

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-

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.—

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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