

105TH CONGRESS  
1ST SESSION

# H. R. 1193

To amend the Internal Revenue Code of 1986 to allow indexing of capital assets for purposes of determining gain or loss and to allow an exclusion of gain from the sale of a principal residence.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1997

Mr. ROYCE introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow indexing of capital assets for purposes of determining gain or loss and to allow an exclusion of gain from the sale of a principal residence.

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. INDEXING OF CAPITAL ASSETS.**

4 (a) IN GENERAL.—Part II of subchapter O of chap-  
5 ter 1 of the Internal Revenue Code of 1986 (relating to  
6 basis rules of general application) is amended by inserting  
7 after section 1021 the following new section:

1 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
2 **OF DETERMINING GAIN OR LOSS.**

3 “(a) IN GENERAL.—

4 “(1) INDEXED BASIS SUBSTITUTED FOR AD-  
5 JUSTED BASIS.—Except as otherwise provided in  
6 this section, if an indexed asset which the taxpayer  
7 has held for 1 year or longer is sold or otherwise dis-  
8 posed of, for purposes of this title the indexed basis  
9 of the asset shall be substituted for its adjusted  
10 basis.

11 “(2) EXCEPTION FOR DEPRECIATION, ETC.—

12 The deductions for depreciation, depletion, and am-  
13 ortization shall be determined without regard to the  
14 application of paragraph (1) to the taxpayer or any  
15 other person.

16 “(b) INDEXED ASSET.—For purposes of this section,  
17 the term ‘indexed asset’ means—

18 “(1) stock in a corporation,

19 “(2) bonds,

20 “(3) tangible property which is property used in  
21 the trade or business (as defined in section  
22 1231(b)),

23 “(4) land held in connection with a trade or  
24 business (other than property described in section  
25 1231(b)(1)(B)), and

1           “(5) the principal residence (within the mean-  
2           ing of section 1034) of the taxpayer.

3           “(c) INDEXED BASIS.—For purposes of this sec-  
4           tion—

5           “(1) IN GENERAL.—The indexed basis of any  
6           asset is—

7                   “(A) the adjusted basis of the asset, in-  
8                   creased by

9                   “(B) the applicable inflation adjustment.

10           “(2) APPLICABLE INFLATION ADJUSTMENT.—  
11           The applicable inflation adjustment for any asset is  
12           an amount equal to—

13                   “(A) the adjusted basis of the asset, multi-  
14                   plied by

15                   “(B) the percentage (if any) by which—

16                           “(i) the gross domestic product  
17                           deflator for the calendar year in which the  
18                           asset is disposed of, exceeds

19                           “(ii) the gross domestic product  
20                           deflator for the calendar year in which the  
21                           asset was acquired by the taxpayer (or, if  
22                           later, for 1986).

23           The percentage under subparagraph (B) shall be  
24           rounded to the nearest  $\frac{1}{10}$  of 1 percent.

1           “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—

2           The gross domestic product deflator for any cal-  
3           endar year is the implicit price deflator for the gross  
4           domestic product for such year (as shown in the  
5           first revision thereof).

6           “(d) NOT AN INDEXED ASSET AND HOLDING PE-  
7           RIOD RESTARTED IF DIMINISHED RISK OF LOSS.—If the  
8           taxpayer (or a related person) enters into any transaction  
9           which substantially reduces the risk of loss from holding  
10          any asset—

11           “(1) such asset shall not be treated as an in-  
12          dexed asset for the period of such reduced risk, and

13           “(2) for purposes of determining whether the 1-  
14          year holding requirement of subsection (a) has been  
15          met, the taxpayer shall be treated as first acquiring  
16          the asset on the day after the last day of such pe-  
17          riod.

18          “(e) PASS-THRU ENTITIES.—

19           “(1) PARTNERSHIPS.—In the case of a partner-  
20          ship, the adjustment made under subsection (a) at  
21          the partnership level shall be passed through to the  
22          partners.

