

106TH CONGRESS  
1ST SESSION

# S. 1766

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.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 1999

Mr. MCCAIN (for himself and Mr. BURNS) 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 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) LIMITATIONS.—

“(A) REINVESTMENT CAP.—Gain is eligible for nonrecognition 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) TAXABLE YEAR DOLLAR AMOUNT PER TRANSACTION.—The amount of gain eligible for nonrecognition under paragraph (1)(A), and the amount of gain eligible for nonrecognition under paragraph (1)(B), respectively, for any taxable year may not exceed \$250,000,000

1           for each transaction to which such paragraph  
2           applies. Any gain that would be eligible for non-  
3           recognition under either such paragraph be-  
4           cause of the limitation imposed by the pre-  
5           ceding sentence shall be carried forward to each  
6           of the next 2 taxable years, subject to that limi-  
7           tation in each of those taxable years.

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

12               “(1) 2 years after the close of the first taxable  
13          year of the taxpayer in which any part of the gain  
14          from the sale is realized by the taxpayer; or

15               “(2) such later date as the Secretary may des-  
16          ignate upon application made by the taxpayer, at  
17          such time and in such manner as the Secretary may  
18          prescribe, and subject to such terms and conditions  
19          as the Secretary may require.

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

23               “(1) the period for the assessment of a defi-  
24          ciency with respect to such gain for any taxable year  
25          in which any part of the gain is realized does not ex-

1       pire before the expiration of the third taxable year  
2       beginning after the taxable year in which the Sec-  
3       retary is notified by the taxpayer of the taxpayer's  
4       purchase described in paragraph (1) or (2) of sub-  
5       section (a), or of the taxpayer's intention not to  
6       make such a purchase; and

7               “(2) any such deficiency may be assessed at  
8       anytime before the expiration of such third taxable  
9       year, notwithstanding section 6212 or any other pro-  
10      vision or rule of law.

11      “(d) BASIS.—

12              “(1) IN GENERAL.—In the case of a tele-  
13      communications business purchased by the taxpayer  
14      in a transaction described in subsection (a)(1), or an  
15      equity interest purchased by the taxpayer in a trans-  
16      action described in subsection (a)(2), the basis shall  
17      be the cost of such business or equity interest de-  
18      creased by the amount of the gain not recognized.  
19      If the taxpayer purchases more than 1 such business  
20      or equity interests, the basis determined under this  
21      paragraph shall be allocated to such businesses or  
22      equity interests in the same proportion as the  
23      amount paid or incurred by the taxpayer for each  
24      such business or equity interest bears to the sum of



1 the amounts paid or incurred by the taxpayer for all  
2 such businesses or equity interests.

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

5 “(A) IN GENERAL.—If the basis of stock  
6 in a corporation is decreased under paragraph  
7 (1), the basis of property held by the corpora-  
8 tion at the time the taxpayer acquired control  
9 of the corporation shall be reduced by an  
10 amount equal to the amount of that decrease.

11 “(B) LIMITATION.—Subparagraph (A)  
12 does not apply to the extent that it would (but  
13 for this subparagraph) require a reduction in  
14 the aggregate adjusted bases of the property of  
15 the corporation below the taxpayer’s adjusted  
16 basis of the stock in the corporation (deter-  
17 mined immediately after that basis is decreased  
18 under paragraph (1)).

19 “(C) ALLOCATION OF BASIS REDUCTION.—  
20 The decrease required under subparagraph (A)  
21 shall be allocated—

22 “(i) first to assets of telecommuni-  
23 cations businesses held by the corporation;

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

4 “(iii) then to other property.

5 “(D) SPECIAL RULES.—

6 “(i) REDUCTION NOT TO EXCEED AD-  
 7 JUSTED BASIS OF PROPERTY.—No reduc-  
 8 tion in the basis of any property under this  
 9 paragraph shall exceed the adjusted basis  
 10 of such property (determined without re-  
 11 gard to the reduction).

12 “(ii) ALLOCATION OF REDUCTION  
 13 AMONG PROPERTIES.—If more than 1  
 14 property is described in a clause of sub-  
 15 paragraph (C), then the reduction under  
 16 this paragraph shall be allocated among  
 17 such property in proportion to the adjusted  
 18 bases of the property (as so determined).

