

110TH CONGRESS  
1ST SESSION

# S. 402

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

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## 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

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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       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.—

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

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

12          “(B) the lesser of—

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

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

17          (2) CORPORATIONS.—Section 1201 of such  
 18          Code is amended by redesignating subsection (b) as  
 19          subsection (c) and inserting after subsection (a) the  
 20          following new subsection:

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-

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

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting before the last sentence the following new paragraph:

“(22) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.”.

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

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

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) of the Internal Revenue Code of 1986 is amended by inserting after clause (iii) the following new clause:

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

(f) CONFORMING AMENDMENTS.—

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

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

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

17          (3) Paragraph (3) of section 643(a) of such  
18          Code is amended by striking the last sentence and  
19          inserting the following: “The exclusion under section  
20          1202 and the deduction under section 1203 shall not  
21          be taken into account.”

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

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.

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