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1ST SESSION

S. 1711

To amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 1999

Mr. MCCAIN (for himself and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for a deferral of tax on gain from the sale of telecommunications businesses in specific circumstances or a tax credit and other incentives to promote diversity of ownership in telecommunications businesses.

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 “Telecommunications
5 Ownership Diversification Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress makes the following
3 findings:

4 (1) Current trends in the telecommunications
5 industry show that there is increasing convergence
6 among various media, including broadcasting, cable
7 television, and Internet-based businesses, and that
8 these media are providing competing sources of
9 news, information, and entertainment.

10 (2) This convergence and competitiveness will
11 continue, and therefore it should be recognized in
12 both telecommunications and tax policy.

13 (3) Notwithstanding these trends, diversifying
14 the ownership of telecommunications facilities re-
15 mains a pre-eminent public interest concern.

16 (4) A market-based, voluntary system of invest-
17 ment incentives is the most effective, lawful, and
18 economically sound means of facilitating entry into
19 the telecommunications industry.

20 (5) Opportunities for new entrants to partici-
21 pate in the telecommunications industry have sub-
22 stantially decreased since the end of the Federal
23 Communications Commission's tax certificate policy
24 in 1995, particularly in light of the increase in tax-
25 free like-kind exchanges despite the most robust pe-
26 riod of transfers of radio and television stations in

1 history. Small businesses, and businesses owned or
2 controlled by members of minority groups or by
3 women, have been at a particular disadvantage, as
4 indicated by their historic under representation as
5 owners of telecommunications facilities.

6 (6) Access to and cost of capital has been a
7 substantial obstacle to new entry into telecommuni-
8 cations by small businesses and businesses owned or
9 controlled by members of minority groups and by
10 women who want to be long-term, active participants
11 in the telecommunications industry, because they do
12 not currently own properties that can be utilized in
13 like-kind exchanges, they are either unable to secure
14 financing from lending institutions and equipment
15 manufacturers at all, or else cannot secure financing
16 terms as advantageous as those offered to large in-
17 dustry participants.

18 (7) Telecommunications facilities owned by new
19 entrants may not be as attractive to investors be-
20 cause their start-up costs are often high, their rev-
21 enue streams are uncertain, and their profit margins
22 are unknown.

23 (8) It is consistent with the public interest, and
24 with the pro-competition policies of the Tele-
25 communications Act of 1996, to provide incentives

1 that will facilitate the ability of existing owners of
2 converging telecommunications media to transact
3 business so as to improve their ability to compete,
4 while the reinvestment of gains realized from such
5 transactions will also facilitate the acquisition of
6 telecommunications facilities by small businesses, es-
7 pecially those owned or controlled by members of mi-
8 nority groups and by women, thereby diversifying
9 the ownership of telecommunications facilities.

10 (9) Permitting sellers of telecommunications fa-
11 cilities to defer taxation of gains from transactions
12 involving small businesses and businesses owned or
13 controlled by members of minority groups and by
14 women, and resulting from investments in capital
15 funds whose stated purpose is to provide capital for
16 such entities, will further the development of a com-
17 petitive and diverse United States information dis-
18 tribution economy without governmental intrusion in
19 private investment decisions.

20 (10) The public interest would not be served by
21 attempts to diversify the ownership of telecommuni-
22 cations businesses by small businesses or businesses
23 owned or controlled by minorities and women
24 through any approach that would involve the use of
25 mandated set-asides or quotas.

1 (b) PURPOSE.—The purpose of this Act is to facili-
 2 tate voluntary, pro-competitive transactions involving con-
 3 verging telecommunications media that will promote diver-
 4 sification in, and broaden the participation in, the tele-
 5 communications industry by small businesses, and busi-
 6 nesses owned or controlled by members of minority groups
 7 and women.