19 “(e) ACQUISITION FROM UNRELATED PERSON RE-  
 20 QUIRED.—

21 “(1) IN GENERAL.—Subsection (a) does not  
 22 apply to a taxpayer described in paragraph (2) if the  
 23 telecommunications business described in subsection  
 24 (a)(1) is sold to, or the equity interest described in  
 25 subsection (a)(2), is purchased from, a related per-

1 son (within the meaning of section 267(b) or (e)).  
 2 The preceding sentence does not apply to the extent  
 3 that the related person acquired that telecommuni-  
 4 cations business or that equity interest from a per-  
 5 son that is not a related person (within the meaning  
 6 of section 267(b) or (e), or section 707(b)(1)) during  
 7 the replacement period.

8 “(2) TAXPAYERS TO WHICH PARAGRAPH (1) AP-  
 9 PLIES.—

10 “(A) IN GENERAL.—Paragraph (1) applies  
 11 to—

12 “(i) a C corporation;

13 “(ii) a partnership in which 1 or more  
 14 C corporations own, directly or indirectly  
 15 (determined under section 707(b)(3)),  
 16 more than 50 percent of the capital inter-  
 17 est or profits interest in the partnership at  
 18 the time of the sale of the telecommuni-  
 19 cations business; and

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

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

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

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

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

11                  “(1) IN GENERAL.—If the eligible purchaser  
12                  disposes of the telecommunications business acquired  
13                  from the taxpayer (in the case of sale described in  
14                  subsection (a)(1)), or substantially all of its tele-  
15                  communications businesses (in the case of an equity  
16                  investment described in subsection (a)(2)), within 3  
17                  years after the date of that acquisition or equity in-  
18                  vestment to any person that is not an eligible pur-  
19                  chaser, the eligible purchaser shall recognize gain in  
20                  the year of disposition equal to the amount of gain  
21                  deferred by the taxpayer under subsection (a).

22                  “(2) CERTAIN DISPOSITIONS.—If the taxpayer  
23                  or the eligible purchaser is an individual, paragraph  
24                  (1) does not apply to a disposition after the earlier  
25                  of—

1           “(A) the date of death or bankruptcy of  
2           the eligible purchaser (in the case of an indi-  
3           vidual); or

4           “(B) the date of death or bankruptcy of  
5           the taxpayer.

6           “(g) DEFINITIONS; SPECIAL RULES.—For purposes  
7 of this section—

8           “(1) ELIGIBLE PURCHASER.—The term ‘eligible  
9           purchaser’ means—

10           “(A) the Telecommunications Development  
11           Fund established under section 714 of the  
12           Communications Act of 1934 (47 U.S.C. 614),  
13           or any wholly-owned affiliate of that Fund;

14           “(B) an entity described in paragraph (2);  
15           or

16           “(C) an individual described in paragraph  
17           (3).

18           “(2) ENTITIES.—An entity is described in this  
19           paragraph if it is a corporation or a partnership  
20           that—

21           “(A) is controlled by individuals described  
22           in paragraph (3); and

23           “(B) meets the requirements of paragraph  
24           (4) at the time of the sale of the telecommuni-

1           cations business or the equity investment by the  
2           taxpayer described in subsection (a).

3           “(3) INDIVIDUALS.—An individual is described  
4           in this paragraph if that individual meets the re-  
5           quirements of paragraph (4) at the time of the sale  
6           of the telecommunications business or the equity in-  
7           vestment by the taxpayer described in subsection (a)  
8           and is—

9                   “(A) a United States citizen; or

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

11                           “(i) a woman;

12                           “(ii) a Black or African American;

13                           “(iii) a Latino or Hispanic American;

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

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

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

20                   “(A) IN GENERAL.—

21                           “(i) SECRETARY OF COMMERCE REC-  
22                           COMMENDATIONS.—Within 90 days after  
23                           the date of enactment of the Telecommuni-  
24                           cations Ownership Diversification Act of  
25                           1999, the Secretary of Commerce shall

1 transmit to the Secretary of the Treasury  
2 the Secretary of Commerce's recommenda-  
3 tions for requirements with respect to the  
4 maximum net worth, gross revenues, or  
5 total assets of entities described in para-  
6 graph (2) and the maximum net worth of  
7 individuals described in paragraph (3).

