

107TH CONGRESS  
1ST SESSION

# S. 1755

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service, and other employees, in determining the exclusion of gain from the sale of a principal residence.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 3, 2001

Mr. GRAHAM (for himself and Mrs. LINCOLN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service, and other employees, in determining the exclusion of gain from the 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,*

1 **SECTION 1. SPECIAL RULE FOR MEMBERS OF UNIFORMED**  
 2 **SERVICES AND FOREIGN SERVICE, AND**  
 3 **OTHER EMPLOYEES, IN DETERMINING EX-**  
 4 **CLUSION OF GAIN FROM SALE OF PRINCIPAL**  
 5 **RESIDENCE.**

6 (a) IN GENERAL.—Subsection (d) of section 121 of  
 7 the Internal Revenue Code of 1986 (relating to exclusion  
 8 of gain from sale of principal residence) is amended by  
 9 adding at the end the following new paragraphs:

10 “(9) MEMBERS OF UNIFORMED SERVICES AND  
 11 FOREIGN SERVICE.—

12 “(A) IN GENERAL.—The running of the 5-  
 13 year period described in subsection (a) shall be  
 14 suspended with respect to an individual during  
 15 any time that such individual or such individ-  
 16 ual’s spouse is serving on qualified official ex-  
 17 tended duty as a member of the uniformed  
 18 services or of the Foreign Service.

19 “(B) QUALIFIED OFFICIAL EXTENDED  
 20 DUTY.—For purposes of this paragraph—

21 “(i) IN GENERAL.—The term ‘quali-  
 22 fied official extended duty’ means any pe-  
 23 riod of extended duty as a member of the  
 24 uniformed services or a member of the  
 25 Foreign Service during which the member  
 26 serves at a duty station which is at least

1           50 miles from such property or is under  
 2           Government orders to reside in Govern-  
 3           ment quarters.

4           “(ii) UNIFORMED SERVICES.—The  
 5           term ‘uniformed services’ has the meaning  
 6           given such term by section 101(a)(5) of  
 7           title 10, United States Code, as in effect  
 8           on the date of the enactment of this para-  
 9           graph.

10          “(iii) FOREIGN SERVICE OF THE  
 11          UNITED STATES.—The term ‘member of  
 12          the Foreign Service’ has the meaning given  
 13          the term ‘member of the Service’ by para-  
 14          graph (1), (2), (3), (4), or (5) of section  
 15          103 of the Foreign Service Act of 1980, as  
 16          in effect on the date of the enactment of  
 17          this paragraph.

18          “(iv) EXTENDED DUTY.—The term  
 19          ‘extended duty’ means any period of active  
 20          duty pursuant to a call or order to such  
 21          duty for a period in excess of 90 days or  
 22          for an indefinite period.

23          “(10) OTHER EMPLOYEES.—

24          “(A) IN GENERAL.—The running of the 5-  
 25          year period described in subsection (a) shall be

suspended with respect to an individual during any time that such individual or such individual's spouse is serving as an employee for a period in excess of 90 days in an assignment by such employee's employer outside the United States.

“(B) LIMITATIONS AND SPECIAL RULES.—

“(i) MAXIMUM PERIOD OF SUSPENSION.—The suspension under subparagraph (A) with respect to a principal residence shall not exceed (in the aggregate) 5 years.

“(ii) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—Subparagraph (A) shall not apply to an individual to whom paragraph (9) applies.

“(iii) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED AN EMPLOYEE.—For purposes of this paragraph, the term ‘employee’ does not include an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to sales and exchanges after the  
3 date of the enactment of this Act.

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