

108TH CONGRESS
2D SESSION

H. R. 4707

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage diversity of ownership of telecommunications businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2004

Mr. RANGEL (for himself and Mr. HOUGHTON) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage diversity of ownership of telecommunications businesses, and for other purposes.

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. NONRECOGNITION OF GAIN ON QUALIFIED**
4 **SALES OF TELECOMMUNICATIONS BUSI-**
5 **NESSES.**

6 (a) IN GENERAL.—Subchapter O of chapter 1 of the
7 Internal Revenue Code of 1986 (relating to gain or loss

1 on disposition of property) is amended by inserting after
 2 part IV the following new part:

3 **“PART V—CERTAIN SALES OF**
 4 **TELECOMMUNICATIONS BUSINESSES**

“Sec. 1071. Nonrecognition of gain on certain sales of telecommunications busi-
 nesses.

5 **“SEC. 1071. NONRECOGNITION OF GAIN ON CERTAIN SALES**
 6 **OF TELECOMMUNICATIONS BUSINESSES.**

7 “(a) IN GENERAL.—In the case of any qualified tele-
 8 communications sale, at the election of the taxpayer, such
 9 sale shall be treated as an involuntary conversion of prop-
 10 erty within the meaning of section 1033.

11 “(b) LIMITATION ON AMOUNT OF GAIN ON WHICH
 12 TAX MAY BE DEFERRED.—The amount of gain on any
 13 qualified telecommunications sale which is not recognized
 14 by reason of this section shall not exceed \$50,000,000.

15 “(c) QUALIFIED TELECOMMUNICATIONS SALE.—For
 16 purposes of this section, the term ‘qualified telecommuni-
 17 cations sale’ means any sale to a qualified business of—

18 “(1) the assets of a telecommunications busi-
 19 ness, or

20 “(2) stock in a corporation if, immediately after
 21 such sale—

22 “(A) the qualified business controls (within
 23 the meaning of section 368(c)) such corpora-
 24 tion, and

1 “(B) substantially all of the assets of such
2 corporation are assets of 1 or more tele-
3 communications businesses.

4 “(d) QUALIFIED BUSINESS.—For purposes of this
5 section—

6 “(1) IN GENERAL.—The term ‘qualified busi-
7 ness’ means—

8 “(A) in the case of a telecommunications
9 sale which includes the sale of any interest in
10 a broadcast station (as defined in section 3(5)
11 of the Communications Act of 1934), any per-
12 son if—

13 “(i) such person owns, directly or in-
14 directly, a qualified interest in 10 or fewer
15 broadcast stations (as so defined), and

16 “(ii) the fair market value of the ag-
17 gregate interests of such person in broad-
18 cast stations (as so defined) is equal to or
19 greater than 50 percent of the net assets
20 of such entity, and

21 “(B) in the case of any other telecommuni-
22 cations sale—

23 “(i) any individual, and

24 “(ii) any partnership or corporation
25 if—

1 “(I) the net assets of such entity
2 do not exceed \$30,000,000, and

3 “(II) the average after-tax in-
4 come of such entity for the preceding
5 2 taxable years does not exceed
6 \$10,000,000.

7 “(2) QUALIFIED INTEREST IN BROADCAST STA-
8 TIONS.—An interest in a broadcast station shall be
9 treated as qualified if such interest represents 50
10 percent or more of the total assets of the station.

11 “(3) EACH BUSINESS LIMITED TO 3 PUR-
12 CHASES.—A person shall not be a qualified business
13 with respect to a qualified telecommunications sale
14 if such person (or any predecessor) was the pur-
15 chaser in more than 2 prior qualified telecommuni-
16 cations sales for which an election under this section
17 was made by the seller.

18 “(4) SPECIAL RULES FOR QUALIFIED BUSINESS
19 DETERMINATION.—For purposes of paragraph (1)—

20 “(A) NET ASSETS.—The term ‘net assets’
21 means the excess of the aggregate gross assets
22 (as defined in section 1202(d)(2)) of the entity
23 over the indebtedness of such entity.

24 “(B) AFTER-TAX INCOME.—The term
25 ‘after-tax income’ means taxable income re-

duced by the net income tax for the taxable year. For purposes of the preceding sentence, the term ‘net income tax’ means the tax imposed by this chapter reduced by the sum of the credits allowable under part IV of subchapter A of this chapter. Rules similar to the rules of subparagraphs (A), (B), and (D) of section 448(c)(3) shall apply in determining average after-tax income.

“(5) AGGREGATION RULES.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person.

“(e) TELECOMMUNICATIONS BUSINESS.—The term ‘telecommunications business’ means any business providing communication services by wire, cable, radio, satellite, or other technology if the providing of such services is governed by the Communications Act of 1934 or the Telecommunications Act of 1996.

“(f) SPECIAL RULES.—

“(1) IN GENERAL.—In applying section 1033 for purposes of subsection (a) of this section, stock of a corporation operating a telecommunications business, whether or not representing control of such

1 corporation, shall be treated as property similar or
 2 related in service or use to the property sold in the
 3 qualified telecommunications sale.

