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1ST SESSION

H. R. 48

To amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ARCHER (for himself, Mr. SHAYS, Mrs. ROUKEMA, and Mr. BEREUTER) 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 the indexing of certain assets.

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 “Inflation Tax Relief
5 Act of 1993”.

6 **SEC. 2. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF**
7 **DETERMINING GAIN OR LOSS.**

8 (a) IN GENERAL.—Part II of subchapter O of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to

1 basis rules of general application) is amended by inserting
2 after section 1021 the following new section:

3 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
4 **OF DETERMINING GAIN OR LOSS.**

5 “(a) GENERAL RULE.—

6 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
7 JUSTED BASIS.—Except as provided in paragraph
8 (2), if an indexed asset which has been held for
9 more than 1 year is sold or otherwise disposed of,
10 for purposes of this title the indexed basis of the
11 asset shall be substituted for its adjusted basis.

12 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
13 The deduction for depreciation, depletion, and amor-
14 tization shall be determined without regard to the
15 application of paragraph (1) to the taxpayer or any
16 other person.

17 “(b) INDEXED ASSET.—

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

20 “(A) stock in a corporation, and

21 “(B) tangible property (or any interest
22 therein), which is a capital asset or property
23 used in the trade or business (as defined in sec-
24 tion 1231(b)).

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

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

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

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

12 “(D) CERTAIN PREFERRED STOCK.—Stock
13 which is fixed and preferred as to dividends and
14 does not participate in corporate growth to any
15 significant extent.

16 “(E) STOCK IN FOREIGN CORPORA-
17 TIONS.—Stock in a foreign corporation.

18 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
19 PORATION WHICH IS REGULARLY TRADED ON NA-
20 TIONAL OR REGIONAL EXCHANGE.—Paragraph
21 (2)(E) shall not apply to stock in a foreign corpora-
22 tion the stock of which is listed on the New York
23 Stock Exchange, the American Stock Exchange, or
24 any domestic regional exchange for which quotations
25 are published on a regular basis other 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 national product deflator
18 the calendar quarter in which the disposition
19 takes place, by

20 “(B) the gross national 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, 1991).

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 NATIONAL PRODUCT DEFLATOR.—
4 The gross national product deflator for any calendar
5 quarter is the implicit price deflator for the gross
6 national product for such quarter (as shown in the
7 first revision thereof).

8 “(d) SPECIAL RULES.—For purposes of this sec-
9 tion—

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

13 “(A) a substantial improvement to prop-
14 erty,

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

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

21 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
22 THROUGHOUT HOLDING PERIOD.—

23 “(A) IN GENERAL.—The applicable infla-
24 tion ratio shall be appropriately reduced for cal-

1 endar months at any time during which the
2 asset was not an indexed asset.

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

13 “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a
14 corporation which is not a dividend shall be treated
15 as a disposition.
16

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

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

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

13 “(e) CERTAIN CONDUIT ENTITIES.—

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

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

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

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

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

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

24 “(i) a regulated investment company
25 (within the meaning of section 851),

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

3 “(iii) a common trust fund (within the
4 meaning of section 584).

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

9 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

10 “(1) IN GENERAL.—This section shall not apply
11 to any sale or other disposition of property between
12 related persons except to the extent that the basis
13 of such property in the hands of the transferee is a
14 substituted basis.

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

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

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

22 “(g) TRANSFERS TO INCREASE INDEXING ADJUST-
23 MENT.—If any person transfers cash, debt, or any other
24 property to another person and the principal purpose of
25 such transfer is to secure or increase an adjustment under

1 subsection (a), the Secretary may disallow part or all of
2 such adjustment or increase.

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

4 “(1) NET LEASE PROPERTY DEFINED.—The
5 term ‘net lease property’ means leased real property
6 where—

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

10 “(B) for the period of the lease, the sum
11 of the deductions with respect to such property
12 which are allowable to the lessor solely by rea-
13 son of section 162 (other than rents and reim-
14 bursed amounts with respect to such property)
15 is 15 percent or less of the rental income pro-
16 duced by such property.

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

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

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for part II of subchapter O of such chapter 1 is amended

1 by inserting after the item relating to section 1021 the
2 following new item:

“Sec. 1022. Indexing of certain assets for purposes of determining
gain or loss.”

3 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
4 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
5 section 312 (relating to effect on earnings and profits of
6 gain or loss and of receipt of tax-free distributions) is
7 amended by adding at the end thereof the following new
8 paragraph:

9 “(3) EFFECT ON EARNINGS AND PROFITS OF
10 INDEXED BASIS.—

**For substitution of indexed basis for adjusted
basis in the case of the disposition of certain assets
after December 31, 1991 see section 1022(a)(1).”**

11 **SEC. 3. EFFECTIVE DATE.**

12 The amendments made by section 2 shall apply to
13 dispositions after December 31, 1993, in taxable years
14 ending after such date.

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