

104TH CONGRESS
1ST SESSION

H. R. 213

To amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. CRANE 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 for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes.

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. REDUCTION IN INDIVIDUAL CAPITAL GAINS**

4 **RATE.**

5 (a) GENERAL RULE.—Subsection (h) of section 1 of
6 the Internal Revenue Code of 1986 (relating to maximum
7 capital gains rate) is amended to read as follows:

1 “(h) MAXIMUM CAPITAL GAINS RATE.—

2 “(1) IN GENERAL.—If a taxpayer has a net
3 capital gain for any taxable year, then the tax im-
4 posed by this section shall not exceed the sum of—

5 “(A) a tax computed at the rates and in
6 the same manner as if this subsection had not
7 been enacted on the taxable income reduced by
8 the net capital gain, plus

9 “(B) a tax equal to the sum of—

10 “(i) 7.5 percent of so much of the net
11 capital gain as does not exceed—

12 “(I) the maximum amount of
13 taxable income to which the 15-per-
14 cent rate applies under the table ap-
15 plicable to the taxpayer, reduced by

16 “(II) the taxable income to which
17 subparagraph (A) applies, plus

18 “(ii) 15 percent of the net capital gain
19 in excess of the net capital gain to which
20 clause (i) applies.

21 “(2) TRANSITIONAL RULE.—In the case of a
22 taxable year which begins before January 1, 1995,
23 and ends after December 31, 1994, the amount of
24 the net capital gain for purposes of paragraph (1)
25 shall not exceed the net capital gain determined by

1 only taking into account gains and losses properly
2 taken into account for the portion of the taxable
3 year after December 31, 1994.”

4 (b) TECHNICAL AMENDMENTS.—

5 (1) Paragraph (1) of section 170(e) of such
6 Code is amended by striking “the amount of gain”
7 in the material following subparagraph (B)(ii) and
8 inserting “¹³/₂₈ (¹⁹/₃₄ in the case of a corporation)
9 of the amount of gain”.

10 (2)(A) The second sentence of section
11 7518(g)(6)(A) of such Code is amended by striking
12 “28 percent (34 percent in the case of a corpora-
13 tion)” and inserting “15 percent”.

14 (B) The second sentence of section
15 607(h)(6)(A) of the Merchant Marine Act, 1936, is
16 amended by striking “28 percent (34 percent in the
17 case of a corporation)” and inserting “15 percent”.

18 **SEC. 2. REDUCTION IN CORPORATE CAPITAL GAINS RATE.**

19 (a) GENERAL RULE.—Section 1201 of the Internal
20 Revenue Code of 1986 (relating to alternative tax for cor-
21 porations) is amended by redesignating subsection (b) as
22 subsection (c), and by striking subsection (a) and inserting
23 the following:

24 “(a) GENERAL RULE.—If for any taxable year a cor-
25 poration has a net capital gain, then, in lieu of the tax

1 imposed by section 11, 511, or 831(a) (whichever applies),
2 there is hereby imposed a tax (if such tax is less than
3 the tax imposed by such section) which shall consist of
4 the sum of—

5 “(1) a tax computed on the taxable income re-
6 duced by the net capital gain, at the same rates and
7 in the same manner as if this subsection had not
8 been enacted, plus

9 “(2) a tax of 15 percent of the net capital gain.

10 “(b) TRANSITIONAL RULE.—In the case of a taxable
11 year which begins before January 1, 1995, and ends after
12 December 31, 1994, the amount of the net capital gain
13 for purposes of subsection (a) shall not exceed the net cap-
14 ital gain determined by only taking into account gains and
15 losses properly taken into account for the portion of the
16 taxable year after December 31, 1994.”

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Clause (iii) of section 852(b)(3)(D) of such
19 Code is amended by striking “66 percent” and in-
20 serting “85 percent”.

21 (2) Paragraphs (1) and (2) of section 1445(e)
22 of such Code are each amended by striking “34 per-
23 cent” and inserting “15 percent”.

1 **SEC. 3. REDUCTION OF MINIMUM TAX RATE ON CAPITAL**
2 **GAINS.**

3 (a) TAXPAYERS OTHER THAN CORPORATIONS.—
4 Clause (i) of section 55(b)(1)(A) of the Internal Revenue
5 Code of 1986 (relating to tentative minimum tax) is
6 amended by striking subclauses (I) and (II) and inserting
7 the following:

8 “(I) 15 percent of the lesser of
9 the net capital gain (determined with
10 the adjustments provided in this part
11 and, to the extent applicable, the limi-
12 tations of section 1(h)(2)) or the tax-
13 able excess,

14 “(II) 26 percent of so much (if
15 any) of the taxable excess (reduced by
16 the net capital gain, as so determined)
17 as does not exceed \$175,000, plus

18 “(III) 28 percent of so much (if
19 any) of the taxable excess (reduced by
20 the net capital gain, as so determined)
21 as exceeds \$175,000.”

