5           area’ has the meaning given such term in sec-  
6           tion 1393(a)(3).

7           “(2) QUALIFIED AREA BUSINESS.—The term  
8           ‘qualified area business’ has the same meaning given  
9           the term ‘enterprise zone business’ by section 1397B  
10          except that such section shall be applied—

11           “(A) without regard to subsections (b)(6)  
12          and (c)(5) thereof,

13           “(B) by substituting ‘80 percent’ for ‘50  
14          percent’ in subsections (b)(2) and (c)(1) there-  
15          of,

16           “(C) by treating any reference to an em-  
17          powerment zone as a reference to the applicable  
18          qualified area, and

19           “(D) by treating the term ‘qualified busi-  
20          ness’ under subsection (d) thereof as not includ-  
21          ing any class II or class III gaming activity  
22          conducted or licensed by an Indian tribe (within  
23          the meaning of section 3402(r)(1)).

24           “(3) QUALIFIED CAPITAL GAIN.—Except as  
25          otherwise provided in this subsection, the term

1       ‘qualified capital gain’ means any gain recognized on  
2       the sale or exchange of—

3               “(A) a capital asset, or

4               “(B) property used in the trade or busi-  
5       ness (as defined in section 1231(b)).

6       “(4) SPECIAL RULES.—

7               “(A) GAIN BEFORE 2000 NOT QUALI-  
8       FIED.—The term ‘qualified capital gain’ shall  
9       not include any gain attributable to periods be-  
10      fore January 1, 2000.

11              “(B) CERTAIN GAIN ON REAL PROPERTY  
12      NOT QUALIFIED.—The term ‘qualified capital  
13      gain’ shall not include any gain which would be  
14      treated as ordinary income under section 1245  
15      or under section 1250 if section 1250 applied to  
16      all depreciation rather than the additional de-  
17      preciation.

18              “(C) INTANGIBLES AND LAND NOT INTE-  
19      GRAL PART OF QUALIFIED BUSINESS.—The  
20      term ‘qualified capital gain’ shall not include  
21      any gain which is attributable to real property,  
22      or an intangible asset, which is not an integral  
23      part of a qualified area business.

24              “(D) RELATED PARTY TRANSACTIONS.—  
25      The term ‘qualified capital gain’ shall not in-



1           clude any gain attributable, directly or indi-  
 2           rectly, in whole or in part, to a transaction with  
 3           a related person. For purposes of this subpara-  
 4           graph, persons are related to each other if such  
 5           persons are described in section 267(b) or  
 6           707(b)(1).

7           “(d) CERTAIN OTHER RULES TO APPLY.—Rules  
 8           similar to the rules of subsections (g), (h), (i)(2), and (j)  
 9           of section 1202 shall apply for purposes of this section.

10          “(e) SALES AND EXCHANGES OF INTERESTS IN  
 11          PARTNERSHIPS AND S CORPORATIONS WHICH ARE  
 12          QUALIFIED AREA BUSINESSES.—In the case of the sale  
 13          or exchange of an interest in a partnership, or of stock  
 14          in an S corporation, which was a qualified area business  
 15          during substantially all of the period the taxpayer held  
 16          such interest or stock, the amount of qualified capital gain  
 17          shall be determined without regard to—

18                 “(1) any gain which is attributable to real prop-  
 19                 erty, or an intangible asset, which is not an integral  
 20                 part of any qualified area business, and

21                 “(2) any gain attributable to periods before De-  
 22                 cember 31, 1999.”

23          (b) CONFORMING AMENDMENTS.—

24                 (1) Paragraph (9) of section 1(h) of the Inter-  
 25                 nal Revenue Code of 1986 (relating to maximum

1 capital gains rate) is amended by striking “and sec-  
2 tion 1202 gain” and inserting “section 1202 gain,  
3 and gain excluded from gross income under section  
4 1203(a)”.

5 (2) Section 172(d)(2)(B) of such Code (relating  
6 to modifications with respect to net operating loss  
7 deduction) is amended by striking “section 1202”  
8 and inserting “sections 1202 and 1203”.

9 (3) Section 642(c)(4) of such Code (relating to  
10 adjustments) is amended by inserting “or 1203(a)”  
11 after “section 1202(a)” and by inserting “or 1203”  
12 after “section 1202”.

13 (4) Section 643(a)(3) of such Code (defining  
14 distributable net income) is amended by striking  
15 “section 1202” and inserting “sections 1202 and  
16 1203”.

17 (5) Section 691(c)(4) of such Code (relating to  
18 coordination with capital gain provisions) is amend-  
19 ed by inserting “1203,” after “1202,”.

20 (6) The second sentence of section 871(a)(2) of  
21 such Code (relating to capital gains of aliens present  
22 in the United States 183 days or more) is amended  
23 by inserting “or 1203” after “section 1202”.