8 “(ii) TREASURY REGULATIONS.—  
9 Within 180 days after the date of enact-  
10 ment of the Telecommunications Owner-  
11 ship Diversification Act of 1999, the Sec-  
12 retary of the Treasury shall promulgate  
13 regulations establishing limits on the max-  
14 imum net worth, gross revenues, or total  
15 assets of entities described in paragraph  
16 (2) and maximum net worth of individuals  
17 described in paragraph (3), and revise  
18 those regulations from time to time as may  
19 be appropriate.

20 “(iii) INDIAN TRIBES AND ALASKA NA-  
21 TIVE CORPORATIONS.—The regulations  
22 shall comply with relevant standards of the  
23 Small Business Administration and the  
24 Federal Communications Commission ap-

1 applicable to American Indian Tribal entities  
2 and Alaska Native Corporations.

3 “(B) CRITERIA; PROCEDURE.—The Sec-  
4 retary of Commerce, in making recommenda-  
5 tions, and the Secretary of the Treasury, in  
6 promulgating regulations, under subparagraph  
7 (A)—

8 “(i) shall ensure that the limits estab-  
9 lished are consistent with market demands  
10 by taking into account telecommunications  
11 business transactions during the 9 months  
12 preceding their establishment, giving great-  
13 er weight to transactions occurring closest  
14 in time to their establishment, and by tak-  
15 ing into account changes in the laws and  
16 regulations affecting telecommunications  
17 businesses occurring within such 9 month  
18 period;

19 “(ii) shall consult with the Attorney  
20 General, the Federal Communications  
21 Commission, the Administrator of the  
22 Small Business Administration, and other  
23 officers or agencies of the United States;

24 “(iii) may establish the limits without  
25 regard to the provisions of chapter 5 of



1 title 5, United States Code, and sections  
2 10 and 11 of the Federal Advisory Com-  
3 mittee Act (5 U.S.C. App.); and

4 “(iv) may, to the extent otherwise  
5 consistent with law, take into account such  
6 factors as historical inability to access cap-  
7 ital by particular groups, including mem-  
8 bers of minority groups and women, in es-  
9 tablishing limits, but nothing in this clause  
10 is intended to prevent the Secretary of  
11 Commerce from recommending or the Sec-  
12 retary of the Treasury from establishing,  
13 different gross revenue and net worth ceil-  
14 ings for different classes of eligible pur-  
15 chasers, whether individuals described in  
16 paragraph (3) or entities described in  
17 paragraph (2), to the extent necessary to  
18 promote diversity of ownership in tele-  
19 communications.

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

24 “(6) TELECOMMUNICATIONS BUSINESS.—The  
25 term ‘telecommunications business’ means—

1           “(A) substantially all the assets of a facil-  
2           ity engaged in electronic communications, in-  
3           cluding a cable system (as defined in section  
4           602(7) of the Communications Act of 1934 (47  
5           U.S.C. 532(7)), a radio station (as defined in  
6           section 3(35) of that Act (47 U.S.C. 153(35)),  
7           a broadcasting station providing television serv-  
8           ice (as defined in section 3(49) of that Act (47  
9           U.S.C. 153(49)), a provider of direct broadcast  
10          satellite service (as defined in section 335(b)(5)  
11          of that Act (47 U.S.C. 335(b)(5)), a provider of  
12          video programming (as defined in section  
13          602(20) of that Act (47 U.S.C. 602(20)); a  
14          provider of commercial mobile services (as de-  
15          fined in section 332(d)(1) of that Act (47  
16          U.S.C. 332(d)(1)), a telecommunications carrier  
17          (as defined in section 3(44) of that Act (47  
18          U.S.C. 153(44)), a reseller of telecommuni-  
19          cations service or commercial mobile service; a  
20          multichannel multipoint distribution service,  
21          Internet service provider; Internet content pro-  
22          vider; or a provider of telecommunications or  
23          information service equipment or software;

24          “(B) stock possessing at least 80 percent  
25          of the total combined voting power of all classes

1 of stock entitled to vote and at least 80 percent  
 2 of the total number of shares of all other class-  
 3 es of stock of a corporation substantially all of  
 4 the assets of which consist, directly or indi-  
 5 rectly, of assets described in subparagraph (A);  
 6 and

7 “(C) 80 percent or more of the total inter-  
 8 est in the capital and profits of a partnership  
 9 substantially all of the assets of which consist,  
 10 directly or indirectly, of assets described in sub-  
 11 paragraph (A).

12 “(7) PURCHASE.—The taxpayer shall be consid-  
 13 ered to have purchased a property if, but for sub-  
 14 section (d), the unadjusted basis of the property  
 15 would be its cost within the meaning of section  
 16 1012.