8 **SEC. 3. AMENDMENTS TO INTERNAL REVENUE CODE.**

9 (a) NONRECOGNITION OF GAIN FROM SALE OF
 10 TELECOMMUNICATIONS BUSINESS.—Part III of sub-
 11 chapter O of chapter 1 of the Internal Revenue Code of
 12 1986 is amended by adding at the end thereof the fol-
 13 lowing:

14 **“SEC. 1046. SALE OF TELECOMMUNICATIONS BUSINESS.**

15 “(a) NONRECOGNITION OF GAIN.—

16 “(1) IN GENERAL.—At the election of a tax-
 17 payer, made at such time and in such manner as the
 18 Secretary may prescribe, no gain shall be recognized
 19 on the sale of a telecommunications business if—

20 “(A) the business is sold to an eligible pur-
 21 chaser and the taxpayer purchases 1 or more
 22 telecommunications businesses within the re-
 23 placement period; or

“(B) the taxpayer purchases, within the replacement period, 1 or more equity interests in an entity that is an eligible purchaser that—

“(i) derives, directly or indirectly, 50 percent or more of its gross income from a telecommunications business; or

“(ii) invests substantially all of the gross proceeds received from the taxpayer in the acquisition of a telecommunications business and the acquisition occurs within 180 days after the expiration of the taxpayer’s replacement period.

“(2) LIMITATION.—Gain is eligible for non-recognition treatment under this subsection only to the extent that it equals or exceeds the aggregate amount paid or incurred by the taxpayer for the telecommunications businesses or equity interests purchased.

“(b) REPLACEMENT PERIOD.—For purposes of this section, the term ‘replacement period’ means the period beginning on the date on which the taxpayer’s sale of a telecommunications business occurs and ending—

“(1) 2 years after the close of the first taxable year of the taxpayer in which any part of the gain from the sale is realized by the taxpayer; or

1 “(2) such later date as the Secretary may des-
 2 ignate upon application made by the taxpayer, at
 3 such time and in such manner as the Secretary may
 4 prescribe, and subject to such terms and conditions
 5 as the Secretary may require.

6 “(c) TIME FOR ASSESSMENT OF DEFICIENCY.—If
 7 the taxpayer makes the election provided by subsection (a)
 8 with respect to gain from the sale of property—

9 “(1) the period for the assessment of a defi-
 10 ciency with respect to such gain for any taxable year
 11 in which any part of the gain is realized does not ex-
 12 pire before the expiration of the third taxable year
 13 beginning after the taxable year in which the Sec-
 14 retary is notified by the taxpayer of the taxpayer’s
 15 purchase described in paragraph (1) or (2) of sub-
 16 section (a), or of the taxpayer’s intention not to
 17 make such a purchase; and

18 “(2) any such deficiency may be assessed at
 19 anytime before the expiration of such third taxable
 20 year, notwithstanding section 6212 or any other pro-
 21 vision or rule of law.

22 “(d) BASIS.—

23 “(1) IN GENERAL.—In the case of a tele-
 24 communications business purchased by the taxpayer
 25 in a transaction described in subsection (a)(1), or an

1 equity interest purchased by the taxpayer in a trans-
 2 action described in subsection (a)(2), the basis shall
 3 be the cost of such business or equity interest de-
 4 creased by the amount of the gain not recognized.
 5 If the taxpayer purchases more than 1 such business
 6 or equity interests, the basis determined under this
 7 paragraph shall be allocated to such businesses or
 8 equity interests in the same proportion as the
 9 amount paid or incurred by the taxpayer for each
 10 such business or equity interest bears to the sum of
 11 the amounts paid or incurred by the taxpayer for all
 12 such businesses or equity interests.

13 “(2) PROPERTY HELD BY CORPORATION THE
 14 STOCK OF WHICH IS REPLACEMENT PROPERTY.—

15 “(A) IN GENERAL.—If the basis of stock
 16 in a corporation is decreased under paragraph
 17 (1), the basis of property held by the corpora-
 18 tion at the time the taxpayer acquired control
 19 of the corporation shall be reduced by an
 20 amount equal to the amount of that decrease.

21 “(B) LIMITATION.—Subparagraph (A)
 22 does not apply to the extent that it would (but
 23 for this subparagraph) require a reduction in
 24 the aggregate adjusted bases of the property of
 25 the corporation below the taxpayer’s adjusted

basis of the stock in the corporation (determined immediately after that basis is decreased under paragraph (1)).

“(C) ALLOCATION OF BASIS REDUCTION.—

The decrease required under subparagraph (A) shall be allocated—

“(i) first to assets of telecommunications businesses held by the corporation;

“(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) that is not described in clause (i); and

“(iii) then to other property.

“(D) SPECIAL RULES.—

“(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to the reduction).

