

105TH CONGRESS
1ST SESSION

H. R. 2310

To amend the Internal Revenue Code of 1986 to exclude from income capital gain from the sale of a principal residence.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1997

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

A BILL

To amend the Internal Revenue Code of 1986 to exclude from income capital 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. EXCLUSION FROM INCOME OF GAIN FROM**
4 **SALE OF PRINCIPAL RESIDENCE.**

5 (a) IN GENERAL.—Section 121 of the Internal Reve-
6 nue Code of 1986 is amended to read as follows:

7 **“SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**
8 **RESIDENCE.**

9 “(a) GENERAL RULE.—Gross income does not in-
10 clude gain from the sale or exchange of property if, during

1 the 5-year period ending on the date of the sale or ex-
2 change, such property has been owned and used by the
3 taxpayer as his principal residence for periods aggregating
4 3 years or more.

5 “(b) SPECIAL RULES.—

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

8 “(A) property is held by a husband and
9 wife as joint tenants, tenants by the entirety, or
10 community property,

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

14 “(C) one spouse satisfies the holding and
15 use requirements of subsection (a) with respect
16 to such property,

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

20 “(2) PROPERTY OF DECEASED SPOUSE.—For
21 purposes of this section, in the case of an unmarried
22 individual whose spouse is deceased on the date of
23 the sale or exchange of property, if the deceased
24 spouse (during the 5-year period ending on the date
25 of the sale or exchange) satisfied the holding and

1 use requirements of subsection (a) with respect to
2 such property, then such individual shall be treated
3 as satisfying the holding and use requirements of
4 subsection (a) with respect to such property.

5 “(3) TENANT-STOCKHOLDER IN COOPERATIVE
6 HOUSING CORPORATION.—For purposes of this sec-
7 tion, if the taxpayer holds stock as a tenant-stock-
8 holder (as defined in section 216) in a cooperative
9 housing corporation (as defined in such section),
10 then—

11 “(A) the holding requirements of sub-
12 section (a) shall be applied to the holding of
13 such stock, and

14 “(B) the use requirements of subsection
15 (a) shall be applied to the house or apartment
16 which the taxpayer was entitled to occupy as
17 such stockholder.

18 “(4) INVOLUNTARY CONVERSIONS.—For pur-
19 poses of this section, the destruction, theft, seizure,
20 requisition, or condemnation of property shall be
21 treated as the sale of such property.

22 “(5) PROPERTY USED IN PART AS PRINCIPAL
23 RESIDENCE.—In the case of property only a portion
24 of which, during the 5-year period ending on the
25 date of the sale or exchange, has been owned and

1 used by the taxpayer as his principal residence for
2 periods aggregating 3 years or more, this section
3 shall apply with respect to so much of the gain from
4 the sale or exchange of such property as is deter-
5 mined, under regulations prescribed by the Sec-
6 retary, to be attributable to the portion of the prop-
7 erty so owned and used by the taxpayer.

8 “(6) DETERMINATION OF MARITAL STATUS.—

9 In the case of any sale or exchange, for purposes of
10 this section—

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

14 “(B) an individual legally separated from
15 his spouse under a decree of divorce or of sepa-
16 rate maintenance shall not be considered as
17 married.

18 “(7) APPLICATION OF SECTION 1033.—In apply-
19 ing section 1033 (relating to involuntary conver-
20 sions), the amount realized from the sale or ex-
21 change of property shall be treated as being the
22 amount determined without regard to this section,
23 reduced by the amount of gain not included in gross
24 income pursuant to an election under this section.

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

10 “(9) DETERMINATION OF USE DURING PERIODS
11 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-
12 payer who—

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

15 “(B) owns property and uses such property
16 as the taxpayer’s principal residence during the
17 5-year period described in subsection (a) for pe-
18 riods aggregating at least 1 year,

19 then the taxpayer shall be treated as using such
20 property as the taxpayer’s principal residence during
21 any time during such 5-year period in which the tax-
22 payer owns the property and resides in any facility
23 (including a nursing home) licensed by a State or
24 political subdivision to care for an individual in the
25 taxpayer’s condition.

1 “(c) ELECTION TO HAVE SECTION NOT APPLY.—If
2 the taxpayer so elects with respect to any sale or exchange,
3 this section shall not apply to such sale or exchange.”

