

109TH CONGRESS  
1ST SESSION

# H. R. 4035

To amend the Internal Revenue Code of 1986 to eliminate capital gains taxes on investments in the Hurricane Katrina disaster area to reduce the estate tax for victims of Hurricane Katrina.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2005

Mr. GARRETT of New Jersey introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to eliminate capital gains taxes on investments in the Hurricane Katrina disaster area to reduce the estate tax for victims of Hurricane Katrina.

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 “Economic Relief for  
5       Gulf Coast Families and Businesses Act”.

1 **SEC. 2. TAX BENEFITS RELATED TO HURRICANE KATRINA**  
 2 **DISASTER AREA.**

3 (a) IN GENERAL.—Subchapter Y of chapter 1 of the  
 4 Internal Revenue Code of 1986 is amended by adding at  
 5 the end the following new section:

6 **“SEC. 1400M. TAX BENEFITS RELATED TO HURRICANE**  
 7 **KATRINA DISASTER AREA.**

8 “(a) ZERO PERCENT CAPITAL GAINS RATE.—

9 “(1) EXCLUSION.—Gross income shall not in-  
 10 clude qualified capital gain from the sale or ex-  
 11 change of any Katrina Zone asset held for more  
 12 than 5 years.

13 “(2) KATRINA ZONE.—For purposes of this  
 14 subsection, the term ‘Katrina Zone asset’ means—

15 “(A) any Katrina Zone business stock,

16 “(B) any Katrina Zone partnership inter-  
 17 est, and

18 “(C) any Katrina Zone business property.

19 “(3) KATRINA ZONE BUSINESS STOCK.—For  
 20 purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘Katrina  
 22 Zone business stock’ means any stock in a do-  
 23 mestic corporation which is originally issued  
 24 after August 28, 2005, if—

25 “(i) such stock is acquired by the tax-  
 26 payer, before January 1, 2007, at its origi-

1           nal issue (directly or through an under-  
2           writer) solely in exchange for cash,

3           “(ii) as of the time such stock was  
4           issued, such corporation was a Katrina  
5           Zone business (or, in the case of a new  
6           corporation, such corporation was being or-  
7           ganized for purposes of being a Katrina  
8           Zone business), and

9           “(iii) during substantially all of the  
10          taxpayer’s holding period for such stock,  
11          such corporation qualified as a Katrina  
12          Zone business.

13          “(B) REDEMPTIONS.—A rule similar to  
14          the rule of section 1202(c)(3) shall apply for  
15          purposes of this paragraph.

16          “(4) KATRINA ZONE PARTNERSHIP INTER-  
17          EST.—For purposes of this subsection, the term  
18          ‘Katrina Zone partnership interest’ means any cap-  
19          ital or profits interest in a domestic partnership  
20          which is originally issued after August 28, 2005,  
21          if—

22          “(A) such interest is acquired by the tax-  
23          payer, before January 1, 2007, from the part-  
24          nership solely in exchange for cash,

1 “(B) as of the time such interest was ac-  
 2 quired, such partnership was a Katrina Zone  
 3 business (or, in the case of a new partnership,  
 4 such partnership was being organized for pur-  
 5 poses of being a Katrina Zone business), and

6 “(C) during substantially all of the tax-  
 7 payer’s holding period for such interest, such  
 8 partnership qualified as a Katrina Zone busi-  
 9 ness.

10 A rule similar to the rule of subparagraph (B)(ii)  
 11 shall apply for purposes of this paragraph.

12 “(5) KATRINA ZONE BUSINESS PROPERTY.—  
 13 For purposes of this subsection—

14 “(A) IN GENERAL.—The term ‘Katrina  
 15 Zone business property’ means tangible prop-  
 16 erty if—

17 “(i) such property was acquired by  
 18 the taxpayer by purchase (as defined in  
 19 section 179(d)(2)) after August 28, 2005,  
 20 and before January 1, 2007,

21 “(ii) the original use of such property  
 22 in the Katrina Zone commences with the  
 23 taxpayer, and

24 “(iii) during substantially all of the  
 25 taxpayer’s holding period for such prop-

erty, substantially all of the use of such property was in a Katrina Zone business of the taxpayer.

“(B) SPECIAL RULE FOR BUILDINGS WHICH ARE SUBSTANTIALLY IMPROVED.—

“(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

“(I) property which is substantially improved by the taxpayer before January 1, 2007, and

“(II) any land on which such property is located.

“(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after August 28, 2005, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

“(I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or

1 “(II) \$5,000.

2 “(6) KATRINA ZONE BUSINESS.—For purposes  
3 of this subsection, the term ‘Katrina Zone business’  
4 means any corporation, partnership, or business  
5 which would be an enterprise zone business (as de-  
6 fined in section 1397C) if such section were applied  
7 by substituting ‘Katrina Zone’ for ‘empowerment  
8 zone’ each place it appears.

