

105TH CONGRESS  
2D SESSION

# S. 2371

To amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers.

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## IN THE SENATE OF THE UNITED STATES

JULY 30, 1998

Mr. GRASSLEY (for Mr. LOTT) (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CRAIG, Mr. SHELBY, Mr. SESSIONS, Mr. THOMAS, Mr. COVERDELL, and Mr. COCHRAN) 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 reduce individual capital gains tax rates and to provide tax incentives for farmers.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Family Investment and Rural Savings Tax Act”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

### TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES

Sec. 101. Reduction in individual capital gains tax rates.

## TITLE II—TAX INCENTIVES FOR FARMERS

Sec. 201. Farm and ranch risk management accounts.

Sec. 202. Permanent extension of income averaging for farmers.

1 **TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX**  
 2 **RATES**

4 **SEC. 101. REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX**  
 5 **RATES.**

6 (a) IN GENERAL.—Subsection (h) of section 1 of the  
 7 Internal Revenue Code of 1986 is amended to read as fol-  
 8 lows:

9 “(h) MAXIMUM CAPITAL GAINS RATE.—

10 “(1) IN GENERAL.—If a taxpayer has a net  
 11 capital gain for any taxable year, the tax imposed by  
 12 this section for such taxable year shall not exceed  
 13 the sum of—

14 “(A) a tax computed at the rates and in  
 15 the same manner as if this subsection had not  
 16 been enacted on taxable income reduced by the  
 17 net capital gain,

18 “(B) 7.5 percent of so much of the net  
 19 capital gain (or, if less, taxable income) as does  
 20 not exceed the excess (if any) of—

21 “(i) the amount of taxable income  
 22 which would (without regard to this para-

1 graph) be taxed at a rate below 28 per-  
 2 cent, over

3 “(ii) the taxable income reduced by  
 4 the net capital gain, and

5 “(C) 15 percent of the amount of taxable  
 6 income in excess of the sum of the amounts on  
 7 which tax is determined under subparagraphs  
 8 (A) and (B).

9 “(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT  
 10 AS INVESTMENT INCOME.—For purposes of this sub-  
 11 section, the net capital gain for any taxable year  
 12 shall be reduced (but not below zero) by the amount  
 13 which the taxpayer takes into account as investment  
 14 income under section 163(d)(4)(B)(iii).”

15 (b) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of  
 16 section 55(b) of such Code is amended to read as follows:

17 “(3) MAXIMUM RATE OF TAX ON NET CAPITAL  
 18 GAIN OF NONCORPORATE TAXPAYERS.—The amount  
 19 determined under the first sentence of paragraph  
 20 (1)(A)(i) shall not exceed the sum of—

21 “(A) the amount determined under such  
 22 first sentence computed at the rates and in the  
 23 same manner as if this paragraph had not been  
 24 enacted on the taxable excess reduced by the  
 25 net capital gain,

1           “(B) 7.5 percent of so much of the net  
2           capital gain (or, if less, taxable excess) as does  
3           not exceed the amount on which a tax is deter-  
4           mined under section 1(h)(1)(B), and

5           “(C) 15 percent of the amount of taxable  
6           excess in excess of the sum of the amounts on  
7           which tax is determined under subparagraphs  
8           (A) and (B).”

9           (c) CONFORMING AMENDMENTS.—

10           (1) Paragraph (1) of section 1445(e) of such  
11           Code is amended by striking “20 percent” and in-  
12           serting “15 percent”.

13           (2) The second sentence of section  
14           7518(g)(6)(A) of such Code, and the second sen-  
15           tence of section 607(h)(6)(A) of the Merchant Ma-  
16           rine Act, 1936, are each amended by striking “20  
17           percent” and inserting “15 percent”.

18           (3) Section 311 of the Taxpayer Relief Act of  
19           1997 is amended by striking subsection (e).

20           (4) Paragraph (7) of section 57(a) of such Code  
21           (as amended by the Internal Revenue Service Re-  
22           structuring and Reform Act of 1998) is amended by  
23           striking the last sentence.

