

106TH CONGRESS  
1ST SESSION

# H. R. 3394

To amend the Internal Revenue Code of 1986 to provide individuals with an election to reduce the basis of depreciable real property in lieu of gain recognition on such property.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. McCREERY 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 provide individuals with an election to reduce the basis of depreciable real property in lieu of gain recognition on such property.

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. SHORT TITLE.**

4 This Act may be cited as the “Real Estate Flexibility  
5 Act of 1999”.

1 **SEC. 2. ELECTION TO REDUCE BASIS IN LIEU OF GAIN REC-**  
2 **OGNITION ON DISPOSITION BY INDIVIDUALS**  
3 **OF DEPRECIABLE REAL PROPERTY.**

4 (a) IN GENERAL.—Section 1001 of the Internal Rev-  
5 enue Code of 1986 (relating to the determination of  
6 amount of and recognition of gain or loss) is amended by  
7 adding the following new subsection:

8 “(f) ELECTION TO REDUCE BASIS AND EXCLUDE  
9 PORTION OF DEBT ASSUMPTION.—

10 “(1) IN GENERAL.—In the case of an indi-  
11 vidual, if—

12 “(A) there is a disposition of real property  
13 located in the United States and held by the  
14 taxpayer for investment or used in a trade or  
15 business of the taxpayer,

16 “(B) such disposition is to an unrelated  
17 person, and

18 “(C) as part of such disposition, any  
19 amount of qualified debt is discharged or is as-  
20 sumed by an unrelated person,

21 the taxpayer may elect to reduce the amount real-  
22 ized on such disposition by the amount described in  
23 subparagraph (C).

24 “(2) LIMITATION.—The amount of the reduc-  
25 tion under paragraph (1) shall not exceed the  
26 amount which would result in the tax imposed by

1 section 1 on the disposition being below the aggre-  
2 gate amount of money and marketable securities  
3 (and other property that is readily convertible into,  
4 or exchangeable, for money or marketable securities)  
5 received by the taxpayer as consideration for such  
6 disposition.

7 “(3) BASIS REDUCTION.—

8 “(A) IN GENERAL.—The amount of the re-  
9 duction under this subsection with respect to  
10 any disposition during a taxable year shall be  
11 applied to reduce the basis of depreciable real  
12 property located in the United States and held  
13 by the taxpayer at the beginning of the suc-  
14 ceeding taxable year.

15 “(B) DEPRECIABLE REAL PROPERTY.—

16 For purposes of this paragraph, the term ‘de-  
17 preciable real property’ means—

18 “(i) any real property of a character  
19 subject to the allowance for depreciation,  
20 but only if the basis reduction will reduce  
21 the amount of depreciation or amortization  
22 that otherwise would be allowable for the  
23 period immediately following such reduc-  
24 tion, and

1           “(ii) any interest in a partnership to  
2           the extent such interest would be described  
3           in section 1017(a)(3)(C) if such section  
4           only referred to property described in  
5           clause (i) of this subparagraph.

6           “(C) MANNER OF REDUCTION.—The man-  
7           ner in which basis is reduced under this sub-  
8           section shall be the same as under section  
9           1017.

10          “(4) QUALIFIED DEBT.—For purposes of para-  
11          graph (1), the term ‘qualified debt’ means, with re-  
12          spect to any property, indebtedness secured by such  
13          property throughout the 2-year period ending on the  
14          date of the disposition of such property but only if  
15          such indebtedness is taken into account in deter-  
16          mining the amount realized on the disposition. In-  
17          debtedness secured by such property which results  
18          from the refinancing of indebtedness securing such  
19          property shall be treated as a continuation of the  
20          prior indebtedness but only to the extent that the  
21          amount of the indebtedness resulting from such refi-  
22          nancing does not exceed the amount of the refi-  
23          nanced indebtedness.

1           “(5) UNRELATED PERSON.—For purposes of  
2 this subsection, persons are unrelated unless their  
3 relationship is described in section 267(b) or 707(b).

4           “(6) REGULATIONS.—The Secretary shall pre-  
5 scribe such regulations as are necessary to apply this  
6 subsection to dispositions made by partnerships and  
7 S corporations.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to dispositions occurring on or  
10 after the date of the enactment of this Act.

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