

105TH CONGRESS
1ST SESSION

S. 840

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

IN THE SENATE OF THE UNITED STATES

JUNE 5, 1997

Mr. GRAHAM introduced the following bill; which was read twice and referred
to the Committee on Finance

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 ONE 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 or 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 or 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 tion, 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-

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

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

16 “(6) DETERMINATION OF USE DURING PERIODS
 17 OF OUT-OF-RESIDENCE CARE.—In the case of a tax-
 18 payer who—

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

21 “(B) owns property and uses such property
 22 as the taxpayer’s principal residence during the
 23 5-year period described in subsection (a) for pe-
 24 riods 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 cipl 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 section (b), (c), and (d) of this section shall not apply to
21 the reacquisition of such property and, for purposes of ap-
22 plying 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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