22 (b) CORPORATIONS.—Clause (i) of section
23 55(b)(1)(B) of such Code is amended to read as follows:

24 “(i) the sum of—

25 “(I) 15 percent of the lesser of
26 the net capital gain (determined with

1 the adjustments provided in this part
2 and, to the extent applicable, the limi-
3 tations of section 1201(b)) or so much
4 of the alternative minimum taxable in-
5 come for the taxable year as exceeds
6 the exemption amount, plus
7 “(II) 20 percent of the amount
8 (if any) by which the excess of the al-
9 ternative minimum taxable income for
10 the taxable year over exemption
11 amount exceeds the net capital gain
12 (as so determined), reduced by”.

13 **SEC. 4. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF**
14 **DETERMINING GAIN OR LOSS.**

15 (a) IN GENERAL.—Part II of subchapter O of chap-
16 ter 1 of the Internal Revenue Code of 1986 (relating to
17 basic rules of general application) is amended by inserting
18 after section 1021 the following new section:

19 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
20 **OF DETERMINING GAIN OR LOSS.**

21 “(a) GENERAL RULE.—

22 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
23 JUSTED BASIS.—Except as provided in paragraph
24 (2), if an indexed asset which has been held for
25 more than 1 year is sold or otherwise disposed of,

1 for purposes of this title the indexed basis of the
2 asset shall be substituted for its adjusted basis.

3 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
4 The deduction for depreciation, depletion, and amor-
5 tization shall be determined without regard to the
6 application of paragraph (1) to the taxpayer or any
7 other person.

8 “(b) INDEXED ASSET.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘indexed asset’ means—

11 “(A) stock in a corporation, and

12 “(B) tangible property (or any interest
13 therein), which is a capital asset of property
14 used in the trade or business (as defined in sec-
15 tion 1231(b)).

16 “(2) CERTAIN PROPERTY EXCLUDED.—For
17 purposes of this section, the term ‘indexed asset’
18 does not include—

19 “(A) CREDITOR’S INTEREST.—Any interest
20 in property which is in the nature of a credi-
21 tor’s interest.

22 “(B) OPTIONS.—Any option or other right
23 to acquire an interest in property.

1 “(C) NET LEASE PROPERTY.—In the case
2 of a lessor, net lease property (within the mean-
3 ing of subsection (h)(1)).

4 “(D) CERTAIN PREFERRED STOCK.—Stock
5 which is fixed and preferred as to dividends and
6 does not participate in corporate growth to any
7 significant extent.

8 “(E) STOCK IN CERTAIN CORPORATIONS.—
9 Stock in—

10 “(i) an S corporation (within the
11 meaning of section 1361),

12 “(ii) a personal holding company (as
13 defined in section 542), and

14 “(iii) a foreign corporation.

15 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
16 PORATION WHICH IS REGULARLY TRADED ON NA-
17 TIONAL OR REGIONAL EXCHANGE.—Clause (iii) of
18 paragraph (2)(E) shall not apply to stock in a for-
19 eign corporation the stock of which is listed on the
20 New York Stock Exchange, the American Stock Ex-
21 change, or any domestic regional exchange for which
22 quotations are published on a regular basis other
23 than—

1 “(A) stock of a foreign investment com-
2 pany (within the meaning of section 1246(b)),
3 and

4 “(B) stock in a foreign corporation held by
5 a United States person who meets the require-
6 ments of section 1248(a)(2).

7 “(c) INDEXED BASIS.—For purposes of this sec-
8 tion—

9 “(1) INDEXED BASIS.—The indexed basis for
10 any asset is—

11 “(A) the adjusted basis of the asset, multi-
12 plied by

13 “(B) the applicable inflation ratio.

14 “(2) APPLICABLE INFLATION RATIO.—The ap-
15 plicable inflation ratio for any asset is the percent-
16 age arrived at by dividing—

17 “(A) the gross domestic product deflator
18 for the calendar quarter in which the disposi-
19 tion takes place, by

20 “(B) the gross domestic product deflator
21 for the calendar quarter in which the asset was
22 acquired by the taxpayer (or, if later, the cal-
23 endar quarter ending December 31, 1994).

24 The applicable inflation ratio shall not be taken into
25 account unless it is greater than 1. The applicable

1 inflation ratio for any asset shall be rounded to the
2 nearest one-tenth of 1 percent.

