

105TH CONGRESS  
1ST SESSION

# H. R. 1391

To amend the Internal Revenue Code of 1986 to provide an exemption  
from tax for gain on sale of a principal residence.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 1997

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ACKERMAN, and Mrs. KELLY)  
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  
an exemption from tax for gain on 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. SHORT TITLE.**

4 This Act may be cited as the “Principal Residence  
5 Tax Exclusion Act of 1997”.

6 **SEC. 2. EXEMPTION FROM TAX FOR GAIN ON SALE OF PRIN-**  
7 **CIPAL RESIDENCE.**

8 (a) IN GENERAL.—Section 121 of the Internal Reve-  
9 nue Code of 1986 (relating to one-time exclusion of gain

1 from sale of principal residence by individual who has at-  
 2 tained age 55) is amended to read as follows:

3 **“SEC. 121. EXCLUSION OF GAIN FROM SALE OF PRINCIPAL**  
 4 **RESIDENCE.**

5 “(a) EXCLUSION.—Gross income shall not include  
 6 gain from the sale or exchange of property if, during the  
 7 5-year period ending on the date of the sale or exchange,  
 8 such property has been owned and used by the taxpayer  
 9 as the taxpayer’s principal residence for periods aggregat-  
 10 ing 2 years or more.

11 “(b) LIMITATIONS.—

12 “(1) DOLLAR LIMITATION.—The amount of  
 13 gain excluded from gross income under subsection  
 14 (a) with respect to any sale or exchange shall not ex-  
 15 ceed \$250,000 (\$500,000 in the case of a joint re-  
 16 turn where both spouses meet the use requirement  
 17 of subsection (a)).

18 “(2) APPLICATION TO ONLY 1 SALE OR EX-  
 19 CHANGE EVERY 2 YEARS.—

20 “(A) IN GENERAL.—Subsection (a) shall  
 21 not apply to any sale or exchange by the tax-  
 22 payer if, during the 2-year period ending on the  
 23 date of such sale or exchange, there was any  
 24 other sale or exchange by the taxpayer or his  
 25 spouse to which subsection (a) applied.

1           “(B) PREMARRIAGE SALES BY SPOUSE  
 2           NOT TAKEN INTO ACCOUNT.—If, but for this  
 3           subparagraph, subsection (a) would not apply  
 4           to a sale or exchange by a married individual  
 5           by reason of a sale or exchange by such individ-  
 6           ual’s spouse before their marriage—

7                   “(i) subparagraph (A) shall be applied  
 8                   without regard to the sale or exchange by  
 9                   such individual’s spouse, but

10                   “(ii) the amount of gain excluded  
 11                   from gross income under subsection (a)  
 12                   with respect to the sale or exchange by  
 13                   such individual shall not exceed \$250,000.

14           “(C) PRE-1997 SALES NOT TAKEN INTO AC-  
 15           COUNT.—Subparagraph (A) shall be applied  
 16           without regard to any sale or exchange before  
 17           January 1, 1997.

18           “(c) EXCLUSION FOR TAXPAYERS FAILING TO MEET  
 19           CERTAIN REQUIREMENTS.—

20                   “(1) IN GENERAL.—In the case of a sale or ex-  
 21                   change to which this subsection applies, the owner-  
 22                   ship and use requirements of subsection (a) shall not  
 23                   apply and subsection (b)(2) shall not apply; but the  
 24                   amount of gain excluded from gross income under

1 subsection (a) with respect to such sale of exchange  
2 shall not exceed—

3 “(A) the amount which bears the same  
4 ratio to the amount which would be so excluded  
5 if such requirements had been met, as

6 “(B) the shorter of—

7 “(i) the aggregate periods, during the  
8 5-year period ending on the date of such  
9 sale or exchange, such property has been  
10 owned and used by the taxpayer as the  
11 taxpayer’s principal residence, or

12 “(ii) the period after the date of the  
13 most recent prior sale or exchange by the  
14 taxpayer or his spouse to which subsection  
15 (a) applied and before the date of such sale  
16 or exchange,

17 bears to 2 years.

