

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5029

To amend the Internal Revenue Code of 1986 to allow the private sector to create robust levels of economic growth.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2010

Mr. JORDAN of Ohio (for himself and Mr. CHAFFETZ) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to allow the private sector to create robust levels of economic growth.

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 “Economic Freedom  
5 Act of 2010”.

1 **SEC. 2. ZERO PERCENT CAPITAL GAINS RATE FOR INDIVID-**  
2 **UALS AND CORPORATIONS.**

3 (a) ZERO PERCENT CAPITAL GAINS RATE FOR INDI-  
4 VIDUALS.—

5 (1) IN GENERAL.—Paragraph (1) of section  
6 1(h) of the Internal Revenue Code of 1986 is  
7 amended by striking subparagraph (C), by redesignig-  
8 nating subparagraphs (D) and (E) and subpara-  
9 graphs (C) and (D), respectively, and by amending  
10 subparagraph (B) to read as follows:

11 “(B) 0 percent of the adjusted net capital  
12 gain (or, if less, taxable income);”.

13 (2) ALTERNATIVE MINIMUM TAX.—Paragraph  
14 (3) of section 55(b) is amended by striking subpara-  
15 graph (C), by redesignating subparagraph (D) as  
16 subparagraph (C), and by amending subparagraph  
17 (B) to read as follows:

18 “(B) 0 percent of the adjusted net capital  
19 gain (or, if less, taxable excess), plus”.

20 (3) REPEAL OF SUNSET OF REDUCTION IN CAP-  
21 ITAL GAINS RATES FOR INDIVIDUALS.—Section 303  
22 of the Jobs and Growth Tax Relief Reconciliation  
23 Act of 2003 shall not apply to section 301 of such  
24 Act.

25 (b) ZERO PERCENT CAPITAL GAINS RATE FOR COR-  
26 PORATIONS.—

1           (1) IN GENERAL.—Section 1201 of the Internal  
2 Revenue Code of 1986 is amended by redesignating  
3 subsection (b) as subsection (c), and by striking sub-  
4 section (a) and inserting the following new sub-  
5 sections:

6           “(a) GENERAL RULE.—If for any taxable year a cor-  
7 poration has a net capital gain, then, in lieu of the tax  
8 imposed by sections 11, 511, 821(a) or (c), and 831(a),  
9 there is hereby imposed a tax (if such tax is less than  
10 the tax imposed by such sections) which shall consist of  
11 the sum of—

12           “(1) a tax computed on the taxable income re-  
13 duced by the amount of the net capital gain, at the  
14 rates and in the manner as if this subsection had  
15 not been enacted,

16           “(2) 0 percent of the adjusted net capital gain  
17 (or, if less, taxable income),

18           “(3) 25 percent of the excess (if any) of—

19           “(A) the unrecaptured section 1250 gain  
20 (or, if less, the net capital gain (determined  
21 without regard to subsection (b)(2)), over

22           “(B) the excess (if any) of—

23           “(i) the sum of the amount on which  
24 tax is determined under paragraph (1)  
25 plus the net capital gain, over

1 “(ii) taxable income, plus

2 “(4) 28 percent of the amount of taxable in-  
3 come in excess of the sum of the amounts on which  
4 tax is determined under the preceding paragraphs of  
5 this subsection.

6 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-  
7 poses of this section—

8 “(1) IN GENERAL.—The terms ‘adjusted net  
9 capital gain’ and ‘unrecaptured section 1250 gain’  
10 shall have the respective meanings given such terms  
11 in section 1(h).

12 “(2) DIVIDENDS TAXED AT NET CAPITAL  
13 GAIN.—Except as otherwise provided in this section,  
14 the term ‘net capital gain’ has the meaning given  
15 such term in section 1(h)(11).”.

16 (2) ALTERNATIVE MINIMUM TAX.—Section  
17 55(b) of such Code is amended by adding at the end  
18 the following new paragraph:

19 “(4) MAXIMUM RATE OF TAX ON NET CAPITAL  
20 GAIN OF CORPORATIONS.—The amount determined  
21 under paragraph (1)(B)(i) shall not exceed the sum  
22 of—

23 “(A) the amount determined under such  
24 paragraph computed at the rates and in the  
25 same manner as if this paragraph had not been

1 enacted on the taxable excess reduced by the  
2 net capital gain, plus

3 “(B) the amount determined under section  
4 1201.”.