23           “(2) SUBCHAPTER S CORPORATIONS.—In the  
24          case of an S corporation, the adjustment under sub-

1 section (a) at the corporate level shall be passed  
2 through to the shareholders.

3 “(3) COMMON TRUST FUNDS.—In the case of a  
4 common trust fund, the adjustment made under sub-  
5 section (a) at the trust level shall be passed through  
6 to the participants.

7 “(4) REGULATED INVESTMENT COMPANIES AND  
8 REAL ESTATE INVESTMENT TRUSTS.—

9 “(A) IN GENERAL.—Stock in a qualified  
10 investment entity shall be an indexed asset for  
11 any calendar month in the same ratio as the  
12 fair market value of the assets held by such en-  
13 tity at the close of such month which are in-  
14 dexed assets bears to the fair market value of  
15 all assets of such entity at the close of such  
16 month.

17 “(B) RATIO OF 90 PERCENT OR MORE.—If  
18 the ratio for any calendar month determined  
19 under subparagraph (A) would (but for this  
20 subparagraph) be 90 percent or more, such  
21 ratio for such month shall be 100 percent.

22 “(C) RATIO OF 10 PERCENT OR LESS.—If  
23 the ratio for any calendar month determined  
24 under subparagraph (A) would (but for this

1           subparagraph) be 10 percent or less, such ratio  
2           for such month shall be zero.

3           “(D) VALUATION OF ASSETS IN CASE OF  
4           REAL ESTATE INVESTMENT TRUSTS.—Nothing  
5           in this paragraph shall require a real estate in-  
6           vestment trust to value its assets more fre-  
7           quently than once each 36 months (except  
8           where such trust ceases to exist). The ratio  
9           under subparagraph (A) for any calendar  
10          month for which there is no valuation shall be  
11          the trustee’s good faith judgment as to such  
12          valuation.

13          “(E) QUALIFIED INVESTMENT ENTITY.—  
14          For purposes of this paragraph, the term  
15          ‘qualified investment entity’ means—

16                  “(i) a regulated investment company  
17                  (within the meaning of section 851), and

18                  “(ii) a real estate investment trust  
19                  (within the meaning of section 856).

20          “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

21                  “(1) IN GENERAL.—This section shall not apply  
22                  to any sale or other disposition of property between  
23                  related persons except to the extent that the basis  
24                  of such property in the hands of the transferee is a  
25                  substituted basis.

1           “(2) RELATED PERSONS DEFINED.—For pur-  
2           poses of this section, the term ‘related persons’  
3           means—

4                   “(A) persons bearing a relationship set  
5                   forth in section 267(b), and

6                   “(B) persons treated as single employer  
7                   under subsection (b) or (c) of section 414.

8           “(g) ADDITIONS TO BASIS BY MEANS OF IMPROVE-  
9           MENTS OR CONTRIBUTIONS TO CAPITAL.—If there is an  
10           addition to the adjusted basis of any tangible property or  
11           of any stock in a corporation during the taxable year by  
12           reason of an improvement to such property or a contribu-  
13           tion to capital of such corporation, and the aggregate  
14           amount of such addition during the taxable year with re-  
15           spect to such property or stock is \$10,000 or more, such  
16           addition shall be treated as a separate asset acquired at  
17           the close of such taxable year.

18           “(h) SECTION CANNOT INCREASE ORDINARY  
19           LOSS.—To the extent that (but for this subsection) this  
20           section would create or increase a net ordinary loss to  
21           which section 1231(a)(2) applies or an ordinary loss to  
22           which any other provision of this title applies, such provi-  
23           sion shall not apply. The taxpayer shall be treated as hav-  
24           ing a long-term capital loss in an amount equal to the

1 amount of the ordinary loss to which the preceding sen-  
2 tence applies.

3 “(i) SPECIAL RULES.—

4 “(1) ASSETS WHICH ARE NOT INDEXED ASSETS  
5 THROUGHOUT HOLDING PERIOD.—The applicable in-  
6 flation ratio shall be appropriately reduced for peri-  
7 ods during which the asset was not an indexed asset.