1           (7) The table of sections of part I of subchapter  
 2       P of chapter 1 of such Code is amended by adding  
 3       at the end the following:

“Sec. 1203. 100 percent exclusion for capital gain from urban  
 and Indian reservation investment.”

4           (8)(A) Subchapter W of chapter 1 of such Code  
 5       (relating to District of Columbia enterprise zone) is  
 6       amended by striking section 1400B and redesign-  
 7       nating section 1400C as section 1400B.

8           (B) Section 23(c) of such Code is amended by  
 9       striking “1400C” and inserting “1400B”.

10          (C) Section 25(e)(1)(C) of such Code is amend-  
 11       ed by striking “1400C” and inserting “1400B”.

12          (D) Section 1016(a)(27) of such Code is  
 13       amended by striking “1400C” and inserting  
 14       “1400B” each place it appears.

15          (E) The table of sections for subchapter W of  
 16       chapter 1 of such Code is amended by striking the  
 17       items relating to sections 1400B and 1400C and in-  
 18       serting the following:

“Sec. 1400B. First-time homebuyer credit for District of Colum-  
 bia.”

19       (c) EFFECTIVE DATE.—The amendments made by  
 20       this section shall apply to taxable years beginning after  
 21       December 31, 1999.

1 **SEC. 2. EXCLUSION FOR CAPITAL GAIN FROM CERTAIN**  
 2 **FARM PROPERTY.**

3 (a) IN GENERAL.—Part I of subchapter P of chapter  
 4 1 of the Internal Revenue Code of 1986 (relating to treat-  
 5 ment of capital gains), as amended by section 1, is amend-  
 6 ed by adding at the end the following:

7 **“SEC. 1204. 100 PERCENT EXCLUSION FOR CAPITAL GAIN**  
 8 **FROM FARM PROPERTY.**

9 “(a) EXCLUSION.—In the case of an individual (as  
 10 defined in section 1301(b)(2)), gross income shall not in-  
 11 clude any qualified capital gain from the sale or exchange  
 12 of qualified farm property held for more than 5 years.

13 “(b) DEFINITIONS.—For purposes of this section—

14 “(1) QUALIFIED CAPITAL GAIN.—

15 “(A) IN GENERAL.—Except as provided in  
 16 subparagraphs (B) and (C), the term ‘qualified  
 17 capital gain’ means any long-term capital gain.

18 “(B) GAIN BEFORE 2000 NOT QUALI-  
 19 FIED.—The term ‘qualified capital gain’ shall  
 20 not include any gain attributable to periods be-  
 21 fore January 1, 2000.

22 “(C) CERTAIN GAIN NOT QUALIFIED.—The  
 23 term ‘qualified capital gain’ shall not include  
 24 any gain which would be treated as ordinary in-  
 25 come under section 1245 or under section 1250

1 if section 1250 applied to all depreciation rath-  
 2 er than the additional depreciation.

3 “(2) QUALIFIED FARM PROPERTY.—The term  
 4 ‘qualified farm property’ means any property used  
 5 by the taxpayer in connection with any farming busi-  
 6 ness (as defined in section 263A(e)(4)).”

7 (b) CONFORMING AMENDMENTS.—

8 (1) Paragraph (9) of section 1(h) of the Inter-  
 9 nal Revenue Code of 1986 (relating to maximum  
 10 capital gains rate), as amended by section 1, is  
 11 amended by inserting “or 1204(a)” after “1203(a)”.

12 (2) Section 172(d)(2)(B) of such Code (relating  
 13 to modifications with respect to net operating loss  
 14 deduction), as so amended, is amended by striking  
 15 “1202 and 1203” and inserting “1202, 1203, and  
 16 1204”.

17 (3) Section 642(c)(4) of such Code (relating to  
 18 adjustments), as so amended, is amended by striking  
 19 “1202(a) or 1203(a)” and inserting “1202(a),  
 20 1203(a), or 1204(a)” and by striking “1202 or  
 21 1203” and inserting “1202, 1203, or 1204.”

22 (4) Section 643(a)(3) of such Code (defining  
 23 distributable net income), as so amended, is amend-  
 24 ed by striking “sections 1202 and 1203” and insert-  
 25 ing “sections 1202, 1203, and 1204”.

1           (5) Section 691(c)(4) of such Code (relating to  
2           coordination with capital gain provisions), as so  
3           amended, is amended by inserting “1204,” after  
4           “1203,”.

5           (6) The second sentence of section 871(a)(2) of  
6           such Code (relating to capital gains of aliens present  
7           in the United States 183 days or more), as so  
8           amended, is amended by striking “1202 or 1203”  
9           and inserting “1202, 1203, or 1204”.

10          (7) The table of sections of part I of subchapter  
11          P of chapter 1 of such Code, as so amended, is  
12          amended by adding at the end the following:

“Sec. 1204. 100 percent exclusion for capital gain from farm  
property.”

13          (c) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to taxable years beginning after  
15          December 31, 1999.

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