Revenue Estimate of a Proposal to Exclude Gain from the Sale of Real Property Interests for REPI Purposes

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Present Law - Tax

- Gross income generally includes all income from whatever source derived, including gains derived from dealings in property.
- In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset.
- Gain or loss on the sale of a capital asset held for longer than one-year is generally taxed at maximum rates lower than the rates applicable to ordinary income. Gain or loss is equal to the difference between a property's sale price and its adjusted basis.
- When real property is sold to a qualified charitable organization for less than fair market value, a portion of the sale may be allowable as a charitable deduction. In that case, the adjusted basis for determining gain or loss is that portion of the adjusted basis that bears the same ratio to the adjusted basis as the amount realized bears to the fair market value of the property, resulting in exclusion of the gain attributable to the contribution.

Present Law – REPI Program

The Readiness and Environmental Protection Integration ("REPI") Program preserves military missions by supporting cost sharing agreements between the Military Services, other Federal agencies, state and local governments, and private conservation organizations to avoid land use conflicts near military installations, address environmental restrictions that limit military activities, and improve military installation resilience.

- **Purpose:** Safeguard military readiness by addressing encroachment and environmental challenges
- **Authority:**
  - 10 U.S.C. 2684a – Enables DoD to partner with state/local governments and nonprofit organizations
  - 16 U.S.C. 670c-1 – ("Sikes Act") Requires development of integrated national resource management plans for military installations that the REPI program can help installations meet
  - 10 U.S.C. 2679 – Intergovernmental Support Agreements ("IGSA")
- **Funding:** Cost-sharing (often 50/50); leverages federal, state, local, and private contributions.
- **Focus Areas:** Compatible land use, mission resilience, and habitat preservation.
- **Partners:** Land trusts, conservation NGOs, local/state governments, federal agencies.

Summary of Proposal to Exclude Gain from the Sale of Real Property under the REPI Program

H.R.1083/S.439 – Incentivizing Readiness and Environmental Protection Integration Sales Act of 2025

- Gross income shall not include any gain from the sale of qualified real property interest to a qualified organization for REPI purposes.
- A **qualified real property** interest means 1) the entire interest of the taxpayer; 2) a remainder interest; or 3) a restriction (granted in perpetuity and created pursuant to State real property law) on the use which may be made of real property.
- A **qualified organization** includes certain governmental units, public charities that meet certain public support tests, and supporting organizations that are eligible to receive qualified conservation contributions.
- A sale is for **REPI purposes** if it is pursuant to the authority of the REPI program under 10 U.S.C. 2684a.
- Special rules apply to the sale of property by certain pass-through entities.
- Effective date is assumed to be taxable years beginning after December 31, 2025.
- https://www.congress.gov/bill/119th-congress/house-bill/1083/text

Primary Data Sources

1. **Congressional Budget Office (“CBO”)**
   – January 2025 baseline spending projections by budget account
2. **Internal Revenue Service (“IRS”) Statistics of Income Division (“SOI”)**
   – Sales of Capital Assets (“SOCA”) Data, Tables 1C and 2D, Tax Year 2015, basis
3. **Joint Committee on Taxation (“JCT”)**
   – Marginal tax rates on long-term capital gain, JCX-26-24
4. **United States Department of Defense**
   – REPI Program Annual Reports to Congress
5. **Senate Committee on Appropriations**
   – S. Rept. 118-204, Department of Defense Appropriations Bill, 2025

Primary Assumptions

- REPI program funds available for land acquisition are equal to the share of appropriated funds designated as allocation to services after adjustments for DoD-wide priorities, program management, landscape management, and additional office of the Secretary of Defense funding ($174.5 million in FY2025).
- REPI program grows at the same rate as total DoD operation and maintenance funding forecasted by CBO.
- Partner funding is equal to the same share of total funding as in FY2024 (51.4%).
- DoD spends all available funds (allocation to services + partner funding) in the fiscal year on land acquisition.
- Future 10 U.S.C. 2684a authorities represent the same share of total authorities as cumulatively under the program from FY2003 through FY2023, the last year such detail was reported (97.8%).
- The share of sales price that represents gain is based on SOCA data for land in 2015 (41.5%) before any behavioral response.
- The weighted average effective marginal tax rate ("EMTR") on gains from REPI land sales is 16.3%.
- Taxpayers respond to the exclusion by making more low-basis land available.
- The baseline reflects current law as of May 31, 2025.

Preliminary Revenue Estimate

- A preliminary estimate of the revenue effects for fiscal years 2026-2035 of the proposal to exclude from gross income gain from the sale of qualified real property interests acquired under the authority of the REPI program is a revenue loss of between **$424 million** and **$599 million**.

Caveats and Limitations

- These revenue estimates may differ from official JCT scoring because, among other things, data necessary to precisely estimate the proposals are not publicly available and assumption are required to make projections over the 10-year budget period.
- In particular, the estimates are sensitive to various assumptions including:
  – How much funding is available for the REPI program from DoD appropriations and partner contributions;
  – How much of the available funding is used for land acquisition;
  – The fraction of sales price that is attributable to capital gain;
  – Effective marginal tax rates on capital gain; and
  – Responsiveness of realizations to changes in the effective marginal tax rate (i.e., elasticity).

Preliminary Revenue Estimate

Estimated Revenue Effects of a Proposal to Exclude from Gross Income Gain from the Sale of Qualified Real Property Interests Acquired under the Authority of the REPI Program

Fiscal Years 2026-2035

[Millions of Dollars]

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2026-2035
Baseline Estimate	-28	-40	-41	-42	-43	-44	-45	-46	-47	-48	-424
High Response	-39	-57	-58	-59	-61	-62	-64	-65	-67	-68	-599

Sensitivity Analysis

- Under the baseline assumption, the exclusion makes taxpayers with lower-basis property more likely to sell their land. As a result, the fraction of sales price that represents gain is larger.
- In the high response scenario, the estimate reflects the case in which the entire purchase is treated as gain (e.g., any land sales have an adjusted basis of zero).

Thank you

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