8 “(2) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a  
9 corporation which is not a dividend shall be treated  
10 as a disposition.  
11

12 “(3) ACQUISITION DATE WHERE PRIOR APPLI-  
13 CATION OF SUBSECTION (a)(1) WITH RESPECT TO  
14 SUCH ASSET OF TAXPAYER.—If there has been a  
15 prior application of subsection (a)(1) to an asset  
16 while such asset was held by the taxpayer, the date  
17 of acquisition of such asset by the taxpayer shall be  
18 treated as not earlier than the date of the most re-  
19 cent such prior application.

20 “(4) COLLAPSIBLE CORPORATIONS.—The appli-  
21 cation of section 341(a) (relating to collapsible cor-  
22 porations) shall be determined without regard to this  
23 section.

24 “(j) TRANSFERS TO INCREASE INDEXING ADJUST-  
25 MENT OR DEPRECIATION ALLOWANCE.—If any person

1 transfers cash, debt, or any other property to another per-  
 2 son and the principal purpose of such transfer is—

3 “(1) to secure or increase an adjustment under  
 4 subsection (a), or

5 “(2) to increase (by reason of an adjustment  
 6 under subsection (a)) a deduction for depreciation,  
 7 depletion, or amortization,

8 the Secretary may disallow part or all of such adjustment  
 9 or increase.”

10 (b) CLERICAL AMENDMENT.—The table of sections  
 11 for part II of subchapter O of chapter 1 is amended by  
 12 inserting after the item relating to section 1021 the follow-  
 13 ing new item:

“Sec. 1022. Indexing of certain assets for purposes of determining  
 gain or loss.”

14 (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to dispositions of property after  
 16 the date of the enactment of this Act.

17 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**  
 18 **RESIDENCE.**

19 (a) IN GENERAL.—Section 121 of the Internal Reve-  
 20 nue Code of 1986 (relating to one-time exclusion of gain  
 21 from sale of principal residence by individual who has at-  
 22 tained age 55) is amended to read as follows:

1 **“SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**  
2 **RESIDENCE.**

3 “(a) EXCLUSION.—Gross income shall not include  
4 gain from the sale or exchange of property which has been  
5 owned and used by the taxpayer as the taxpayer’s prin-  
6 cipal residence.

7 “(b) LIMITATION.—The amount of gain excluded  
8 under subsection (a) with respect to any sale or exchange  
9 shall not exceed \$250,000 (\$500,000 in the case of a joint  
10 return).

11 “(c) SPECIAL RULES.—

12 “(1) PROPERTY HELD JOINTLY BY HUSBAND  
13 AND WIFE.—For purposes of this section, if—

14 “(A) property is held by a husband and  
15 wife as joint tenants, tenants by the entirety, or  
16 community property,

17 “(B) such husband and wife make a joint  
18 return under section 6013 for the taxable year  
19 of the sale or exchange, and

20 “(C) one spouse satisfies the holding and  
21 use requirements of subsection (a) with respect  
22 to such property,

23 then both husband and wife shall be treated as satis-  
24 fying the holding and use requirements of subsection  
25 (a) with respect to such property.

1           “(2) PROPERTY OF DECEASED SPOUSE.—For  
2 purposes of this section, in the case of an unmarried  
3 individual whose spouse is deceased on the date of  
4 the sale or exchange of property, if the deceased  
5 spouse satisfied the holding and use requirements of  
6 subsection (a) with respect to such property then  
7 such individual shall be treated as satisfying the  
8 holding and use requirements of subsection (a) with  
9 respect to such property.

10           “(3) TENANT-STOCKHOLDER IN COOPERATIVE  
11 HOUSING CORPORATION.—For purposes of this sec-  
12 tion, if the taxpayer holds stock as a tenant-stock-  
13 holder (as defined in section 216) in a cooperative  
14 housing corporation (as defined in such section),  
15 then—

16           “(A) the holding requirements of sub-  
17 section (a) shall be applied to the holding of  
18 such stock, and

19           “(B) the use requirements of subsection  
20 (a) shall be applied to the house or apartment  
21 which the taxpayer was entitled to occupy as  
22 such stockholder.