9 “(7) SPECIAL RULES RELATED TO KATRINA  
10 ZONE ASSETS.—For purposes of this subsection—

11 “(A) TREATMENT OF SUBSEQUENT PUR-  
12 CHASERS, ETC.—For purposes of this sub-  
13 section, the term ‘Katrina Zone asset’ includes  
14 any property which would be a Katrina Zone  
15 asset but for paragraph (3)(A)(i), (4)(A), or  
16 (5)(A)(i) or (ii) in the hands of the taxpayer if  
17 such property was a Katrina Zone asset in the  
18 hands of a prior holder.

19 “(B) 5-YEAR SAFE HARBOR.—If any prop-  
20 erty ceases to be a Katrina Zone asset by rea-  
21 son of paragraph (3)(A)(iii), (4)(C), or  
22 (5)(A)(iii) after the 5-year period beginning on  
23 the date the taxpayer acquired such property,  
24 such property shall continue to be treated as  
25 meeting the requirements of such paragraph;

1           except that the amount of gain to which para-  
2           graph (1) applies on any sale or exchange of  
3           such property shall not exceed the amount  
4           which would be qualified capital gain had such  
5           property been sold on the date of such ces-  
6           sation.

7           “(8) QUALIFIED CAPITAL GAIN.—For purposes  
8           of this subsection—

9                   “(A) IN GENERAL.—Except as otherwise  
10           provided in this paragraph, the term ‘qualified  
11           capital gain’ means any gain recognized on the  
12           sale or exchange of—

13                           “(i) a capital asset, or

14                           “(ii) property used in the trade or  
15           business (as defined in section 1231(b).

16                   “(B) GAIN BEFORE HURRICANE OR AFTER  
17           2011 NOT QUALIFIED.—The term ‘qualified cap-  
18           ital gain’ shall not include any gain attributable  
19           to periods before August 29, 2005, or after De-  
20           cember 31, 2011.

21                   “(C) CERTAIN ORDINARY INCOME GAIN  
22           NOT QUALIFIED.—The term ‘qualified capital  
23           gain’ shall not include any gain which would be  
24           treated as ordinary income under section 1245  
25           or under section 1250 if section 1250 applied to

1 all depreciation rather than the additional de-  
 2preciation.

3 “(D) INTANGIBLES AND LAND NOT INTE-  
 4GRAL PART OF KATRINA ZONE BUSINESS.—The  
 5term ‘qualified capital gain’ shall not include  
 6any gain which is attributable to real property,  
 7or an intangible asset, which is not an integral  
 8part of a Katrina Zone business.

9 “(E) RELATED PARTY TRANSACTIONS.—  
 10The term ‘qualified capital gain’ shall not in-  
 11clude any gain attributable, directly or indi-  
 12rectly, in whole or in part, to a transaction with  
 13a related person. For purposes of this subpara-  
 14graph, persons are related to each other if such  
 15persons are described in section 267(b) or  
 16707(b)(1).

17 “(9) CERTAIN OTHER RULES TO APPLY.—Rules  
 18similar to the rules of subsections (g), (h), (i)(2),  
 19and (j) of section 1202 shall apply for purposes of  
 20this subsection.

21 “(10) SALES AND EXCHANGES OF INTERESTS  
 22IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE  
 23KATRINA ZONE BUSINESSES.—In the case of the sale  
 24or exchange of an interest in a partnership, or of  
 25stock in an S corporation, which was a Katrina Zone



1 business during substantially all of the period the  
2 taxpayer held such interest or stock, the amount of  
3 qualified capital gain shall be determined without re-  
4 gard to—

5 “(A) any gain which is attributable to real  
6 property, or an intangible asset, which is not an  
7 integral part of a Katrina Zone business, and

8 “(B) any gain attributable to periods be-  
9 fore August 29, 2005, or after December 31,  
10 2011.

11 “(b) ESTATE TAX REDUCTION FOR HURRICANE  
12 KATRINA VICTIMS.—

13 “(1) IN GENERAL.— For purposes of this title,  
14 a Hurricane Katrina victim shall be treated as a  
15 qualified decedent within the meaning of section  
16 2201(b).

17 “(2) HURRICANE KATRINA VICTIM.—For pur-  
18 poses of this section, the term ‘Hurricane Katrina  
19 victim’ means any decedent who dies after August  
20 28, 2005, as a result of wounds or injuries incurred  
21 in the Katrina Zone as a result of Hurricane  
22 Katrina.

23 “(c) KATRINA ZONE.—For purposes of this section,  
24 the term ‘Katrina Zone’ means an area determined by the  
25 President to warrant individual or individual and public

1 assistance from the Federal Government under the Robert  
2 T. Stafford Disaster Relief and Emergency Assistance Act  
3 by reason of Hurricane Katrina.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) The heading for subchapter Y of chapter 1  
6 of such Code is amended to read as follows:

7 **“Subchapter Y—Short-term Regional**  
8 **Benefits”.**

9 (2) The table of sections for such subchapter is  
10 amended by adding at the end the following new  
11 item:

“Sec. 1400M. Tax benefits related to Hurricane Katrina disaster area.”.

