

114TH CONGRESS  
2D SESSION

# H. R. 6246

To amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets for purposes of determining gain or loss of eligible individuals.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2016

Mr. EMMER of Minnesota 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 provide for the indexing of certain assets for purposes of determining gain or loss of eligible individuals.

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 “Retirement Inflation  
5 Protection Act of 2016”.

1 **SEC. 2. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF**  
2 **DETERMINING GAIN OR LOSS OF ELIGIBLE**  
3 **INDIVIDUALS.**

4 (a) IN GENERAL.—Part II of subchapter O of chap-  
5 ter 1 of the Internal Revenue Code of 1986 is amended  
6 by redesignating section 1023 as section 1024 and by in-  
7 serting after section 1022 the following new section:

8 **“SEC. 1023. INDEXING OF CERTAIN ASSETS FOR PURPOSES**  
9 **OF DETERMINING GAIN OR LOSS OF ELIGI-**  
10 **BLE INDIVIDUALS.**

11 “(a) IN GENERAL.—

12 “(1) INDEXED BASIS SUBSTITUTED FOR AD-  
13 JUSTED BASIS.—Solely for purposes of determining  
14 gain or loss on the sale or other disposition by an  
15 eligible individual of an indexed asset which has  
16 been held by such individual for more than 3 years,  
17 the indexed basis of the asset shall be substituted  
18 for its adjusted basis.

19 “(2) EXCEPTION FOR DEPRECIATION, ETC.—  
20 The deductions for depreciation, depletion, and am-  
21 ortization shall be determined without regard to the  
22 application of paragraph (1) to the taxpayer or any  
23 other person.

24 “(3) WRITTEN DOCUMENTATION REQUIRE-  
25 MENT.—Paragraph (1) shall apply only with respect  
26 to indexed assets for which the taxpayer has written

1 documentation of the original purchase price paid or  
2 incurred by the taxpayer to acquire such asset.

3 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this  
4 section, the term ‘eligible individual’ means, with respect  
5 to any indexed asset, any individual if such individual has  
6 attained age 59½ as of the date of the sale or other dis-  
7 position of such asset.

8 “(c) INDEXED ASSET.—

9 “(1) IN GENERAL.—For purposes of this sec-  
10 tion, the term ‘indexed asset’ means—

11 “(A) common stock in a C corporation  
12 (other than a foreign corporation), or

13 “(B) tangible property,  
14 which is a capital asset or property used in the trade  
15 or business (as defined in section 1231(b)).

16 “(2) STOCK IN CERTAIN FOREIGN CORPORA-  
17 TIONS INCLUDED.—For purposes of this section—

18 “(A) IN GENERAL.—The term ‘indexed  
19 asset’ includes common stock in a foreign cor-  
20 poration which is regularly traded on an estab-  
21 lished securities market.

22 “(B) EXCEPTION.—Subparagraph (A)  
23 shall not apply to—

24 “(i) stock of a foreign investment  
25 company,

1 “(ii) stock in a passive foreign invest-  
2 ment company (as defined in section  
3 1296),

4 “(iii) stock in a foreign corporation  
5 held by a United States person who meets  
6 the requirements of section 1248(a)(2),  
7 and

8 “(iv) stock in a foreign personal hold-  
9 ing company.

10 “(C) TREATMENT OF AMERICAN DEPOSI-  
11 TORY RECEIPTS.—An American depository re-  
12 ceipt for common stock in a foreign corporation  
13 shall be treated as common stock in such cor-  
14 poration.

15 “(d) INDEXED BASIS.—For purposes of this sec-  
16 tion—

17 “(1) IN GENERAL.—The indexed basis for any  
18 asset is—

19 “(A) the adjusted basis of the asset, in-  
20 creased by

21 “(B) the applicable inflation adjustment.

22 “(2) APPLICABLE INFLATION ADJUSTMENT.—  
23 The applicable inflation adjustment for any asset is  
24 an amount equal to—

1           “(A) the adjusted basis of the asset, multi-  
2           plied by

3           “(B) the percentage (if any) by which—

4                   “(i) the gross domestic product  
5                   deflator for the last calendar quarter end-  
6                   ing before the asset is disposed of, exceeds

7                   “(ii) the gross domestic product  
8                   deflator for the last calendar quarter end-  
9                   ing before the asset was acquired by the  
10                  taxpayer.

11          The percentage under subparagraph (B) shall be  
12          rounded to the nearest  $\frac{1}{10}$  of 1 percentage point.

13           “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—

14          The gross domestic product deflator for any cal-  
15          endar quarter is the implicit price deflator for the  
16          gross domestic product for such quarter (as shown  
17          in the last revision thereof released by the Secretary  
18          of Commerce before the close of the following cal-  
19          endar quarter).