23           “(4) INVOLUNTARY CONVERSIONS.—For pur-  
24 poses of this section, the destruction, theft, seizure,

1 requisition, or condemnation of property shall be  
2 treated as the sale of such property.

3 “(5) PROPERTY USED IN PART AS PRINCIPAL  
4 RESIDENCE.—In the case of property only a portion  
5 of which has been owned and used by the taxpayer  
6 as his principal residence, this section shall apply  
7 with respect to so much of the gain from the sale  
8 or exchange of such property as is determined,  
9 under regulations prescribed by the Secretary, to be  
10 attributable to the portion of the property so owned  
11 and used by the taxpayer.

12 “(6) DETERMINATION OF MARITAL STATUS.—  
13 In the case of any sale or exchange, for purposes of  
14 this section—

15 “(A) the determination of whether an indi-  
16 vidual is married shall be made as of the date  
17 of the sale or exchange; and

18 “(B) an individual legally separated from  
19 his spouse under a decree of divorce or of sepa-  
20 rate maintenance shall not be considered as  
21 married.

22 “(7) APPLICATION OF SECTIONS 1033 AND  
23 1034.—In applying sections 1033 (relating to invol-  
24 untary conversions) and 1034 (relating to sale or ex-  
25 change of residence), the amount realized from the

1 sale or exchange of property shall be treated as  
2 being the amount determined without regard to this  
3 section, reduced by the amount of gain not included  
4 in gross income pursuant to an election under this  
5 section.

6 “(8) PROPERTY ACQUIRED AFTER INVOLUN-  
7 TARY CONVERSION.—If the basis of the property  
8 sold or exchanged is determined (in whole or in  
9 part) under subsection (b) of section 1033 (relating  
10 to basis of property acquired through involuntary  
11 conversion), then the holding and use by the tax-  
12 payer of the converted property shall be treated as  
13 holding and use by the taxpayer of the property sold  
14 or exchanged.

15 “(9) DETERMINATION OF USE DURING PERIODS  
16 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-  
17 payer who—

18 “(A) becomes physically or mentally in-  
19 capable of self-care, and

20 “(B) owns property and has previously  
21 used such property as the taxpayer’s principal  
22 residence,

23 then the taxpayer shall be treated as using such  
24 property as the taxpayer’s principal residence during  
25 any time in which the taxpayer owns the property

1 and resides in any facility (including a nursing  
2 home) licensed by a State or political subdivision to  
3 care for an individual in the taxpayer's condition.

4 “(d) ELECTION TO HAVE SECTION NOT APPLY.—  
5 This section shall not apply to any sale or exchange with  
6 respect to which the taxpayer elects not to have this sec-  
7 tion apply.”

8 (b) CLERICAL AND CONFORMING AMENDMENTS.—

9 (1) Paragraph (3) of section 1033(k) of such  
10 Code is amended to read as follows:

11 “(3) For exclusion from gross income of gain  
12 from involuntary conversion of principal residence,  
13 see section 121.”

14 (2) Subparagraph (A) of section 1038(e)(1) of  
15 such Code is amended to read as follows:

16 “(A) section 121 (relating to exclusion of  
17 gain from sale or exchange of principal resi-  
18 dence) applies, or”.

19 (3) Subparagraph (B) of section 1250(d)(7) of  
20 such Code is amended by striking “age and” and by  
21 striking the parenthetical and inserting the follow-  
22 ing: “(relating to exclusion of gain from sale of prin-  
23 cipal residence)”.

24 (4) The table of sections for part III of sub-  
25 chapter B of chapter 1 of such Code is amended by

1 striking the item relating to section 121 and insert-  
2 ing the following new item:

“Sec. 121. Exclusion of gain from sale of principal residence.”

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to sales and exchanges after the  
5 date of the enactment of this Act.

○