“(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), then the reduction under this paragraph shall be allocated among

1 such property in proportion to the adjusted
2 bases of the property (as so determined).

3 “(e) ACQUISITION FROM UNRELATED PERSON RE-
4 QUIRED.—

5 “(1) IN GENERAL.—Subsection (a) does not
6 apply to a taxpayer described in paragraph (2) if the
7 telecommunications business described in subsection
8 (a)(1) is sold to, or the equity interest described in
9 subsection (a)(2), is purchased from, a related per-
10 son (within the meaning of section 267(b) or (e)).
11 The preceding sentence does not apply to the extent
12 that the related person acquired that telecommuni-
13 cations business or that equity interest from a per-
14 son that is not a related person (within the meaning
15 of section 267(b) or (e), or section 707(b)(1)) during
16 the replacement period.

17 “(2) TAXPAYERS TO WHICH PARAGRAPH (1) AP-
18 PLIES.—

19 “(A) IN GENERAL.—Paragraph (1) applies
20 to—

21 “(i) a C corporation;

22 “(ii) a partnership in which 1 or more
23 C corporations own, directly or indirectly
24 (determined under section 707(b)(3)),
25 more than 50 percent of the capital inter-

est or profits interest in the partnership at
the time of the sale of the telecommuni-
cations business; and

“(iii) any other taxpayer if, with re-
spect to a telecommunications business
that is sold during the taxpayer’s taxable
year, the aggregate of the amount of gain
realized on the sale of the telecommuni-
cations business exceeds \$100,000.

“(B) APPLICATION TO PARTNERSHIPS; S
CORPORATIONS.—Subparagraph (A)(iii) shall be
applied to—

“(i) a partnership both at the partner-
ship level and to each partner; and

“(ii) an S corporation at both the cor-
porate and shareholder level (under rules
prescribed by the Secretary).

“(f) CONSEQUENCES OF SUBSEQUENT DISPOSITION
BY ELIGIBLE PURCHASER.—

“(1) IN GENERAL.—If the eligible purchaser
disposes of the telecommunications business acquired
from the taxpayer (in the case of sale described in
subsection (a)(1)), or substantially all of its tele-
communications businesses (in the case of an equity
investment described in subsection (a)(2)), within 3

1 years after the date of that acquisition or equity in-
 2 vestment to any person that is not an eligible pur-
 3 chaser, the eligible purchaser shall recognize gain in
 4 the year of disposition equal to the amount of gain
 5 deferred by the taxpayer under subsection (a).

6 “(2) CERTAIN DISPOSITIONS.—If the taxpayer
 7 or the eligible purchaser is an individual, paragraph
 8 (1) does not apply to a disposition after the earlier
 9 of—

10 “(A) the date of death or bankruptcy of
 11 the eligible purchaser (in the case of an indi-
 12 vidual); or

13 “(B) the date of death or bankruptcy of
 14 the taxpayer.

15 “(g) DEFINITIONS; SPECIAL RULES.—For purposes
 16 of this section—

17 “(1) ELIGIBLE PURCHASER.—The term ‘eligible
 18 purchaser’ means—

19 “(A) the Telecommunications Development
 20 Fund established under section 714 of the
 21 Communications Act of 1934 (47 U.S.C. 614),
 22 or any wholly-owned affiliate of that Fund;

23 “(B) an entity described in paragraph (2);
 24 or

1 “(C) an individual described in paragraph
2 (3).

3 “(2) ENTITIES.—An entity is described in this
4 paragraph if it is a corporation or a partnership
5 that—

6 “(A) is controlled by individuals described
7 in paragraph (3); and

8 “(B) meets the requirements of paragraph
9 (4) at the time of the sale of the telecommuni-
10 cations business or the equity investment by the
11 taxpayer described in subsection (a).

12 “(3) INDIVIDUALS.—An individual is described
13 in this paragraph if that individual meets the re-
14 quirements of paragraph (4) at the time of the sale
15 of the telecommunications business or the equity in-
16 vestment by the taxpayer described in subsection (a)
17 and is—

18 “(A) a United States citizen; or

19 “(B) a United States citizen who is—

20 “(i) a woman;

21 “(ii) a Black or African American;

22 “(iii) a Latino or Hispanic American;

23 “(iv) an Asian American, Native Ha-
24 waiian or other Pacific Islander; or

1 “(v) an American Indian, Alaskan In-
2 dian, and American Eskimo, or an Aleut.

