

107TH CONGRESS
1ST SESSION

H. R. 800

To amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2004.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

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

A BILL

To amend the Internal Revenue Code of 1986 to eliminate taxes on capital gains after December 31, 2004.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Capital Gains Sunset
5 Act”.

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

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

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

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

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

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

19 “(d) TRANSITIONAL RULES.—

20 “(1) IN GENERAL.—In the case of a taxable
21 year which includes January 1, 2005—

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

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

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

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

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

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

18 “(i) a regulated investment company,

19 “(ii) a real estate investment trust,

20 “(iii) an S corporation,

21 “(iv) a partnership,

22 “(v) an estate or trust, and

23 “(vi) a common trust fund.”

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

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

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

5 (c) TECHNICAL AND CONFORMING CHANGES.—

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

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

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

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

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

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

1 “(2) CAPITAL GAINS AND LOSSES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

 “Sec. 1201. Capital gains deduction.”

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amendments made by
23 this section shall apply to taxable years ending after
24 December 31, 2004.

1 (2) REPEAL OF SECTION 1(h).—The amend-
2 ment made by subsection (c)(1) shall apply to tax-
3 able years beginning after December 31, 2004.

4 (3) CONTRIBUTIONS.—The amendment made
5 by subsection (c)(4) shall apply only to contributions
6 on or after January 1, 2005.

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

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

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