

108TH CONGRESS
1ST SESSION

H. R. 2604

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage diversity of ownership of telecommunications businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2003

Mr. RANGEL introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage diversity of ownership of telecommunications businesses, 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. NONRECOGNITION OF GAIN ON QUALIFIED**
4 **SALES OF TELECOMMUNICATIONS BUSI-**
5 **NESSES.**

6 (a) IN GENERAL.—Subchapter O of chapter 1 of the
7 Internal Revenue Code of 1986 (relating to gain or loss

1 on disposition of property) is amended by inserting after
2 part IV the following new part:

3 **“PART V—CERTAIN SALES OF**
4 **TELECOMMUNICATIONS BUSINESSES**

“Sec. 1071. Nonrecognition of gain on certain sales of telecommunications busi-
nesses.

5 **“SEC. 1071. NONRECOGNITION OF GAIN ON CERTAIN SALES**
6 **OF TELECOMMUNICATIONS BUSINESSES.**

7 “(a) IN GENERAL.—In the case of any qualified tele-
8 communications sale, at the election of the taxpayer, such
9 sale shall be treated as an involuntary conversion of prop-
10 erty within the meaning of section 1033.

11 “(b) LIMITATION ON AMOUNT OF GAIN ON WHICH
12 TAX MAY BE DEFERRED.—The amount of gain on any
13 qualified telecommunications sale which is not recognized
14 by reason of this section shall not exceed \$75,000,000.

15 “(c) QUALIFIED TELECOMMUNICATIONS SALE.—For
16 purposes of this section, the term ‘qualified telecommuni-
17 cations sale’ means any sale to a qualified business of—

18 “(1) the assets of a telecommunications busi-
19 ness, or

20 “(2) stock in a corporation if, immediately after
21 such sale—

22 “(A) the qualified business controls (within
23 the meaning of section 368(c)) such corpora-
24 tion, and

1 “(B) substantially all of the assets of such
2 corporation are assets of 1 or more tele-
3 communications businesses,
4 but only if such sale is certified by the Federal Commu-
5 nications Commission to be in furtherance of such Com-
6 mission’s policy of expanding ownership of telecommuni-
7 cations businesses.

8 “(d) QUALIFIED BUSINESS.—For purposes of this
9 section—

10 “(1) IN GENERAL.—The term ‘qualified busi-
11 ness’ means—

12 “(A) in the case of a telecommunications
13 sale which includes the sale of any interest in
14 a broadcast station (as defined in section 3(5)
15 of the Communications Act of 1934), any per-
16 son if—

17 “(i) such person owns, directly or in-
18 directly, a qualified interest in 20 or fewer
19 broadcast stations (as so defined), and

20 “(ii) the fair market value of the ag-
21 gregate interests of such person in broad-
22 cast stations (as so defined) is equal to or
23 greater than 50 percent of the net assets
24 of such entity, and

1 “(B) in the case of any other telecommuni-
2 cations sale—

3 “(i) any individual, and

4 “(ii) any partnership or corporation
5 if—

6 “(I) the net assets of such entity
7 do not exceed \$18,000,000, and

8 “(II) the average after-tax in-
9 come of such entity for the preceding
10 2 taxable years does not exceed
11 \$6,000,000.

12 “(2) QUALIFIED INTEREST IN BROADCAST STA-
13 TIONS.—An interest in a broadcast station shall be
14 treated as qualified if such interest represents 50
15 percent or more of the total assets of the station.

16 “(3) EACH BUSINESS LIMITED TO 3 PUR-
17 CHASES.—A person shall not be a qualified business
18 with respect to a qualified telecommunications sale
19 if such person (or any predecessor) was the pur-
20 chaser in more than 2 prior qualified telecommuni-
21 cations sales for which an election under this section
22 was made by the seller.

23 “(4) SPECIAL RULES FOR QUALIFIED BUSINESS
24 DETERMINATION.—For purposes of paragraph (1)—

1 “(A) NET ASSETS.—The term ‘net assets’
2 means the excess of the aggregate gross assets
3 (as defined in section 1202(d)(2)) of the entity
4 over the indebtedness of such entity.

5 “(B) AFTER-TAX INCOME.—The term
6 ‘after-tax income’ means taxable income re-
7 duced by the net income tax for the taxable
8 year. For purposes of the preceding sentence,
9 the term ‘net income tax’ means the tax im-
10 posed by this chapter reduced by the sum of the
11 credits allowable under part IV of subchapter A
12 of this chapter. Rules similar to the rules of
13 subparagraphs (A), (B), and (D) of section
14 448(c)(3) shall apply in determining average
15 after-tax income.

16 “(5) AGGREGATION RULES.—For purposes of
17 this subsection, all persons treated as a single em-
18 ployer under subsection (a) or (b) of section 52 or
19 subsection (m) or (o) of section 414 shall be treated
20 as one person.

21 “(e) TELECOMMUNICATIONS BUSINESS.—The term
22 ‘telecommunications business’ means any business pro-
23 viding communication services by wire, cable, radio, sat-
24 ellite, or other technology if the providing of such services

1 is governed by the Communications Act of 1934 or the
2 Telecommunications Act of 1996.

3 “(f) SPECIAL RULES.—

4 “(1) IN GENERAL.—In applying section 1033
5 for purposes of subsection (a) of this section, stock
6 of a corporation operating a telecommunications
7 business, whether or not representing control of such
8 corporation, shall be treated as property similar or
9 related in service or use to the property sold in the
10 qualified telecommunications sale.