3 “(4) NET WORTH AND RELATED REQUIRE-
4 MENTS.—

5 “(A) IN GENERAL.—

6 “(i) SECRETARY OF COMMERCE REC-
7 COMMENDATIONS.—Within 90 days after
8 the date of enactment of the Telecommuni-
9 cations Ownership Diversification Act of
10 1999, the Secretary of Commerce shall
11 transmit to the Secretary of the Treasury
12 the Secretary of Commerce’s recommenda-
13 tions for requirements with respect to the
14 maximum net worth, gross revenues, or
15 total assets of entities described in para-
16 graph (2) and the maximum net worth of
17 individuals described in paragraph (3).

18 “(ii) TREASURY REGULATIONS.—
19 Within 180 days after the date of enact-
20 ment of the Telecommunications Owner-
21 ship Diversification Act of 1999, the Sec-
22 retary of the Treasury shall promulgate
23 regulations establishing limits on the max-
24 imum net worth, gross revenues, or total
25 assets of entities described in paragraph

1 (2) and maximum net worth of individuals
2 described in paragraph (3), and revise
3 those regulations from time to time as may
4 be appropriate.

5 “(iii) INDIAN TRIBES AND ALASKA NA-
6 TIVE CORPORATIONS.—The regulations
7 shall comply with relevant standards of the
8 Small Business Administration and the
9 Federal Communications Commission ap-
10 plicable to American Indian Tribal entities
11 and Alaska Native Corporations.

12 “(B) CRITERIA; PROCEDURE.—The Sec-
13 retary of Commerce, in making recommenda-
14 tions, and the Secretary of the Treasury, in
15 promulgating regulations, under subparagraph
16 (A)—

17 “(i) shall ensure that the limits estab-
18 lished are consistent with market demands
19 by taking into account telecommunications
20 business transactions during the 9 months
21 preceding their establishment, giving great-
22 er weight to transactions occurring closest
23 in time to their establishment, and by tak-
24 ing into account changes in the laws and
25 regulations affecting telecommunications

1 businesses occurring within such 9 month
2 period;

3 “(ii) shall consult with the Attorney
4 General, the Federal Communications
5 Commission, the Administrator of the
6 Small Business Administration, and other
7 officers or agencies of the United States;

8 “(iii) may establish the limits without
9 regard to the provisions of chapter 5 of
10 title 5, United States Code, and sections
11 10 and 11 of the Federal Advisory Com-
12 mittee Act (5 U.S.C. App.); and

13 “(iv) may, to the extent otherwise
14 consistent with law, take into account such
15 factors as historical inability to access cap-
16 ital by particular groups, including mem-
17 bers of minority groups and women, in es-
18 tablishing limits, but nothing in this clause
19 is intended to prevent the Secretary of
20 Commerce from recommending or the Sec-
21 retary of the Treasury from establishing,
22 different gross revenue and net worth ceil-
23 ings for different classes of eligible pur-
24 chasers, whether individuals described in
25 paragraph (3) or entities described in

1 paragraph (2), to the extent necessary to
2 promote diversity of ownership in tele-
3 communications.

4 “(5) EQUITY INTEREST.—The term ‘equity in-
5 terest’ means stock in a corporation or, in the case
6 of a partnership, an interest in the capital and prof-
7 its of the partnership.

8 “(6) TELECOMMUNICATIONS BUSINESS.—The
9 term ‘telecommunications business’ means—

10 “(A) substantially all the assets of a facil-
11 ity engaged in electronic communications, in-
12 cluding a cable system (as defined in section
13 602(7) of the Communications Act of 1934 (47
14 U.S.C. 532(7)), a radio station (as defined in
15 section 3(35) of that Act (47 U.S.C. 153(35)),
16 a broadcasting station providing television serv-
17 ice (as defined in section 3(49) of that Act (47
18 U.S.C. 153(49)), a provider of direct broadcast
19 satellite service (as defined in section 335(b)(5)
20 of that Act (47 U.S.C. 335(b)(5)), a provider of
21 video programming (as defined in section
22 602(20) of that Act (47 U.S.C. 602(20))); a
23 provider of commercial mobile services (as de-
24 fined in section 332(d)(1) of that Act (47
25 U.S.C. 332(d)(1)), a telecommunications carrier

(as defined in section 3(44) of that Act (47 U.S.C. 153(44)), a reseller of telecommunications service or commercial mobile service; a multichannel multipoint distribution service, Internet service provider; Internet content provider; or a provider of telecommunications or information service equipment or software;

“(B) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of a corporation substantially all of the assets of which consist, directly or indirectly, of assets described in subparagraph (A); and

“(C) 80 percent or more of the total interest in the capital and profits of a partnership substantially all of the assets of which consist, directly or indirectly, of assets described in subparagraph (A).

