

1 HB40
2 171597-1
3 By Representative Patterson
4 RFD: Ways and Means Education
5 First Read: 10-SEP-15

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8 SYNOPSIS: Currently, taxpayers are allowed to claim a
9 deduction for capital losses that may be in excess
10 of the amounts allowable for federal tax purposes.
11 This bill would make Alabama's capital loss
12 limitations consistent with its federal
13 counterparts.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 40-18-8, Code of Alabama 1975, to
20 provide for a limit on the amount of capital losses claimed to
21 be the lesser of any excess losses over capital gains or the
22 federal limit.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 40-18-8, Code of Alabama 1975, is
25 hereby amended to read as follows:

26 "§40-18-8.

1 "(a) General rule. Except as provided in this
2 section, upon the sale or exchange of property, the entire
3 amount of the gain or loss determined under Section 40-18-7
4 shall be recognized. The losses determined under Section
5 40-18-7 may be utilized to affect gains determined under
6 Section 40-18-7. Any such losses in excess of such gain shall
7 be allowed as a deduction only to the extent permitted under
8 26 U.S.C. § 1211. Unutilized net losses may be carried forward
9 to subsequent years until exhausted.

10 "(b) Exchange of stock for stock of same
11 corporation. No gain or loss shall be recognized if common
12 stock in a corporation is exchanged solely for common stock in
13 the same corporation, or if preferred stock in a corporation
14 is exchanged solely for preferred stock in the same
15 corporation.

16 "(c) Like-kind exchanges. If an exchange of property
17 satisfies the requirements of 26 U.S.C. § 1031, relating to
18 like-kind exchanges, then the amount of gain or loss
19 recognized in the exchange shall be determined in accordance
20 with 26 U.S.C. § 1031.

21 "(d) Involuntary conversions. If a taxpayer validly
22 elects to determine the amount of gain recognized for federal
23 income tax purposes under 26 U.S.C. § 1033, relating to
24 involuntary conversions, the amount of gain recognized shall
25 be determined in accordance with 26 U.S.C. § 1033.

26 "(e) Transfer of property to corporation controlled
27 by transferor. If property is transferred to a corporation in

1 a transaction which satisfies the requirements of 26 U.S.C. §
2 351, relating to transfers to corporations controlled by the
3 transferor, the amount of gain or loss recognized shall be
4 determined in accordance with 26 U.S.C. § 351, as modified by
5 26 U.S.C. § 357, relating to the recognition of gain as a
6 result of the transferee corporation's assumption of
7 liabilities.

8 "(f) Reorganizations. In the case of a
9 reorganization defined in 26 U.S.C. § 368, relating to
10 definitions applicable to corporate reorganizations, or a
11 distribution, other than a reorganization, subject to 26
12 U.S.C. § 355, the amount of gain or loss recognized shall be
13 determined in accordance with 26 U.S.C. §§ 354, 355, 356, 361,
14 371, and 374.

15 "(g) Exchange of stock for property. No gain or loss
16 shall be recognized by a corporation on the receipt of money
17 or other property in exchange for stock, including treasury
18 stock, of the corporation or with respect to the acquisition
19 or lapse of an option to buy or sell its stock.

20 "(h) Complete liquidation of subsidiaries. No gain
21 or loss shall be recognized on the receipt by a corporation of
22 property on the complete liquidation of a subsidiary
23 corporation when the requirements of 26 U.S.C. § 332, relating
24 to complete liquidation of subsidiaries, are satisfied.

25 "(i) Gain or loss on sales or exchanges in
26 connection with certain liquidations. The amount of gain or
27 loss recognized by a corporation on the sale or exchange of

1 property shall be determined in accordance with 26 U.S.C. §
2 337 if every requirement for the application of 26 U.S.C. §
3 337 is satisfied.

4 "(j) Election under 26 U.S.C. § 338. If a valid
5 election under 26 U.S.C. § 338 is made, the amount of gain
6 recognized by the target corporation shall be determined in
7 accordance with 26 U.S.C. § 338.

8 "(k) Taxability of corporation on distribution. The
9 amount of gain recognized by a corporation on the distribution
10 of its stock, rights to acquire its stock, or property shall
11 be determined in accordance with 26 U.S.C. § 311, relating to
12 taxability of corporations on distributions.

13 "(l) Gain recognized on liquidation. The amount of
14 gain recognized by a liquidating corporation on the
15 distribution of its property in complete liquidation shall be
16 determined in accordance with 26 U.S.C. § 336.

17 "(m) Gain or loss on property transferred to spouse
18 or former spouse. The amount of gain or loss on the transfer
19 of property to a spouse or former spouse shall be determined
20 in accordance with 26 U.S.C. § 1041.

21 "(n) Sales of stock to employee stock ownership
22 plans or certain cooperatives. The amount of gain recognized
23 by a taxpayer who has validly elected to determine the amount
24 of gain recognized for federal income tax purposes under 26
25 U.S.C. § 1042, relating to sales of stock to employee stock
26 ownership plans or certain cooperatives, shall be determined
27 in accordance with 26 U.S.C. § 1042. If a taxpayer disposes

1 of any qualified replacement property and recognizes gain
2 under 26 U.S.C. § 1042(e), then, notwithstanding any other
3 provision of this chapter, gain, if any, shall be recognized
4 to the same extent and at the same time for purposes of this
5 chapter as under 26 U.S.C. § 1042(e). The term "qualified
6 replacement property" shall have the meaning set forth in 26
7 U.S.C. § 1042.

8 "(o) Contribution of property to subchapter K
9 entity. The amount of gain or loss recognized on the
10 contribution of property to a subchapter K entity in exchange
11 for an interest in the subchapter K entity shall be determined
12 in accordance with 26 U.S.C. § 721.

13 "(p) Distribution of property by subchapter K
14 entity. The amount of gain or loss recognized on the
15 distribution of property by a subchapter K entity shall be
16 determined in accordance with 26 U.S.C. § 731.

17 "(q) Transfer of property to trust. Gain or loss
18 shall not be recognized on the transfer of property to a
19 trust.

20 "(r) Nonrecognition treatment for certain transfers
21 from common trust funds to regulated investment companies. The
22 tax consequences of the transfer of assets of a common trust
23 fund in exchange for stock in one or more regulated investment
24 companies and the tax consequences of the distribution of the
25 stock to the participants of the common trust fund shall be
26 determined in accordance with 26 U.S.C. § 584."

1 Section 2. This act shall become effective
2 immediately upon its passage and approval by the Governor, or
3 its otherwise becoming law.