24           (5) Paragraphs (11) and (12) of section 1223,  
25           and section 1235(a), of such Code (as amended by

1 the Internal Revenue Service Restructuring and Re-  
 2 form Act of 1998) are each amended by striking “18  
 3 months” each place it appears and inserting “1  
 4 year”.

5 (d) TRANSITIONAL RULES FOR TAXABLE YEARS  
 6 WHICH INCLUDE JUNE 24, 1998.—

7 (1) IN GENERAL.—Subsection (h) of section 1  
 8 of such Code (as amended by the Internal Revenue  
 9 Service Restructuring and Reform Act of 1998) is  
 10 amended by adding at the end the following new  
 11 paragraph:

12 “(14) SPECIAL RULES FOR TAXABLE YEARS  
 13 WHICH INCLUDE JUNE 24, 1998.—For purposes of  
 14 applying this subsection in the case of a taxable year  
 15 which includes June 24, 1998—

16 “(A) Gains or losses properly taken into  
 17 account for the period on or after such date  
 18 shall be disregarded in applying paragraph  
 19 (5)(A)(i), subclauses (I) and (II) of paragraph  
 20 (5)(A)(ii), paragraph (5)(B), paragraph (6),  
 21 and paragraph (7)(A).

22 “(B) The amount determined under sub-  
 23 paragraph (B) of paragraph (1) shall be the  
 24 sum of—

1 “(i) 7.5 percent of the amount which  
2 would be determined under such subpara-  
3 graph if the amount of gain taken into ac-  
4 count under such subparagraph did not ex-  
5 ceed the net capital gain taking into ac-  
6 count only gain or loss properly taken into  
7 account for the portion of the taxable year  
8 on or after such date, plus

9 “(ii) 10 percent of the excess of the  
10 amount determined under such subpara-  
11 graph (determined without regard to this  
12 paragraph) over the amount determined  
13 under clause (i).

14 “(C) The amount determined under sub-  
15 paragraph (C) of paragraph (1) shall be the  
16 sum of—

17 “(i) 15 percent of the amount which  
18 would be determined under such subpara-  
19 graph if the adjusted net capital gain did  
20 not exceed the net capital gain taking into  
21 account only gain or loss properly taken  
22 into account for the portion of the taxable  
23 year on or after such date, plus

24 “(ii) 20 percent of the excess of the  
25 amount determined under such subpara-

1 graph (determined without regard to this  
 2 paragraph) over the amount determined  
 3 under clause (i).

4 “(D) Rules similar to the rules of para-  
 5 graph (13)(C) shall apply.”

6 (2) ALTERNATIVE MINIMUM TAX.—Paragraph  
 7 (3) of section 55(b) of such Code (as amended by  
 8 the Internal Revenue Service Restructuring and Re-  
 9 form Act of 1998) is amended by adding at the end  
 10 the following new sentence: “For purposes of apply-  
 11 ing this paragraph for a taxable year which includes  
 12 June 24, 1998, rules similar to the rules of section  
 13 1(h)(14) shall apply.”

14 (e) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as otherwise pro-  
 16 vided in this subsection, the amendments made by  
 17 this section shall apply to taxable years beginning on  
 18 or after June 24, 1998.

19 (2) TRANSITIONAL RULES FOR TAXABLE YEARS  
 20 WHICH INCLUDE JUNE 24, 1998.—The amendments  
 21 made by subsection (d) shall apply to taxable years  
 22 beginning before such date and ending on or after  
 23 June 24, 1998.

1           (3) WITHHOLDING.—The amendment made by  
 2           subsection (c)(1) shall apply only to amounts paid  
 3           after the date of the enactment of this Act.

4           (4) CERTAIN CONFORMING AMENDMENTS.—The  
 5           amendments made by subsection (c)(5) shall take ef-  
 6           fect on June 24, 1998.