“(7) PURCHASE.—The taxpayer shall be considered to have purchased a property if, but for subsection (d), the unadjusted basis of the property would be its cost within the meaning of section 1012.

1 “(8) CONTROL.—

2 “(A) IN GENERAL.—For purposes of para-
3 graph (2)(A), an entity is controlled by individ-
4 uals described in paragraph (3) if the require-
5 ments of paragraph the requirements of sub-
6 paragraph (B), (C), or (D) are satisfied.

7 “(B) 30-PERCENT TEST.—The require-
8 ments of this subparagraph are satisfied if—

9 “(i) with respect to any entity which
10 is a corporation, individuals who meet the
11 requirements of paragraph (3) own 30 per-
12 cent or more in value of the outstanding
13 stock of the corporation, and more than 50
14 percent of the total combined voting power
15 of all classes of stock entitled to vote of the
16 corporation; and

17 “(ii) with respect to any entity which
18 is a partnership, individuals who meet the
19 requirements of paragraph (3) own 30 per-
20 cent or more of the capital interest and the
21 profits interest in the partnership, and
22 more than 50 percent of the total com-
23 bined voting power of all classes of part-
24 nership interests entitled to vote.

1 “(C) 15-PERCENT TEST.—The require-
2 ments of this subparagraph are satisfied if—

3 “(i) with respect to any entity which
4 is a corporation—

5 “(I) individuals who meet the re-
6 quirements of paragraph (3) own 15
7 percent or more in value of the out-
8 standing stock of the corporation, and
9 more than 50 percent of the total
10 combined voting power of all classes
11 of stock entitled to vote of the cor-
12 poration; and

13 “(II) no other person owns more
14 than 25 percent in value of the out-
15 standing stock of the corporation; and

16 “(ii) with respect to any entity which
17 is a partnership—

18 “(I) individuals who meet the re-
19 quirements of paragraph (3) own 15
20 percent or more of the capital interest
21 and profits interest of the partner-
22 ship, and more than 50 percent of the
23 total combined voting power of all
24 classes of partnership interests enti-
25 tled to vote; and

1 “(II) no other person owns more
2 than 25 percent of the capital interest
3 and profits interest of the partner-
4 ship.

5 “(D) PUBLICLY-TRADED CORPORATIONS
6 TEST.—The requirements of this subparagraph
7 are satisfied if, with respect to a corporation
8 the securities of which are traded on an estab-
9 lished securities market—

10 “(i) individuals who meet the require-
11 ments of paragraph (3) own 50 percent or
12 more of the total combined voting power of
13 all classes of stock entitled to vote of the
14 corporation; and

15 “(ii) the stock owned by those individ-
16 uals is not subject to any agreement, ar-
17 rangement, or understanding which pro-
18 vides for, or relates to, the voting of the
19 stock in any manner by, or at the direction
20 of, any person other than an eligible indi-
21 vidual who meets the requirements of para-
22 graph (3), or the right of any person other
23 than one of those individuals to acquire the
24 voting power through purchase of shares
25 or otherwise.

1 “(E) CONSTRUCTIVE OWNERSHIP.—In ap-
2 plying subparagraphs (B), (C), and (D), the
3 following rules apply:

4 “(i) Stock or partnership interests
5 owned, directly or indirectly, by or for a
6 corporation, partnership, estate, or trust
7 shall be considered as being owned propor-
8 tionately by or for its shareholders, part-
9 ners, or beneficiaries.

10 “(ii) An individual shall be considered
11 as owning stock and partnership interests
12 owned, directly or indirectly, by or for his
13 family.

