

106TH CONGRESS
1ST SESSION

S. 309

To amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1999

Mr. MCCAIN (for himself and Mr. THURMOND) 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 that a member of the uniformed services shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. UNIFORMED SERVICE MEMBER TREATED AS**
 2 **USING PRINCIPAL RESIDENCE WHILE AWAY**
 3 **FROM HOME ON QUALIFIED OFFICIAL EX-**
 4 **TENDED DUTY IN DETERMINING EXCLUSION**
 5 **OF GAIN ON SALE OF SUCH RESIDENCE.**

6 (a) IN GENERAL.—Section 121(d) of the Internal
 7 Revenue Code of 1986 (relating to special rules) is amend-
 8 ed by adding at the end the following:

9 “(9) DETERMINATION OF USE DURING PERIODS
 10 OF QUALIFIED OFFICIAL EXTENDED DUTY WITH
 11 UNIFORMED SERVICES.—

12 “(A) IN GENERAL.—A taxpayer shall be
 13 treated as using property as a principal resi-
 14 dence during any period—

15 “(i) the taxpayer owns such property,
 16 and

17 “(ii) the taxpayer (or the taxpayer’s
 18 spouse) is serving on qualified official ex-
 19 tended duty as a member of a uniformed
 20 service (within the meaning of section
 21 101(3) of title 37, United States Code),

22 but only if the taxpayer owned and used the
 23 property as a principal residence for any period
 24 before the period of qualified official extended
 25 duty.

1 “(B) QUALIFIED OFFICIAL EXTENDED
2 DUTY.—For purposes of this paragraph—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied official extended duty’ means any pe-
5 riod of extended duty during which the
6 member of a uniformed service is under a
7 call or order compelling such duty at a
8 duty station which is a least 50 miles from
9 the property described in subparagraph
10 (A) or compelling residence in Government
11 furnished quarters while on such duty.

12 “(ii) EXTENDED DUTY.—The term
13 ‘extended duty’ means any period of active
14 duty pursuant to a call or order to such
15 duty for a period in excess of 90 days or
16 for an indefinite period.”

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to sales or exchanges after May
19 6, 1997.

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