

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 333

To amend the Internal Revenue Code of 1986 to allow a deduction for capital gains for middle income taxpayers.

---

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. NEAL 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 deduction for capital gains for middle income taxpayers.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Middle Income Tax Relief Act of 1995”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. REDUCTION IN CAPITAL GAINS TAX FOR INDIVID-**  
4 **UALS.**

5 (a) GENERAL RULE.—Part I of subchapter P of  
6 chapter 1 (relating to treatment of capital gains) is  
7 amended by adding at the end thereof the following new  
8 section:

9 **“SEC. 1203. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.**

10 “(a) IN GENERAL.—In the case of an individual,  
11 there shall be allowed as a deduction for the taxable year  
12 the capital gains deduction (if any) determined under sub-  
13 section (b).

14 “(b) LIFETIME CAPITAL GAINS BANK.—

15 “(1) IN GENERAL.—For purposes of subsection  
16 (a), the capital gains deduction determined under  
17 this subsection for any taxable year is 50 percent of  
18 the qualified gain for such taxable year.

19 “(2) LIMITATIONS.—

20 “(A) LIFETIME LIMIT.—The amount of  
21 the qualified gain taken into account under  
22 paragraph (1) for any taxable year shall not ex-  
23 ceed \$400,000 reduced by the aggregate  
24 amount of the qualified gain taken into account

1 under this subsection by the taxpayer for prior  
2 taxable years.

3 “(B) DEDUCTION NOT AVAILABLE TO TAX-  
4 PAYERS WITH ADJUSTED GROSS INCOME IN EX-  
5 CESS OF \$250,000.—In the case of a taxpayer  
6 with adjusted gross income of \$200,000 or  
7 greater, the deduction determined under this  
8 subsection shall be reduced (but not below zero)  
9 by an amount which bears the same ratio to the  
10 amount of such deduction as—

11 “(i) the adjusted gross income of the  
12 taxpayer for the taxable year in excess of  
13 \$200,000, bears to

14 “(ii) \$50,000.

15 “(3) QUALIFIED GAIN.—

16 “(A) IN GENERAL.—For purposes of para-  
17 graph (1), the term ‘qualified gain’ means the  
18 lesser of—

19 “(i) the net capital gain on the sale or  
20 exchange of a qualified asset for the tax-  
21 able year, or

22 “(ii) the net capital gain for the tax-  
23 able year determined by only taking into  
24 account gains and losses from sales and

1 exchanges on or after January 1, 1995, of  
2 qualified assets.

3 “(B) SPECIAL RULES.—

4 “(i) For purposes of subparagraph  
5 (A)(ii), any amount treated as a capital  
6 loss for the taxable year under section  
7 1212 shall be treated as a loss from a sale  
8 or exchange on or after January 1, 1995,  
9 of a qualified asset.

10 “(ii) A taxpayer may elect for any  
11 taxable year not to take into account under  
12 this subsection all (or any portion) of the  
13 qualified gain for such taxable year. Such  
14 an election, once made, shall be irrev-  
15 ocable.

16 “(4) QUALIFIED ASSETS.—For purposes of this  
17 subsection, the term ‘qualified asset’ means any cap-  
18 ital asset (within the meaning of section 1221), ex-  
19 cept that such term shall not include any collectible  
20 (as defined in section 408(m) without regard to  
21 paragraph (3) thereof).

22 “(5) SUBSECTION NOT TO APPLY IN CERTAIN  
23 CASES.—This subsection shall not apply in the case  
24 of—

1           “(A) sales or exchanges to related persons  
2           (within the meaning of section 267(b) or  
3           707(b)(1));

4           “(B)(i) an individual who has not attained  
5           the age of 25 before the close of the taxable  
6           year;

7           “(ii) a married individual (within the  
8           meaning of section 7703) filing a separate  
9           return for the taxable year; or

10           “(iii) an estate or trust.

11           “(c) SPECIAL RULES.—

12           “(1) GAIN ON SALE OR EXCHANGE OF REAL  
13           PROPERTY DETERMINED BY REFERENCE TO IN-  
14           DEXED BASIS.—

15           “(A) IN GENERAL.—For purposes of deter-  
16           mining, under this section, the amount of the  
17           qualified gain from the sale or exchange of real  
18           property, the indexed basis of the property shall  
19           be substituted for its adjusted basis.