4 “(2) ELECTION TO REDUCE BASIS RATHER
 5 THAN RECOGNIZE REMAINDER OF GAIN.—If—

6 “(A) a taxpayer elects the treatment under
 7 subsection (a) with respect to any qualified tele-
 8 communications sale, and

9 “(B) an amount of gain would (but for
 10 this paragraph) be recognized on such sale
 11 other than by reason of subsection (b),

12 then the amount of such gain shall not be recognized
 13 to the extent that the taxpayer elects to reduce the
 14 basis of depreciable property (as defined in section
 15 1017(b)(3)) held by the taxpayer immediately after
 16 the sale or acquired in the same taxable year. The
 17 manner and amount of such reduction shall be de-
 18 termined under regulations prescribed by the Sec-
 19 retary.

20 “(3) BASIS.—For basis of property acquired on
 21 a sale or exchange treated as an involuntary conver-
 22 sion under subsection (a), see section 1033(b).

23 “(g) RECAPTURE OF TAX BENEFIT IF TELE-
 24 COMMUNICATIONS BUSINESS RESOLD WITHIN 5 YEARS,
 25 ETC.—

1 “(1) IN GENERAL.—If, within 5 years after the
2 date of any qualified telecommunications sale, there
3 is a recapture event with respect to the property in-
4 volved in such sale, then the purchaser’s tax imposed
5 by this chapter for the taxable year in which such
6 event occurs shall be increased by 20 percent of the
7 lesser of the consideration furnished by the pur-
8 chaser in such sale or the dollar limitation of sub-
9 section (b).

10 “(2) EXCEPTION FOR REINVESTED AMOUNTS.—
11 Paragraph (1) shall not apply to any recapture event
12 which is a sale if—

13 “(A) the sale is a qualified telecommuni-
14 cations sale, or

15 “(B) during the 60-day period beginning
16 on the date of such sale, the taxpayer is the
17 purchaser in another qualified telecommuni-
18 cations sale in which the consideration fur-
19 nished by the taxpayer is not less than the
20 amount realized on the recapture event sale.

21 “(3) RECAPTURE EVENT.—For purposes of this
22 subsection, the term ‘recapture event’ means, with
23 respect to any qualified telecommunications sale—

24 “(A) any sale or other disposition of the
25 assets or stock referred to in subsection (c)

1 which were acquired by the taxpayer in such
2 sale, and

3 “(B) in the case of a qualified tele-
4 communications sale described in subsection
5 (c)(2)—

6 “(i) any sale or other disposition of a
7 telecommunications business by the cor-
8 poration referred to in such subsection, or

9 “(ii) any other transaction which re-
10 sults in the qualified business not having
11 control (as defined in subsection (c)(2)(A))
12 of such corporation.

13 Such term shall not include any sale or other dis-
14 position resulting from the default, or imminent de-
15 fault, of any indebtedness of the taxpayer.”

16 (b) CLERICAL AMENDMENT.—The table of parts for
17 subchapter O of chapter 1 of such Code is amended by
18 inserting after the item relating to part IV the following
19 new item:

 “PART V. CERTAIN SALES OF TELECOMMUNICATIONS BUSINESSES”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to sales in taxable years beginning
22 after the date of the enactment of this Act.

1 **SEC. 2. LOAN GUARANTEE PROGRAM TO ENCOURAGE DI-**
2 **VERSITY OF OWNERSHIP OF TELECOMMUNI-**
3 **CATIONS BUSINESSES.**

4 (a) IN GENERAL.—The Administrator of the Small
5 Business Administration may guarantee any loan made to
6 a qualified business for the purchase of assets or stock
7 described in section 1071(c) of the Internal Revenue Code
8 of 1986 (relating to qualified telecommunications sale).

9 (b) LIMITATIONS.—

10 (1) SECURITY.—The Administrator shall not
11 guarantee any loan under subsection (a) unless the
12 guaranteed portion of such loan is secured by a first
13 lien position or first mortgage on the stock or assets
14 financed by the loan.

15 (2) GUARANTEE PERCENTAGE.—The amount of
16 any loan guaranteed by the Administrator under
17 subsection (a) shall not exceed 95 percent of the bal-
18 ance of the financing outstanding at the time of dis-
19 bursement of the loan.

20 (3) FEES.—With respect to each loan guaran-
21 teed under subsection (a) (other than a loan that is
22 repayable in 1 year or less), the Administrator may
23 collect a guarantee fee, which shall be payable by the
24 participating lender, and may be charged to the bor-
25 rower.

1 (4) FORFEITURE OF FCC LICENSE.—The Ad-
2 ministrator shall not guarantee any loan under sub-
3 section (a) unless such loan provides that any license
4 issued by the Federal Communications Commission
5 to the borrower shall be returned and forfeited by
6 the borrower to the Federal Communications Com-
7 mission immediately upon a finding by the Adminis-
8 trator that such borrower is in default under such
9 loan.

10 (c) GENERAL AUTHORITY.—For purposes of carrying
11 out this section, the Administrator may—

12 (1) enter into contracts with private and Fed-
13 eral entities for professional and other services;

14 (2) enter into memorandums of understanding
15 with other Federal agencies; and

16 (3) issue regulations, including regulations re-
17 garding—

18 (A) notice of and opportunity to cure a de-
19 fault;

20 (B) procedures related to foreclosure; and

21 (C) such other matters as the Adminis-
22 trator considers appropriate.

23 (d) DEFINITIONS.—For purposes of this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Small Busi-
3 ness Administration.

4 (2) QUALIFIED BUSINESS.—The term “quali-
5 fied business” has the meaning given such term in
6 section 1071(d) of the Internal Revenue Code of
7 1986.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary to carry out the purposes of this section.

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