

Mr. McDERMOTT was recognized to speak to the point of order, and said:

"Yes, Mr. Speaker.

"Mr. Speaker, if I understand the ruling the Chair is about to make, you are saying for those who do not understand arcane tax law, if we raise taxes on people but we do it in a sneaky, kind of back-door way of doing it, that, Mr. Speaker, if we do it in a legislatively, carefully crafted way, we can get away with it. If we do it straight out and say to small business, your taxes go from 14 percent to 19 percent just like that, that would require a 60-percent vote. But if we can find some way parliamentarily to swing around it, whatever the effect on people is does not make any difference.

"Is that what the Chair is saying?"

Mr. LINDER was recognized to speak to the point of order, and said:

"Mr. Speaker, this does not seem all that complicated. It does not change any rates of taxation of capital gains. It excludes 50 percent of the gain. Therefore, you are taxed at the 39.6-percent tax rate. Fifty percent of any gain would be excluded, giving an effective rate of 19.8 percent, a lower effective rate.

"If you happen to be taxed at a 35-percent tax rate, 50 percent of the gain would be excluded, giving you a 17.5-percent tax. It lowers the effective rate in every instance by excluding half of the gain from any taxation at all."

The SPEAKER pro tempore, Mr. DREIER, overruled the point of order, and said:

"The Chair is prepared to rule.

"In deference to the specialized expertise that has been provided, the Chair rules that this bill does not include a Federal income tax rate increase."

Mr. MORAN appealed the ruling of the Chair.

Mr. ARCHER moved to lay the appeal on the table.

The question being put, viva voce,

Will the House lay on the table the appeal of the ruling of the Chair?

The SPEAKER pro tempore, Mr. DREIER, announced that the nays had it.

Mr. MFUME demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 228 Nays 204

¶56.16 [Roll No. 294] AYES—228

- Allard Archer Armye Bachus Baker (CA) Baker (LA) Ballenger Barr Barrett (NE) Bartlett Barton Bass Bateman Bereuter Bilbray Bilirakis Bliley Blute Boehlert Boehner Bonilla Bono Brownback Bryant (TN) Bunn Bunning Burr Burton Buyer Callahan Calvert Camp Canady

- Castle Chabot Chambliss Chenoweth Christensen Chrysler Clinger Coble Coburn Collins (GA) Combust Cooley Cox Crane Crapo Cremeans Cubin Cunningham Davis DeLay Diaz-Balart Dickey Doolittle Dornan Dreier Duncan Dunn Ehlers Ehrlich Emerson English Ensign Everett Ewing Fawell Fields (TX) Flanagan Foley Forbes Fowler Fox Franks (CT) Frelinghuysen Frisa Funderburk Gallegly Ganske Gekas Gilchrist Gillmor Gilman Gingrich Goodlatte Goodling Goss Graham Greenwood Gunderson Gutknecht Hancock Hansen Hastert Hastings (WA) Hayworth Hefley Heineman Herger Hilleary Hobson Hoekstra Hoke Horn Hostettler Houghton Hunter Hutchinson Hyde Inglis Istook Johnson (CT) Johnson, Sam Jones Kasich Kelly Kim King Kingston Klug Knollenberg Kolbe LaHood Largent Latham LaTourette Lazio Leach Lewis (CA) Lewis (KY) Lightfoot Linder Livingston LoBiondo Longley Lucas Manzullo Martini McCollum McCrery McDade McHugh McInnis McIntosh McKeon Metcalf Meyers Mica Miller (FL) Molinari Moorhead Morella Myers Myrick Nethercutt Neumann Ney Norwood Nussle Oxley Packard Paxon

NOES—204

- Abercrombie Ackerman Andrews Baesler Baldacci Barcia Barrett (WI) Becerra Beilenson Bentsen Berman Bevill Bishop Bonior Borski Boucher Brewster Browder Brown (CA) Brown (FL) Brown (OH) Bryant (TX) Cardin Chapman Clay Clayton Clement Clyburn Coleman Collins (IL) Collins (MI) Condit Conyers Costello Cramer Danner de la Garza Deal DeFazio DeLauro Dellums Deutsch Dicks Dingell Dixon Doggett Dooley Doyle Durbin Edwards Engel Eshoo Evans Farr Fattah Fazio Fields (LA) Filner Flake Foglietta Ford Frank (MA) Frost Furse Gejdenson

- Petri Pombo Porter Portman Pryce Quillen Quinn Radanovich Ramstad Regula Riggs Roberts Rogers Rohrabacher Ros-Lehtinen Roth Roukema Royce Salmon Sanford Saxton Scarborough Schaefer Schiff Seastrand Sensenbrenner Shadegg Shaw Shays Shuster Skeen Smith (MI) Smith (NJ) Smith (TX) Smith (WA) Solomon Spence Stearns Stockman Stump Talant Tate Taylor (NC) Thomas Thornberry Tiahrt Torkildsen Upton Vucanovich Waldholtz Walker Walsh Wamp Watts (OK) Weldon (FL) Weldon (PA) Weller White Whitfield Wicker Wolf Young (AK) Young (FL) Zeliff Zimmer

- Oberstar Obey Olver Ortiz Orton Owens Pallone Parker Pastor Payne (NJ) Payne (VA) Pelosi Peterson (FL) Peterson (MN) Pickett Pomeroy Poshard Rahall Rangel Reed Richardson Rivers Roemer Rose Roybal-Allard Rush Sabo Sanders Sawyer Schroeder Schumer Scott Serrano Sisisky Skaggs Skelton Slaughter Spratt Stark Stenholm Stokes Studds Stupak Tanner Tauzin Taylor (MS) Tejeda Thompson Thornton Thurman Torres Torricelli Towns Traficant Tucker Velazquez Vento Visclosky Volkmer Ward Waters Watt (NC) Waxman Williams Wilson Wise Woolsey Wyden Wynn Yates

NOT VOTING—3

- Franks (NJ) Reynolds Souder

So the motion to lay the appeal on the table was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

The question being put, viva voce, Will the House pass said bill?

The SPEAKER pro tempore, Mr. DREIER, announced that the yeas had it.

Mr. GIBBONS demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 246 Nays 188

¶56.17 [Roll No. 295] AYES—246

- Allard Callahan Dreier Andrews Calvert Duncan Archer Camp Dunn Armye Canady Ehlers Bachus Castle Ehrlich Baker (CA) Chabot Emerson Baker (LA) Chambliss English Ballenger Chenoweth Ensign Barr Christensen Everett Barrett (NE) Chrysler Ewing Bartlett Clement Fawell Barton Clinger Fields (TX) Bass Coble Flanagan Bateman Coburn Foley Bereuter Corliss (GA) Forbes Bevill Combust Fowler Bilbray Condit Fox Bilirakis Cooley Franks (CT) Bliley Cox Franks (NJ) Boehlert Cramer Frelinghuysen Boehner Crane Frisa Bonilla Crapo Funderburk Bono Cremeans Gallegly Brewster Cubin Ganske Browder Cunningham Gekas Brownback Danner Geren Bryant (TN) Deal Gilchrist Bunn DeLay Gillmor Bunning Diaz-Balart Gills Dickey Doolittle Gingrich Dornan Goodlatte Goodling