

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. McCRERY 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 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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