5 (3) TECHNICAL AMENDMENTS.—

6 (A) Section 1202(a) of such Code is  
7 amended by striking “50 percent” and inserting  
8 “100 percent”.

9 (B) Section 1445(e)(1) of such Code is  
10 amended by striking “35 percent (or, to the ex-  
11 tent provided in regulations, 15 percent)” and  
12 inserting “0 percent”.

13 (C) Section 1445(e)(2) of such Code is  
14 amended by striking “35 percent” and inserting  
15 “0 percent”.

16 (D) Section 7518(g)(6)(A) of such Code is  
17 amended by striking “15 percent (34 percent in  
18 the case of a corporation)” and inserting “0  
19 percent”.

20 (E) Section 607(h)(6)(A) of the Merchant  
21 Marine Act, 1936 is amended by striking “15  
22 percent (34 percent in the case of a corpora-  
23 tion)” and inserting “0 percent”.

24 (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), the amendments made by this section  
3           shall apply to taxable years beginning after Decem-  
4           ber 31, 2009.

5           (2) WITHHOLDING.—The amendments made by  
6           subparagraphs (A) and (B) of subsection (b)(3)  
7           shall take apply to dispositions and distributions  
8           after the date of the enactment of this Act.

9   **SEC. 3. REDUCTION IN CORPORATE INCOME TAX RATES.**

10          (a) IN GENERAL.—Subsection (b) of section 11 of the  
11          Internal Revenue Code of 1986 is amended to read as fol-  
12          lows:

13           “(b) AMOUNT OF TAX.—The amount of the tax im-  
14          posed by subsection (a) shall be 12.5 percent of taxable  
15          income.”.

16          (b) CONFORMING AMENDMENTS.—

17           (1) Section 55(b)(1)(B)(i) of such Code is  
18          amended by striking “20 percent” and inserting  
19          “12.5 percent”.

20           (2) Section 280C(e)(3)(B)(ii)(II) of such Code  
21          is amended by striking “maximum rate of tax under  
22          section 11(b)(1)” and inserting “rate of tax under  
23          section 11(b)”.

1           (3) Section 832(b)(1) of such Code is amended  
2           by striking “rates provided in section 11(b)” and in-  
3           serting “rate provided in section 11(b)”.

4           (4) Sections 244(a)(2)(B), 247(a)(2)(B),  
5           527(b)(1), 835(e), 852(b)(1), 857(b)(4)(A),  
6           860G(c)(1), 904(b)(3)(E)(ii)(II), and 1375(a) of  
7           such Code is amended by striking “highest rate of  
8           tax” and inserting “rate of tax”.

9           (5) Sections 860E(e)(2)(B), 860E(e)(6)(A)(ii),  
10          860K(d)(2)(A)(ii), 860K(e)(1)(B)(ii),  
11          1446(b)(2)(B), and 7874(e)(1)(B) of such Code are  
12          each amended by striking “highest rate of tax speci-  
13          fied in section 11(b)(1)” and inserting “rate of tax  
14          specified in section 11(b)”.

15          (6) Section 904(b)(3)(D)(ii) of such Code is  
16          amended by striking “(determined without regard to  
17          the last sentence of section 11(b)(1))”.

18          (7) Section 962 of such Code is amended by  
19          striking subsection (c) and by redesignating sub-  
20          section (d) as subsection (c).

21          (8) Section 1201(a) of such Code is amended—

22                 (A) by striking “35 percent (determined  
23                 without regard to the last 2 sentences of section  
24                 11(b)(1))” and inserting “15 percent”, and

1 (B) by striking “35 percent” in paragraph  
2 (2) and inserting “15 percent”.

3 (9) Section 1561(a) of such Code is amended—

4 (A) by striking paragraph (1) and by re-  
5 designating paragraphs (2), (3), and (4) as  
6 paragraphs (1), (2), and (3), respectively,

7 (B) by striking “The amounts specified in  
8 paragraph (1), the” and inserting “The”,

9 (C) by striking “paragraph (2)” and in-  
10 sserting “paragraph (1)”,

11 (D) by striking “paragraph (3)” both  
12 places it appears and inserting “paragraph  
13 (2)”,

14 (E) by striking “paragraph (4)” and in-  
15 sserting “paragraph (3)”, and

16 (F) by striking the fourth sentence.