14 “(iii) An individual owning (otherwise
15 than by the application of clause (ii)) any
16 stock in corporation shall be considered as
17 owning the stock or partnership interests
18 owned, directly or indirectly, by or for his
19 partner.

20 “(iv) An individual owning (otherwise
21 than by the application of clause (ii)) any
22 partnership interest in a partnership shall
23 be considered as owning the stock or part-
24 nership interests owned, directly or indi-
25 rectly, by or for his partner.

1 “(v) The family of an individual shall
 2 include only his brothers and sisters
 3 (whether by the whole or half blood),
 4 spouse, ancestors, and lineal descendants.

5 “(vi) Stock or partnership interests
 6 constructively owned by a person by reason
 7 of the application of clause (i) shall, for
 8 the purposes of applying clause (i), (ii),
 9 (iii), or (iv), be treated as actually owned
 10 by that person, but stock constructively
 11 owned by an individual by reason of the
 12 application of clause (ii), (iii), or (iv) shall
 13 not be treated as owned by that individual
 14 for the purpose of again applying any of
 15 those clauses in order to make another the
 16 constructive owner of the stock or partner-
 17 ship interests.”.

18 (b) TAX CREDIT.—Subpart E of part IV of sub-
 19 chapter A of chapter 1 of the Internal Revenue Code of
 20 1986 (relating to rules for computing investment credit)
 21 is amended by inserting after section 48 the following:

22 **“SEC. 48A. TELECOMMUNICATIONS BUSINESS CREDIT.**

23 “For purposes of section 46, there is allowed as a
 24 credit against the tax imposed by this chapter for any tax-
 25 able year an amount equal to 10 percent of the taxable

1 income of any taxpayer that at all times during that tax-
2 able year—

3 “(1) is a local exchange carrier (as defined in
4 section 3(44) of the Communications Act of 1934
5 (47 U.S.C. 153(44)));

6 “(2) is not a Bell operating company (as de-
7 fined in section 3(4) of that Act (47 U.S.C.
8 153(4))); and

9 “(3) is headquartered in an area designated as
10 an empowerment zone by the Secretary of Housing
11 and Urban Development.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) AMENDMENT OF SECTION 46.—Section 46
14 of such Code (relating to amount of credit) is
15 amended by—

16 (A) striking “and” in paragraph (2);

17 (B) striking “credit.” in paragraph (3) and
18 inserting “credit; and”; and

19 (C) adding at the end the following:

20 “(4) the telecommunications business credit.”.

21 (2) CLERICAL AMENDMENTS.—

22 (A) The analysis for part III of subchapter
23 O of chapter 1 of such Code is amended by
24 adding at the end thereof the following:

“1046. Sale of telecommunications business.”.

1 (B) The table of sections for Subpart E of
 2 part IV of subchapter A of chapter 1 of such
 3 Code is amended by inserting after the item re-
 4 lating to section 48 the following:

“48A. Telecommunications business credit.”.

5 (c) TECHNICAL AND CONFORMING CHANGES.—The
 6 Secretary of the Treasury shall, within 150 days after the
 7 date of enactment of this Act, submit to the Committee
 8 on Ways and Means of the House of Representatives and
 9 the Committee on Finance of the Senate, a draft of any
 10 technical and conforming changes in the Internal Revenue
 11 Code of 1986 which are necessary to reflect throughout
 12 the Code the changes in the substantive provisions of the
 13 Code made by subsection (a) of this section.

14 (d) EFFECTIVE DATE.—The amendments made by
 15 this section apply with respect to a purchase described in
 16 section 1046(a)(1) of the Internal Revenue Code of 1986
 17 (as added by this section) of a telecommunications busi-
 18 ness or any equity interest on or after the date of enact-
 19 ment of this Act.

20 **SEC. 4. ADDITIONAL SPECIAL TAX RULES FOR CERTAIN**
 21 **TELECOMMUNICATIONS INVESTMENTS.**

22 (a) DEPRECIATION-RELATED PROVISIONS.—

23 (1) DEPRECIATION OF CERTAIN TELECOMMUNI-
 24 CATIONS INTANGIBLES.—Section 167(f) of the Inter-
 25 nal Revenue Code of 1986 (relating to treatment of

certain property excluded from section 197) is amended by adding at the end thereof the following:

“(4) CERTAIN INTANGIBLE ASSETS.—If a depreciation deduction is allowable under subsection (a) with respect to an intangible asset described in section 197(e)(9), the deduction shall be computed by using the method described in section 168(b)(1).”.