4 (b) REPEAL OF NONRECOGNITION OF GAIN ON
5 ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 of
6 such Code (relating to rollover of gain on sale of principal
7 residence) is hereby repealed.

8 (c) CLERICAL AND CONFORMING AMENDMENTS.—

9 (1) The following provisions of the Internal
10 Revenue Code of 1986 are each amended by striking
11 “section 1034” and inserting “section 121”: sections
12 25(e)(7), 56(e)(1)(A), 56(e)(3)(B)(i),
13 143(i)(1)(C)(i)(I), 163(h)(4)(A)(i)(I),
14 280A(d)(4)(A), 464(f)(3)(B)(i), 1033(h)(4),
15 1274(e)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

16 (2) Paragraph (4) of section 32(c) of such Code
17 is amended by striking “(as defined in section
18 1034(h)(3))” and by adding at the end the following
19 new sentence: “For purposes of the preceding sen-
20 tence, the term ‘extended active duty’ means any pe-
21 riod of active duty pursuant to a call or order to
22 such duty for a period in excess of 90 days or for
23 an indefinite period.”

24 (3) Subparagraph (A) of 143(m)(6) of such
25 Code is amended by inserting “(as in effect on the

1 day before the date of the enactment of the Revenue
2 Reconciliation Act of 1997)” after “1034(e)”.

3 (4) Subsection (e) of section 216 of such Code
4 is amended by striking “such exchange qualifies for
5 nonrecognition of gain under section 1034(f)” and
6 inserting “such dwelling unit is used as his principal
7 residence (within the meaning of section 121)”.

8 (5) Section 512(a)(3)(D) of such Code is
9 amended by inserting “(as in effect on the day be-
10 fore the date of the enactment of this parenthet-
11 ical)” after “1034”.

12 (6) Paragraph (7) of section 1016(a) of such
13 Code is amended by inserting “(as in effect on the
14 day before the date of the enactment of this par-
15 enthetical)” after “1034” and by inserting “(as so
16 in effect)” after “1034(e)”.

17 (7) Paragraph (3) of section 1033(k) of such
18 Code is amended to read as follows:

19 “(3) For exclusion from gross income of gain
20 from involuntary conversion of principal residence,
21 see section 121.”

22 (8) Subsection (e) of section 1038 of such Code
23 is amended to read as follows:

24 “(e) PRINCIPAL RESIDENCES.—If—

1 “(1) subsection (a) applies to a reacquisition of
2 real property with respect to the sale of which gain
3 was not recognized under section 121 (relating to
4 gain on sale of principal residence); and

5 “(2) within 1 year after the date of the reacqui-
6 sition of such property by the seller, such property
7 is resold by him,

8 then, under regulations prescribed by the Secretary, sub-
9 sections (b), (c), and (d) of this section shall not apply
10 to the reacquisition of such property and, for purposes of
11 applying section 121, the resale of such property shall be
12 treated as a part of the transaction constituting the origi-
13 nal sale of such property.”

14 (9) Paragraph (7) of section 1223 of such Code
15 is amended by inserting “(as in effect on the day be-
16 fore the date of the enactment of this parenthet-
17 ical)” after “1034”.

18 (10) Paragraph (7) of section 1250(d) of such
19 Code is amended to read as follows:

20 “(7) DISPOSITION OF PRINCIPAL RESIDENCE.—
21 Subsection (a) shall not apply to a disposition of
22 property to the extent used by the taxpayer as his
23 principal residence (within the meaning of section
24 121, relating to gain on sale of principal residence).”

1 (11) Subsection (c) of section 6012 of such
2 Code is amended by striking “(relating to one-time
3 exclusion of gain from sale of principal residence by
4 individual who has attained age 55)” and inserting
5 “(relating to gain from sale of principal residence)”.

6 (12) Paragraph (2) of section 6212(c) of such
7 Code is amended by striking subparagraph (C) and
8 by redesignating the succeeding subparagraphs ac-
9 cordingly.

10 (13) Section 6504 of such Code is amended by
11 striking paragraph (4) and by redesignating the suc-
12 ceeding paragraphs accordingly.

13 (14) The item relating to section 121 in the
14 table of sections for part III of subchapter B of
15 chapter 1 of such Code is amended to read as fol-
16 lows:

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

17 (15) The table of sections for part III of sub-
18 chapter O of chapter 1 of such Code is amended by
19 striking the item relating to section 1034.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to sales and exchanges occurring
22 after _____.

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