

104TH CONGRESS
1ST SESSION

H. R. 1042

To amend the Internal Revenue Code of 1986 to provide that no capital gains tax shall apply to individuals.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1995

Mr. CRANE (for himself, Mr. BLUTE, Mr. McKEON, and Mr. HANCOCK) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide that no capital gains tax shall apply to individuals.

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. 100-PERCENT CAPITAL GAIN EXCLUSION FOR**
4 **INDIVIDUALS.**

5 (a) GENERAL RULE.—Part I of subchapter P of
6 chapter 1 of the Internal Revenue Code of 1986 (relating
7 to treatment of capital gains), as amended by subsection
8 (c)(1), is amended by adding at the end the following new
9 section:

1 **“SEC. 1202. DEDUCTION FOR CAPITAL GAINS.**

2 “(a) ALLOWANCE OF DEDUCTION.—If for any tax-
3 able year a taxpayer other than a corporation has a net
4 capital gain, 100 percent of the amount of the net capital
5 gain shall be a deduction from gross income.

6 “(b) ESTATES AND TRUSTS.—In the case of an es-
7 tate or trust, the deduction under subsection (a) shall be
8 computed by excluding the portion (if any) of the gains
9 for the taxable year from sales or exchanges of capital as-
10 sets which, under sections 652 and 662 (relating to inclu-
11 sions of amounts in gross income of beneficiaries of
12 trusts), is includible by the income beneficiaries as gain
13 derived from the sale or exchange of capital assets.

14 “(c) TRANSITIONAL RULE.—

15 “(1) IN GENERAL.—In the case of a taxable
16 year which includes January 1, 1995—

17 “(A) the amount taken into account as the
18 net capital gain under subsection (a) shall not
19 exceed the net capital gain determined by only
20 taking into account gains and losses properly
21 taken into account for the portion of the tax-
22 able year on or after January 1, 1995, and

23 “(B) if the net capital gain for such year
24 exceeds the amount taken into account under
25 subsection (a), the rate of tax imposed by sec-

1 tion 1 on such excess shall not exceed 28 per-
2 cent.

3 “(2) SPECIAL RULES FOR PASS-THRU ENTI-
4 TIES.—

5 “(A) IN GENERAL.—In applying paragraph
6 (1) with respect to any pass-thru entity, the de-
7 termination of when gains and losses are prop-
8 erly taken into account shall be made at the en-
9 tity level.

10 “(B) PASS-THRU ENTITY DEFINED.—For
11 purposes of subparagraph (A), the term ‘pass-
12 thru entity’ means—

13 “(i) a regulated investment company,

14 “(ii) a real estate investment trust,

15 “(iii) an S corporation,

16 “(iv) a partnership,

17 “(v) an estate or trust, and

18 “(vi) a common trust fund.”

19 (b) DEDUCTION ALLOWABLE IN COMPUTING AD-
20 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
21 such Code is amended by inserting after paragraph (15)
22 the following new paragraph:

23 “(16) CAPITAL GAINS OF INDIVIDUALS.—The
24 deduction allowed by section 1202.”

25 (c) CONFORMING AMENDMENTS.—

1 (1) Section 13113 of the Revenue Reconcili-
2 ation Act of 1993 (relating to 50-percent exclusion
3 for gain from certain small business stock), and the
4 amendments made by such section, are hereby re-
5 pealed; and the Internal Revenue Code of 1986 shall
6 be applied as if such section (and amendments) had
7 never been enacted.

8 (2) Subsection (h) of section 1 of such Code is
9 hereby repealed.

10 (3)(A) Section 170(e)(1)(B) of such Code is
11 amended by inserting “by a corporation” after “a
12 charitable contribution”.

13 (4)(A) Section 172(d)(2) of such Code (relating
14 to modifications with respect to net operating loss
15 deduction) is amended to read as follows:

16 “(2) CAPITAL GAINS AND LOSSES OF TAX-
17 PAYERS OTHER THAN CORPORATIONS.—In the case
18 of a taxpayer other than a corporation—

19 “(A) the amount deductible on account of
20 losses from sales or exchanges of capital assets
21 shall not exceed the amount includible on ac-
22 count of gains from sales or exchanges of cap-
23 ital assets; and

24 “(B) the deduction provided by section
25 1202 shall not be allowed.”

1 (B) Subparagraph (B) of section 172(d)(4) of
2 such Code is amended by inserting “, (2)(B),” after
3 “paragraph (1)”.