(2) TREATMENT AS INTANGIBLE ASSET.—Section 197 of such Code (relating to amortization of goodwill and certain other intangibles) is amended—

(A) by striking “and” after the semicolon in subsection (d)(1)(E);

(B) by striking “tradename.” in subsection (d)(1)(F) and inserting “tradename; and”;

(C) by adding at the end of subsection (d)(1) the following:

“(G) stock in a C corporation which is an eligible purchaser (as defined in section 1046(g)(1)) engaged in a telecommunications business (as defined in section 1046(g)(6)) to the extent that the cost of such stock does not exceed \$5,000,000.”; and

(D) by adding at the end of subsection (e) the following:

1 “(9) TELECOMMUNICATIONS INTANGIBLES NOT
 2 A SECTION 197 INTANGIBLE ASSET.—Any item de-
 3 scribed in subsection (d) which is owned by an eligi-
 4 ble purchaser (as defined in section 1046(g)(1)) en-
 5 gaged in a telecommunications business (as defined
 6 in section 1046(g)(6)).”.

7 (b) ORDINARY LOSS TREATMENT FOR CERTAIN
 8 TELECOMMUNICATIONS LOSSES.—

9 (1) IN GENERAL.—Part IV of subchapter P of
 10 chapter 1 of the Internal Revenue Code of 1986 is
 11 amended by inserting after section 1244 the fol-
 12 lowing:

13 **“SEC. 1244A. LOSSES ON STOCK IN TELECOMMUNICATIONS**
 14 **CORPORATIONS.**

15 “(a) GENERAL RULE.—A loss on stock in a corpora-
 16 tion which is an eligible purchaser (as defined in section
 17 1046(g)(1)) engaged in a telecommunications business (as
 18 defined in section 1046(g)(6)) that would (but for this sec-
 19 tion) be treated as a loss from the sale or exchange of
 20 a capital asset, shall be treated as an ordinary loss.

21 “(b) MAXIMUM AMOUNT FOR ANY TAXABLE YEAR.—
 22 For any taxable year, the aggregate amount treated by
 23 the taxpayer by reason of this section as an ordinary loss
 24 may not exceed \$5,000,000.”.

1 (2) CONFORMING AMENDMENT.—The analysis
 2 for such part is amended by inserting after the item
 3 relating to section 1244 the following:

“1244A. Losses on stock in telecommunications corporations.”.

4 (c) EXCLUSION OF 50 PERCENT OF GAIN.—Section
 5 1202 of the Internal Revenue Code of 1986 (relating to
 6 50-percent exclusion for gain from certain small business
 7 stock) is amended—

8 (1) by striking subsection (a) and inserting the
 9 following:

10 “(a) 50-PERCENT EXCLUSION.—

11 “(1) TAXPAYERS NOT CORPORATIONS.—In the
 12 case of a taxpayer other than a corporation, gross
 13 income does not include 50 percent of any gain from
 14 the sale or exchange of qualified small business
 15 stock held for more than 5 years.

16 “(2) CERTAIN TELECOMMUNICATIONS INVEST-
 17 MENTS BY CORPORATIONS AND INVESTMENT COMPA-
 18 NIES.—Gross income does not include 50 percent of
 19 any gain from the sale or exchange of stock in an
 20 eligible purchaser (as defined in section 1046(g)(1))
 21 engaged in a telecommunications business (as de-
 22 fined in section 1046(g)(6)) held for more than 5
 23 years.”;

24 (2) by striking subparagraphs (A) and (B) of
 25 subsection (b)(1) and inserting the following:

1 “(A) in the case of gain from the sale or
2 exchange of qualified small business stock held
3 for more than 5 years—

4 “(i) \$10,000,000 reduced by the ag-
5 gregate amount of eligible gain taken into
6 account by the taxpayer under subsection
7 (a) for prior taxable years and attributable
8 to dispositions of stock issued by such cor-
9 porations; or

10 “(ii) 10 times the aggregate adjusted
11 bases of qualified small business stock
12 issued by such corporations and disposed
13 of by the taxpayer during the taxable year;

