

108TH CONGRESS
2D SESSION

H. R. 4915

To amend the Internal Revenue Code of 1986 to encourage investment in small companies.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. FERGUSON 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 encourage investment in small companies.

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 “Small Investment Tax
5 Relief Act of 2004”.

6 **SEC. 2. EXCLUSION FOR GAIN FROM STOCK OF SMALL,**
7 **PUBLICLY TRADED COMPANIES.**

8 (a) IN GENERAL.—Part 1 of subchapter P of chapter
9 1 of the Internal Revenue Code of 1986 (relating to treat-

1 ment of capital gains) is amended by inserting after sec-
 2 tion 1202 the following new section:

3 **“SEC. 1203. EXCLUSION FOR GAIN FROM STOCK OF SMALL,**
 4 **PUBLICLY TRADED COMPANIES.**

5 “(a) GENERAL RULE.—In the case of a taxpayer
 6 other than a corporation, gross income shall not include
 7 any gain from the sale or exchange of section 1203 stock
 8 held for more than 1 year.

9 “(b) LIMITATION.—The amount excluded under sub-
 10 section (a) for a taxable year may not exceed \$100,000
 11 (\$50,000 in the case of a separate return by a married
 12 individual).

13 “(c) 1203 STOCK.—For purposes of subsection (a),
 14 the term ‘1203 stock’ means any stock—

15 “(1) in a C corporation which is acquired after
 16 the date of the enactment of this section if—

17 “(A) as of the date of acquisition, such
 18 corporation is a qualified small business, and

19 “(B) except as provided in subsection (e),
 20 such stock is acquired—

21 “(i) in exchange for money or other
 22 property, or

23 “(ii) as compensation for services pro-
 24 vided to such corporation (other than serv-

1 ices performed as an underwriter of such
2 stock), and

3 “(2) which, at the time of sale or exchange giv-
4 ing rise to gain to be excluded under subsection (a),
5 is publicly traded on any established domestic na-
6 tional or regional stock exchange or stock market,
7 the Over the Counter Bulletin Board, or the Na-
8 tional Quotation Bureau.

9 For purposes of the preceding sentence, rules similar to
10 the rules of section 1202(c)(3) shall apply.

11 “(d) QUALIFIED SMALL BUSINESS.—For purposes of
12 this section—

13 “(1) IN GENERAL.—The term ‘qualified small
14 business’ means any domestic corporation which is a
15 C corporation if the market capitalization of such
16 corporation (or any predecessor thereof), determined
17 with respect to the date of acquisition of stock, is
18 not more than \$150,000,000.

19 “(2) DETERMINATION OF MARKET CAPITALIZA-
20 TION.—For purposes of paragraph (1), market cap-
21 italization, with respect to the date of acquisition of
22 stock, shall be—

23 “(A) the amount equal to—

24 “(i) the closing price of a share of
25 stock in the corporation as of the end of

1 the reporting period ending immediately
2 before such date of acquisition, multiplied
3 by

4 “(ii) the number of outstanding
5 shares of such stock in the corporation as
6 of the end of such period, or

7 “(B) in the case that subparagraph (A)
8 does not apply, determined (by taking into ac-
9 count all facts and circumstances) on the basis
10 of the most recent amounts paid for each class
11 of stock in the corporation outstanding on the
12 date of the acquisition of the 1203 stock.

13 “(3) REPORTING PERIOD.—For purposes of
14 paragraph (2), the term ‘reporting period’ means the
15 period for which the most recent annual or quarterly
16 report is required to be filed with the Securities and
17 Exchange Commission under section 13(a)(2) of the
18 Securities Exchange Act of 1934 (15 U.S.C.
19 78m(a)(2), 78o(d)) or periodic information required
20 under section 15(d) of such Act (15 U.S.C. 78o(d)),
21 as the case may be.

22 “(4) AGGREGATION RULES.—For purposes of
23 paragraph (1), rules similar to the rules of section
24 1202(d)(3) shall apply.

25 “(e) ADDITIONAL RULES.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, rules similar to the rules of subsections (f), (g),
3 (h), (i), (j), and (k) of section 1202 shall apply, ex-
4 cept that subsection (j)(1)(A) of section 1202 shall
5 be applied by substituting ‘1 year’ for ‘5 years’.

6 “(2) QUALIFIED SMALL BUSINESS STOCK.—
7 Sales and exchanges taken into account under sec-
8 tion 1202 shall not be taken into account under this
9 section.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) The first sentence of section 642(c)(4) of
12 such Code is amended—

13 (A) by inserting “or 1203(a)” after
14 “1202(a)”, and

15 (B) by inserting “or 1203, as the case may
16 be” before the period at the end.

17 (2) Section 643(a)(3) of such Code is amended
18 by striking “section 1202” and inserting “sections
19 1202 and 1203”.

20 (3) Section 691(c)(4) of such Code is amended
21 by inserting “1203,” after “1202,”.

22 (4) Section 871(a)(2) of such Code is amended
23 by striking “section 1202” and inserting “sections
24 1202 and 1203”.

1 (5) The second sentence of section 1044(d) of
2 such Code is amended by inserting “or 1203” before
3 the period at the end.

4 (6) Section 1202(b) of such Code is amended
5 by inserting at the end the following new subsection:

6 “(4) SECTION 1203 STOCK.—Sales and ex-
7 changes taken into account under section 1203 shall
8 not be taken into account under this section.”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for part 1 of subchapter P of chapter 1 of such Code is
11 amended by inserting after the item relating to section
12 1202 the following new item:

 “Sec. 1203. Exclusion for gain from stock of small, publicly trad-
 ed companies.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to securities acquired after the
15 date of the enactment of this Act.

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