17 (10) Subsection (b) of section 1561 of such  
18 Code is amended to read as follows:

19 “(b) CERTAIN SHORT TAXABLE YEARS.—If a cor-  
20 poration has a short taxable year which does not include  
21 a December 31 and is a component member of a controlled  
22 group of corporations with respect to such taxable year,  
23 then for purposes of this subtitle, the amount to be used  
24 in computing the accumulated earnings credit under sec-  
25 tion 535(c)(2) and (3) of such corporation for such taxable



1 year shall be the amount specified in subsection (a)(1) di-  
2 vided by the number of corporations which are component  
3 members of such group on the last day of such taxable  
4 year. For purposes of the preceding sentence, section  
5 1563(b) shall be applied as if such last day were sub-  
6 stituted for December 31.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2009.

10 **SEC. 4. ESTATE TAX REPEAL MADE PERMANENT.**

11 Section 901 of the Economic Growth and Tax Relief  
12 Reconciliation Act of 2001 shall not apply to title V of  
13 such Act.

14 **SEC. 5. ELECTION TO EXPENSE BUSINESS ASSETS.**

15 (a) IN GENERAL.—Section 179 of the Internal Rev-  
16 enue Code of 1986 is amended to read as follows:

17 **“SEC. 179. ELECTION TO EXPENSE CERTAIN DEPRECIABLE**  
18 **BUSINESS ASSETS.**

19 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
20 elect to treat the cost of any property to which this section  
21 applies as an expense which is not chargeable to capital  
22 account. Any cost so treated shall be allowed as a deduc-  
23 tion for the taxable year in which such property is placed  
24 in service.

25 “(b) PROPERTY TO WHICH SECTION APPLIES.—

1           “(1) IN GENERAL.—This section shall apply to  
2 property—

3           “(A) which is—

4                   “(i) tangible property (to which sec-  
5 tion 168 applies), or

6                   “(ii) computer software (as defined in  
7 section 197(e)(3)(B)) which is described in  
8 section 197(e)(3)(A)(i), to which section  
9 167 applies,

10           “(B) which is section 1245 property (as  
11 defined in section 1245(a)(3)) or 1250 property  
12 (as defined in section 1250(c)), and

13           “(C) which is acquired by purchase for use  
14 in the active conduct of a trade or business.

15           Such term shall not include any property described  
16 in section 50(b) and shall not include air condi-  
17 tioning or heating units.

18           “(2) PURCHASE DEFINED.—For purposes of  
19 paragraph (1), the term ‘purchase’ means any acqui-  
20 sition of property, but only if—

21           “(A) the property is not acquired from a  
22 person whose relationship to the person acquir-  
23 ing it would result in the disallowance of losses  
24 under section 267 or 707(b) (but, in applying  
25 section 267(b) and (c) for purposes of this sec-

1           tion, paragraph (4) of section 267(c) shall be  
2           treated as providing that the family of an indi-  
3           vidual shall include only his spouse, ancestors,  
4           and lineal descendants),

5           “(B) the property is not acquired by one  
6           component member of a controlled group from  
7           another component member of the same con-  
8           trolled group, and

9           “(C) the basis of the property in the hands  
10          of the person acquiring it is not determined—

11           “(i) in whole or in part by reference  
12           to the adjusted basis of such property in  
13           the hands of the person from whom ac-  
14           quired, or

15           “(ii) under section 1014(a) (relating  
16           to property acquired from a decedent).

17          “(3) COST.—For purposes of this section, the  
18          cost of property does not include so much of the  
19          basis of such property as is determined by reference  
20          to the basis of other property held at any time by  
21          the person acquiring such property.

22          “(4) CONTROLLED GROUP DEFINED.—For pur-  
23          poses of this section, the term ‘controlled group’ has  
24          the meaning assigned to it by section 1563(a), ex-  
25          cept that, for such purposes, the phrase ‘more than

1 50 percent’ shall be substituted for the phrase ‘at  
2 least 80 percent’ each place it appears in section  
3 1563(a)(1).

4 “(5) COORDINATION WITH SECTION 38.—No  
5 credit shall be allowed under section 38 with respect  
6 to any amount for which a deduction is allowed  
7 under subsection (a).

8 “(6) RECAPTURE IN CERTAIN CASES.—The  
9 Secretary shall, by regulations, provide for recap-  
10 turing the benefit under any deduction allowable  
11 under subsection (a) with respect to any property  
12 which is not used predominantly in a trade or busi-  
13 ness at any time.

