

111TH CONGRESS
1ST SESSION

H. R. 173

To amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. SALAZAR (for himself and Ms. MARKEY of Colorado) 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 exempt certain farmland from the estate tax.

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. EXCLUSION FROM GROSS ESTATE OF CERTAIN**
4 **FARMLAND SO LONG AS FARMLAND USE**
5 **CONTINUES.**

6 (a) IN GENERAL.—Part III of subchapter A of chap-
7 ter 11 of the Internal Revenue Code of 1986 (relating to
8 gross estate) is amended by inserting after section 2033
9 the following new section:

1 **“SEC. 2033A. EXCLUSION OF CERTAIN FARMLAND SO LONG**
2 **AS USE AS FARMLAND CONTINUES.**

3 “(a) IN GENERAL.—In the case of an estate of a de-
4 cedent to which this section applies, the value of the gross
5 estate shall not include the adjusted value of qualified
6 farmland included in the estate.

7 “(b) ESTATES TO WHICH SECTION APPLIES.—This
8 section shall apply to an estate if—

9 “(1) the decedent was (at the date of the dece-
10 dent’s death) a citizen or resident of the United
11 States,

12 “(2) with respect to each of 3 or more of the
13 5 consecutive taxable years ending with the dece-
14 dent’s last taxable year, the decedent’s gross income
15 from the trade or business of farming exceeds 50
16 percent of the decedent’s gross income, and

17 “(3) during the 8-year period ending on the
18 date of the decedent’s death there have been periods
19 aggregating 5 years or more during which—

20 “(A) the qualified farmland was owned by
21 the decedent or a member of the decedent’s
22 family, and

23 “(B) there was material participation
24 (within the meaning of section 2032A(e)(6)) by
25 the decedent or a member of the decedent’s
26 family in the operation of such farmland.

1 Rules similar to the rules of paragraphs (4) and (5)
2 of section 2032A(b) shall apply for purposes of sub-
3 paragraph (B).

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

5 “(1) QUALIFIED FARMLAND.—The term ‘quali-
6 fied farmland’ means any real property—

7 “(A) which is located in the United States,

8 “(B) which is used as a farm for farming
9 purposes (within the meaning of section
10 2032A(e)), and

11 “(C) which was acquired from or passed
12 from the decedent to a qualified heir of the de-
13 cedent and which, on the date of the decedent’s
14 death, was being so used by the decedent or a
15 member of the decedent’s family.

16 “(2) ADJUSTED VALUE.—The term ‘adjusted
17 value’ means the value of farmland for purposes of
18 this chapter (determined without regard to this sec-
19 tion), reduced by the amount deductible under para-
20 graph (3) or (4) of section 2053(a).

21 “(3) OTHER TERMS.—Any other term used in
22 this section which is also used in section 2032A shall
23 have the same meaning given such term by section
24 2032A.

1 “(d) TAX TREATMENT OF DISPOSITIONS AND FAIL-
2 URES TO USE FOR FARMING PURPOSES.—

3 “(1) IMPOSITION OF RECAPTURE TAX.—If, at
4 any time after the decedent’s death and before the
5 death of the qualified heir—

6 “(A) the qualified heir disposes of any in-
7 terest in qualified farmland (other than by a
8 disposition to a member of his family), or

9 “(B) the qualified heir ceases to use the
10 real property which was acquired (or passed)
11 from the decedent as a farm for farming pur-
12 poses, then, there is hereby imposed a recapture
13 tax.

14 “(2) AMOUNT OF RECAPTURE TAX, ETC.—
15 Rules similar to the rules of section 2032A(c) with
16 respect to the additional estate tax shall apply for
17 purposes of this subsection with respect to the re-
18 capture tax.

19 “(e) APPLICATION OF OTHER RULES.—Rules similar
20 to the rules of subsections (e), (f), (g), (h), and (i) of sec-
21 tion 2032A shall apply for purposes of this section.”

22 “(b) CLERICAL AMENDMENT.—The table of sections
23 for part III of subchapter A of chapter 11 of such Code
24 is amended by inserting after the item relating to section
25 2033 the following new item:

“Sec. 2033A. Exclusion of certain farmland so long as use as farmland continues.”.

- 1 (c) EFFECTIVE DATE.—The amendments made by
- 2 this section shall apply to estates of decedents dying after
- 3 the date of the enactment of this Act.

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