3 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—
4 The gross domestic product deflator for any cal-
5 endar quarter is the implicit price deflator for the
6 gross domestic product for such quarter (as shown
7 in the first revision thereof).

8 “(4) SECRETARY TO PUBLISH TABLES.—The
9 Secretary shall publish tables specifying the applica-
10 ble inflation ratios for each calendar quarter.

11 “(d) SPECIAL RULES.—For purposes of this sec-
12 tion—

13 “(1) TREATMENT AS SEPARATE ASSET.—In the
14 case of any asset, the following shall be treated as
15 a separate asset:

16 “(A) a substantial improvement to prop-
17 erty,

18 “(B) in the case of stock of a corporation,
19 a substantial contribution to capital, and

20 “(C) any other portion of an asset to the
21 extent that separate treatment of such portion
22 is appropriate to carry out the purposes of this
23 section.

24 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
25 THROUGHOUT HOLDING PERIOD.—

1 “(A) IN GENERAL.—The applicable infla-
2 tion ratio shall be appropriately reduced for cal-
3 endar months at any time during which the
4 asset was not an indexed asset.

5 “(B) CERTAIN SHORT SALES.—For pur-
6 poses of applying subparagraph (A), an asset
7 shall be treated as not an indexed asset for any
8 short sale period during which the taxpayer or
9 the taxpayer’s spouse sells short property sub-
10 stantially identical to the asset. For purposes of
11 the preceding sentence, the short sale period be-
12 gins on the day after the substantially identical
13 property is sold and ends on the closing date
14 for the sale.

15 “(3) TREATMENT OF CERTAIN DISTRIBU-
16 TIONS.—A distribution with respect to stock in a
17 corporation which is not a dividend shall be treated
18 as a disposition.

19 “(4) SECTION CANNOT INCREASE ORDINARY
20 LOSS.—To the extent that (but for this paragraph)
21 this section would create or increase a net ordinary
22 loss to which section 1231(a)(2) applies or an ordi-
23 nary loss to which any other provision of this title
24 applies, such provision shall not apply. The taxpayer
25 shall be treated as having a long-term capital loss in

1 an amount equal to the amount of the ordinary loss
2 to which the preceding sentence applies.

3 “(5) ACQUISITION DATE WHERE THERE HAS
4 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
5 WITH RESPECT TO THE TAXPAYER.—If there has
6 been a prior application of subsection (a)(1) to an
7 asset while such asset was held by the taxpayer, the
8 date of acquisition of such asset by the taxpayer
9 shall be treated as not earlier than the date of the
10 most recent such prior application.

11 “(6) COLLAPSIBLE CORPORATIONS.—The appli-
12 cation of section 341(a) (relating to collapsible cor-
13 porations) shall be determined without regard to this
14 section.

15 “(e) CERTAIN CONDUIT ENTITIES.—

16 “(1) REGULATED INVESTMENT COMPANIES;
17 REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST
18 FUNDS.—

19 “(A) IN GENERAL.—Stock in a qualified
20 investment entity shall be an indexed asset for
21 any calendar month in the same ratio as the
22 fair market value of the assets held by such en-
23 tity at the close of such month which are in-
24 dexed assets bears to the fair market value of

1 all assets of such entity at the close of such
2 month.

3 “(B) RATIO OF 90 PERCENT OR MORE.—If
4 the ratio for any calendar month determined
5 under subparagraph (A) would (but for this
6 subparagraph) be 90 percent or more, such
7 ratio for such month shall be 100 percent.

8 “(C) RATIO OF 10 PERCENT OR LESS.—If
9 the ratio for any calendar month determined
10 under subparagraph (A) would (but for this
11 subparagraph) be 10 percent or less, such ratio
12 for such month shall be zero.

13 “(D) VALUATION OF ASSETS IN CASE OF
14 REAL ESTATE INVESTMENT TRUSTS.—Nothing
15 in this paragraph shall require a real estate in-
16 vestment trust to value its assets more fre-
17 quently than once each 36 months (except
18 where such trust ceases to exist). The ratio
19 under subparagraph (A) for any calendar
20 month for which there is no valuation shall be
21 the trustee’s good faith judgment as to such
22 valuation.

23 “(E) QUALIFIED INVESTMENT ENTITY.—
24 For purposes of this paragraph, the term
25 ‘qualified investment entity’ means—

1 “(i) a regulated investment company
2 (within the meaning of section 851),

3 “(ii) a real estate investment trust
4 (within the meaning of section 856), and

5 “(iii) a common trust fund (within the
6 meaning of section 584).

7 “(2) PARTNERSHIPS.—In the case of a partner-
8 ship, the adjustment made under subsection (a) at
9 the partnership level shall be passed through to the
10 partners.