20           “(e) SUSPENSION OF HOLDING PERIOD WHERE DI-  
21          MINISHED RISK OF LOSS; TREATMENT OF SHORT  
22          SALES.—

23                   “(1) IN GENERAL.—If the taxpayer (or a re-  
24                   lated person) enters into any transaction which sub-  
25                   stantially reduces the risk of loss from holding any

1       asset, such asset shall not be treated as an indexed  
2       asset for the period of such reduced risk.

3           “(2) SHORT SALES.—

4               “(A) IN GENERAL.—In the case of a short  
5       sale of an indexed asset with a short sale period  
6       in excess of 3 years, for purposes of this title,  
7       the amount realized shall be an amount equal  
8       to the amount realized (determined without re-  
9       gard to this paragraph) increased by the appli-  
10      cable inflation adjustment. In applying sub-  
11      section (d)(2) for purposes of the preceding  
12      sentence, the date on which the property is sold  
13      short shall be treated as the date of acquisition  
14      and the closing date for the sale shall be treat-  
15      ed as the date of disposition.

16              “(B) SHORT SALE PERIOD.—For purposes  
17      of subparagraph (A), the short sale period be-  
18      gins on the day that the property is sold and  
19      ends on the closing date for the sale.

20           “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

21               “(1) IN GENERAL.—This section shall not apply  
22      to any sale or other disposition of property between  
23      related persons except to the extent that the basis  
24      of such property in the hands of the transferee is a  
25      substituted basis.

1           “(2) RELATED PERSONS DEFINED.—For pur-  
2           poses of this section, the term ‘related persons’  
3           means—

4                   “(A) persons bearing a relationship set  
5                   forth in section 267(b), and

6                   “(B) persons treated as single employer  
7                   under subsection (b) or (c) of section 414.

8           “(g) TRANSFERS TO INCREASE INDEXING ADJUST-  
9           MENT.—If any person transfers cash, debt, or any other  
10           property to another person and the principal purpose of  
11           such transfer is to secure or increase an adjustment under  
12           subsection (a), the Secretary may disallow part or all of  
13           such adjustment or increase.

14           “(h) SPECIAL RULES.—For purposes of this sec-  
15           tion—

16                   “(1) TREATMENT OF IMPROVEMENTS, ETC.—If  
17                   there is an addition to the adjusted basis of any tan-  
18                   gible property or of any stock in a corporation dur-  
19                   ing the taxable year by reason of an improvement to  
20                   such property or a contribution to capital of such  
21                   corporation—

22                           “(A) such addition shall never be taken  
23                           into account under subsection (d)(1)(A) if the  
24                           aggregate amount thereof during the taxable

1           year with respect to such property or stock is  
2           less than \$1,000, and

3           “(B) such addition shall be treated as a  
4           separate asset acquired at the close of such tax-  
5           able year if the aggregate amount thereof dur-  
6           ing the taxable year with respect to such prop-  
7           erty or stock is \$1,000 or more.

8           A rule similar to the rule of the preceding sentence  
9           shall apply to any other portion of an asset to the  
10          extent that separate treatment of such portion is ap-  
11          propriate to carry out the purposes of this section.

12          “(2) ASSETS WHICH ARE NOT INDEXED ASSETS  
13          THROUGHOUT HOLDING PERIOD.—The applicable in-  
14          flation adjustment shall be appropriately reduced for  
15          periods during which the asset was not an indexed  
16          asset.

17          “(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a  
18          corporation which is not a dividend shall be treated  
19          as a disposition.  
20

21          “(4) SECTION CANNOT INCREASE ORDINARY  
22          LOSS.—To the extent that (but for this paragraph)  
23          this section would create or increase a net ordinary  
24          loss to which section 1231(a)(2) applies or an ordi-  
25          nary loss to which any other provision of this title



1 applies, such provision shall not apply. The taxpayer  
2 shall be treated as having a long-term capital loss in  
3 an amount equal to the amount of the ordinary loss  
4 to which the preceding sentence applies.

5 “(5) ACQUISITION DATE WHERE THERE HAS  
6 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)  
7 WITH RESPECT TO THE TAXPAYER.—If there has  
8 been a prior application of subsection (a)(1) to an  
9 asset while such asset was held by the taxpayer, the  
10 date of acquisition of such asset by the taxpayer  
11 shall be treated as not earlier than the date of the  
12 most recent such prior application.

13 “(i) REGULATIONS.—The Secretary shall prescribe  
14 such regulations as may be necessary or appropriate to  
15 carry out the purposes of this section.”.

16 (b) CLERICAL AMENDMENT.—The table of sections  
17 for part II of subchapter O of chapter 1 of such Code  
18 is amended by striking the item relating to section 1023  
19 and by inserting after the item relating to section 1022  
20 the following new items:

“Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.  
“Sec. 1023. Cross references.”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to indexed assets acquired by the

- 1 taxpayer after December 31, 2016, in taxable years ending
- 2 after such date.

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