18 “(2) SALES AND EXCHANGES TO WHICH SUB-  
19 SECTION APPLIES.—This subsection shall apply to  
20 any sale or exchange if—

21 “(A) subsection (a) would not (but for this  
22 subsection) apply to such sale or exchange by  
23 reason of—

24 “(i) a failure to meet the ownership  
25 and use requirements of subsection (a), or

1 “(ii) subsection (b)(2), and

2 “(B) such sale or exchange is by reason of  
3 a change in place of employment, health, or  
4 other unforeseen circumstances.

5 “(d) SPECIAL RULES.—

6 “(1) JOINT RETURNS.—For purposes of this  
7 section, if a husband and wife make a joint return  
8 for the taxable year of the sale or exchange of prop-  
9 erty, subsection (a) applies if either spouse meets  
10 the ownership and use requirements of subsection  
11 (a) with respect to such property.

12 “(2) PROPERTY OF DECEASED SPOUSE.—For  
13 purposes of this section, in the case of an unmarried  
14 individual whose spouse is deceased on the date of  
15 the sale or exchange of property, the period such un-  
16 married individual owned such property shall include  
17 the period such deceased spouse held such property  
18 before death.

19 “(3) TENANT-STOCKHOLDER IN COOPERATIVE  
20 HOUSING CORPORATION.—For purposes of this sec-  
21 tion, if the taxpayer holds stock as a tenant-stock-  
22 holder (as defined in section 216) in a cooperative  
23 housing corporation (as defined in such section),  
24 then—

1           “(A) the holding requirements of sub-  
2           section (a) shall be applied to the holding of  
3           such stock, and

4           “(B) the use requirements of subsection  
5           (a) shall be applied to the house or apartment  
6           which the taxpayer was entitled to occupy as  
7           such stockholder.

8           “(4) INVOLUNTARY CONVERSIONS.—

9           “(A) IN GENERAL.—For purposes of this  
10          section, the destruction, theft, seizure, requis-  
11          ition, or condemnation of property shall be  
12          treated as the sale of such property.

13          “(B) APPLICATION OF SECTION 1033.—In  
14          applying section 1033 (relating to involuntary  
15          conversions), the amount realized from the sale  
16          or exchange of property shall be treated as  
17          being the amount determined without regard to  
18          this section, reduced by the amount of gain not  
19          included in gross income pursuant to this sec-  
20          tion.

21          “(C) PROPERTY ACQUIRED AFTER INVOL-  
22          UNTARY CONVERSION.—If the basis of the  
23          property sold or exchanged is determined (in  
24          whole or in part) under section 1033(b) (relat-  
25          ing to basis of property acquired through invol-

untary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

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

“(6) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

“(A) becomes physically or mentally incapable of self-care, and

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

1       then the taxpayer shall be treated as using such  
2       property as the taxpayer's principal residence during  
3       any time during such 5-year period in which the tax-  
4       payer owns the property and resides in any facility  
5       (including a nursing home) licensed by a State or  
6       political subdivision to care for an individual in the  
7       taxpayer's condition.

8               “(7) 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              “(e) DENIAL OF EXCLUSION FOR EXPATRIATES.—

19      This section shall not apply to any sale or exchange by  
20      an individual if the treatment provided by section  
21      877(a)(1) applies to such individual.

22              “(f) ELECTION TO HAVE SECTION NOT APPLY.—

23      This section shall not apply to any sale or exchange with  
24      respect to which the taxpayer elects not to have this sec-  
25      tion apply.



1       “(g) RESIDENCES ACQUIRED IN ROLLOVERS UNDER  
 2 SECTION 1034.—For purposes of this section, in the case  
 3 of property the acquisition of which by the taxpayer re-  
 4 sulted under section 1034 (as in effect on the day before  
 5 the date of the enactment of this sentence) in the non-  
 6 recognition of any part of the gain realized on the sale  
 7 or exchange of another residence, in determining the pe-  
 8 riod for which the taxpayer has owned and used such  
 9 property as the taxpayer’s principal residence, there shall  
 10 be included the aggregate periods for which such other  
 11 residence (and each prior residence taken into account  
 12 under section 1223(7) in determining the holding period  
 13 of such property) had been so owned and used.”

14       (b) REPEAL OF NONRECOGNITION OF GAIN ON  
 15 ROLLOVER OF PRINCIPAL RESIDENCE.—Section 1034 of  
 16 such Code (relating to rollover of gain on sale of principal  
 17 residence) is hereby repealed.

