

105TH CONGRESS  
1ST SESSION

# H. R. 442

To amend the Internal Revenue Code of 1986 to exclude from gross income up to \$500,000 of gain on the sale of a principal residence and up to \$500,000 of gain on the sale of farmland.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. SMITH of Michigan (for himself and Mrs. CHENOWETH) 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 exclude from gross income up to \$500,000 of gain on the sale of a principal residence and up to \$500,000 of gain on the sale of farmland.

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 OF GAIN ON SALE OF PRINCIPAL**  
4 **RESIDENCE.**

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

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

3 “(a) GENERAL RULE.—Gross income does not in-  
4 clude gain from the sale or exchange of property if, during  
5 the 5-year period ending on the date of the sale or ex-  
6 change, such property has been owned and used by the  
7 taxpayer as his principal residence for periods aggregating  
8 3 years or more.

9 “(b) DOLLAR LIMITATION.—The amount of the gain  
10 excluded from gross income under subsection (a) shall not  
11 exceed \$500,000 (\$250,000 in the case of a separate re-  
12 turn by a married individual).

13 “(c) SPECIAL RULES.—

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

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

19 “(B) such husband and wife make a joint  
20 return for the taxable year of the sale or ex-  
21 change, and

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

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

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

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

20 “(A) the holding requirements of sub-  
21 section (a) shall be applied to the holding of  
22 such stock, and

23 “(B) the use requirements of subsection  
24 (a) shall be applied to the house or apartment

1           which the taxpayer was entitled to occupy as  
2           such stockholder.

3           “(4) INVOLUNTARY CONVERSIONS.—

4                   “(A) IN GENERAL.—For purposes of this  
5           section, the destruction, theft, seizure, requisition,  
6           or condemnation of property shall be  
7           treated as the sale of such property.

8                   “(B) PROPERTY ACQUIRED AFTER INVOL-  
9           UNTARY CONVERSION.—If the basis of the  
10          property sold or exchanged is determined (in  
11          whole or in part) under subsection (b) of sec-  
12          tion 1033 (relating to basis of property ac-  
13          quired through involuntary conversion), then  
14          the holding and use by the taxpayer of the con-  
15          verted property shall be treated as holding and  
16          use by the taxpayer of the property sold or ex-  
17          changed.

18                  “(5) APPLICATION OF SECTIONS 1033 AND  
19          1034.—In applying sections 1033 (relating to invol-  
20          untary conversions) and 1034 (relating to sale or ex-  
21          change of residence), the amount realized from the  
22          sale or exchange of property shall be treated as  
23          being the amount determined without regard to this  
24          section, reduced by the amount of gain not included  
25          in gross income under this section.

1           “(6) PROPERTY USED IN PART AS PRINCIPAL  
2 RESIDENCE.—In the case of property only a portion  
3 of which, during the 5-year period ending on the  
4 date of the sale or exchange, has been owned and  
5 used by the taxpayer as his principal residence for  
6 periods aggregating 3 years or more, this section  
7 shall apply with respect to so much of the gain from  
8 the sale or exchange of such property as is deter-  
9 mined, under regulations prescribed by the Sec-  
10 retary, to be attributable to the portion of the prop-  
11 erty so owned and used by the taxpayer.

12           “(7) 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           “(8) DETERMINATION OF USE DURING PERIODS  
23 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-  
24 payer who—

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

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

7           then the taxpayer shall be treated as using such  
8           property as the taxpayer’s principal residence during  
9           any time during such 5-year period in which the tax-  
10          payer owns the property and resides in any facility  
11          (including a nursing home) licensed by a State or  
12          political subdivision to care for an individual in the  
13          taxpayer’s condition.”

14          (b) TECHNICAL AMENDMENTS.—

15                 (1)         Sections         1033(k)(3),         1034(l),  
16                 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) of such  
17                 Code are each amended by striking “who has at-  
18                 tained age 55”.

19                 (2)         The table of sections for part III of sub-  
20                 chapter B of chapter 1 of such Code is amended by  
21                 striking the item relating to section 121 and insert-  
22                 ing the following:

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

23                 (c) EFFECTIVE DATE.—The amendments made by  
24                 this section shall apply to sales and exchanges after De-  
25                 cember 31, 1996.

1 **SEC. 2. EXCLUSION OF GAIN ON SALE OF FARMLAND.**

2 (a) IN GENERAL.—Part III of subchapter B of chap-  
3 ter 1 of the Internal Revenue Code of 1986 (relating to  
4 items specifically excluded from gross income) is amended  
5 by inserting after section 121 the following new section:

6 **“SEC. 121A. EXCLUSION OF GAIN FROM SALE OF FARM-**  
7 **LAND.**

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

10 “(1) such property is owned by the taxpayer  
11 throughout the 3-year period ending on the date of  
12 the sale or exchange, and

13 “(2) during the 5-year period ending on such  
14 date, such property has been used by any person as  
15 a farm for farming purposes (as defined in section  
16 2032A(e)) for periods aggregating 3 years or more.

17 “(b) DOLLAR LIMITATION.—The amount of the gain  
18 excluded from gross income under subsection (a) shall not  
19 exceed \$500,000 (\$250,000 in the case of a separate re-  
20 turn by a married individual).

21 “(c) SPECIAL RULES.—Rules similar to the rules of  
22 paragraphs (1), (2), and (7) of section 121(d) shall apply  
23 for purposes of this section.”

1           (b) CLERICAL AMENDMENT.—The table of sections  
2 for such part III is amended by inserting after the item  
3 relating to section 121 the following new item:

                  “Sec. 121A. Exclusion of gain from sale of farmland.”

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to sales and exchanges after De-  
6 cember 31, 1996.

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