

109TH CONGRESS
1ST SESSION

H. R. 3803

To amend the Internal Revenue Code of 1986 to allow certain surviving spouses to exclude up to \$500,000 of gain from the sale of a principal residence.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2005

Mrs. MCCARTHY 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 allow certain surviving spouses to exclude up to \$500,000 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. INCREASED EXCLUSION OF GAIN FROM SALE**
4 **OF PRINCIPAL RESIDENCE FOR CERTAIN**
5 **SURVIVING SPOUSES.**

6 (a) IN GENERAL.—Subsection (b) of section 121 of
7 the Internal Revenue Code of 1986 (relating to the exclu-
8 sion of gain from the sale of a principal residence) is
9 amended by redesignating paragraph (3) as paragraph (4)

1 and by inserting after paragraph (2) the following new
2 paragraph:

3 “(3) SPECIAL RULES FOR SURVIVING
4 SPOUSES.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraphs (C) and (D), in the case of a
7 sale or exchange of property by an unmarried
8 individual whose spouse is deceased on the date
9 of the sale or exchange, paragraph (1) shall, at
10 the election of such individual, be applied by
11 substituting ‘\$500,000’ for ‘\$250,000’ if—

12 “(i) such individual remains unmar-
13 ried at all times after the date of death of
14 such spouse and before the date of the sale
15 or exchange,

16 “(ii) the sale or exchange occurs be-
17 fore the close of the second calendar year
18 ending after the date of death of such
19 spouse, and

20 “(iii) the requirements of paragraph
21 (2)(A) would have been met if such prop-
22 erty had been sold immediately before the
23 death of such spouse.

24 “(B) OTHER SURVIVING SPOUSES.—Ex-
25 cept as provided in subparagraphs (C) and (D),

1 if the unmarried individual would have met the
2 requirements of subparagraph (A) but for fail-
3 ure to meet the requirements of subparagraph
4 (A)(iii), then the limitation under paragraph (1)
5 shall be the the sum of the limitations under
6 paragraph (1) to which such individual and
7 such spouse would be entitled had they not been
8 married. For purposes of the preceding sen-
9 tence, such individual and spouse shall be treat-
10 ed as owning the property during the period
11 that either of them owned the property, and
12 subsection (d)(2) shall not apply.

13 “(C) MAXIMUM EXCLUSION LIMITED TO
14 NET UNREALIZED GAIN AT DEATH.—The limi-
15 tations determined under subparagraphs (A)
16 and (B) shall not exceed the excess of—

17 “(i) the fair market value of the prop-
18 erty on the date of the decedent’s death,
19 over

20 “(ii) the adjusted basis of such prop-
21 erty on such date (determined without re-
22 gard to any adjustment under section
23 1014).

24 “(D) MAXIMUM EXCLUSION REDUCED BY
25 BASIS STEP-UP AT DEATH.—The limitations de-

1 terminated under subparagraphs (A) and (B),
2 after the application of subparagraph (C), shall
3 be reduced (but not below \$250,000) by any in-
4 crease in the adjusted basis of such property
5 under section 1014 on account of the decedent's
6 death.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Clause (iii) of section 121(b)(2)(A) of such
9 Code is amended by striking “paragraph (3)” and
10 inserting “paragraph (4)”.

11 (2) Paragraph (1) of Section 121(e) of such
12 Code is amended by striking “subsection (b)(3)” and
13 inserting “subsection (b)(4)” and by striking “para-
14 graph (1) or (2)” and inserting “paragraph (1), (2),
15 or (3)”.

16 (3) Clause (ii) of section 121(c)(2)(A) by strik-
17 ing “subsection (b)(3)” and inserting “subsection
18 (b)(4)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to sales and exchanges after De-
21 cember 31, 2005, in taxable years ending after such date.

○