

108TH CONGRESS  
1ST SESSION

# S. 25

To amend the Internal Revenue Code of 1986 to provide that dividend income of individuals not be taxed at rates in excess of the maximum capital gains rate.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2003

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that dividend income of individuals not be taxed at rates in excess of the maximum capital gains rate.

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. DIVIDENDS OF INDIVIDUALS TAXED AT CAP-**  
4 **ITAL GAIN RATES.**

5 (a) IN GENERAL.—Section 1(h) of the Internal Rev-  
6 enue Code of 1986 (relating to maximum capital gains  
7 rate) is amended by adding at the end the following new  
8 paragraph:

1           “(13) DIVIDENDS TAXED AS NET CAPITAL  
2 GAIN.—

3           “(A) IN GENERAL.—For purposes of this  
4 subsection, the term ‘net capital gain’ means  
5 net capital gain (determined without regard to  
6 this paragraph), increased by qualified dividend  
7 income.

8           “(B) QUALIFIED DIVIDEND INCOME.—For  
9 purposes of this paragraph—

10           “(i) IN GENERAL.—The term ‘quali-  
11 fied dividend income’ means dividends re-  
12 ceived from domestic corporations during  
13 the taxable year.

14           “(ii) CERTAIN DIVIDENDS EX-  
15 CLUDED.—Such term shall not include—

16           “(I) any dividend from a corpora-  
17 tion which for the taxable year of the  
18 corporation in which the distribution  
19 is made, or the preceding taxable  
20 year, is a corporation exempt from tax  
21 under section 501 or 521,

22           “(II) any amount allowed as a  
23 deduction under section 591 (relating  
24 to deduction for dividends paid by  
25 mutual savings banks, etc.), and

1                   “(III) any dividend described in  
2                   section 404(k).

3                   “(iii) MINIMUM HOLDING PERIOD.—  
4                   Such term shall not include any dividend  
5                   on any share of stock with respect to which  
6                   the holding period requirements of section  
7                   246(c) are not met.

8                   “(C) SPECIAL RULES.—

9                   “(i) AMOUNTS TAKEN INTO ACCOUNT  
10                  AS INVESTMENT INCOME.—Qualified divi-  
11                  dend income shall not include any amount  
12                  which the taxpayer takes into account as  
13                  investment income under section  
14                  163(d)(4)(B).

15                  “(ii) NONRESIDENT ALIENS.—In the  
16                  case of a nonresident alien individual, sub-  
17                  paragraph (A) shall apply only—

18                  “(I) in determining the tax im-  
19                  posed for the taxable year pursuant to  
20                  section 871(b) and only in respect of  
21                  amounts which are effectively con-  
22                  nected with the conduct of a trade or  
23                  business within the United States,  
24                  and

1                   “(II) in determining the tax im-  
 2                   posed for the taxable year pursuant to  
 3                   section 877.

4                   “(iii) TREATMENT OF DIVIDENDS  
 5                   FROM REGULATED INVESTMENT COMPA-  
 6                   NIES AND REAL ESTATE INVESTMENT  
 7                   TRUSTS.—

**“For treatment of dividends from regulated in-  
 vestment companies and real estate investment  
 trusts, see sections 854 and 857.”**

8           (b) EXCLUSION OF DIVIDENDS FROM INVESTMENT  
 9 INCOME.—Subparagraph (B) of section 163(d)(4) of the  
 10 Internal Revenue Code of 1986 (defining net investment  
 11 income) is amended by adding at the end the following  
 12 flush sentence:

13                   “Such term shall include qualified dividend in-  
 14                   come (as defined in section 1(h)(13)(B)) only to  
 15                   the extent the taxpayer elects to treat such in-  
 16                   come as investment income for purposes of this  
 17                   subsection.”

18           (c) TREATMENT OF DIVIDENDS FROM REGULATED  
 19 INVESTMENT COMPANIES.—

20                   (1) Subsection (a) of section 854 of the Inter-  
 21                   nal Revenue Code of 1986 (relating to dividends re-  
 22                   ceived from regulated investment companies) is  
 23                   amended by inserting “section 1(h)(13) (relating to

1 maximum rate of tax on dividends and interest)  
2 and” after “For purposes of”.

3 (2) Paragraph (1) of section 854(b) of such  
4 Code (relating to other dividends) is amended by re-  
5 designating subparagraph (B) as subparagraph (C)  
6 and by inserting after subparagraph (A) the fol-  
7 lowing new subparagraph:

8 “(B) MAXIMUM RATE UNDER SECTION  
9 1(h).—

10 “(i) IN GENERAL.—If the aggregate  
11 dividends received by a regulated invest-  
12 ment company during any taxable year is  
13 less than 95 percent of its gross income,  
14 then, in computing the maximum rate  
15 under section 1(h)(13), rules similar to the  
16 rules of subparagraph (A) shall apply.

17 “(ii) GROSS INCOME.—For purposes  
18 of clause (i), in the case of 1 or more sales  
19 or other dispositions of stock or securities,  
20 the term ‘gross income’ includes only the  
21 excess of—

22 “(I) the net short-term capital  
23 gain from such sales or dispositions,  
24 over

1                   “(II) the net long-term capital  
2                   loss from such sales or dispositions.”

3           (3) Subparagraph (C) of section 854(b)(1) of  
4           such Code, as redesignated by paragraph (2), is  
5           amended by striking “subparagraph (A)” and insert-  
6           ing “subparagraph (A) or (B)”.

7           (4) Paragraph (2) of section 854(b) of such  
8           Code is amended by inserting “the maximum rate  
9           under section 1(h)(13) and” after “for purposes of”.

10          (d) TREATMENT OF DIVIDENDS RECEIVED FROM  
11 REAL ESTATE INVESTMENT TRUSTS.—Section 857(c) of  
12 the Internal Revenue Code of 1986 (relating to restric-  
13 tions applicable to dividends received from real estate in-  
14 vestment trusts) is amended to read as follows:

15          “(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RE-  
16 CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For  
17 purposes of section 1(h)(13) (relating to maximum rate  
18 of tax on dividends) and section 243 (relating to deduc-  
19 tions received by corporations), a dividend received from  
20 a real estate investment trust which meets the require-  
21 ments of this part shall not be considered a dividend.”

22          (e) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 December 31, 2002.

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