

Public Law 88-570

September 2, 1964
[H. R. 4844]

AN ACT

Relating to the release of liability under bonds filed under section 44(d) of the Internal Revenue Code of 1939 with respect to certain installment obligations transmitted at death, and to amend the Internal Revenue Code of 1954 with respect to certain reacquisitions of real property.

Taxes.
Installment ob-
ligations.
68A Stat. 235.
26 USC 691.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 691 of the Internal Revenue Code of 1954 (relating to recipients of income in respect of decedents) is amended by relettering subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) **INSTALLMENT OBLIGATIONS TRANSMITTED AT DEATH WHEN PRIOR LAW APPLIED TO TRANSMISSION.**—

“(1) **IN GENERAL.**—Effective with respect to the first taxable year to which the election referred to in paragraph (2) applies and to each taxable year thereafter, subsection (a) (4) shall apply in the case of installment obligations in respect of which section 44(d) of the Internal Revenue Code of 1939 (or the corresponding provisions of prior law) did not apply by reason of the filing of the bond referred to in such section or provisions. Subsection (c) of this section shall not apply in respect of any amount included in gross income by reason of this paragraph.

“(2) **ELECTION.**—Installment obligations referred to in paragraph (1) may, at the election of the taxpayer holding such obligations, be treated as obligations in respect of which subsection (a) (4) applies. An election under this subsection for any taxable year shall be made not later than the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the Secretary or his delegate may by regulations prescribe.

“(3) **RELEASE OF BOND.**—The liability under any bond filed under section 44(d) of the Internal Revenue Code of 1939 (or the corresponding provisions of prior law) in respect of which an election under this subsection applies is hereby released with respect to taxable years to which such election applies.”

SEC. 2. (a) Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

“**SEC. 1038. CERTAIN REACQUISITIONS OF REAL PROPERTY.**

“(a) **GENERAL RULE.**—If—

“(1) a sale of real property gives rise to indebtedness to the seller which is secured by the real property sold, and

“(2) the seller of such property reacquires such property in partial or full satisfaction of such indebtedness, then, except as provided in subsections (b) and (d), no gain or loss shall result to the seller from such reacquisition, and no debt shall become worthless or partially worthless as a result of such reacquisition.

“(b) **AMOUNT OF GAIN RESULTING.**—

“(1) **IN GENERAL.**—In the case of a reacquisition of real property to which subsection (a) applies, gain shall result from such reacquisition to the extent that—

“(A) the amount of money and the fair market value of other property (other than obligations of the purchaser) received, prior to such reacquisition, with respect to the sale of such property, exceeds

53 Stat. 24.

26 USC 1031-
1037.

“(B) the amount of the gain on the sale of such property returned as income for periods prior to such reacquisition.

“(2) LIMITATION.—The amount of gain determined under paragraph (1) resulting from a reacquisition during any taxable year beginning after the date of the enactment of this section shall not exceed the amount by which the price at which the real property was sold exceeded its adjusted basis, reduced by the sum of—

“(A) the amount of the gain on the sale of such property returned as income for periods prior to the reacquisition of such property, and

“(B) the amount of money and the fair market value of other property (other than obligations of the purchaser received with respect to the sale of such property) paid or transferred by the seller in connection with the reacquisition of such property.

For purposes of this paragraph, the price at which real property is sold is the gross sales price reduced by the selling commissions, legal fees, and other expenses incident to the sale of such property which are properly taken into account in determining gain or loss on such sale.

“(3) GAIN RECOGNIZED.—Except as provided in this section, the gain determined under this subsection resulting from a reacquisition to which subsection (a) applies shall be recognized, notwithstanding any other provision of this subtitle.

“(c) BASIS OF REACQUIRED REAL PROPERTY.—If subsection (a) applies to the reacquisition of any real property, the basis of such property upon such reacquisition shall be the adjusted basis of the indebtedness to the seller secured by such property (determined as of the date of reacquisition), increased by the sum of—

“(1) the amount of the gain determined under subsection (b) resulting from such reacquisition, and

“(2) the amount described in subsection (b) (2) (B).

If any indebtedness to the seller secured by such property is not discharged upon the reacquisition of such property, the basis of such indebtedness shall be zero.

“(d) INDEBTEDNESS TREATED AS WORTHLESS PRIOR TO REACQUISITION.—If, prior to a reacquisition of real property to which subsection (a) applies, the seller has treated indebtedness secured by such property as having become worthless or partially worthless—

“(1) such seller shall be considered as receiving, upon the reacquisition of such property, an amount equal to the amount of such indebtedness treated by him as having become worthless, and

“(2) the adjusted basis of such indebtedness shall be increased (as of the date of reacquisition) by an amount equal to the amount so considered as received by such seller.

“(e) PRINCIPAL RESIDENCES.—If—

“(1) subsection (a) applies to a reacquisition of real property with respect to the sale of which—

“(A) an election under section 121 (relating to gain from sale or exchange of residence of an individual who has attained age 65) is in effect, or

“(B) gain was not recognized under section 1034 (relating to sale or exchange of residence); and

“(2) within one year after the date of the reacquisition of such property by the seller, such property is resold by him, then, under regulations prescribed by the Secretary or his delegate, subsections (b), (c), and (d) of this section shall not apply to the reacquisition of such property and, for purposes of applying sections

Ante, p. 38.

68A Stat. 306.
26 USC 1034.

Anfo, p. 38.
68A Stat. 306.
26 USC 1034.

76 Stat. 977.
26 USC 593.

121 and 1034, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.

“(f) REACQUISITIONS BY DOMESTIC BUILDING AND LOAN ASSOCIATIONS.—This section shall not apply to a reacquisition of real property by an organization described in section 593(a) (relating to domestic building and loan associations, etc.).”

(b) The table of sections for such part III is amended by adding at the end thereof the following:

“Sec. 1038. Certain reacquisitions of real property.”

(c) (1) The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) If the taxpayer makes an election under this paragraph, the amendments made by this section shall also apply to taxable years beginning after December 31, 1957, except that such amendments shall not apply with respect to any reacquisition of real property in a taxable year for which the assessment of a deficiency, or the credit or refund of an overpayment, is prevented on the date of the enactment of this Act by the operation of any law or rule of law. An election under this paragraph shall be made within one year after the date of the enactment of this Act and shall be made in such form and manner as the Secretary of the Treasury or his delegate shall prescribe by regulations.

(3) If an election is made by the taxpayer under paragraph (2), and if the assessment of a deficiency, or the credit or refund of an overpayment, for any taxable year to which such election applies is not prevented on the date of the enactment of this Act by the operation of any law or rule of law—

(A) the period within which a deficiency for such taxable year may be assessed (to the extent such deficiency is attributable to the application of the amendments made by this section) shall not expire prior to one year after the date of such election; and

(B) the period within which a claim for credit or refund of an overpayment for such taxable year may be filed (to the extent such overpayment is attributable to the application of such amendments) shall not expire prior to one year after the date of such election.

No interest shall be payable with respect to any deficiency attributable to the application of such amendments, and no interest shall be allowed with respect to any credit or refund of any overpayment attributable to the application of such amendments, for any period prior to the date of the enactment of this Act. An election by a taxpayer under paragraph (2) shall be deemed a consent to the application of this paragraph.

Approved September 2, 1964.