## 7   **TITLE II—TAX INCENTIVES FOR** 8                           **FARMERS**

### 9   **SEC. 201. FARM AND RANCH RISK MANAGEMENT AC-** 10                           **COUNTS.**

11           (a) IN GENERAL.—Subpart C of part II of sub-  
 12           chapter E of chapter 1 of the Internal Revenue Code of  
 13           1986 (relating to taxable year for which deductions taken)  
 14           is amended by inserting after section 468B the following  
 15           new section:

#### 16   **“SEC. 468C. FARM AND RANCH RISK MANAGEMENT AC-** 17                           **COUNTS.**

18           “(a) DEDUCTION ALLOWED.—In the case of an indi-  
 19           vidual engaged in an eligible farming business, there shall  
 20           be allowed as a deduction for any taxable year the amount  
 21           paid in cash by the taxpayer during the taxable year to  
 22           a Farm and Ranch Risk Management Account (herein-  
 23           after referred to as the ‘FARRM Account’).

24           “(b) LIMITATION.—The amount which a taxpayer  
 25           may pay into the FARRM Account for any taxable year



1 shall not exceed 20 percent of so much of the taxable in-  
 2 come of the taxpayer (determined without regard to this  
 3 section) which is attributable (determined in the manner  
 4 applicable under section 1301) to any eligible farming  
 5 business.

6 “(c) ELIGIBLE FARMING BUSINESS.—For purposes  
 7 of this section, the term ‘eligible farming business’ means  
 8 any farming business (as defined in section 263A(e)(4))  
 9 which is not a passive activity (within the meaning of sec-  
 10 tion 469(c)) of the taxpayer.

11 “(d) FARRM ACCOUNT.—For purposes of this sec-  
 12 tion—

13 “(1) IN GENERAL.—The term ‘FARRM Ac-  
 14 count’ means a trust created or organized in the  
 15 United States for the exclusive benefit of the tax-  
 16 payer, but only if the written governing instrument  
 17 creating the trust meets the following requirements:

18 “(A) No contribution will be accepted for  
 19 any taxable year in excess of the amount al-  
 20 lowed as a deduction under subsection (a) for  
 21 such year.

22 “(B) The trustee is a bank (as defined in  
 23 section 408(n)) or another person who dem-  
 24 onstrates to the satisfaction of the Secretary  
 25 that the manner in which such person will ad-

1 minister the trust will be consistent with the re-  
 2 quirements of this section.

3 “(C) The assets of the trust consist en-  
 4 tirely of cash or of obligations which have ade-  
 5 quate stated interest (as defined in section  
 6 1274(c)(2)) and which pay such interest not  
 7 less often than annually.

8 “(D) All income of the trust is distributed  
 9 currently to the grantor.

10 “(E) The assets of the trust will not be  
 11 commingled with other property except in a  
 12 common trust fund or common investment  
 13 fund.

14 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—  
 15 The grantor of a FARRM Account shall be treated  
 16 for purposes of this title as the owner of such Ac-  
 17 count and shall be subject to tax thereon in accord-  
 18 ance with subpart E of part I of subchapter J of  
 19 this chapter (relating to grantors and others treated  
 20 as substantial owners).

21 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

22 “(1) IN GENERAL.—Except as provided in para-  
 23 graph (2), there shall be includible in the gross in-  
 24 come of the taxpayer for any taxable year—

1           “(A) any amount distributed from a  
2           FARRM Account of the taxpayer during such  
3           taxable year, and

4           “(B) any deemed distribution under—

5                   “(i) subsection (f)(1) (relating to de-  
6                   posits not distributed within 5 years),

7                   “(ii) subsection (f)(2) (relating to ces-  
8                   sation in eligible farming business), and

9                   “(iii) subparagraph (A) or (B) of sub-  
10                  section (f)(3) (relating to prohibited trans-  
11                  actions and pledging account as security).

12           “(2) EXCEPTIONS.—Paragraph (1)(A) shall not  
13           apply to—

14                   “(A) any distribution to the extent attrib-  
15                   utable to income of the Account, and

16                   “(B) the distribution of any contribution  
17                   paid during a taxable year to a FARRM Ac-  
18                   count to the extent that such contribution ex-  
19                   ceeds the limitation applicable under subsection  
20                   (b) if requirements similar to the requirements  
21                   of section 408(d)(4) are met.

22           For purposes of subparagraph (A), distributions  
23           shall be treated as first attributable to income and  
24           then to other amounts.

