II

107TH CONGRESS
1ST SESSION

S. 455

To amend the Internal Revenue Code of 1986 to increase and modify the exclusion relating to qualified small business stock and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2001

Ms. COLLINS (for herself, Mr. CLELAND, Mr. BREAUX, Mr. ALLARD, Mr. CHAFEE, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. HATCH, and Mr. HUTCHINSON) 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 increase and modify the exclusion relating to qualified small business stock and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Encouraging Investment in Small Business Act''.

SEC. 2. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—Section 1202(a) of the Internal Revenue Code of 1986 (relating to partial exclusion for gain from certain small business stock) is amended by striking ''50 percent'' each place it appears and inserting ''75 percent''.

(b) REDUCTION IN HOLDING PERIOD.—

(1) IN GENERAL.—Section 1202(a) of the Internal Revenue Code of 1986 is amended by striking ''5 years'' and inserting ''3 years''.

(2) CONFORMING AMENDMENTS.—Subsections (g)(2)(A) and (j)(1)(A) of section 1202 of such Code are each amended by striking ''5 years'' and inserting ''3 years''.

(c) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Section 53(d)(1)(B)(ii)(II) of such Code is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(d) OTHER MODIFICATIONS.—

(1) WORKING CAPITAL LIMITATION.—

(A) IN GENERAL.—Section 1202(e)(6) of the Internal Revenue Code of 1986 (relating to working capital) is amended—

(i) in subparagraph (B), by striking "2 years" and inserting "5 years"; and

(ii) by striking "2 years" in the last sentence and inserting "5 years".

(B) LIMITATION ON ASSETS TREATED AS USED IN ACTIVE CONDUCT OF BUSINESS.—The second sentence of section 1202(e)(6) of such Code is amended by inserting "described in subparagraph (A)" after "of the corporation".

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Section 1202(c)(3) of such Code (relating to certain purchases by corporation of its own stock) is amended by adding at the end the following:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section."

(e) EXCLUDED QUALIFIED TRADE OR BUSINESS.—Section 1202(e)(3) of the Internal Revenue Code of 1986 (relating to qualified trade or business) is amended—

(1) by inserting ", and is anticipated to continue to be," before "the reputation" in subparagraph (A), and

(2) by inserting "but not including the business of raising fish or any business involving biotechnology applications" after "trees" in subparagraph (C).

(f) INCREASE IN CAP ON ELIGIBLE GAIN FOR JOINT RETURNS.—

(1) IN GENERAL.—Section 1202(b)(1)(A) of the Internal Revenue Code of 1986 (relating to per-issuer limitations on taxpayer's eligible gain) is amended by inserting "($20,000,000 in the case of a joint return)" after "$10,000,000".

(2) CONFORMING AMENDMENT.—Section 1202(b)(3) of such Code is amended by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(g) DECREASE IN CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subparagraph (A) of section 1(h)(5) of the Internal Revenue Code of 1986 (relat-

ing to 28-percent gain) is amended to read as follows:

"(A) collectibles gain, over".

(2) CONFORMING AMENDMENTS.—

(A) Section 1(h) of such Code is amended by striking paragraph (8).

(B) Paragraph (9) of section 1(h) of such Code is amended by striking ", gain described in paragraph (7)(A)(i), and section 1202 gain" and inserting "and gain described in paragraph (7)(A)(i)".

(h) INCREASE IN ROLLOVER PERIOD FOR QUALIFIED SMALL BUSINESS STOCK.—Subsections (a)(1) and (b)(3) of section 1045 of the Internal Revenue Code of 1986 (relating to rollover of gain from qualified small business stock to another qualified small business stock) are each amended by striking "60-day" and inserting "180-day".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsections (a) and (d)(1) apply to stock issued after August 10, 1993.

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