

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.

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

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, requis-
6 tion, 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.

○