1           “(3) EXCLUSION FROM SELF-EMPLOYMENT  
 2 TAX.—Amounts included in gross income under this  
 3 subsection shall not be included in determining net  
 4 earnings from self-employment under section 1402.

5           “(f) SPECIAL RULES.—

6           “(1) TAX ON DEPOSITS IN ACCOUNT WHICH  
 7 ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

8           “(A) IN GENERAL.—If, at the close of any  
 9 taxable year, there is a nonqualified balance in  
 10 any FARRM Account—

11           “(i) there shall be deemed distributed  
 12 from such Account during such taxable  
 13 year an amount equal to such balance, and

14           “(ii) the taxpayer’s tax imposed by  
 15 this chapter for such taxable year shall be  
 16 increased by 10 percent of such deemed  
 17 distribution.

18           The preceding sentence shall not apply if an  
 19 amount equal to such nonqualified balance is  
 20 distributed from such Account to the taxpayer  
 21 before the due date (including extensions) for  
 22 filing the return of tax imposed by this chapter  
 23 for such year (or, if earlier, the date the tax-  
 24 payer files such return for such year).

1           “(B) NONQUALIFIED BALANCE.—For pur-  
 2           poses of subparagraph (A), the term ‘non-  
 3           qualified balance’ means any balance in the Ac-  
 4           count on the last day of the taxable year which  
 5           is attributable to amounts deposited in such Ac-  
 6           count before the 4th preceding taxable year.

7           “(C) ORDERING RULE.—For purposes of  
 8           this paragraph, distributions from a FARRM  
 9           Account shall be treated as made from deposits  
 10          in the order in which such deposits were made,  
 11          beginning with the earliest deposits. For pur-  
 12          poses of the preceding sentence, income of such  
 13          an Account shall be treated as a deposit made  
 14          on the date such income is received by the Ac-  
 15          count.

16          “(2) CESSATION IN ELIGIBLE FARMING BUSI-  
 17          NESS.—At the close of the first disqualification pe-  
 18          riod after a period for which the taxpayer was en-  
 19          gaged in an eligible farming business, there shall be  
 20          deemed distributed from the FARRM Account (if  
 21          any) of the taxpayer an amount equal to the balance  
 22          in such Account at the close of such disqualification  
 23          period. For purposes of the preceding sentence, the  
 24          term ‘disqualification period’ means any period of 2

1 consecutive taxable years for which the taxpayer is  
 2 not engaged in an eligible farming business.

3 “(3) CERTAIN RULES TO APPLY.—Rules similar  
 4 to the following rules shall apply for purposes of this  
 5 section:

6 “(A) Section 408(e)(2) (relating to loss of  
 7 exemption of account where individual engages  
 8 in prohibited transaction).

9 “(B) Section 408(e)(4) (relating to effect  
 10 of pledging account as security).

11 “(C) Section 408(g) (relating to commu-  
 12 nity property laws).

13 “(D) Section 408(h) (relating to custodial  
 14 accounts).

15 “(4) TIME WHEN PAYMENTS DEEMED MADE.—  
 16 For purposes of this section, a taxpayer shall be  
 17 deemed to have made a payment to a FARRM Ac-  
 18 count on the last day of a taxable year if such pay-  
 19 ment is made on account of such taxable year and  
 20 is made within 3½ months after the close of such  
 21 taxable year.

22 “(5) INDIVIDUAL.—For purposes of this sec-  
 23 tion, the term ‘individual’ shall not include an estate  
 24 or trust.

1       “(g) REPORTS.—The trustee of a FARRM Account  
 2 shall make such reports regarding such Account to the  
 3 Secretary and to the person for whose benefit the Account  
 4 is maintained with respect to contributions, distributions,  
 5 and such other matters as the Secretary may require  
 6 under regulations. The reports required by this subsection  
 7 shall be filed at such time and in such manner and fur-  
 8 nished to such persons at such time and in such manner  
 9 as may be required by those regulations.”

