

110TH CONGRESS  
1ST SESSION

# S. 402

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

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2007

Mrs. LINCOLN (for herself, Mr. SMITH, Mr. LOTT, Mr. CORNYN, Mr. PRYOR, Mrs. HUTCHISON, Mrs. MURRAY, Mrs. DOLE, Ms. CANTWELL, Mr. BURR, Mr. SHELBY, Mr. COCHRAN, Mr. VITTER, and Ms. LANDRIEU) 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 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 2007”.

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

7       (a) IN GENERAL.—Part I of subchapter P of chapter  
8 1 of the Internal Revenue Code of 1986 is amended by  
9 adding at the end the following new section:

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

2       “(a) IN GENERAL.—In the case of a taxpayer which  
3   elects the application of this section for a taxable year,  
4   there shall be allowed a deduction against gross income  
5   in an amount equal to 60 percent of the lesser of—

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

8           “(2) the taxpayer’s net capital gain for such  
9   year.

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

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

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

19       “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—  
20   In the case of any qualified timber gain of a pass-thru  
21   entity (as defined in section 1(h)(10)), the election under  
22   this section shall be made separately by each taxpayer sub-  
23   ject to tax on such gain.”.

24       (b) COORDINATION WITH MAXIMUM CAPITAL GAINS  
25   RATES.—

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

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

21        "(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO  
22 ACCOUNT.—For purposes of this section, in the case of  
23 a corporation with respect to which an election is in effect  
24 under section 1203, the net capital gain for any taxable  
25 year shall be reduced (but not below zero) by the corpora-

1 tion's qualified timber gain (as defined in section  
2 1203(b)).”.

3 (c) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
4 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
5 of section 62 of the Internal Revenue Code of 1986 is  
6 amended by inserting before the last sentence the fol-  
7 lowing new paragraph:

8 “(22) QUALIFIED TIMBER GAINS.—The deduc-  
9 tion allowed by section 1203.”.

10 (d) DEDUCTION ALLOWED IN COMPUTING AD-  
11 JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-  
12 tion 56(g)(4) of the Internal Revenue Code of 1986 is  
13 amended by adding at the end the following new clause:

14 “(vii) DEDUCTION FOR QUALIFIED  
15 TIMBER GAIN.—Clause (i) shall not apply  
16 to any deduction allowed under section  
17 1203.”.

18 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE  
19 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-  
20 paragraph (C) of section 641(c)(2) of the Internal Rev-  
21 enue Code of 1986 is amended by inserting after clause  
22 (iii) the following new clause:

23 “(iv) The deduction allowed under  
24 section 1203.”.

25 (f) CONFORMING AMENDMENTS.—

4                         “(B) the exclusion under section 1202 and  
5                         the deduction under section 1203 shall not be  
6                         allowed.”.

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

1                     “(i) there shall be included gains from  
2                     the sale or exchange of capital assets, re-  
3                     duced by losses from such sales or ex-  
4                     changes to the extent such losses do not  
5                     exceed gains from such sales or exchanges,  
6                     and

7                     “(ii) the deduction under section 1203  
8                     shall not be taken into account.”.

9                     (5) Paragraph (4) of section 691(c) of such  
10                    Code is amended by inserting “1203,” after  
11                    “1202.”.

12                    (6) Paragraph (2) of section 871(a) of such  
13                    Code is amended by inserting “or 1203” after “sec-  
14                    tion 1202”.

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

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

18                    (g) EFFECTIVE DATE.—

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

22                    (2) TAXABLE YEARS WHICH INCLUDE DATE OF  
23                    ENACTMENT.—In the case of any taxable year which  
24                    includes the date of the enactment of this Act, for  
25                    purposes of the Internal Revenue Code of 1986, the

1       taxpayer's qualified timber gain shall not exceed the  
2       excess that would be described in section 1203(b) of  
3       such Code, as added by this section, if only disposi-  
4       tions of timber after such date were taken into ac-  
5       count.

○