14 “(c) ELECTION.—

15 “(1) IN GENERAL.—An election under this sec-  
16 tion for any taxable year shall—

17 “(A) specify the items of property to which  
18 the election applies, and

19 “(B) be made on the taxpayer’s return of  
20 the tax imposed by this chapter for the taxable  
21 year.

22 Such election shall be made in such manner as the  
23 Secretary may by regulations prescribe.

24 “(2) ELECTION IRREVOCABLE.—Any election  
25 made under this section, and any specification con-

1       tained in any such election, may not be revoked ex-  
2       cept with the consent of the Secretary.”.

3       (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act.

6 **SEC. 6. PAYROLL TAX DECREASE FOR 2010.**

7       (a) **EMPLOYEES.**—Section 3101 of the Internal Rev-  
8 enue Code of 1986 is amended by adding at the end the  
9 following new subsection:

10       “(d) **REDUCTION IN TAX RATE FOR 2010.**—In the  
11 case of wages received during calendar year 2010—

12               “(1) subsection (a) shall be applied by sub-  
13 stituting ‘3.1 percent’ for ‘6.2 percent’ in the table  
14 contained therein, and

15               “(2) subsection (b) shall be applied by sub-  
16 stituting ‘0.725 percent’ for ‘1.45 percent’ in para-  
17 graph (6) thereof.”.

18       (b) **EMPLOYERS.**—Section 3111 of such Code is  
19 amended by adding at the end the following new sub-  
20 section:

21       “(d) **REDUCTION IN TAX RATE FOR 2010.**—In the  
22 case of wages paid during calendar year 2010—

23               “(1) subsection (a) shall be applied by sub-  
24 stituting ‘3.1 percent’ for ‘6.2 percent’ in the table  
25 contained therein, and

1           “(2) subsection (b) shall be applied by sub-  
2           stituting ‘0.725 percent’ for ‘1.45 percent’ in para-  
3           graph (6) thereof.”.

4           (c) SELF-EMPLOYMENT.—Section 1401 of such Code  
5 is amended by adding at the end the following new sub-  
6 section:

7           “(d) REDUCTION IN TAX RATE FOR 2010.—In the  
8 case of a taxable year beginning in 2010—

9           “(1) subsection (a) shall be applied by sub-  
10           stituting ‘6.2 percent’ for ‘12.4 percent’ in the table  
11           contained therein, and

12           “(2) subsection (b) shall be applied by sub-  
13           stituting ‘1.45 percent’ for ‘2.90 percent’ in para-  
14           graph (6) thereof.”.

15           (d) EFFECTIVE DATE.—

16           (1) IN GENERAL.—Except as provided by para-  
17           graph (2), the amendments made by this section  
18           shall apply with respect to remuneration paid after  
19           December 31, 2009.

20           (2) SELF-EMPLOYMENT.—The amendment  
21           made by subsection (c) shall apply to taxable years  
22           beginning after December 31, 2009.

23 **SEC. 7. RESCISSION AND REPEAL IN ARRA.**

24           (a) RESCISSION.—Of the discretionary appropria-  
25           tions made available in division A of the American Recov-

1 ery and Reinvestment Act of 2009 (Public Law 111–5),  
2 all unobligated balances are rescinded.

3 (b) REPEAL.—Subtitles B and C of title II and titles  
4 III through VII of division B of the American Recovery  
5 and Reinvestment Act of 2009 (Public Law 111–5) are  
6 repealed.

7 **SEC. 8. TERMINATION OF TARP AUTHORITY.**

8 Section 120 of the Emergency Economic Stabilization  
9 Act of 2008 (12 U.S.C. 5230) is amended to read as fol-  
10 lows:

11 **“SEC. 120. TERMINATION OF AUTHORITY.**

12 “The authorities provided under sections 101(a), ex-  
13 cluding section 101(a)(3), and 102 shall terminate on the  
14 date of the enactment of the Economic Freedom Act of  
15 2010.”.

16 **SEC. 9. REQUIRING THE SALE OF STOCK AND WARRANTS**  
17 **RECEIVED UNDER TARP.**

18 Not later than the end of the 1-year period beginning  
19 on the date of the enactment of this Act, the Secretary  
20 of the Treasury shall sell all stock and warrants acquired  
21 by the Secretary under the Troubled Asset Relief Program  
22 under title I of the Emergency Economic Stabilization Act  
23 of 2008 (12 U.S.C. 5211 et seq.).

○