17 “(8) CONTROL.—

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

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

1 “(i) with respect to any entity which  
2 is a corporation, individuals who meet the  
3 requirements of paragraph (3) own 30 per-  
4 cent or more in value of the outstanding  
5 stock of the corporation, and more than 50  
6 percent of the total combined voting power  
7 of all classes of stock entitled to vote of the  
8 corporation; and

9 “(ii) with respect to any entity which  
10 is a partnership, individuals who meet the  
11 requirements of paragraph (3) own 30 per-  
12 cent or more of the capital interest and the  
13 profits interest in the partnership, and  
14 more than 50 percent of the total com-  
15 bined voting power of all classes of part-  
16 nership interests entitled to vote.

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

19 “(i) with respect to any entity which  
20 is a corporation—

21 “(I) individuals who meet the re-  
22 quirements of paragraph (3) own 15  
23 percent or more in value of the out-  
24 standing stock of the corporation, and  
25 more than 50 percent of the total

1 combined voting power of all classes  
2 of stock entitled to vote of the cor-  
3 poration; and

4 “(II) no other person owns more  
5 than 25 percent in value of the out-  
6 standing stock of the corporation; and

7 “(ii) with respect to any entity which  
8 is a partnership—

9 “(I) individuals who meet the re-  
10 quirements of paragraph (3) own 15  
11 percent or more of the capital interest  
12 and profits interest of the partner-  
13 ship, and more than 50 percent of the  
14 total combined voting power of all  
15 classes of partnership interests enti-  
16 tled to vote; and

17 “(II) no other person owns more  
18 than 25 percent of the capital interest  
19 and profits interest of the partner-  
20 ship.

21 “(D) PUBLICLY-TRADED CORPORATIONS  
22 TEST.—The requirements of this subparagraph  
23 are satisfied if, with respect to a corporation  
24 the securities of which are traded on an estab-  
25 lished securities market—

1 “(i) individuals who meet the require-  
 2 ments of paragraph (3) own 50 percent or  
 3 more of the total combined voting power of  
 4 all classes of stock entitled to vote of the  
 5 corporation; and

6 “(ii) the stock owned by those individ-  
 7 uals is not subject to any agreement, ar-  
 8 rangement, or understanding which pro-  
 9 vides for, or relates to, the voting of the  
 10 stock in any manner by, or at the direction  
 11 of, any person other than an eligible indi-  
 12 vidual who meets the requirements of para-  
 13 graph (3), or the right of any person other  
 14 than one of those individuals to acquire the  
 15 voting power through purchase of shares  
 16 or otherwise.

17 “(E) CONSTRUCTIVE OWNERSHIP.—In ap-  
 18 plying subparagraphs (B), (C), and (D), the  
 19 following rules apply:

20 “(i) Stock or partnership interests  
 21 owned, directly or indirectly, by or for a  
 22 corporation, partnership, estate, or trust  
 23 shall be considered as being owned propor-  
 24 tionately by or for its shareholders, part-  
 25 ners, or beneficiaries.

1           “(ii) An individual shall be considered  
2           as owning stock and partnership interests  
3           owned, directly or indirectly, by or for his  
4           family.

5           “(iii) An individual owning (otherwise  
6           than by the application of clause (ii)) any  
7           stock in corporation shall be considered as  
8           owning the stock or partnership interests  
9           owned, directly or indirectly, by or for his  
10          partner.

11          “(iv) An individual owning (otherwise  
12          than by the application of clause (ii)) any  
13          partnership interest in a partnership shall  
14          be considered as owning the stock or part-  
15          nership interests owned, directly or indi-  
16          rectly, by or for his partner.

17          “(v) The family of an individual shall  
18          include only his brothers and sisters  
19          (whether by the whole or half blood),  
20          spouse, ancestors, and lineal descendants.

21          “(vi) Stock or partnership interests  
22          constructively owned by a person by reason  
23          of the application of clause (i) shall, for  
24          the purposes of applying clause (i), (ii),  
25          (iii), or (iv), be treated as actually owned

1 by that person, but stock constructively  
 2 owned by an individual by reason of the  
 3 application of clause (ii), (iii), or (iv) shall  
 4 not be treated as owned by that individual  
 5 for the purpose of again applying any of  
 6 those clauses in order to make another the  
 7 constructive owner of the stock or partner-  
 8 ship interests.”.

