

108TH CONGRESS
1ST SESSION

S. 1381

To amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2003

Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. SMITH, Mr. BREAUX, Mr. MILLER, Mr. CHAMBLISS, Mr. PRYOR, Ms. COLLINS, Ms. LANDRIEU, Mr. SHELBY, and Mr. CRAIG) 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 modify certain provisions relating to the treatment of forestry activities.

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 “Reforestation Tax Act
5 of 2003”.

6 **SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.**

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

1 ment of capital gains) is amended by adding at the end
2 the following new section:

3 **“SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIM-**
4 **BER.**

5 “(a) IN GENERAL.—At the election of any taxpayer
6 who has qualified timber gain for any taxable year, there
7 shall be allowed as a deduction from gross income an
8 amount equal to the qualified percentage of such gain.

9 “(b) QUALIFIED TIMBER GAIN.—For purposes of
10 this section, the term ‘qualified timber gain’ means long-
11 term capital gain from the sale or exchange of timber.

12 “(c) QUALIFIED PERCENTAGE.—For purposes of this
13 section, the term ‘qualified percentage’ means the percent-
14 age (not exceeding 50 percent) determined by multi-
15 plying—

16 “(1) 3 percent, by

17 “(2) the number of years in the holding period
18 of the taxpayer with respect to the timber.

19 “(d) ESTATES AND TRUSTS.—In the case of an es-
20 tate or trust, the deduction under subsection (a) shall be
21 computed by excluding the portion (if any) of the gains
22 for the taxable year from sales or exchanges of capital as-
23 sets which, under sections 652 and 662 (relating to inclu-
24 sions of amounts in gross income of beneficiaries of

1 trusts), is includible by the income beneficiaries as gain
2 derived from the sale or exchange of capital assets.”.

3 (b) COORDINATION WITH MAXIMUM RATES OF TAX
4 ON NET CAPITAL GAINS.—

5 (1) Subsection (h)(3)(A) of section 1 of such
6 Code (relating to maximum capital gains rate) is
7 amended by striking “and” at the end of clause (i),
8 by striking “plus” at the end of clause (ii) and in-
9 serting “and”, and by adding at the end the fol-
10 lowing new clause:

11 “(iii) qualified timber gain with re-
12 spect to which an election is in effect
13 under section 1203, plus”.

14 (2) Subsection (a) of section 1201 of such Code
15 (relating to the alternative tax for corporations) is
16 amended by inserting at the end thereof the fol-
17 lowing new sentence:

18 “For purposes of this section, net capital gain shall be
19 determined without regard to qualified timber gain (as de-
20 fined in section 1203) with respect to which an election
21 is in effect under section 1203.”.

22 (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
23 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
24 such Code (relating to definition of adjusted gross income)

1 is amended by inserting after paragraph (18) the following
2 new paragraph:

3 “(19) PARTIAL INFLATION ADJUSTMENT FOR
4 TIMBER.—The deduction allowed by section 1203.”.
5 (d) TECHNICAL AMENDMENTS.—

6 (1) Subparagraph (B) of section 172(d)(2) of
7 such Code is amended to read as follows:

8 “(B) the exclusion under section 1202 and
9 the deduction under section 1203 shall not be
10 allowed.”.

11 (2) The last sentence of section 453A(e)(3) of
12 such Code is amended by striking “(whichever is ap-
13 propriate)” and inserting “or the deduction under
14 section 1203 (whichever is appropriate)”.

15 (3) Section 641(c)(2)(C) of such Code is
16 amended by inserting after clause (iii) the following
17 new clause:

18 “(iv) The deduction under section
19 1203.”.

20 (4) The first sentence of section 642(e)(4) of
21 such Code is amended to read as follows: “To the
22 extent that the amount otherwise allowable as a de-
23 duction under this subsection consists of gain de-
24 scribed in section 1202(a) or qualified timber gain
25 (as defined in section 1203(b)), proper adjustment

1 shall be made for any exclusion allowable under sec-
2 tion 1202, and any deduction allowable under sec-
3 tion 1203, to the estate or trust.”.

4 (5) The last sentence of section 643(a)(3) of
5 such Code is amended to read as follows: “The ex-
6 clusion under section 1202 and the deduction under
7 section 1203 shall not be taken into account.”.

8 (6) Subparagraph (C) of section 643(a)(6) of
9 such Code is amended by inserting “(i)” before
10 “there shall” and by inserting before the period “,
11 and (ii) the deduction under section 1203 (relating
12 to partial inflation adjustment for timber) shall not
13 be taken into account”.

14 (7) Paragraph (4) of section 691(c) of such
15 Code is amended by inserting “1203,” after
16 “1202,”.