4 (5)(A) Section 221 of such Code (relating to
5 cross reference) is amended to read as follows:

6 **“SEC. 221. CROSS REFERENCES.**

“(1) For deduction for net capital gain, see section 1202.

“(2) For deductions in respect of a decedent, see section 691.”

7 (B) The table of sections for part VII of sub-
8 chapter B of chapter 1 of such Code is amended by
9 striking “reference” in the item relating to section
10 221 and inserting “references”.

11 (6) Paragraph (4) of section 642(c) of such
12 Code is amended to read as follows:

13 “(4) ADJUSTMENTS.—To the extent that the
14 amount otherwise allowable as a deduction under
15 this subsection consists of gain from the sale or ex-
16 change of capital assets held for more than 1 year,
17 proper adjustment shall be made for any deduction
18 allowable to the estate or trust under section 1202
19 (relating to deduction for net capital gain). In the
20 case of a trust, the deduction allowed by this sub-
21 section shall be subject to section 681 (relating to
22 unrelated business income).”

1 (7) Paragraph (3) of section 643(a) of such
2 Code is amended by adding at the end thereof the
3 following new sentence: “The deduction under sec-
4 tion 1202 (relating to deduction for net capital gain)
5 shall not be taken into account.”

6 (8) Paragraph (6)(C) of section 643(a) of such
7 Code is amended—

8 (A) by inserting “(i)” before “there”, and

9 (B) by inserting “, and (ii) the deduction
10 under section 1202 (relating to deduction for
11 excess of capital gains over capital losses) shall
12 not be taken into account” before the period at
13 the end thereof.

14 (9) Paragraph (4) of section 691(c) of such
15 Code is amended by striking “1(h), 1201” and in-
16 sserting “1201, 1202,”.

17 (10) The second sentence of paragraph (2) of
18 section 871(a) of such Code is amended by inserting
19 “such gains and losses shall be determined without
20 regard to section 1202 (relating to deduction for net
21 capital gain) and” after “except that”.

22 (11)(A) Subparagraph (B) of section 904(b)(2)
23 of such Code is amended by striking so much of
24 such subparagraph as precedes clause (i) and insert-
25 ing the following:

1 “(B) SPECIAL RULES WHERE CORPORATE
2 CAPITAL RATE GAIN DIFFERENTIAL.—In the
3 case of a corporation, for any taxable year for
4 which there is a capital gain rate differential—
5 ”.

6 (B) Subparagraphs (D) and (E) of section
7 904(b)(3) are amended to read as follows:

8 “(D) CAPITAL GAIN RATE DIFFEREN-
9 TIAL.—There is a capital gain rate differential
10 for any taxable year if any rate of tax imposed
11 by section 11, 511, or 831(a) or (b) (whichever
12 applies) exceeds the alternative rate of tax
13 under section 1201(a) (determined without re-
14 gard to the last sentence of section 11(b)(1)).

15 “(E) RATE DIFFERENTIAL PORTION.—The
16 rate differential portion of foreign source net
17 capital gain, net capital, or the excess of net
18 capital gain from sources within the United
19 States over net capital gain, as the case may
20 be, is the same proportion of such amount as—

21 “(i) the excess of the highest rate of
22 tax specified in section 11(b)(1) over the
23 alternative rate of tax under section
24 1201(a), bears to

1 “(ii) the highest rate of tax specified
2 in section 11(b)(1).”

3 (12) Subsection (d) of section 1044 of such
4 Code is amended by striking the last sentence.

5 (13) Section 1402(i)(1) of such Code is amend-
6 ed to read as follows:

7 “(1) IN GENERAL.—In determining the net
8 earnings from self-employment of any options dealer
9 or commodities dealer—

10 “(A) notwithstanding subsection (a)(3)(A),
11 there shall not be excluded any gain or loss (in
12 the normal course of the taxpayer’s activity of
13 dealing in or trading section 1256 contracts)
14 from section 1256 contracts or property related
15 to such contracts, and

16 “(B) the deduction provided by section
17 1202 shall not apply.”

18 (d) CLERICAL AMENDMENT.—The table of sections
19 for part I of subchapter P of chapter 1 of such Code is
20 amended by adding at the end thereof the following new
21 item:

 “Sec. 1202. Deduction for capital gains.”

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years ending after De-
24 cember 31, 1994.