14 “(B) in the case of gain from the sale or
15 exchange of stock in an eligible purchaser en-
16 gaged in a telecommunications business for
17 more than 5 years—

18 “(i) \$20,000,000 reduced by the ag-
19 gregate amount of eligible gain taken into
20 account by the taxpayer under subsection
21 (a) for prior taxable years and attributable
22 to dispositions of stock issued by an eligi-
23 ble purchaser engaged in a telecommuni-
24 cations business; or

1 “(ii) 15 times the aggregate adjusted
 2 bases of stock of an eligible purchaser en-
 3 gaged in a telecommunications business
 4 issued by such eligible purchaser and dis-
 5 posed of by the taxpayer during the tax-
 6 able year.”;

7 (2) by striking “years.” in subsection (b)(2)
 8 and inserting “years or any gain from the sale or ex-
 9 change of stock in an eligible purchaser engaged in
 10 a telecommunications business held for more than 5
 11 years.”; and

12 (3) by striking “ ‘\$10,000,000’.” in subsection
 13 (b)(3)(A) and inserting “ ‘\$10,000,000’, and para-
 14 graph (1)(B) shall be applied by substituting
 15 ‘\$10,000,000’ for ‘\$20,000,000’.”.

16 (d) DEFERRAL OF CERTAIN TELECOMMUNICATIONS
 17 CAPITAL GAINS BY CORPORATIONS AND INVESTMENT
 18 COMPANIES.—Section 1044 of the Internal Revenue Code
 19 of 1986 (relating to rollover of publicly-traded securities
 20 gains into specialized small business investment compa-
 21 nies) is amended—

22 (1) by striking subsection (a)(1) and inserting
 23 the following:

24 “(1) the cost of any common stock or partner-
 25 ship interest in—

1 “(A) a specialized small business invest-
 2 ment company purchased by the taxpayer dur-
 3 ing the 60-day period beginning on the date of
 4 such sale; or

5 “(B) an eligible purchaser (as defined in
 6 section 1046(g)(1)) engaged in a telecommuni-
 7 cations business (as defined in section
 8 1046(g)(6)) purchased by the taxpayer during
 9 the 60-day period beginning on the date of such
 10 sale,

11 reduced by—”; and

12 (2) by redesignating paragraph (4) of sub-
 13 section (b) as paragraph (5) and inserting after
 14 paragraph (3) the following:

15 “(4) LIMITATION ON CERTAIN C CORPORATIONS
 16 AND INVESTMENT COMPANIES.—In the case of a C
 17 corporation or an investment company acquiring
 18 common stock or a partnership interest described in
 19 subsection (a)(1)(B), the amount of gain that may
 20 be excluded under subsection (a) for any taxable
 21 year shall not exceed the lesser of—

22 “(A) \$750,000; or

23 “(B) \$4,500,000, reduced by the amount
 24 of gain excluded under subsection (a) for all
 25 preceding taxable years.”.

1 (e) EFFECTIVE DATE.—

2 (1) The amendments made by subsection (a)
3 shall apply to property placed in service after June
4 30, 1999.

5 (2) The amendments made by subsections (b)
6 and (c) shall apply to stock acquired after June 30,
7 1999.

8 (3) The amendments made by subsection (d)
9 shall apply to sales after June 30, 1999.

10 **SEC. 5. BIENNIAL PROGRAM AUDITS BY GAO.**

11 No later than January 1, 2003, and no less fre-
12 quently than every 2 years thereafter, the Comptroller
13 General shall audit the administration of sections of the
14 Internal Revenue Code of 1986 added or amended by sec-
15 tions 3 and 4 of this Act, and issue a report on the results
16 of that audit. The Comptroller General shall include in
17 the report, notwithstanding any provision of section 6103
18 of the Internal Revenue Code of 1986 to the contrary—

19 (1) a list of eligible purchasers (as defined in
20 section 1046(g)(1) of such Code) and any other tax-
21 payer receiving a benefit from the operation of sec-
22 tion 48A, 167, 197, 1044, 1046, 1202, or 1244A of
23 such Code as that section was added or amended by
24 section 3 of this Act; and

1 (2) an assessment of the effect the amendments
2 made by sections 3 and 4 of this Act have had with
3 respect to increasing new entry into the tele-
4 communications industry by small businesses and
5 businesses owned or controlled by members of mi-
6 nority groups and women.

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