17 (8) The second sentence of paragraph (2) of
18 section 871(a) of such Code is amended by striking
19 “section 1202” and inserting “sections 1202 and
20 1203”.

21 (e) CLERICAL AMENDMENT.—The table of sections
22 for part I of subchapter P of chapter 1 of such Code is
23 amended by adding at the end the following new item:

“Sec. 1203. Partial inflation adjustment for timber.”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to sales or exchanges after Decem-
3 ber 31, 2002.

4 **SEC. 3. 100 PERCENT DEDUCTION FOR REFORESTATION EX-**
5 **PENDITURES TO REPLACE AMORTIZATION.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-
7 ter 1 of the Internal Revenue Code of 1986 (relating to
8 itemized deductions for individuals and corporations) is
9 amended by adding at the end the following new section:
10 **“SEC. 199. REFORESTATION EXPENDITURES.**

11 “(a) ALLOWANCE OF DEDUCTION.—In the case of
12 any qualified timber property with respect to which the
13 taxpayer has made (in accordance with regulations pre-
14 scribed by the Secretary) an election under this sub-
15 section, there shall be allowed as a deduction for the tax-
16 able year an amount equal to the reforestation expendi-
17 tures paid or incurred by the taxpayer during such year
18 with respect to such property.

19 “(b) QUALIFIED TIMBER PROPERTY.—The term
20 ‘qualified timber property’ means a woodlot or other site
21 located in the United States which will contain trees in
22 significant commercial quantities and which is held by the
23 taxpayer for the planting, cultivating, caring for, and cut-
24 ting of trees for sale or use in the commercial production
25 of timber products.

1 “(c) REFORESTATION EXPENDITURES.—

2 “(1) IN GENERAL.—For purposes of this sec-
 3 tion, the term ‘reforestation expenditures’ means di-
 4 rect costs incurred in connection with forestation or
 5 reforestation by planting or artificial or natural
 6 seeding, including costs—

7 “(A) for the preparation of the site,

8 “(B) of seeds or seedlings, and

9 “(C) for labor and tools, including depre-
 10 ciation of equipment such as tractors, trucks,
 11 tree planters, and similar machines used in
 12 planting or seeding.

13 “(2) COST-SHARING PROGRAMS.—Reforestation
 14 expenditures shall not include any expenditures for
 15 which the taxpayer has been reimbursed under any
 16 governmental reforestation cost-sharing program un-
 17 less the amounts reimbursed have been included in
 18 the gross income of the taxpayer.

19 “(d) LIFE TENANT AND REMAINDERMAN.—In the
 20 case of property held by one person for life with remainder
 21 to another person, the deduction under this section shall
 22 be computed as if the life tenant were the absolute owner
 23 of the property and shall be allowed to the life tenant.”.

24 (b) TERMINATION OF AMORTIZATION OF REFOREST-
 25 ATION EXPENDITURES.—Section 194 of such Code (relat-

1 ing to amortization of reforestation expenditures) is
 2 amended by adding at the end the following new sub-
 3 section:

4 “(e) TERMINATION.—This section shall not apply to
 5 any amount paid or incurred after the date of the enact-
 6 ment of this subsection.”.

7 (c) CLERICAL AMENDMENT.—The table of sections
 8 for part VI of subchapter B of chapter 1 of such Code
 9 is amended by inserting at the end the following new item:

“Sec. 199. Reforestation expenditures.”.

10 (d) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to amounts paid or incurred after
 12 the date of the enactment of this Act.

13 **SEC. 4. APPLICATION OF PASSIVE ACTIVITY LOSS LIMITA-**
 14 **TIONS TO TIMBER ACTIVITIES.**

15 (a) IN GENERAL.—Clauses (ii) and (iii) of Treasury
 16 Regulation § 1.469–5T(b)(2) shall not apply to any indi-
 17 vidual who is a member of a closely held entity partici-
 18 pating in a timber activity if the nature of such activity
 19 is such that the aggregate hours devoted to management
 20 of the activity for any year is customarily less than 100
 21 hours.

22 (b) DEFINITIONS.—For purposes of subsection (a)—

23 (1) TIMBER ACTIVITY.—The term “timber ac-
 24 tivity” means the planting, cultivating, caring, cut-

1 ting, or preparation (other than milling) for market,
2 of trees.

3 (2) CLOSELY HELD ENTITY.—An entity shall be
4 treated as closely held if at least 80 percent of the
5 ownership interests in the entity is held—

6 (A) by 5 or fewer individuals, or

7 (B) by individuals who are members of the
8 same family (within the meaning of section
9 2032A(e)(2) of the Internal Revenue Code of
10 1986).

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2002.

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