

110TH CONGRESS  
2D SESSION

# S. 2637

To amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

Mr. HAGEL introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes.

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 “Beginning Farmers  
5 and Ranchers Act of 2008”.

1 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN**  
 2 **FARMLAND.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-  
 4 ter 1 of the Internal Revenue Code of 1986 (relating to  
 5 items specifically excluded from gross income) is amended  
 6 by adding after section 121 the following new section:

7 **“SEC. 121A. EXCLUSION OF GAIN FROM SALE OF QUALIFIED**  
 8 **FARM PROPERTY.**

9 “(a) EXCLUSION.—In the case of a natural person,  
 10 gross income shall not include—

11 “(1) 100 percent of the gain from the sale or  
 12 exchange of qualified farm property to a first-time  
 13 farmer who meets the certification requirement of  
 14 subsection (d),

15 “(2) 50 percent of the gain from the sale or ex-  
 16 change of qualified farm property to any other per-  
 17 son who meets the certification requirement of sub-  
 18 section (d), and

19 “(3) 25 percent of the gain from the sale or ex-  
 20 change of qualified farm property to any other per-  
 21 son for any other use.

22 “(b) LIMITATION ON AMOUNT OF EXCLUSION.—

23 “(1) IN GENERAL.—The amount of gain ex-  
 24 cluded from gross income under subsection (a) with  
 25 respect to any taxable year shall not exceed  
 26 \$500,000 (\$250,000 in the case of a married indi-

vidual filing a separate return), reduced by the aggregate amount of gain excluded under subsection (a) for all preceding taxable years.

“(2) SPECIAL RULE FOR JOINT RETURNS.—The amount of the exclusion under subsection (a) on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under paragraph (1) for any succeeding taxable year.

“(c) DEFINITIONS.—For purposes of this section—

“(1) FIRST-TIME FARMER.—The term ‘first-time farmer’ means a first-time farmer (as defined in section 147(c)(2)(C), determined without regard to clause (i)(II) thereof) who meets the requirements of section 147(c)(2)(B). For purposes of the preceding sentence, in applying clause (ii) of section 147(c)(2)(B), the material and substantial participation standard shall be treated as met with respect to a qualified farm if the first-time farmer will—

“(A) perform not less than 1,000 hours of service with respect to such farm, or

“(B) provide half the required management and labor with respect to such farm.

1           “(2) QUALIFIED FARM PROPERTY.—The term  
2           ‘qualified farm property’ means real property located  
3           in the United States if—

4                   “(A) during periods aggregating 3 years or  
5                   more of the 5-year period ending on the date of  
6                   the sale or exchange of such real property, such  
7                   real property was used as a farm for farming  
8                   purposes by the taxpayer, the taxpayer’s  
9                   spouse, or other member of the family of the  
10                  taxpayer, and

11                  “(B) there was material participation by  
12                  the taxpayer, the taxpayer’s spouse, or other  
13                  member of the family of the taxpayer in the op-  
14                  eration of the farm during 3 years or more of  
15                  the 5-year period ending on the earlier of—

16                   “(i) the sale or exchange of such real  
17                   property, or

18                   “(ii) the later of the retirement of the  
19                   taxpayer or the taxpayer’s spouse who ma-  
20                   terially participated.

21           “(3) OTHER DEFINITIONS.—The terms ‘mem-  
22           ber of the family’, ‘farm’, ‘farming purposes’, and  
23           ‘material participation’ have the respective meanings  
24           given such terms by paragraphs (2), (4), (5), and  
25           (6) of section 2032A(e), respectively.

1       “(d) USE CERTIFICATION AS FARM FOR FARMING  
 2 PURPOSES.—The certification requirement of this sub-  
 3 section is a certification that the use of the qualified farm  
 4 property referred to in subsection (a)(1) will be as a farm  
 5 for farming purposes for not less than the 10-year period  
 6 beginning on the date of the sale or exchange referred to  
 7 in subsection (a)(1).

8       “(e) SPECIAL RULES.—For purposes of this section,  
 9 the following rules shall apply:

10           “(1) Rules similar to the rules of subsections  
 11 (e) and (f) of section 121.

12           “(2) Rules similar to the rules of paragraphs  
 13 (4) and (5) of section 2032A(b) and paragraph (3)  
 14 of section 2032A(e).

15       “(f) TREATMENT OF DISPOSITION OR CHANGE IN  
 16 USE OF PROPERTY.—

17           “(1) IN GENERAL.—If, as of the close of any  
 18 taxable year, there is a recapture event with respect  
 19 to any qualified farm property transferred to the  
 20 taxpayer in a sale or exchange described in para-  
 21 graph (1) or (2) of subsection (a), then the tax of  
 22 the taxpayer under this chapter for such taxable  
 23 year shall be increased by an amount equal to the  
 24 product of—

1                   “(A) the applicable recapture percentage,  
2                   and

3                   “(B) 10 percent of the taxpayer’s adjusted  
4                   basis in the property on the date such property  
5                   was transferred to the taxpayer.

