

free, democratic, and open society and shares the same ideals as we do.

On a foundation of mutual confidence and mutual benefit, bilateral relations between the United States and Taiwan will continue to grow.

INTRODUCTION OF LEGISLATION
ON SECTION 1032

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 10, 2002

Mr. NEAL of Massachusetts. Mr. Speaker, today I am re-introducing a modest bill to remove incentives for corporations to bet on their own stock. In recent weeks, the Wall Street Journal has reported on the downside risk of this behavior, with several well-known and otherwise successful U.S. corporations forced to recognize hundreds of millions of dollars in losses when a stock price dramatically decreased. What was a successful game during the bull market, has turned into a risky venture in the bear market with corporations forced to buy back stock at prices greatly in excess of market value. A more pernicious aspect of this transaction is that some corporations take the 'best of both worlds.' If they bet right and the price rises, they will pay no tax on the gain; if they bet wrong and it declines, they will simply deduct the loss.

This legislation would apply Internal Revenue Code section 1032 to all derivative contracts. The impact of this change is to prohibit corporations from recognizing gain or loss in derivative transactions to the extent the derivative purchased by the corporation involves its own stock.

Section 1032 states that a corporation generally does not recognize gain or loss on the receipt of money or other property in exchange for its own stock. In addition, a corporation does not recognize gain or loss when it redeems its own stock for cash. Section 1032, as originally enacted in 1954, simply recognized that there was no true economic gain or loss in these transactions.

However, the 1984 Deficit Reduction Act extended this policy to option contracts, recognizing the potential for tax avoidance inherent in these contracts. Since that time, the financial industry has developed a number of new types of derivative products. My legislation merely updates current law to include in section 1032 current and future forms of these new types of financial instruments.

On June 16, 1999, the Tax Section of the New York State Bar Association issued a report on section 1032 which recommended the changes discussed above. In addition, building on the work of the Treasury Department's budget recommendation, the Bar Association also recommended that Congress require a corporation that retires its stock and "substantially contemporaneously" enters into a contract to sell its stock forward at a fixed price, to recognize as income a time-value element. In effect, these two transactions provide a corporation with income that is economically similar to interest income but is tax-free. This legislation includes a provision that recognizes a time-value element, i.e., the version recommended by the Bar Association. The effective date of this legislation is for transactions entered into after date of enactment.

The problem identified in 1984 and in 1999 by the Department of the Treasury is best described in the New York State Bar Association Report. The report states, "We are concerned that all the inconsistencies described above (both in the general scope of section 1032 and in its treatment of retirements combined with forward sales) present whipsaw and abuse potential; the government faces the risk that income from some transactions will not be recognized even though those transactions are economically equivalent to taxable transactions. In addition, the government faces the risk that deductions are allowed for losses from transactions that are equivalent in substance to transactions that would produce nontaxable income, or—because taxpayers may take different positions under current law—even in the same form as such transactions. To avoid these inconsistencies, we believe it is necessary to amend section 1032."

Mr. Speaker, I consider the legislation I am introducing today to be a normal house-keeping chore, something the Committee on Ways and Means has done many times in the past and hopefully will do so in the near future in order to preserve the original intent of the law. As such, I hope it will be seen both in Congress and in the industry as relatively non-controversial, and that it can be added to an appropriate tax bill early in the next Congress. Despite the disappointing record this Congress has compiled to address the fallout from Enron, WorldCom, Tyco and other recent corporate failures, I am hopeful that the next Congress will quickly respond to eliminate provisions in our tax law encouraging such risky behavior by corporations.

TRIBUTE TO REGINA FISHER
ORIOI

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 10, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to Regina Fisher Oriol, who died in May of this year. She was a loving and caring wife and mother and a tireless champion in the fight to eliminate drunk-driving.

Born into a military family, Regina's primary home was Kentucky, where her Army career father was stationed at Fort Knox. Upon graduating from high school, she became a welder, a rare profession for a woman, and rose to the top of her field. Sadly, she was exposed to poor working conditions and developed "metal fume fever," which left her lungs permanently damaged. Deciding to end her career, which now included college welding instruction in western New Mexico, Regina became a full-time wife to husband, John, and a stay-at-home mom to son, Raymond, and daughter, Margaret.

In 1996, Regina's retired father, Franklin, was tragically killed by a drunk driver and, soon after, five others, from one family, were killed in the same manner in the Four Corners area of northwestern New Mexico. Determined to make a difference in the state's DWI fatality rate, Regina created the DWI "Victims' Remembrance Wall," which displayed photographs and stories of victims of drunk drivers,

and she was instrumental in the Wall becoming a traveling exhibit that raised public awareness. The display was placed on view several times in the state Capitol Rotunda in Santa Fe, drawing the attention of the governor, other state officials, and state legislators.

Regina's DWI eradication efforts continued. Because of assistance from her and many others, drive-up liquor windows were closed during my tenure as New Mexico's Attorney General. Regina also worked with state officials in implementing a state highway sign program to remind motorists not to drive while drinking. Over 130 signs now stand in various areas of New Mexico that both warn drivers of DWI and offer tribute to specific victims. The same program has been adopted in other states. Regina was subsequently named the first "Traffic Safety Ambassador of New Mexico" by the New Mexico Department of Transportation.

Regina's dedication was not limited to DWI-related events. She became a public servant volunteer with the local Child Support Division of state government, where she offered remedies to problems related to child support collection and distribution. Regina's efforts helped to increase funding for staff increases, procedure updates, and security enhancements.

Tragedy again struck Regina and her husband, John, in 1999 when both their son, Raymond, two days short of 17, and daughter Margaret, 11, were killed by an inattentive driver while passengers in a friend's car. Even though devastation and a broken heart were now constant companions, Regina continued to work faithfully on the causes in which she so passionately believed.

Regina Fisher Oriol was a generous, compassionate and remarkable individual, whose humanitarian efforts will never be forgotten. I ask my colleagues to join me today in recognizing the life of this extraordinary woman.

IN RECOGNITION OF REVEREND
C.C. CAMPBELL GILLON

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 10, 2002

Mr. BENTSEN. Mr. Speaker, I rise to honor Reverend C.C. Campbell Gillon, on the occasion of his retirement from his pastoral duties at the Presbyterian Congregation in Georgetown located in Washington, D.C., where he has faithfully served his congregation for more than 23 years. His retirement comes at the end of fifty years in the ministry.

The Presbyterian Congregation in Georgetown has over two hundred years of distinguished history, beginning in 1780, under the eminent Stephen Bloomer Balch, pupil of religious leader John Witherspoon and soldier of the Revolution. The church serves as the first Presbyterian Church in what was to become modern-day Washington, D.C., and the oldest church of any denomination with an unbroken ministry. A rare charter, still in effect, was granted in 1806 to "the Presbyterian Congregation in George Town" by an act of Congress signed by President Thomas Jefferson. The Presbyterian Congregation in Georgetown, pioneered in both the religious and cultural life of the community, has served as a cornerstone of faith in our nation's capital, attracting a wide variety of worshipers from political leaders to those seeking spiritual direction.