18       (c) CONFORMING AMENDMENTS.—

19           (1) The following provisions of the Internal  
 20 Revenue Code of 1986 are each amended by striking  
 21 “section 1034” and inserting “section 121”: sections  
 22 25(e)(7),           56(e)(1)(A),           56(e)(3)(B)(i),  
 23 143(i)(1)(C)(i)(I),           163(h)(4)(A)(i)(I),  
 24 280A(d)(4)(A),       464(f)(3)(B)(i),       1033(k)(3),  
 25 1274(c)(3)(B), 6334(a)(13), and 7872(f)(11)(A).

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

9           (3) Subparagraph (A) of 143(m)(6) of such  
10      Code is amended by inserting “(as in effect on the  
11      day before the date of the enactment of the Prin-  
12      cipal Residence Tax Exclusion Act of 1997)” after  
13      “1034(e)”.

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

19          (5) Section 512(a)(3)(D) of such Code is  
20      amended by inserting “(as in effect on the day be-  
21      fore the date of the enactment of the Principal Resi-  
22      dence Tax Exclusion Act of 1997)” after “1034”.

23          (6) Paragraph (7) of section 1016(a) of such  
24      Code is amended by inserting “(as in effect on the  
25      day before the date of the enactment of the Prin-

1        cipal Residence Tax Exclusion Act of 1997)” after  
2        “1034” and by inserting “(as so in effect)” after  
3        “1034(e)”.

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

6                “(3) For exclusion from gross income of gain  
7        from involuntary conversion of principal residence,  
8        see section 121.”

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

11       “(e) PRINCIPAL RESIDENCES.—If—

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

16                “(2) within 1 year after the date of the reacqui-  
17       sition of such property by the seller, such property  
18       is resold by him,

19       then, under regulations prescribed by the Secretary, sub-  
20       sections (b), (c), and (d) of this section shall not apply  
21       to the reacquisition of such property and, for purposes of  
22       applying section 121, the resale of such property shall be  
23       treated as a part of the transaction constituting the origi-  
24       nal sale of such property.”

1           (9) Paragraph (7) of section 1223 of such Code  
2           is amended by inserting “(as in effect on the day be-  
3           fore the date of the enactment of the Principal Resi-  
4           dence Tax Exclusion Act of 1997)” after “1034”.

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

7           “(7) DISPOSITION OF PRINCIPAL RESIDENCE.—  
8           Subsection (a) shall not apply to a disposition of  
9           property to the extent used by the taxpayer as his  
10          principal residence (within the meaning of section  
11          121, relating to gain on sale of principal residence).”

12          (11) Subsection (c) of section 6012 of such  
13          Code is amended by striking “(relating to one-time  
14          exclusion of gain from sale of principal residence by  
15          individual who has attained age 55)” and inserting  
16          “(relating to gain from sale of principal residence)”.

17          (12) Paragraph (2) of section 6212(c) of such  
18          Code is amended by striking subparagraph (C) and  
19          by redesignating the succeeding subparagraphs ac-  
20          cordingly.

21          (13) Section 6504 of such Code is amended by  
22          striking paragraph (4) and by redesignating the suc-  
23          ceeding paragraphs accordingly.

24          (14) The item relating to section 121 in the  
25          table of sections for part III of subchapter B of

1 chapter 1 of such Code is amended to read as fol-  
2 lows:

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

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

6 (d) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by  
8 this section shall apply to sales and exchanges after  
9 December 31, 1996.

10 (2) BINDING CONTRACTS, ETC.—At the election  
11 of the taxpayer, the amendments made by this sec-  
12 tion shall not apply to a sale or exchange after De-  
13 cember 31, 1996, if—

14 (A) such sale or exchange is pursuant to a  
15 contract which was binding on December 31,  
16 1996, and at all times before such sale or ex-  
17 change, or

18 (B) without regard to such amendments,  
19 gain would not be recognized under section  
20 1034 of the Internal Revenue Code of 1986 (as  
21 in effect on the day before the date of the en-  
22 actment of this Act) on such sale or exchange  
23 by reason of a new residence acquired on or be-  
24 fore such date.

1       This paragraph shall not apply to any sale or ex-  
2       change by an individual if the treatment provided by  
3       section 877(a)(1) of the Internal Revenue Code of  
4       1986 applies to such individual.

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