11 “(3) SUBCHAPTER S CORPORATIONS.—In the
12 case of an electing small business corporation, the
13 adjustment under subsection (a) at the corporate
14 level shall be passed through to the shareholders.

15 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

16 “(1) IN GENERAL.—This section shall not apply
17 to any sale or other disposition of property between
18 related persons except to the extent that the basis
19 of such property in the hands of the transferee is a
20 substituted basis.

21 “(2) RELATED PERSONS DEFINED.—For pur-
22 poses of this section, the term ‘related persons’
23 means—

24 “(A) persons bearing a relationship set
25 forth in section 267(b), and

1 “(B) persons treated as single employer
2 under subsection (b) or (c) of section 414.

3 “(g) TRANSFERS TO INCREASE INDEXING ADJUST-
4 MENT OR DEPRECIATION ALLOWANCE.—If any person
5 transfers cash, debt, or any other property to another per-
6 son and the principal purpose of such transfer is—

7 “(1) to secure or increase an adjustment under
8 subsection (a), or

9 “(2) to increase (by reason of an adjustment
10 under subsection (a)) a deduction for depreciation,
11 depletion, or amortization,

12 the Secretary may disallow part or all of such adjustment
13 or increase.

14 “(h) DEFINITIONS.—For purposes of this section—

15 “(1) NET LEASE PROPERTY DEFINED.—The
16 term ‘net lease property’ means leased real property
17 where—

18 “(A) the term of the lease (taking into ac-
19 count options to renew) was 50 percent or more
20 of the useful life of the property, and

21 “(B) for the period of the lease, the sum
22 of the deductions with respect to such property
23 which are allowable to the lessor solely by rea-
24 son of section 162 (other than rents and reim-
25 bursed amounts with respect to such property)

1 is 15 percent or less of the rental income pro-
2 duced by such property.

3 “(2) STOCK INCLUDES INTEREST IN COMMON
4 TRUST FUND.—The term ‘stock in a corporation’ in-
5 cludes any interest in a common trust fund (as de-
6 fined in section 584(a)).

7 “(i) REGULATIONS.—The Secretary shall prescribe
8 such regulations as may be necessary or appropriate to
9 carry out the purposes of this section.”

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for part II of subchapter O of such chapter 1 of such Code
12 is amended by inserting after the item relating to section
13 1021 the following new item:

“Sec. 1022. Indexing of certain assets for purposes of determin-
ing gain or loss.”

14 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
15 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
16 section 312 of such Code (relating to effect on earnings
17 and profits of gain or loss and of receipt of tax-free dis-
18 tributions) is amended by adding at the end thereof the
19 following new paragraph:

1 “(3) EFFECT ON EARNINGS AND PROFITS OF
2 INDEXED BASIS.—

**“For substitution of indexed basis for adjusted
basis in the case of the disposition of certain assets
after December 31, 1994, see section 1022(a)(1).”.**

3 **SEC. 5. INDEXING OF LIMITATION ON CAPITAL LOSSES OF**
4 **INDIVIDUALS.**

5 Section 1211 of the Internal Revenue Code of 1986
6 (relating to limitation on capital losses) is amended by
7 adding at the end thereof the following new subsection:

8 “(c) INDEXATION OF LIMITATION ON
9 NONCORPORATE TAXPAYERS.—

10 “(1) IN GENERAL.—In the case of any taxable
11 year beginning in a calendar year after 1994, the
12 \$3,000 and \$1,500 amounts under subsection (b)(1)
13 shall be increased by an amount equal to—

14 “(A) such dollar amount, multiplied by

15 “(B) the applicable inflation adjustment
16 for the calendar year in which the taxable year
17 begins.

18 “(2) APPLICABLE INFLATION ADJUSTMENT.—

19 For purposes of paragraph (1), the applicable infla-
20 tion adjustment for any calendar year is the percent-
21 age (if any) by which—

22 “(A) the gross domestic product deflator
23 for the last calendar quarter of the preceding
24 calendar year, exceeds

1 “(B) the gross domestic product deflator
2 for the last calendar quarter of 1993.

3 For purposes of this paragraph, the term ‘gross do-
4 mestic product deflator’ has the meaning given such
5 term by section 1022(c)(3).”

6 **SEC. 6. EFFECTIVE DATES.**

7 (a) IN GENERAL.—Except as provided in subsection
8 (b), the amendments made by this Act shall apply to sales
9 or exchanges occurring after December 31, 1994, in tax-
10 able years ending after such date.

11 (b) INDEXING OF LOSS LIMITATION.—The amend-
12 ments made by section 5 of this Act shall apply to taxable
13 years beginning after December 31, 1994.

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HR 213 IH—2