9 (b) TAX CREDIT.—Subpart E of part IV of sub-  
 10 chapter A of chapter 1 of the Internal Revenue Code of  
 11 1986 (relating to rules for computing investment credit)  
 12 is amended by inserting after section 48 the following:

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

14 “For purposes of section 46, there is allowed as a  
 15 credit against the tax imposed by this chapter for any tax-  
 16 able year an amount equal to 10 percent of the taxable  
 17 income of any taxpayer that at all times during that tax-  
 18 able year—

19 “(1) is a local exchange carrier (as defined in  
 20 section 3(44) of the Communications Act of 1934  
 21 (47 U.S.C. 153(44)));

22 “(2) is not a Bell operating company (as de-  
 23 fined in section 3(4) of that Act (47 U.S.C.  
 24 153(4))); and



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

4 (b) CONFORMING AMENDMENTS.—

5 (1) AMENDMENT OF SECTION 46.—Section 46  
 6 of such Code (relating to amount of credit) is  
 7 amended by—

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

9 (B) striking “credit.” in paragraph (3) and  
 10 inserting “credit; and”; and

11 (C) adding at the end the following:

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

13 (2) CLERICAL AMENDMENTS.—

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

“1046. Sale of telecommunications business.”.

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

“48A. Telecommunications business credit.”.

21 (c) TECHNICAL AND CONFORMING CHANGES.—The  
 22 Secretary of the Treasury shall, within 150 days after the  
 23 date of enactment of this Act, submit to the Committee  
 24 on Ways and Means of the House of Representatives and

1 the Committee on Finance of the Senate, a draft of any  
 2 technical and conforming changes in the Internal Revenue  
 3 Code of 1986 which are necessary to reflect throughout  
 4 the Code the changes in the substantive provisions of the  
 5 Code made by subsection (a) of this section.

6 (d) EFFECTIVE DATE.—The amendments made by  
 7 this section apply with respect to a purchase described in  
 8 section 1046(a)(1) of the Internal Revenue Code of 1986  
 9 (as added by this section) of a telecommunications busi-  
 10 ness or any equity interest on or after the date of enact-  
 11 ment of this Act.

12 **SEC. 4. ADDITIONAL SPECIAL TAX RULES FOR CERTAIN**  
 13 **TELECOMMUNICATIONS INVESTMENTS.**

14 (a) DEPRECIATION-RELATED PROVISIONS.—

15 (1) DEPRECIATION OF CERTAIN TELECOMMUNI-  
 16 CATIONS INTANGIBLES.—Section 167(f) of the Inter-  
 17 nal Revenue Code of 1986 (relating to treatment of  
 18 certain property excluded from section 197) is  
 19 amended by adding at the end thereof the following:

20 “(4) CERTAIN INTANGIBLE ASSETS.—If a de-  
 21 preciation deduction is allowable under subsection  
 22 (a) with respect to an intangible asset described in  
 23 section 197(e)(9), the deduction shall be computed  
 24 by using the method described in section  
 25 168(b)(1).”.

1           (2) TREATMENT AS INTANGIBLE ASSET.—Sec-  
 2           tion 197 of such Code (relating to amortization of  
 3           goodwill and certain other intangibles) is amended—

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

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

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

10                   “(G) stock in a C corporation which is an  
 11                   eligible purchaser (as defined in section  
 12                   1046(g)(1)) engaged in a telecommunications  
 13                   business (as defined in section 1046(g)(6)) to  
 14                   the extent that the cost of such stock does not  
 15                   exceed \$5,000,000.”; and

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

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

24           (b) ORDINARY LOSS TREATMENT FOR CERTAIN  
 25           TELECOMMUNICATIONS LOSSES.—

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

5   **“SEC. 1244A. LOSSES ON STOCK IN TELECOMMUNICATIONS**  
 6                           **CORPORATIONS.**

7           “(a) GENERAL RULE.—A loss on stock in a corpora-  
 8           tion which is an eligible purchaser (as defined in section  
 9           1046(g)(1)) engaged in a telecommunications business (as  
 10          defined in section 1046(g)(6)) that would (but for this sec-  
 11          tion) be treated as a loss from the sale or exchange of  
 12          a capital asset, shall be treated as an ordinary loss.

