

Public Law 98-4
98th Congress

An Act

Relating to the treatment for income and estate tax purposes of commodities received under 1983 payment-in-kind programs, and for other purposes.

Mar. 11, 1983
[H.R. 1296]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Payment-in-Kind
Tax Treatment
Act of 1983.
26 USC 61 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Payment-in-Kind Tax Treatment Act of 1983".

SEC. 2. INCOME TAX TREATMENT OF AGRICULTURAL COMMODITIES RECEIVED UNDER A 1983 PAYMENT-IN-KIND PROGRAM.

26 USC 61 note.

(a) INCOME TAX DEFERRAL, ETC.—Except as otherwise provided in this Act, for purposes of the Internal Revenue Code of 1954—

26 USC 1 *et seq.*

(1) a qualified taxpayer shall not be treated as having realized income when he receives a commodity under a 1983 payment-in-kind program,

(2) such commodity shall be treated as if it were produced by such taxpayer, and

(3) the unadjusted basis of such commodity in the hands of such taxpayer shall be zero.

(b) EFFECTIVE DATE.—This section shall apply to taxable years ending after December 31, 1982, but only with respect to commodities received for the 1983 crop year.

SEC. 3. LAND DIVERTED UNDER 1983 PAYMENT-IN-KIND PROGRAM TREATED AS USED IN FARMING BUSINESS, ETC.

26 USC 61 note.

(a) GENERAL RULE.—For purposes of the provisions specified in subsection (b), in the case of any land diverted from the production of an agricultural commodity under a 1983 payment-in-kind program—

(1) such land shall be treated as used during the 1983 crop year by the qualified taxpayer in the active conduct of the trade or business of farming, and

(2) any qualified taxpayer who materially participates in the diversion and devotion to conservation uses required under a 1983 payment-in-kind program shall be treated as materially participating in the operation of such land during such crop year.

(b) PROVISIONS TO WHICH SUBSECTION (a) APPLIES.—The provisions specified in this subsection are—

(1) section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property),

26 USC 2032A.

(2) section 6166 of such Code (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business),

26 USC 6166.

(3) chapter 2 of such Code (relating to tax on self-employment income), and

26 USC 1401 *et seq.*

42 USC 401.

(4) title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

26 USC 61 note.

SEC. 4. ANTIABUSE RULES.

(a) **GENERAL RULE.**—In the case of any person, sections 2 and 3 of this Act shall not apply with respect to any land acquired by such person after February 23, 1983, unless such land was acquired in a qualified acquisition.

(b) **QUALIFIED ACQUISITION.**—For purposes of this section, the term “qualified acquisition” means any acquisition—

- (1) by reason of the death of a qualified transferor,
- (2) by reason of a gift from a qualified transferor, or
- (3) from a qualified transferor who is a member of the family of the person acquiring the land.

(c) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

(1) **QUALIFIED TRANSFEROR.**—The term “qualified transferor” means any person—

- (A) who held the land on February 23, 1983, or
- (B) who acquired the land after February 23, 1983, in a qualified acquisition.

(2) **MEMBER OF FAMILY.**—The term “member of the family” has the meaning given such term by section 2032A(e)(2) of the Internal Revenue Code of 1954.

(3) **MERE CHANGE IN FORM OF BUSINESS.**—Subsection (a) shall not apply to any change in ownership by reason of a mere change in the form of conducting the trade or business so long as the land is retained in such trade or business and the person holding the land before such change retains a direct or indirect 80-percent interest in such land.

(4) **TREATMENT OF CERTAIN ACQUISITIONS OF RIGHT TO THE CROP.**—The acquisition of a direct or indirect interest in 80 percent or more of the crop from any land shall be treated as an acquisition of such land.

26 USC 2032A.

26 USC 61 note.

SEC. 5. DEFINITIONS AND SPECIAL RULES.

(a) **GENERAL RULE.**—For purposes of this Act—

(1) **1983 PAYMENT-IN-KIND PROGRAM.**—The term “1983 payment-in-kind program” means any program for the 1983 crop year—

(A) under which the Secretary of Agriculture (or his delegate) makes payments in kind of any agricultural commodity to any person in return for—

- (i) the diversion of farm acreage from the production of an agricultural commodity, and
- (ii) the devotion of such acreage to conservation uses, and

(B) which the Secretary of Agriculture certifies to the Secretary of the Treasury as being described in subparagraph (A).

(2) **1983 CROP YEAR.**—The term “1983 crop year” means the crop year for any crop the harvesting or planting period for which occurs during 1983.

(3) **QUALIFIED TAXPAYER.**—The term “qualified taxpayer” means any producer of agricultural commodities (within the meaning of the 1983 payment-in-kind programs) who receives

any agricultural commodity in return for meeting the requirements of clauses (i) and (ii) of paragraph (1)(A).

(4) RECEIPT INCLUDES RIGHT TO RECEIVE, ETC.—A right to receive (or other constructive receipt of) a commodity shall be treated the same as actual receipt of such commodity.

(5) AMOUNTS RECEIVED BY THE TAXPAYER AS REIMBURSEMENT FOR STORAGE.—A qualified taxpayer reporting on the cash receipts and disbursements method of accounting shall not be treated as being entitled to receive any amount as reimbursement for storage of commodities received under a 1983 payment-in-kind program until such amount is actually received by the taxpayer.

(6) COMMODITY CREDIT LOANS TREATED SEPARATELY.—Subsection (a) of section 2 shall apply to the receipt of any commodity under a 1983 payment-in-kind program separately from, and without taking into account, any related transaction or series of transactions involving the satisfaction of loans from the Commodity Credit Corporation.

(b) REGULATIONS.—The Secretary of the Treasury or his delegate (after consultation with the Secretary of Agriculture) shall prescribe such regulations as may be necessary to carry out the purposes of this Act, including (but not limited to) such regulations as may be necessary to carry out the purposes of this Act where the commodity is received by a cooperative on behalf of the qualified taxpayer.

SEC. 6. STUDY.

26 USC 61 note.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate, after consultation with the Secretary of Agriculture, shall conduct a study of—

(1) the 1983 payment-in-kind program, and

(2) the tax treatment provided with respect to such program by this Act.

(b) REPORT.—Not later than September 1, 1983, the Secretary of the Treasury shall submit to the Congress a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

Approved March 11, 1983.

LEGISLATIVE HISTORY—H.R. 1296 (S. 690):

HOUSE REPORT: No. 98-14 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Mar. 8, considered and passed House; considered and passed Senate, amended.

Mar. 9, House concurred in Senate amendment with an amendment.

Mar. 10, Senate concurred in House amendment.