

104TH CONGRESS
1ST SESSION

H. R. 1322

To amend the Internal Revenue Code of 1986 to allow a \$100,000 lifetime deduction for net capital gain.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1995

Mr. SCHUMER (for himself, Mr. MILLER of California, Mr. GEJDENSON, Mr. FATTAH, Mr. HINCHEY, and Mr. LIPINSKI) 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 allow a \$100,000 lifetime deduction for net capital gain.

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 “Middle Class Savings
5 and Capital Gains Act of 1995”.

6 **SEC. 2. LIFETIME NET CAPITAL GAIN DEDUCTION FOR IN-**
7 **DIVIDUALS.**

8 (a) IN GENERAL.—Part I of subchapter P of chapter
9 1 of the Internal Revenue Code of 1986 (relating to treat-

1 ment of capital gains) is amended by adding at the end
2 the following new section:

3 **“SEC. 1203. LIFETIME NET CAPITAL GAIN DEDUCTION FOR**
4 **INDIVIDUALS.**

5 “(a) IN GENERAL.—In the case of an individual,
6 there shall be allowed as a deduction for the taxable year
7 an amount equal to 100 percent of the net capital gain
8 for the taxable year.

9 “(b) \$100,000 LIFETIME LIMIT.—

10 “(1) FIRST TAXABLE YEAR.—The amount of
11 the net capital gain taken into account under sub-
12 section (a) for the first taxable year ending after De-
13 cember 31, 1994, shall not exceed \$100,000.

14 “(2) SUBSEQUENT TAXABLE YEARS.—

15 “(A) IN GENERAL.—The amount of the
16 net capital gain taken into account under sub-
17 section (a) for any subsequent taxable year
18 shall not exceed—

19 “(i) the excess of the limitation under
20 this subsection for the preceding taxable
21 year reduced by the amount of the net cap-
22 ital gain taken into account under this
23 subsection by the taxpayer for such preced-
24 ing year, multiplied by

1 “(ii) the inflation adjustment factor
2 for the calendar year in which such subse-
3 quent taxable year begins.

4 “(B) INFLATION ADJUSTMENT FACTOR.—
5 The inflation adjustment factor for any cal-
6 endar year is 100 percent plus the percentage
7 (if any) by which the CPI for the preceding cal-
8 endar year exceeds the CPI for the second pre-
9 ceding calendar year. For purposes of the pre-
10 ceding sentence, the CPI for any calendar year
11 shall be determined under section 1(f)(4).

12 “(3) SPECIAL RULE FOR JOINT RETURNS.—The
13 amount of the net capital gain taken into account
14 under this section on a joint return for any taxable
15 year shall be allocated equally between the spouses
16 for purposes of determining the limitation under
17 paragraph (2) for any succeeding taxable year.

18 “(c) EXCLUSION NOT TO APPLY TO GAIN ON SALE
19 OF PRINCIPAL RESIDENCE BY INDIVIDUALS UNDER AGE
20 55.—

21 “(1) IN GENERAL.—There shall not be taken
22 into account under this section any gain on the sale
23 or exchange of any property if—

24 “(A) any portion of such property was
25 used at any time as the principal residence

1 (within the meaning of section 1034) of the tax-
2 payer, and

3 “(B) the taxpayer has not attained age 55
4 before the date of such sale or exchange.

5 “(2) SPECIAL RULES.—

6 “(A) EXCEPTION FOR RENTAL PROP-
7 erty.—Paragraph (1) shall not apply to a sale
8 or exchange if, during the 3-year period ending
9 on the date of the sale or exchange, such por-
10 tion is rented, or held for rental, at a fair mar-
11 ket rental for periods aggregating 2 years or
12 more.

13 “(B) PROPERTY HELD JOINTLY BY HUS-
14 BAND AND WIFE.—A rule similar to the rule of
15 section 121(d)(1) shall apply for purposes of
16 this subsection.

17 “(d) SECTION NOT TO APPLY TO CERTAIN TAX-
18 PAYERS.—No deduction shall be allowed under this section
19 to—

20 “(1) any individual who has not attained age 21
21 before the close of the taxable year, or

22 “(2) an estate or trust.

23 “(e) COORDINATION WITH TREATMENT OF CAPITAL
24 GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—
25 For purposes of this section, the net capital gain for any

1 taxable year shall be reduced (but not below zero) by the
2 amount which the taxpayer takes into account as invest-
3 ment income under section 163(d)(4)(B)(iii).

4 “(f) TRANSITIONAL RULE.—

5 “(1) IN GENERAL.—In the case of a taxable
6 year which includes January 1, 1995, the amount
7 taken into account as the net capital gain under
8 subsection (a) shall not exceed the net capital gain
9 determined by only taking into account gains and
10 losses properly taken into account for the portion of
11 the taxable year on or after January 1, 1995.

12 “(2) SPECIAL RULES FOR PASS-THRU ENTI-
13 TIES.—

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

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

22 “(i) a regulated investment company,

23 “(ii) a real estate investment trust,

24 “(iii) an S corporation,

25 “(iv) a partnership,

1 “(v) an estate or trust, and

2 “(vi) a common trust fund.”

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

7 “(16) CAPITAL GAINS DEDUCTION.—The deduc-
8 tion allowed by section 1203.”

9 (c) CONFORMING AMENDMENTS.—

10 (1) Subparagraph (B) of section 172(d)(2) of
11 such Code is amended by inserting before the period
12 “and the deduction provided by section 1203 shall
13 not be allowed”.

14 (2) Paragraph (4) of section 691(c) of such
15 Code is amended by inserting “1203,” after
16 “1202,”.

17 (3) The second sentence of paragraph (2) of
18 section 871(a) of such Code is amended by inserting
19 “or 1203” after “1202”.

20 (4) Paragraph (1) of section 1402(i) of such
21 Code is amended to read as follows:

22 “(1) IN GENERAL.—In determining the net
23 earnings from self-employment of any options dealer
24 or commodities dealer—

1 “(A) notwithstanding subsection (a)(3)(A),
2 there shall not be excluded any gain or loss (in
3 the normal course of the taxpayer’s activity of
4 dealing in or trading section 1256 contracts)
5 from section 1256 contracts or property related
6 to such contracts, and

7 “(B) the deduction provided by section
8 1203 shall not apply.”

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

 “Sec. 1203. Capital gains deduction for individuals.”

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years ending on or after
15 December 31, 1994.

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