

109TH CONGRESS  
1ST SESSION

# H. R. 3883

To amend the Internal Revenue Code of 1986 to allow a deduction for  
qualified timber gains.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. McCRERY (for himself, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. LEWIS of Kentucky, Mr. BRADY of Texas, Mr. CANTOR, Mr. BAIRD, Mr. DICKS, Mr. GOHMERT, Mr. GOODLATTE, Mr. HASTINGS of Washington, Mr. JINDAL, Mr. LARSEN of Washington, Mr. REICHERT, Mr. ROSS, Mr. SMITH of Washington, Mr. WALDEN of Oregon, Mr. BOUSTANY, and Mr. HALL) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a  
deduction for qualified timber gains.

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 “Timber Tax Act of  
5       2005”.

1 **SEC. 2. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

2 (a) IN GENERAL.—Part I of subchapter P of chapter  
3 1 of the Internal Revenue Code of 1986 is amended by  
4 adding at the end the following new section:

5 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

6 “(a) IN GENERAL.—In the case of a taxpayer which  
7 elects the application of this section for a taxable year,  
8 there shall be allowed a deduction against gross income  
9 equal to 60 percent of the lesser of—

10 “(1) the taxpayer’s qualified timber gain for  
11 such year, or

12 “(2) the taxpayer’s net capital gain for such  
13 year.

14 “(b) QUALIFIED TIMBER GAIN.—For purposes of  
15 this section, the term ‘qualified timber gain’ means, with  
16 respect to any taxpayer for any taxable year, the excess  
17 (if any) of—

18 “(1) the sum of the taxpayer’s gains described  
19 in subsections (a) and (b) of section 631 for such  
20 year, over

21 “(2) the sum of the taxpayer’s losses described  
22 in such subsections for such year.

23 “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—  
24 In the case of any qualified timber gain of a pass-thru  
25 entity (as defined in section 1(h)(10)), the election under

1 this section shall be made separately by each taxpayer sub-  
 2 ject to tax on such gain.”.

3 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS  
 4 RATES.—

5 (1) TAXPAYERS OTHER THAN CORPORA-  
 6 TIONS.—Paragraph (2) of section 1(h) of the Inter-  
 7 nal Revenue Code of 1986 is amended to read as fol-  
 8 lows:

9 “(2) REDUCTION OF NET CAPITAL GAIN.—For  
 10 purposes of this subsection, the net capital gain for  
 11 any taxable year shall be reduced (but not below  
 12 zero) by the sum of—

13 “(A) the amount which the taxpayer takes  
 14 into account as investment income under sec-  
 15 tion 163(d)(4)(B)(iii), and

16 “(B) the lesser of—

17 “(i) the amount described in para-  
 18 graph (1) of section 1203(a), or

19 “(ii) the amount described in para-  
 20 graph (2) of such section.”.

21 (2) CORPORATIONS.—Section 1201 of such  
 22 Code is amended by redesignating subsection (b) as  
 23 subsection (c) and inserting after subsection (a) the  
 24 following new subsection:

1       “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO AC-  
 2 COUNT.—For purposes of this section, in the case of a  
 3 corporation with respect to which an election is in effect  
 4 under section 1203, the net capital gain for any any tax-  
 5 able year shall be reduced (but not below zero) by the cor-  
 6 poration’s qualified timber gain (as defined in section  
 7 1203(b)).”.

8       (c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL  
 9 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
 10 of section 62 of the Internal Revenue Code of 1986 is  
 11 amended by inserting before the last sentence the fol-  
 12 lowing new paragraph:

13               “(21) QUALIFIED TIMBER GAINS.—The deduc-  
 14 tion allowed by section 1203.”.

15       (d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED  
 16 CURRENT EARNINGS.—Subparagraph (C) of sec-  
 17 tion 56(g)(4) of the Internal Revenue Code of 1986 is  
 18 amended by adding at the end the following new clause:

19               “(vii) DEDUCTION FOR QUALIFIED  
 20 TIMBER GAIN.—Clause (i) shall not apply  
 21 to any deduction allowed under section  
 22 1203.”.

23       (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE  
 24 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-  
 25 paragraph (C) of section 641(c)(2) of the Internal Rev-

1 enue Code of 1986 is amended by inserting after clause  
2 (iii) the following new clause:

3 “(iv) The deduction allowed under  
4 section 1203.”.

5 (f) CONFORMING AMENDMENTS.—

6 (1) Subparagraph (B) of section 172(d)(2) of  
7 the Internal Revenue Code of 1986 is amended to  
8 read as follows:

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

12 (2) Paragraph (4) of section 642(c) of such  
13 Code is amended by striking the first sentence and  
14 inserting the following: “To the extent that the  
15 amount otherwise allowable as a deduction under  
16 this subsection consists of gain described in section  
17 1202(a) or qualified timber gain (as defined in sec-  
18 tion 1203(b)), proper adjustment shall be made for  
19 any exclusion allowable to the estate or trust under  
20 section 1202 and for any deduction allowable to the  
21 estate or trust under section 1203.”

22 (3) Paragraph (3) of section 643(a) of such  
23 Code is amended by striking the last sentence and  
24 inserting the following: “The exclusion under section

1       1202 and the deduction under section 1203 shall not  
2       be taken into account.”

3           (4) Subparagraph (C) of section 643(a)(6) of  
4       such Code is amended to read as follows:

5           “(C) Paragraph (3) shall not apply to a  
6       foreign trust. In the case of such a trust—

7           “(i) there shall be included gains from  
8       the sale or exchange of capital assets, re-  
9       duced by losses from such sales or ex-  
10      changes to the extent such losses do not  
11      exceed gains from such sales or exchanges,  
12      and

13          “(ii) the deduction section 1203 shall  
14      not be taken into account.”.

15          (5) Paragraph (4) of section 691(c) of such  
16      Code is amended by inserting “1203,” after  
17      “1202,”.

18          (6) Paragraph (2) of section 871(a) of such  
19      Code is amended by inserting “and 1203” after  
20      “section 1202”.

21          (7) The table of sections for part I of sub-  
22      chapter P of chapter 1 of such Code is amended by  
23      adding at the end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

24          (g) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2       this section shall apply to taxable years ending after  
3       the date of the enactment of this Act.

4           (2) TAXABLE YEARS WHICH INCLUDE DATE OF  
5       ENACTMENT.—In the case of any taxable year which  
6       includes the date of the enactment of this Act, for  
7       purposes of the Internal Revenue Code of 1986, the  
8       taxpayer's qualified timber gain shall not exceed the  
9       excess that would be described in section 1203(b) of  
10      such Code, as added by this section, if only disposi-  
11      tions of timber after such date were taken into ac-  
12      count.

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