11 “(2) ELECTION TO REDUCE BASIS RATHER
12 THAN RECOGNIZE REMAINDER OF GAIN.—If—

13 “(A) a taxpayer elects the treatment under
14 subsection (a) with respect to any qualified tele-
15 communications sale, and

16 “(B) an amount of gain would (but for
17 this paragraph) be recognized on such sale
18 other than by reason of subsection (b),

19 then the amount of such gain shall not be recognized
20 to the extent that the taxpayer elects to reduce the
21 basis of depreciable property (as defined in section
22 1017(b)(3)) held by the taxpayer immediately after
23 the sale or acquired in the same taxable year. The
24 manner and amount of such reduction shall be de-

1 terminated under regulations prescribed by the Sec-
2 retary.

3 “(3) BASIS.—For basis of property acquired on
4 a sale or exchange treated as an involuntary conver-
5 sion under subsection (a), see section 1033(b).

6 “(g) RECAPTURE OF TAX BENEFIT IF TELE-
7 COMMUNICATIONS BUSINESS RESOLD WITHIN 3 YEARS,
8 ETC.—

9 “(1) IN GENERAL.—If, within 3 years after the
10 date of any qualified telecommunications sale, there
11 is a recapture event with respect to the property in-
12 volved in such sale, then the purchaser’s tax imposed
13 by this chapter for the taxable year in which such
14 event occurs shall be increased by 20 percent of the
15 lesser of the consideration furnished by the pur-
16 chaser in such sale or the dollar limitation of sub-
17 section (b).

18 “(2) EXCEPTION FOR REINVESTED AMOUNTS.—
19 Paragraph (1) shall not apply to any recapture event
20 which is a sale if—

21 “(A) the sale is a qualified telecommuni-
22 cations sale, or

23 “(B) during the 60-day period beginning
24 on the date of such sale, the taxpayer is the
25 purchaser in another qualified telecommuni-

1 cations sale in which the consideration fur-
2 nished by the taxpayer is not less than the
3 amount realized on the recapture event sale.

4 “(3) RECAPTURE EVENT.—For purposes of this
5 subsection, the term ‘recapture event’ means, with
6 respect to any qualified telecommunications sale—

7 “(A) any sale or other disposition of the
8 assets or stock referred to in subsection (c)
9 which were acquired by the taxpayer in such
10 sale, and

11 “(B) in the case of a qualified tele-
12 communications sale described in subsection
13 (c)(2)—

14 “(i) , any sale or other disposition of
15 a telecommunications business by the cor-
16 poration referred to in such subsection, or

17 “(ii) any other transaction which re-
18 sults in the qualified business not having
19 control (as defined in subsection (c)(2)(A))
20 of such corporation.

21 Such term shall not include any sale or other dis-
22 position resulting from the default, or imminent de-
23 fault, of any indebtedness of the taxpayer.”.

24 (b) CLERICAL AMENDMENT.—The table of parts for
25 subchapter O of chapter 1 of such Code is amended by

1 inserting after the item relating to part IV the following
2 new item:

“PART V. CERTAIN SALES OF TELECOMMUNICATIONS BUSINESSES”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to sales in taxable years beginning
5 after the date of the enactment of this Act.

6 **SEC. 2. LOAN GUARANTEE PROGRAM TO ENCOURAGE DI-**
7 **VERSITY OF OWNERSHIP OF TELECOMMUNI-**
8 **CATIONS BUSINESSES.**

9 (a) IN GENERAL.—The Administrator of the Small
10 Business Administration may guarantee any loan made to
11 a qualified business for the purchase of assets or stock
12 described in section 1071(c) of the Internal Revenue Code
13 of 1986 (relating to qualified telecommunications sale) if
14 the sale of such assets or stock is certified by the Federal
15 Communications Commission to be in furtherance of such
16 Commission’s policy of expanding ownership of tele-
17 communications businesses.

18 (b) LIMITATIONS.—

19 (1) SECURITY.—The Administrator shall not
20 guarantee any loan under subsection (a) unless the
21 guaranteed portion of such loan is secured by a first
22 lien position or first mortgage on the stock or assets
23 financed by the loan.

24 (2) GUARANTEE PERCENTAGE.—The amount of
25 any loan guaranteed by the Administrator under

1 subsection (a) shall not exceed 95 percent of the bal-
2 ance of the financing outstanding at the time of dis-
3 bursement of the loan.

4 (3) FEES.—With respect to each loan guaran-
5 teed under subsection (a) (other than a loan that is
6 repayable in 1 year or less), the Administrator may
7 collect a guarantee fee, which shall be payable by the
8 participating lender, and may be charged to the bor-
9 rower.

10 (4) FORFEITURE OF FCC LICENSE.—The Ad-
11 ministrator shall not guarantee any loan under sub-
12 section (a) unless such loan provides that any license
13 issued by the Federal Communications Commission
14 to the borrower shall be returned and forfeited by
15 the borrower to the Federal Communications Com-
16 mission immediately upon a finding by the Adminis-
17 trator that such borrower is in default under such
18 loan.

19 (c) GENERAL AUTHORITY.—For purposes of carrying
20 out this section, the Administrator may—

21 (1) enter into contracts with private and Fed-
22 eral entities for professional and other services;

23 (2) enter into memorandums of understanding
24 with other Federal agencies; and

1 (3) issue regulations, including regulations re-
2 garding—

3 (A) notice of and opportunity to cure a de-
4 fault;

5 (B) procedures related to foreclosure; and

6 (C) such other matters as the Adminis-
7 trator considers appropriate.

8 (d) DEFINITIONS.—For purposes of this section:

9 (1) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of the Small Busi-
11 ness Administration.

12 (2) QUALIFIED BUSINESS.—The term “quali-
13 fied business” has the meaning given such term in
14 section 1071(d) of the Internal Revenue Code of
15 1986.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as may be
18 necessary to carry out the purposes of this section.

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