20           “(B) INDEXED BASIS.—For purposes of  
21           this section—

22           “(i) INDEXED BASIS.—The indexed  
23           basis for any real property described in  
24           subparagraph (A) is—

1           “(I) the adjusted basis of the  
2           property, multiplied by

3           “(II) the applicable inflation  
4           ratio.

5           “(ii) APPLICABLE INFLATION  
6           RATIO.—The applicable inflation ratio for  
7           any real property described in subpara-  
8           graph (A) is the percentage derived by di-  
9           viding—

10           “(I) the CPI for the calendar  
11           month in which the disposition takes  
12           place, by

13           “(II) the CPI for the calendar  
14           month in which the property was ac-  
15           quired by the taxpayer.

16           The applicable inflation ratio shall not be  
17           taken into account unless it is greater than  
18           1. The applicable inflation ratio for any  
19           asset shall be rounded to the nearest  $\frac{1}{10}$   
20           of 1 percent.

21           “(iii) CPI FOR CALENDAR MONTH.—  
22           The CPI for any calendar month is the  
23           Consumer Price Index (as defined in sec-  
24           tion 1(f)(5)) for such month.

1           “(C) REAL PROPERTY.—For purposes of  
2           this paragraph, the term ‘real property’ means  
3           land and any section 1250 property (within the  
4           meaning of section 1250(c)).

5           “(2) TREATMENT OF CERTAIN SALES OF IN-  
6           TERESTS IN PARTNERSHIPS, ETC.—For purposes of  
7           subsection (b), any gain from the sale or exchange  
8           of a qualified asset which is an interest in a partner-  
9           ship, S corporation, or trust shall not be treated as  
10          gain from the sale or exchange of a qualified asset  
11          to the extent such sale gain is attributable to unreal-  
12          ized appreciation in the value of property described  
13          in subsection (b)(4) which is held by such entity.  
14          Rules similar to the rules of section 751(f) shall  
15          apply for purposes of the preceding sentence.

16          “(3) DEDUCTION ONLY AVAILABLE FOR CER-  
17          TAIN SALES OR EXCHANGES.—

18                 “(A) SALE OR EXCHANGE MUST OCCUR  
19                 AFTER DECEMBER 31, 1994.—The amount of  
20                 the net capital gain taken into account under  
21                 subsection (b)(3)(A) shall not exceed the  
22                 amount of the net capital gain determined by  
23                 only taking into account gains and losses from  
24                 sales and exchanges on or after January 1,  
25                 1995. For purposes of the preceding sentence,

1 any amount treated as a capital loss for the  
2 taxable year under section 1212 shall be treated  
3 as a loss from a sale or exchange on or after  
4 such date.

5 “(B) REQUIRED HOLDING PERIOD MUST  
6 BE SATISFIED.—No gain shall be taken into ac-  
7 count under subsection (b)(3)(A) unless the  
8 holding period of the property sold or ex-  
9 changed (determined under the principles of  
10 section 1223) exceeds 3 years.

11 “(4) DETERMINATION OF ADJUSTED GROSS IN-  
12 COME.—

13 “(A) IN GENERAL.—For purposes of sub-  
14 section (b), adjusted gross income shall be de-  
15 termined—

16 “(i) without regard to the deduction  
17 allowed under this section, but

18 “(ii) after the application of sections  
19 86, 135, 219, and 469.

20 “(B) COORDINATION WITH OTHER AD-  
21 JUSTED GROSS INCOME LIMITATIONS.—For  
22 purposes of the sections listed in subparagraph  
23 (A)(ii), adjusted gross income shall be deter-  
24 mined without regard to the deduction allowed  
25 under this section.

1           “(5) SPECIAL RULE FOR PASS-THRU ENTI-  
2           TIES.—

3           “(A) IN GENERAL.—In applying this sec-  
4           tion with respect to any pass-thru entity, the  
5           determination of when the sale or exchange oc-  
6           curs shall be made at the entity level.

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

10                   “(i) a regulated investment company,

11                   “(ii) a real estate investment trust,

12                   “(iii) an S corporation,

13                   “(iv) a partnership,

14                   “(v) an estate or trust, and

15                   “(vi) a common trust fund.”.

