107TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
107–734

INCREASE IN LIMITATION ON CAPITAL LOSSES APPLICABLE TO INDIVIDUALS

OCTOBER 10 (legislative day, OCTOBER 9), 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1619]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1619) to amend the Internal Revenue Code of 1986 to increase the limitation on capital losses applicable to individuals, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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19–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. INCREASE IN LIMITATION ON CAPITAL LOSSES APPLICABLE TO INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 1211(b) of the Internal Revenue Code of 1986 (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking "$3,000 ($1,500" and inserting "$8,250 (1/2 such amount".

(b) ADJUSTMENT FOR INFLATION.—Section 1211 of such Code (relating to limitation on capital losses) is amended by adding at the end the following new subsection:

"(c) ADJUSTMENT FOR INFLATION.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2002, the $8,250 amount contained in subsection (b)(1) shall each be increased by an amount equal to—

"(A) such amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such increase shall be rounded to the next highest multiple of $50.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1619, as amended, increases the limitation on capital losses applicable to individuals.

The bill provides net tax reductions of over $9.871 billion over fiscal years 2003–2007.

B. BACKGROUND AND NEED FOR LEGISLATION

The provision approved by the Committee reflects the need to increase the limitation on capital losses applicable to individuals.

C. LEGISLATIVE HISTORY

COMMITTEE ACTION

The Committee on Ways and Means marked up the provisions of the bill on October 7 and 8, 2002, and reported the provisions, as amended, on October 8, 2002, by a rollcall vote of 24 yeas and 11 nays (with a quorum being present).

II. EXPLANATION OF THE BILL

INCREASE IN LIMITATION ON CAPITAL LOSSES APPLICABLE TO INDIVIDUALS

Present law

Capital losses of individuals are deductible in full against capital gains. In addition, individual taxpayers may deduct capital losses against up to $3,000 ($1,500 in the case of a married individual filing a separate return) of ordinary income in each taxable year. Any remaining unused capital losses may be carried forward indefinitely to future taxable years.

Reasons for change

The Committee believes that the $3,000 limitation on the deduction of capital losses against ordinary income, which has been in the law since 1978, is too restrictive. There has been significant inflation since that limit was enacted, and taxpayers who have capital losses that are not offset by capital gains should be able to deduct a greater amount against ordinary income.

Explanation of provision

The maximum amount of capital losses that individual taxpayers may offset against ordinary income is increased to $8,250 ($4,125 in the case of a married individual filing a separate return).

These amounts are indexed for inflation, rounded to the next highest multiple of $50 ($25 in the case of a married individual filing a separate return).

Effective date

The provision applies to taxable years beginning after December 31, 2001.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1619.

MOTION TO REPORT THE BILL

The bill, H.R. 1619, as amended, was ordered favorably reported by a rollcall vote of 24 yeas to 11 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel		X	
Mr. Crane	X			Mr. Stark		X	
Mr. Shaw	X			Mr. Matsui		X	
Mrs. Johnson	X			Mr. Coyne			
Mr. Houghton	X			Mr. Levin		X	
Mr. Herger	X			Mr. Cardin		X	
Mr. McCrery	X			Mr. McDermott			
Mr. Camp	X			Mr. Kleczka		X	
Mr. Ramstad	X			Mr. Lewis (GA)			
Mr. Nussle	X			Mr. Neal			
Mr. Johnson	X			Mr. McNulty		X	
Ms. Dunn	X			Mr. Jefferson			
Mr. Collins	X			Mr. Tanner		X	
Mr. Portman	X			Mr. Becerra		X	
Mr. English	X			Mrs. Thurman		X	
Mr. Watkins	X			Mr. Doggett			
Mr. Hayworth	X			Mr. Pomeroy		X	
Mr. Weller	X						
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley	X						
Mr. Brady	X						
Mr. Ryan	X						

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

A substitute amendment by Mr. Pomeroy, was defeated by a rollcall vote of 8 yeas to 27 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui	X		
Mrs. Johnson		X		Mr. Coyne			
Mr. Houghton		X		Mr. Levin	X		
Mr. Herger		X		Mr. Cardin	X		
Mr. McCrery		X		Mr. McDermott			
Mr. Camp		X		Mr. Kleczka	X		
Mr. Ramstad		X		Mr. Lewis (GA)			
Mr. Nussle		X		Mr. Neal			
Mr. Johnson		X		Mr. McNulty	X		
Ms. Dunn		X		Mr. Jefferson			
Mr. Collins		X		Mr. Tanner		X	
Mr. Portman		X		Mr. Becerra		X	
Mr. English		X		Mrs. Thurman		X	
Mr. Watkins		X		Mr. Doggett			
Mr. Hayworth		X		Mr. Pomeroy	X		
Mr. Weller		X					
Mr. Hulshof		X					
Mr. McInnis		X					
Mr. Lewis (KY)		X					
Mr. Foley		X					
Mr. Brady		X					
Mr. Ryan		X					

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1619 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2003–2007:

ESTIMATED REVENUE EFFECTS OF A CHAIRMAN'S AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1619, SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON OCTOBER 7, 2002

[Fiscal years 2003–2012, millions of dollars]

Provision	Effective	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2003–07	2003–12
Increase the Limit on the Deduction for Net Capital Losses to $8,250 ($4,125 in the Case of a Married Individual Filing a Separate Return); Index for Inflation Occurring After 2002[1]	tyba 12/31/01	−2,142	−1,748	−1,849	−2,007	−2,125	−2,343	−2,525	−2,753	−2,997	−3,432	−9,871	−23,921

[1] The inflation adjustments are rounded to the next highest multiple of $50 ($25 in the case of a married individual filing a separate return).