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

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

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

20          (c) EXCLUSION OF 50 PERCENT OF GAIN.—Section  
 21          1202 of the Internal Revenue Code of 1986 (relating to  
 22          50-percent exclusion for gain from certain small business  
 23          stock) is amended—

24                 (1) by striking subsection (a) and inserting the  
 25                 following:

1 “(a) 50-PERCENT EXCLUSION.—

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

7 “(2) CERTAIN TELECOMMUNICATIONS INVEST-  
8 MENTS BY CORPORATIONS AND INVESTMENT COMPA-  
9 NIES.—Gross income does not include 50 percent of  
10 any gain from the sale or exchange of stock in an  
11 eligible purchaser (as defined in section 1046(g)(1))  
12 engaged in a telecommunications business (as de-  
13 fined in section 1046(g)(6)) held for more than 5  
14 years.”;

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

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

20 “(i) \$10,000,000 reduced by the ag-  
21 gregate amount of eligible gain taken into  
22 account by the taxpayer under subsection  
23 (a) for prior taxable years and attributable  
24 to dispositions of stock issued by such cor-  
25 porations; or

1 “(ii) 10 times the aggregate adjusted  
 2 bases of qualified small business stock  
 3 issued by such corporations and disposed  
 4 of by the taxpayer during the taxable year;

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

9 “(i) \$20,000,000 reduced by the ag-  
 10 gregate amount of eligible gain taken into  
 11 account by the taxpayer under subsection  
 12 (a) for prior taxable years and attributable  
 13 to dispositions of stock issued by an eligi-  
 14 ble purchaser engaged in a telecommuni-  
 15 cations business; or

16 “(ii) 15 times the aggregate adjusted  
 17 bases of stock of an eligible purchaser en-  
 18 gaged in a telecommunications business  
 19 issued by such eligible purchaser and dis-  
 20 posed of by the taxpayer during the tax-  
 21 able year.”;

22 (2) by striking “years.” in subsection (b)(2)  
 23 and inserting “years or any gain from the sale or ex-  
 24 change of stock in an eligible purchaser engaged in

1 a telecommunications business held for more than 5  
 2 years.”; and

3 (3) by striking “ ‘\$10,000,000’.” in subsection  
 4 (b)(3)(A) and inserting “ ‘\$10,000,000’, and para-  
 5 graph (1)(B) shall be applied by substituting  
 6 ‘\$10,000,000’ for ‘\$20,000,000’.”.

7 (d) DEFERRAL OF CERTAIN TELECOMMUNICATIONS  
 8 CAPITAL GAINS BY CORPORATIONS AND INVESTMENT  
 9 COMPANIES.—Section 1044 of the Internal Revenue Code  
 10 of 1986 (relating to rollover of publicly-traded securities  
 11 gains into specialized small business investment compa-  
 12 nies) is amended—

13 (1) by striking subsection (a)(1) and inserting  
 14 the following:

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

17 “(A) a specialized small business invest-  
 18 ment company purchased by the taxpayer dur-  
 19 ing the 60-day period beginning on the date of  
 20 such sale; or

21 “(B) an eligible purchaser (as defined in  
 22 section 1046(g)(1)) engaged in a telecommuni-  
 23 cations business (as defined in section  
 24 1046(g)(6)) purchased by the taxpayer during

1 the 60-day period beginning on the date of such  
 2 sale,

3 reduced by—”; and

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

7 “(4) LIMITATION ON CERTAIN C CORPORATIONS  
 8 AND INVESTMENT COMPANIES.—In the case of a C  
 9 corporation or an investment company acquiring  
 10 common stock or a partnership interest described in  
 11 subsection (a)(1)(B), the amount of gain that may  
 12 be excluded under subsection (a) for any taxable  
 13 year shall not exceed the lesser of—

14 “(A) \$750,000; or

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

18 (e) EFFECTIVE DATE.—

19 (1) The amendments made by subsection (a)  
 20 shall apply to property placed in service after June  
 21 30, 1999.

22 (2) The amendments made by subsections (b)  
 23 and (c) shall apply to stock acquired after June 30,  
 24 1999.



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

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

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

12           (1) a list of eligible purchasers (as defined in  
13      section 1046(g)(1) of such Code) and any other tax-  
14      payer receiving a benefit from the operation of sec-  
15      tion 48A, 167, 197, 1044, 1046, 1202, or 1244A of  
16      such Code as that section was added or amended by  
17      section 3 of this Act; and

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

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