16           (b) COORDINATION WITH MINIMUM TAX.—Para-  
17           graph (1) of section 56(b) is amended by adding at the  
18           end the following new subparagraph:

19                   “(G) CAPITAL GAINS DEDUCTION NOT AL-  
20                   LOWED.—The deduction under section 1203  
21                   shall not be allowed.”.

22           (c) COORDINATION WITH MAXIMUM CAPITAL GAINS  
23           RATE.—Subsection (h) of section 1 (relating to maximum  
24           capital gains rate) is amended to read as follows:

25                   “(h) MAXIMUM CAPITAL GAINS RATE.—

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

4                   “(A) a tax computed at the rates and in  
5 the same manner as if this subsection had not  
6 been enacted on the greater of—

7                           “(i) taxable income reduced by the  
8 amount of the net capital gain, or

9                           “(ii) the amount of taxable income  
10 taxed at a rate below 28 percent, plus

11                   “(B) a tax of 28 percent of the amount of  
12 taxable income in excess of the amount deter-  
13 mined under subparagraph (A).

14 For purposes of the preceding sentence, the net cap-  
15 ital gain for any taxable year shall be reduced (but  
16 not below zero) by the amount which the taxpayer  
17 elects to take into account as investment income for  
18 the taxable year under section 163(d)(4)(B)(iii).

19           “(2) COORDINATION WITH SECTION 1203 DE-  
20 DUCTION.—For purposes of paragraph (1), the  
21 amount of the net capital gain shall be reduced by  
22 the amount allowable as a deduction under section  
23 1203(a).”.

24 (d) CONFORMING AMENDMENTS.—

1           (1) Subsection (a) of section 62 is amended by  
2 inserting after paragraph (15) the following new  
3 paragraph:

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

6           (2) Subclause (I) of section 163(d)(4)(B)(i) is  
7 amended by inserting “, reduced by the amount of  
8 any deduction allowable under section 1203 attrib-  
9 utable to gain for such property” after “invest-  
10 ment”.

11           (3)(A) Paragraph (2) of section 172(d) is  
12 amended to read as follows:

13           “(2) CAPITAL GAINS AND LOSSES OF TAX-  
14 PAYERS OTHER THAN CORPORATIONS.—In the case  
15 of a taxpayer other than a corporation—

16           “(A) the amount deductible on account of  
17 losses from sales or exchanges of capital assets  
18 shall not exceed the amount includible on ac-  
19 count of gains from sales or exchanges of cap-  
20 ital assets;

21           “(B) the exclusion provided by section  
22 1202 shall not be allowed; and

23           “(C) the deduction provided by section  
24 1203 shall not be allowed.”.

1 (B) Subparagraph (B) of section 172(d)(4)  
2 is amended by inserting “(2)(C),” after  
3 “(2)(B),”.

4 (4)(A) Section 220 (relating to cross reference)  
5 is amended to read as follows:

6 **“SEC. 220. CROSS REFERENCES.**

**“(1) For deduction for net capital gains in the case  
of a taxpayer other than a corporation, see section  
1203.**

**“(2) For deductions in respect of a decedent, see  
section 691.”**

7 (B) The table of sections for part VII of sub-  
8 chapter B of chapter 1 is amended by striking “ref-  
9 erence” in the item relating to section 220 and in-  
10 serting “references”.

11 (5) Paragraph (4) of section 691(c) is amended  
12 by inserting “1203,” after “1202,”.

13 (6) The second sentence of paragraph (2) of  
14 section 871(a) is amended by striking “section  
15 1202” and inserting “sections 1202 and 1203”.

16 (7) Paragraph (1) of section 1402(i) is amend-  
17 ed to read as follows:

18 “(1) IN GENERAL.—In determining the net  
19 earnings from self-employment of any options dealer  
20 or commodities dealer—

21 “(A) notwithstanding subsection (a)(3)(A),  
22 there shall not be excluded any gain or loss (in  
23 the normal course of the taxpayer’s activity of

1 dealing in or trading section 1256 contracts)  
2 from section 1256 contracts or property related  
3 to such contracts, and

4 “(B) the deduction provided by section  
5 1203 shall not apply.”.

6 (e) CLERICAL AMENDMENT.—The table of sections  
7 for part I of subchapter P of chapter 1 is amended by  
8 adding at the end thereof the following new item:

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

9 (f) EFFECTIVE DATES.—The amendments made by  
10 this section shall apply to taxable years ending after De-  
11 cember 31, 1994.

○