10       (b) DEDUCTION ALLOWED IN COMPUTING AD-  
 11 JUSTED GROSS INCOME.—Subsection (a) of section 62 of  
 12 such Code (defining adjusted gross income) is amended  
 13 by inserting after paragraph (17) the following new para-  
 14 graph:

15               “(18) CONTRIBUTIONS TO FARM AND RANCH  
 16 RISK MANAGEMENT ACCOUNTS.—The deduction al-  
 17 lowed by section 468C(a).”

18       (c) TAX ON EXCESS CONTRIBUTIONS.—

19               (1) Subsection (a) of section 4973 of such Code  
 20 (relating to tax on certain excess contributions) is  
 21 amended by striking “or” at the end of paragraph  
 22 (3), by redesignating paragraph (4) as paragraph  
 23 (5), and by inserting after paragraph (3) the follow-  
 24 ing new paragraph:

1 “(4) a FARRM Account (within the meaning of  
2 section 468C(d)), or”.

3 (2) Section 4973 of such Code is amended by  
4 adding at the end the following new subsection:

5 “(g) EXCESS CONTRIBUTIONS TO FARRM AC-  
6 COUNTS.—For purposes of this section, in the case of a  
7 FARRM Account (within the meaning of section  
8 468C(d)), the term ‘excess contributions’ means the  
9 amount by which the amount contributed for the taxable  
10 year to the Account exceeds the amount which may be con-  
11 tributed to the Account under section 468C(b) for such  
12 taxable year. For purposes of this subsection, any con-  
13 tribution which is distributed out of the FARRM Account  
14 in a distribution to which section 468C(e)(2)(B) applies  
15 shall be treated as an amount not contributed.”

16 (3) The section heading for section 4973 of  
17 such Code is amended to read as follows:

18 **“SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN AC-  
19 COUNTS, ANNUITIES, ETC.”**

20 (4) The table of sections for chapter 43 of such  
21 Code is amended by striking the item relating to sec-  
22 tion 4973 and inserting the following new item:

“Sec. 4973. Excess contributions to certain accounts, annuities,  
etc.”

23 (d) TAX ON PROHIBITED TRANSACTIONS.—



1           (1) Subsection (c) of section 4975 of such Code  
 2           (relating to prohibited transactions) is amended by  
 3           adding at the end the following new paragraph:

4           “(6) SPECIAL RULE FOR FARRM ACCOUNTS.—  
 5           A person for whose benefit a FARRM Account  
 6           (within the meaning of section 468C(d)) is estab-  
 7           lished shall be exempt from the tax imposed by this  
 8           section with respect to any transaction concerning  
 9           such Account (which would otherwise be taxable  
 10          under this section) if, with respect to such trans-  
 11          action, the account ceases to be a FARRM Account  
 12          by reason of the application of section 468C(f)(3)(A)  
 13          to such Account.”

14          (2) Paragraph (1) of section 4975(e) of such  
 15          Code is amended by redesignating subparagraphs  
 16          (E) and (F) as subparagraphs (F) and (G), respec-  
 17          tively, and by inserting after subparagraph (D) the  
 18          following new subparagraph:

19                 “(E) a FARRM Account described in sec-  
 20                 tion 468C(d),”.

21          (e) FAILURE TO PROVIDE REPORTS ON FARRM AC-  
 22          COUNTS.—Paragraph (2) of section 6693(a) of such Code  
 23          (relating to failure to provide reports on certain tax-fa-  
 24          vored accounts or annuities) is amended by redesignating  
 25          subparagraphs (C) and (D) as subparagraphs (D) and

1 (E), respectively, and by inserting after subparagraph (B)  
 2 the following new subparagraph:

3 “(C) section 468C(g) (relating to FARRM  
 4 Accounts).”

5 (f) CLERICAL AMENDMENT.—The table of sections  
 6 for subpart C of part II of subchapter E of chapter 1 of  
 7 such Code is amended by inserting after the item relating  
 8 to section 468B the following new item:

“Sec. 468C. Farm and Ranch Risk Management Accounts.”

9 (g) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 the date of the enactment of this Act.

12 **SEC. 202. PERMANENT EXTENSION OF INCOME AVERAGING**  
 13 **FOR FARMERS.**

14 Section 933(c) of the Taxpayer Relief Act of 1997  
 15 is amended by striking “, and before January 1, 2001”.

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