

118TH CONGRESS
1ST SESSION

H. R. 1178

To amend the Internal Revenue Code of 1986 to exclude gain from the sale or exchange of the entire interest in a wholly owned rural incumbent local exchange carrier, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2023

Mr. FERGUSON 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 exclude gain from the sale or exchange of the entire interest in a wholly owned rural incumbent local exchange carrier, and for other purposes.

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 “Broadband Stock Ac-
5 quisition in Local Exchanges Act” or as the “Broadband
6 SALE Act”.

1 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF RURAL INCUM-**
2 **BENT LOCAL EXCHANGE CARRIER STOCK.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 is amended
5 by inserting before section 140 the following new section:

6 **“SEC. 139J. GAIN FROM SALE OF RURAL INCUMBENT**
7 **LOCAL EXCHANGE CARRIER STOCK.**

8 “(a) EXCLUSION.—Gross income shall not include
9 gain from the sale or exchange of the entire interest in
10 a wholly owned rural incumbent local exchange carrier.

11 “(b) APPORTIONMENT.—In the case of a carrier de-
12 scribed in paragraph (1) that serves areas not described
13 in paragraph (1), the amount excluded under subsection
14 (a) shall not exceed the product of such amount (without
15 regard to this paragraph) and the ratio of—

16 “(1) revenues attributable to the provision of
17 communications services in an area described in sub-
18 section (c) during the 1-year period preceding such
19 sale, to

20 “(2) all revenues during such period.

21 “(c) RURAL INCUMBENT LOCAL EXCHANGE CAR-
22 RIER.—For purposes of this section, the term ‘rural in-
23 cumbent local exchange carrier’ means an incumbent local
24 exchange carrier that serves an area that is an area—

25 “(1) where the carrier was required (on the
26 date of the enactment of the Telecommunications

1 Act of 1996) by law or regulation to provide commu-
2 nications services to any customer regardless of cost,
3 and

4 “(2) other than an urbanized area with—

5 “(A) not fewer than 50,000 people, and

6 “(B) a core where there are not fewer than
7 1,000 people per square mile.

8 “(d) DEFINITIONS.—For purposes of this section,
9 terms defined in the Communications Act of 1934 have
10 the meaning given such terms in such Act.

11 “(e) TERMINATION.—This section shall not apply to
12 sales or exchanges for which an application for a certifi-
13 cate under section 214 of the Communications Act of
14 1934 is filed after the date that is 5 years after the date
15 of the enactment of this section.”.

16 (b) CONFORMING AMENDMENT.—Section 338(a) of
17 such Code is amended by inserting “(other than section
18 139J)” after “For purposes of this subtitle”.

19 (c) CLERICAL AMENDMENT.—The table of sections
20 for part III of subchapter B of chapter 1 of such Code
21 is amended by inserting before the item relating to section
22 140 the following new item:

“Sec. 139J. Gain from sale of rural incumbent local exchange carrier stock.”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to sales or exchanges after the date
25 of the enactment of this Act.

1 **SEC. 3. RECAPTURE OF EXCLUSION OF GAIN FROM SALE**
2 **OF RURAL INCUMBENT LOCAL EXCHANGE**
3 **CARRIER STOCK.**

4 (a) IN GENERAL.—Subchapter B of chapter 1 of the
5 Internal Revenue Code of 1986 is amended by adding at
6 the end the following new part:

7 **“PART XII—RECAPTURE OF EXCLUSION OF GAIN**
8 **FROM SALE OF RURAL INCUMBENT LOCAL**
9 **EXCHANGE CARRIER STOCK**

“Sec. 292. Recapture of exclusion of gain from sale of rural incumbent local
exchange carrier stock.

10 **“SEC. 292. RECAPTURE OF EXCLUSION OF GAIN FROM SALE**
11 **OF RURAL INCUMBENT LOCAL EXCHANGE**
12 **CARRIER STOCK.**

13 “(a) IN GENERAL.—If a taxpayer acquired stock of
14 a rural incumbent local exchange carrier in a sale or ex-
15 change described in section 139J and such carrier is not,
16 for a qualified 1-year period with respect to such sale or
17 exchange, a rural incumbent local exchange carrier, such
18 taxpayer’s taxable income under this chapter for the tax-
19 able year in which such 1-year period ends shall be in-
20 creased by product of 1/6 and any amount excluded from
21 tax by any person with respect to such sale or exchange
22 under such section. Such increase shall be treated as cap-
23 ital gain.

1 “(b) RURAL INCUMBENT LOCAL EXCHANGE CAR-
2 RIER.—For purposes of this section, the term ‘rural in-
3 cumbent local exchange carrier’ means, with respect to a
4 qualified 1-year period, a rural incumbent local exchange
5 carrier (as defined in section 48F) that offers broadband
6 internet access service at upload and download speeds of
7 at least 1,000 megabits per second—

8 “(1) in the case of the 4th qualified 1-year pe-
9 riod, to not less than 30 percent of locations in an
10 area described in section 139J(c)(2),

11 “(2) in the case of the 5th qualified 1-year pe-
12 riod, to not less than 40 percent of such locations,
13 and

14 “(3) in the case of the 6th qualified 1-year pe-
15 riod, to not less than 50 percent of such locations.

