

107TH CONGRESS
2D SESSION

S. 2881

To amend the Internal Revenue Code of 1986 to exclude from income amounts received by an employee from an employer as assistance towards the purchase of a principal residence.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mr. HARKIN 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 exclude from income amounts received by an employee from an employer as assistance towards the purchase 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. EXCLUSION FROM INCOME OF EMPLOYER**
4 **HOMEOWNERSHIP ASSISTANCE.**

5 (a) IN GENERAL.—Part III of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to
7 items specifically excluded from gross income) is amended
8 by inserting after section 139 the following new section:

1 **“SEC. 139A. HOMEOWNERSHIP ASSISTANCE PROGRAMS.**

2 “(a) EXCLUSION FROM GROSS INCOME.—

3 “(1) IN GENERAL.—Gross income of an eligible
4 employee does not include amounts paid or incurred
5 by the employer of such employee for homeownership
6 assistance provided to the employee if the assistance
7 is furnished pursuant to a homeownership assistance
8 program described in subsection (b).

9 “(2) MAXIMUM EXCLUSION.—The amount
10 which may be excluded under paragraph (1) for
11 homeownership assistance with respect to an eligible
12 employee shall not exceed an amount equal to 10
13 percent of the maximum principal obligation for a
14 mortgage insured under section 203 of the National
15 Housing Act (12 U.S.C. 1709) (as determined in ac-
16 cordance with subsection (b) of such section) with
17 respect to the residence purchased.

18 “(b) HOMEOWNERSHIP ASSISTANCE PROGRAM.—For
19 purposes of this section, a homeownership assistance pro-
20 gram is a separate written plan of an employer for the
21 exclusive benefit of all employees—

22 “(1) under which the employer provides employ-
23 ees with homeownership assistance, and

24 “(2) which meets the requirements of para-
25 graphs (2) through (6) of section 127(b).

1 “(c) DEFINITIONS; SPECIAL RULES.—For purposes
2 of this section—

3 “(1) ELIGIBLE EMPLOYEE.—

4 “(A) IN GENERAL.—The term ‘eligible em-
5 ployee’ means an employee—

6 “(i) with an adjusted gross income for
7 the taxable year before the year in which
8 the homeownership assistance is received
9 which does not exceed—

10 “(I) in the case of an individual
11 described in subsection (c) or (d) of
12 section 1, \$40,000,

13 “(II) in the case of an individual
14 described in section 1(b), \$50,000,
15 and

16 “(III) in the case of an individual
17 described in section 1(a), \$80,000,
18 and

19 “(ii) who is a first-time homebuyer.

20 “(B) COST-OF-LIVING ADJUSTMENT.—

21 “(i) IN GENERAL.—In the case of any
22 taxable year beginning in a calendar year
23 after 2003, each dollar amount under sub-
24 paragraph (A) shall be increased by an
25 amount equal to—

1 “(I) such dollar amount, multi-
2 plied by

3 “(II) the cost-of-living adjust-
4 ment determined under section 1(f)(3)
5 for the calendar year in which the tax-
6 able year begins, determined by sub-
7 stituting ‘calendar year 2002’ for ‘cal-
8 endar year 1992’ in subparagraph (B)
9 thereof.

10 “(ii) ROUNDING RULE.—If any
11 amount after adjustment under clause (i)
12 is not a multiple of \$1,000, such amount
13 shall be rounded to the next lower multiple
14 of \$1,000.

15 “(2) FIRST-TIME HOMEBUYER.—

16 “(A) IN GENERAL.—The term ‘first-time
17 homebuyer’ means any individual if such indi-
18 vidual (and if married, such individual’s spouse)
19 had no present ownership in a principal resi-
20 dence located in the local area during the 2-
21 year period ending on the date of the purchase
22 of the principal residence to which this section
23 applies.