6                   “(2) APPLICABLE RECAPTURE PERCENTAGE.—

7                   “(A) IN GENERAL.—For purposes of this  
8                   subsection, the applicable recapture percentage  
9                   shall be determined from the following table:

<b>“If the recapture event occurs in:</b>	<b>The applicable recapture percentage is:</b>
Years 1 through 5 .....	100
Year 6 .....	80
Year 7 .....	60
Year 8 .....	40
Year 9 .....	20
Years 10 and thereafter .....	0.

10                   “(B) YEARS.—For purposes of subpara-  
11                   graph (A), year 1 shall begin on the date of the  
12                   sale or exchange described in paragraph (1) or  
13                   (2) of subsection (a).

14                   “(3) RECAPTURE EVENT DEFINED.—For pur-  
15                   poses of this subsection, the term ‘recapture event’  
16                   means—

17                   “(A) CESSATION OF OPERATION.—The  
18                   cessation of the operation of any property the  
19                   sale or exchange of which to the taxpayer is de-  
20                   scribed in paragraph (1) or (2) of subsection  
21                   (a) as a farm for farming purposes.

1 “(B) CHANGE IN OWNERSHIP.—

2 “(i) IN GENERAL.—Except as pro-  
3 vided in clause (ii), the disposition of a  
4 taxpayer’s interest in any property the sale  
5 or exchange of which to the taxpayer is de-  
6 scribed in paragraph (1) or (2) of sub-  
7 section (a).

8 “(ii) AGREEMENT TO ASSUME RECAP-  
9 TURE LIABILITY.—Clause (i) shall not  
10 apply if the person acquiring such interest  
11 in the property agrees in writing to assume  
12 the recapture liability of the person dis-  
13 posing of such interest in effect imme-  
14 diately before such disposition. In the  
15 event of such an assumption, the person  
16 acquiring the interest in the property shall  
17 be treated as the taxpayer for purposes of  
18 assessing any recapture liability (computed  
19 as if there had been no change in owner-  
20 ship).

21 “(4) SPECIAL RULES.—

22 “(A) NO CREDITS AGAINST TAX.—Any in-  
23 crease in tax under this subsection shall not be  
24 treated as a tax imposed by this chapter for

1 purposes of determining the amount of any  
 2 credit under subpart A, B, or D of this part.

3 “(B) NO RECAPTURE BY REASON OF  
 4 HARDSHIP.—The increase in tax under this  
 5 subsection shall not apply to any disposition of  
 6 property or cessation of the operation of any  
 7 property as a farm for farming purposes by rea-  
 8 son of any hardship as determined by the Sec-  
 9 retary.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-  
 11 tions for part III of subchapter B of chapter 1 of the In-  
 12 ternal Revenue Code of 1986 is amended by adding after  
 13 the item relating to section 121 the following new item:

“Sec. 121A. Exclusion of gain from sale of qualified farm property.”.

14 (c) EFFECTIVE DATE.—The amendment made by  
 15 this section shall apply to any sale or exchange on or after  
 16 the date of the enactment of this Act, in taxable years  
 17 ending after such date.

18 **SEC. 3. INCREASE IN ALLOWABLE DOLLAR AMOUNT OF**  
 19 **BONDS ISSUED FOR FIRST-TIME FARMER**  
 20 **PROJECTS.**

21 (a) ACQUISITION OF DEPRECIABLE FARM PROP-  
 22 erty.—Subparagraph (A) of section 144(a)(11) of the In-  
 23 ternal Revenue Code of 1986 (relating to limitation on ac-  
 24 quisition of depreciable farm property) is amended by  
 25 striking “\$250,000” and inserting “\$500,000”.



1       (b) FIRST-TIME FARMER.—Subparagraphs (A) and  
2       (C)(i)(II) of section 147(c)(2) of such Code (relating to  
3       exception for first-time farmers) are each amended by  
4       striking “\$250,000” and inserting “\$500,000”.

5       (c) SUBSTANTIAL FARMLAND.—Clause (ii) of section  
6       147(c)(2)(E) of such Code (defining substantial farmland)  
7       is amended by striking “\$125,000” and inserting  
8       “\$250,000”.

9       (d) USED EQUIPMENT LIMITATION.—Subparagraph  
10       (F) of section 147(c)(2) of such Code (relating to used  
11       equipment limitation) is amended by striking “\$62,500”  
12       and inserting “\$500,000”.

13       (e) EFFECTIVE DATE.—The amendments made by  
14       this section shall apply to bonds issued after the date of  
15       the enactment of this Act.

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