

CAPITAL GAINS TAX LOOPHOLE

Mr. O'HARA of Michigan. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. O'HARA of Michigan. Mr. Speaker, the distinguished senior Senator from the State of Pennsylvania has given a great deal of thought and consideration to our Federal tax structure. He has, among other things, interested himself in the treatment accorded capital gains under the Internal Revenue Code of 1954 and in the types of trans-

action which gives rise to capital gains under the code.

This is a serious matter in which we as legislators are deeply interested because of the effect upon Federal revenues and upon business activity. The senior Senator from Pennsylvania commented upon some aspects of this situation on the 12th day of August, and his remarks appear at page 15590 of the CONGRESSIONAL RECORD for that day. I commend his statement to the attention of every Member of the House and particularly call your attention to the schedule incorporated in his remarks showing the average tax savings accruing to capital gains taxpayers in various income brackets during 1956, and I include, under unanimous consent, this schedule at this point in the RECORD:

The capital gains tax (who benefits—how much—Treasury loss)

Adjusted gross income of taxpayer	Total number of taxable returns filed (excluding information returns)	Percentage of total returns reporting capital gains	Average tax saved on returns reporting capital gains ¹	Revenue loss to Treasury because of capital gains claims
Under \$3,000.....	12,161,320	2.4	\$81	\$24,042,000
\$3,000, under \$5,000.....	14,808,530	3.3	108	52,370,000
\$5,000, under \$7,000.....	10,455,601	4.2	127	55,994,000
\$7,000, under \$10,000.....	5,723,893	7.6	189	82,269,220
\$10,000, under \$15,000.....	1,918,975	17.6	342	115,354,590
\$15,000, under \$20,000.....	497,449	30.7	566	86,762,550
\$20,000, under \$25,000.....	234,745	37.0	805	69,970,300
\$25,000, under \$50,000.....	346,246	46.2	1,843	294,855,440
\$50,000, under \$100,000.....	89,095	60.4	8,125	417,371,100
\$100,000, under \$150,000.....	14,057	72.6	28,117	287,013,500
\$150,000, under \$200,000.....	3,843	77.3	53,571	159,213,860
\$200,000, under \$500,000.....	4,031	82.0	122,431	404,513,920
\$500,000, under \$1,000,000.....	593	84.1	404,848	202,019,400
\$1,000,000 or more.....	268	81.3	1,453,438	316,849,500
Total.....				2,568,599,380

¹ NOTE.—Tax savings computed at ½ the bracket rate, to a maximum of 25 percent. Bracket rate assumed to be the rate for the average taxable income per return at that adjusted gross income level, including 90 percent of excluded capital gains.

Source: Statistics of income, 1956—"Individual Income Tax Returns," U.S. Treasury, Internal Revenue Service.

After studying the remarks of the senior Senator from Pennsylvania, it occurred to me that further light might be thrown on the subject if the number and total savings of capital gains taxpayers were shown by income category to demonstrate the impact of the special treatment of capital gains under the Internal Revenue Code of 1954. Only slightly over 5 percent of the taxable returns filed by individuals for the year 1956 reported any capital gains at all. About 32 percent of the capital gains returns were filed by persons having adjusted gross income of less than \$5,000. About 3 percent of the capital gains returns were filed by persons having adjusted gross income in excess of \$50,000. Yet, only 3 percent of the total tax savings realized as a result of the special treatment given capital gains was enjoyed by the 32 percent of capital gains taxpayers who had incomes of less than \$5,000, while almost 70 percent of the total tax savings realized as a result of the special treatment of capital gains was enjoyed by the 3 percent of capital gains taxpayers who had incomes in excess of \$50,000.

This record, when considered in conjunction with the facts established by the learned senior Senator from Pennsylvania, indicates that a complete consideration of the tax treatment of gains upon

the sale or transfer of capital assets should be quickly undertaken. It is my sincere hope that the Committee on Ways and Means will give this matter its serious and prompt attention when it begins hearings on tax revision this fall.

Under unanimous consent, I include the table above referred to, showing the number and percentage of individual returns filed which indicate capital transactions and the reduction in income tax resulting therefrom, by income categories, at this point in the RECORD:

Who benefits, and how much—the capital gains tax loophole, 1956

Total number of taxable returns filed.....	46,258,646
Number showing capital gains.....	2,466,281
Percent of taxable returns showing capital gains.....	5.3

Distribution of returns showing capital gains (taxable returns only)

Income level	Returns showing gains		Reduction in income tax	
	Number	Percent of total	Amount (thousands)	Percent of total
Under \$5,000.....	782,495	31.7	\$76,412,000	3.0
\$5,000 to \$10,000.....	875,479	35.5	138,263,220	5.4
\$10,000 to \$20,000.....	490,395	19.9	202,117,140	7.9
\$20,000 to \$50,000.....	246,894	10.0	364,825,740	14.2
\$50,000 and over.....	71,018	2.9	1,786,981,280	69.5
Total.....	2,466,281	100.0	2,568,599,380	100.0

EBER BROS. WINE & LIQUOR CORP.—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 228)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I return herewith, without my approval, H.R. 2717, "For the relief of Eber Bros. Wine & Liquor Corp."

The bill would permit income tax refund claims for this corporation's taxable years 1947 and 1948 to be presently determined even though applicable statutes of limitations have long since expired.

This special relief should be granted, it is said, because a January 29, 1951, decision of the Tax Court—holding that a certain form of income should be treated as a capital gain rather than as ordinary income—came at a time when the statutory 3-year period for claiming a refund had only 6 months to run on this taxpayer's 1948 return and only 11 months to run on its 1947 return. Despite the remaining time it did have in each case, this taxpayer failed to file for a refund on this new basis until July 14, 1952—a year and a half after the Tax Court decision. Nor did the taxpayer take any other timely action to protect its position. The 1947 and 1948 claims were disallowed because not presented in time.

A judicial decision modifying or overturning a previously held view of the law is not an unusual circumstance in the development of our tax law. Taxpayers and their counsel often must take action or otherwise adjust because of such changes.

The effect of the Tax Court decision here involved was to change the tax treatment of a certain kind of income. This, as always, meant different things to different taxpayers according to their individual circumstances, but the point is that as of the date of the decision everybody's rights—no matter how they may have varied—were fixed. This bill now seeks to alter those rights for one taxpayer.

The record on this bill discloses no valid reason for such special relief. The taxpayer simply failed to protect his position within the time allowed him by law. The very purpose of the statute of limitations is to achieve finality in tax administration. Special relief in this case would undermine this purpose, would discriminate against other taxpayers, and would create an undesirable precedent.

For these reasons I am unable to approve this bill.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, September 14, 1959.

The SPEAKER. The objections of the President will be spread at large upon the Journal, and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.

There was no objection.