24 “(B) ONE-TIME ONLY.—If an individual is
25 treated as a first-time homebuyer with respect

to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

“(C) PRINCIPAL RESIDENCE.—The term ‘principal residence’ has the same meaning as when used in section 121, except such term shall not include a residence with a purchase price in excess of an amount equal to 90 percent of the maximum principal obligation for a mortgage insured under section 203 of the National Housing Act (12 U.S.C. 1709) (as determined in accordance with subsection (b) of such section) with respect to the residence.

“(3) HOMEOWNERSHIP ASSISTANCE.—

“(A) IN GENERAL.—The term ‘homeownership assistance’ means any assistance which is used with respect to a principal residence located in the local area—

“(i) to pay qualified acquisition costs (as defined in section 72(t)(8)(C)), but only if the payment is made—

“(I) in the case of acquisition costs, before the close of the 120th day after the day on which such assistance is received, and

1 “(II) in the case of costs for con-
 2 structing or reconstructing such resi-
 3 dence, before the close of the 30th day
 4 after the day on which such construc-
 5 tion is complete, or

6 “(ii) to pay for alterations, repairs,
 7 and improvements to such residence, but
 8 only if the payment is made before the
 9 close of the 120th day after the day on
 10 which such residence is purchased.

11 “(B) FINANCING ASSISTANCE; DISCHARGE
 12 OF INDEBTEDNESS.—

13 “(i) IN GENERAL.—Except as pro-
 14 vided in regulations, if the assistance pro-
 15 vided under any homeownership assistance
 16 program consists of providing (or reducing
 17 the costs of) financing, such assistance
 18 shall be treated as homeownership assist-
 19 ance.

20 “(ii) TIMING.—If the assistance con-
 21 sists of providing a loan and then dis-
 22 charging all or a portion of the loan upon
 23 completion of a required period of service,
 24 the assistance shall be treated as provided

1 at the time such loan, or portion of such
2 loan, is discharged.

3 “(4) LOCAL AREA.—A residence shall be con-
4 sidered to be located in the local area with respect
5 to the employee if such residence is not more than
6 50 miles from the employee’s principal place of
7 work. For purposes of this paragraph, the distance
8 between two points shall be the shortest of the more
9 commonly traveled routes between such two points.

10 “(5) EMPLOYEE.—The term ‘employee’ does
11 not include a self-employed individual described in
12 section 401(c)(1).

13 “(6) TEST NOT APPLICABLE.—A homeowner-
14 ship assistance program shall not be held or consid-
15 ered to fail to meet any requirements of subsection
16 (b) merely because of utilization rates for the dif-
17 ferent types of homeownership assistance made
18 available under the program.

19 “(7) RELATIONSHIP TO CURRENT LAW.—

20 “(A) DISALLOWANCE OF EXCLUDED
21 AMOUNTS AS CREDIT OR DEDUCTION.—No de-
22 duction or credit shall be allowed to the em-
23 ployee under any other section of this chapter
24 for any amount excluded from income by reason
25 of this section.

1 “(B) BASIS ADJUSTMENT.—For purposes
 2 of this subtitle, if an exclusion is allowed under
 3 subsection (a) with respect to a residence, the
 4 basis of such residence shall be reduced by the
 5 amount of the exclusion.”.

6 (b) REPORTING REQUIREMENTS.—Subsection (d)(1)
 7 of section 6039D of the Internal Revenue Code of 1986
 8 (relating to returns and records with respect to certain
 9 fringe benefit plans) is amended by striking “or 137” and
 10 inserting “137, or 139”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) The table of sections for part III of sub-
 13 chapter B of chapter 1 of the Internal Revenue Code
 14 of 1986 is amended by inserting after the item relat-
 15 ing to section 139 the following new item:

 “139A. Homeownership assistance programs.”.

16 (2) Subsection (a) of section 1016 of such Code
 17 (relating to adjustments to basis) is amended by
 18 striking “and” at the end of paragraph (27), by
 19 striking the period at the end of paragraph (28) and
 20 inserting “, and”, and by adding at the end the fol-
 21 lowing new paragraph:

22 “(29) in the case of a residence with respect to
 23 which amounts were excluded from income under
 24 section 139A, to the extent provided in section
 25 139A(a).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning Decem-
3 ber 31, 2002.

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