Legend for "Effective" column: tyba = taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue reducing income tax provision involves increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 9, 2002.

Hon. WILLIAM "BILL" M. THOMAS,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1619, a bill to increase the limitation on capital losses applicable to individuals.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annie Bartsch.

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1619—A bill to increase the limitation on capital losses applicable to individuals

Summary: H.R. 1619 would amend the Internal Revenue Code of 1986 to increase the maximum allowable deduction for net capital losses for individuals, effective for tax years after 2001. Taxpayers would be able to deduct net capital losses up to $8,250 ($4,125 for married taxpayers filing separately) in tax year 2002. Thereafter, the limit would be indexed for inflation and rounded to the next highest multiple of $50. Under current law, the limit is $3,000 ($1,500 for married taxpayers filing separately) and is not indexed for inflation.

The Joint Committee on Taxation (JCT) estimates that enacting H.R. 1619 would reduce revenues by $2.1 billion in 2003 and by $23.9 billion over the 2003–2012 period. JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1619 is shown in the following table. All revenue 1619 were provided by JCT.

	By fiscal year, in millions of dollars—									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
CHANGES IN REVENUES										
Estimated Revenues	−2,142	−1,748	−1,849	−2,007	−2,125	−2,343	−2,525	−2,753	−2,997	−3,432

Source: Joint Committee on Taxation.

Intergovernmental and private-sector impact: JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Annie Bartsch.

Estimate approved by: Roberton Williams, Deputy Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax burden on individual taxpayers that the Committee concluded that it is appropriate and timely to enact the revenue provision included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 1211 OF THE INTERNAL REVENUE CODE OF 1986

SEC. 1211. LIMITATION ON CAPITAL LOSSES.

(a) * * *

(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

(1) 【$3,000 ($1,500】 *$8,250 (1/2 such amount* in the case of a married individual filing a separate return), or

*   *   *   *   *   *   *

(c) ADJUSTMENT FOR INFLATION.—

(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2002, the $8,250 amount contained in subsection (b)(1) shall each be increased by an amount equal to—

(A) such amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting "calendar year 2001" for "calendar year 1992" in subparagraph (B) thereof.

(2) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $50, such increase shall be rounded to the next highest multiple of $50.

VII. DISSENTING VIEWS

The House Republican Leadership is following a strategy of weekly tax cut bills that quickly is becoming a parody of its own party. For every issue that concerns the American public, the House Republican Leadership responds with another weekly tax cut bill that may or may not have any relevance to the real economic problems being faced by the country. For example:

- Virtually all of the $5.6 trillion in surpluses projected last year have disappeared. Instead we will experience deficits for the foreseeable future. That has occurred even without any major increase yet in spending for war, the military, or homeland defense. The response of the House Republican Leadership is a series of weekly tax cut bills that would only worsen budget deficits.
- The country is faced with the prospect of war with Iraq and a long struggle against terrorism. Instead of asking all Americans to share in the cost of those struggles, the House Republican leadership seems willing to risk our military but provides more tax cuts, no shared sacrifice, for the wealthiest in our society.
- Both the Republicans and Democrats committed to walling off the Social Security and Medicare surpluses so that they will be available when the baby boom generation retires. Now, Social Security and Medicare will be raided for the foreseeable future and the House Republican Leadership would increase the raids on Social Security and Medicare through unfunded tax reduction for wealthy investors.
- The Republicans are unwilling to fund the large promises for increased education spending made in the No Child Left Behind Act. They argue that there are not sufficient resources available for education, but this week are willing to pass tax bills, H.R. 1619 and H.R. 5558, providing in total $65 billion of tax relief for investors. They say there are inadequate funds for a meaningful Medicare prescription drug benefit, but here are more tax cuts.
- Millions of Americans find their retirement security is at risk because of stock market losses within their 401(k) plans. The Republicans respond to that problem with a tax cut that helps only individuals with losses on investments outside their retirement plans. Rank-and-file workers with pension account losses get nothing because the tax treatment of these accounts has nothing to do with capital gains or losses.
- Millions of American investors have lost trillions of dollars because of the stock market decline. The Republicans respond to that problem with a tax bill that could create further losses in the stock market by encouraging sales of stock to take advantage of the higher limitation on the allowance for capital losses.
- Millions of Americans may lose their unemployment benefits through Congressional inaction. Rather than act on the real problems faced by those Americans, the House Republican Leadership wants more tax cuts for wealthy investors.
- As this Committee continues to report more tax cuts, the House Republican Leadership can't get around to acting on eight unfinished regular appropriations bills for the fiscal year that has already begun.

The Treasury Department seems reluctant to be involved in the weekly charade of tax cut bills being considered by the House. Breaking with a long tradition, the Treasury is no longer represented in Committee markups, presumably to avoid a public position on the Committee bill.

Assistant Secretary for Tax Policy Pam Olson issued a fairly ambiguous statement on the bill. In it she stated that she looks forward to "continued work with the Committee in consideration of these ideas, as well as others which can address investor relief and economic growth." We join with her in indicating our willingness to consider ideas to reach those goals. However, we demand that the consideration be serious and the proposals be relevant to the problem. The Committee bill fails to meet both of these tests. Therefore, we cannot support it.

CHARLES B. RANGEL.
SANDER LEVIN.
ROBERT T. MATSUI.
BEN CARDIN.
JIM MCDERMOTT.
RICHARD E. NEAL.
WILLIAM J. JEFFERSON.
PETE STARK.
JERRY KLECZKA.
MIKE MCNULTY.
XAVIER BECERRA.
JOHN LEWIS.
WILLIAM J. COYNE.