16 “(c) QUALIFIED 1-YEAR PERIOD.—For purposes of
17 this section, the term ‘qualified 1-year period’ means, with
18 respect to a rural incumbent local exchange carrier with
19 respect to a sale or exchange described in subsection 139J,
20 the 1-year period starting on the date of such sale or ex-
21 change, and each of the 5 subsequent 1-year periods.

22 “(d) DEFINITIONS.—For purposes of this section,
23 terms defined in the Communications Act of 1934 have
24 the meaning given such terms in such Act.”.

1 (b) CLERICAL AMENDMENT.—The table of parts of
 2 subchapter B of chapter 1 of such Code is amended by
 3 adding at the end the following new item:

“PART XII—RECAPTURE OF EXCLUSION OF GAIN FROM SALE OF RURAL
 INCUMBENT LOCAL EXCHANGE CARRIER STOCK”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply after the date of the enactment
 6 of this Act.

7 **SEC. 4. RURAL COMMUNICATIONS INVESTMENT TAX CRED-**
 8 **IT.**

9 (a) IN GENERAL.—Subpart E of part IV of sub-
 10 chapter A of chapter 1 of the Internal Revenue Code of
 11 1986 is amended by inserting after subsection 48E the
 12 following new section:

13 **“SEC. 48F. RURAL COMMUNICATIONS INVESTMENT CREDIT.**

14 **“(a) IN GENERAL.—**

15 **“(1) CREDIT AMOUNT.—**For the purposes of
 16 section 46, in the case of a rural incumbent local ex-
 17 change carrier, the rural communications investment
 18 credit for any taxable year is an amount equal to 30
 19 percent of the amounts that are paid or incurred by
 20 such carrier during any qualified 1-year period end-
 21 ing in such taxable year to purchase, maintain, or
 22 improve property for the purpose of providing voice
 23 telephone service or broadband internet access serv-
 24 ice in an area described in section 139J(c)(2).

1 “(2) EXCLUSION OF CERTAIN FEDERAL
2 FUNDS.—Amounts paid or incurred which are other-
3 wise taken into account under paragraph (1) with
4 respect to any qualified 1-year period shall be re-
5 duced (including for purposes of subsection (b)) by
6 the amount of any Federal universal service support
7 under section 254 of the Communications Act of
8 1934 for the deployment of communications infra-
9 structure, or any Federal grant for the deployment
10 of communications infrastructure received by such
11 carrier and properly attributable to such period.

12 “(b) RURAL INCUMBENT LOCAL EXCHANGE CAR-
13 RIER.—For purposes of this section, the term ‘rural in-
14 cumbent local exchange carrier’ means, for a 1-year pe-
15 riod, an incumbent local exchange carrier—

16 “(1) whose stock has been acquired in a sale or
17 exchange described in section 139J,

18 “(2) for which—

19 “(A) the ratio of—

20 “(i) the amount described in sub-
21 section (a)(1), divided by

22 “(ii) the average active voice telephone
23 service or broadband internet access serv-
24 ice connections during the qualified 1-year

1 period referred to in subsection (a)(1), is
2 not less than; and

3 “(B) the ratio of—

4 “(i) the product of 1.25 and the
5 annualized average of the amounts de-
6 scribed in subsection (a)(1) for the 3-year
7 period preceding the sale or exchange, di-
8 vided by

9 “(ii) the average active voice telephone
10 service or broadband internet access serv-
11 ice connections during such 3-year period;
12 and

13 “(3) in the case of the 3rd qualified 1-year pe-
14 riod, that offers broadband internet access service
15 described in section 292(b) to not less than 20 per-
16 cent of locations in an area described in section
17 139J(c)(2).

18 “(c) QUALIFIED 1-YEAR PERIOD.—For purposes of
19 this section, the term ‘qualified 1-year period’ means, with
20 respect to a rural incumbent local exchange carrier with
21 respect to a sale or exchange described in subsection 139J,
22 the 1-year period starting on the date of such sale or ex-
23 change, and each of the 2 subsequent 1-year periods.

1 “(d) DEFINITIONS.—For purposes of this section,
2 terms defined in the Communications Act of 1934 have
3 the meaning given such terms in such Act.

4 “(e) TRANSFER OF CREDIT.—If, with respect to a
5 credit under subsection (a) for any taxable year, the tax-
6 payer elects the application of this paragraph for such tax-
7 able year with respect to all (or any portion specified in
8 such election) of such credit, the person specified in such
9 election, and not the taxpayer, shall be treated as the tax-
10 payer for purposes of this title with respect to such credit
11 (or such portion thereof).”.

12 (b) CONFORMING AMENDMENT.—Section 46 of such
13 Code is amended by striking “and” at the end of para-
14 graph (6), by striking the period at the end of paragraph
15 (7) and inserting “, and”, and by adding at the end the
16 following new paragraph:

17 “(8) the rural communications investment cred-
18 it.”.

19 (c) CLERICAL AMENDMENT.—The table of sections
20 for subpart E of part IV of subchapter A of chapter 1
21 of such Code is amended by inserting after the item relat-
22 ing to section 48E the following new item:

“Sec. 48F. Rural communications investment credit.”.

1 (d) **EFFECTIVE DATE.**—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 the date of the enactment of this Act.

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