

117TH CONGRESS  
2D SESSION

# H. R. 9438

To amend the Internal Revenue Code of 1986 to impose a tax on foreign-owned under-utilized residential real property.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2022

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

---

## A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on foreign-owned under-utilized residential real property.

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 “American Property  
5 Act”.

6 **SEC. 2. TAX ON FOREIGN-OWNED UNDER-UTILIZED RESI-**  
7 **DENTIAL REAL PROPERTY.**

8 (a) IN GENERAL.—Chapter 36 of the Internal Rev-  
9 enue Code of 1986 is amended by adding at the end the  
10 following new subchapter:

1       **“Subchapter E—Tax on Foreign-Owned**  
 2       **Under-Utilized Residential Real Property**

“Sec. 4491. Tax on foreign-owned under-utilized residential real property.

3       **“SEC. 4491. TAX ON FOREIGN-OWNED UNDER-UTILIZED RES-**  
 4       **IDENTIAL REAL PROPERTY.**

5       “(a) IN GENERAL.—In the case of any specified for-  
 6       eign person which owns any specified under-utilized resi-  
 7       dential real property for more than one-half of any taxable  
 8       year, there is hereby imposed a tax equal to 1 percent of  
 9       the estimated value of such property.

10       “(b) SPECIFIED UNDER-UTILIZED RESIDENTIAL  
 11       REAL PROPERTY.—For purposes of this section—

12               “(1) IN GENERAL.—The term ‘specified under-  
 13       utilized residential real property’ means, with re-  
 14       spect to any taxable year, any specified residential  
 15       property located in the United States which is occu-  
 16       pied as a dwelling unit for less than 29 days during  
 17       such taxable year.

18               “(2) SPECIFIED RESIDENTIAL PROPERTY.—The  
 19       term ‘specified residential property’ means a single-  
 20       family home or structure consisting of four residen-  
 21       tial units or less, or a part of a building that is a  
 22       semi-detached house, rowhouse unit, residential con-  
 23       dominium unit or other similar premises that is, or  
 24       is intended to be, a separate parcel or other division

1 of real property, and includes any land which was  
2 conveyed with such home, structure, or building.

3 “(c) ESTIMATED VALUE.—For purposes of this sec-  
4 tion, the term ‘estimated value’ means, with respect to  
5 property for any taxable year, the greater of—

6 “(1) the appraised value of such property for  
7 purposes of determining State or local property  
8 taxes (determined as of the close of such taxable  
9 year), or

10 “(2) the most recent sales price of such prop-  
11 erty (as so determined).

12 “(d) SPECIFIED FOREIGN PERSON.—For purposes of  
13 this section, the term ‘specified foreign person’ means any  
14 person other than a United States person.

15 “(e) SPECIAL RULES FOR PROPERTY ACQUIRED OR  
16 TRANSFERRED DURING A TAXABLE YEAR.—

17 “(1) APPLICATION OF OCCUPANCY RULES.—  
18 For purposes of subsection (b)(1), specified under-  
19 utilized residential real property shall not be treated  
20 as occupied as a dwelling unit with respect to any  
21 taxpayer for any day during which the taxpayer did  
22 not own such property.

23 “(2) ESTIMATED VALUE.—In the case of any  
24 specified under-utilized residential real property sold

1 or otherwise transferred by the taxpayer during the  
 2 taxable year—

3 “(A) the amount described in subsection  
 4 (c)(1) shall be determined as of the last day on  
 5 which the taxpayer owns such property, and

6 “(B) the amount described in subsection  
 7 (c)(2) shall be the amount for which such prop-  
 8 erty is so sold or otherwise transferred.”.

9 (b) CLERICAL AMENDMENT.—The table of sub-  
 10 chapters for chapter 36 of the Internal Revenue Code of  
 11 1986 is amended by adding at the end the following new  
 12 item:

“SUBCHAPTER E—TAX ON FOREIGN-OWNED UNDER-UTILIZED RESIDENTIAL  
 REAL PROPERTY”.

13 (c) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to taxable years beginning after  
 15 the date of the enactment of this Act.

○