

105TH CONGRESS
1ST SESSION

S. 552

To amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 1997

Mr. GREGG (for himself, Mr. LEAHY, Mr. JEFFORDS, Ms. COLLINS, Ms. SNOWE, and Mr. SMITH of New Hampshire) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to preserve family-held forest lands, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Forestland Preservation Tax Act of 1997”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 **TITLE I—ESTATE TAX** 4 **PROVISIONS**

5 **SEC. 101. ESTATE TAX TREATMENT OF QUALIFIED CON-** 6 **SERVATION EASEMENT.**

7 (a) IN GENERAL.—Section 2031 (relating to the defi-
 8 nition of gross estate) is amended by redesignating sub-
 9 section (c) as subsection (d) and by inserting after sub-
 10 section (b) the following new subsection:

11 “(c) EXCLUSION OF CONSERVATION EASEMENT.—

12 “(1) IN GENERAL.—If an executor elects the
 13 application of this subsection, with respect to any
 14 real property included in the gross estate, there shall
 15 be excluded from the gross estate the value of a
 16 qualified conservation contribution (as defined in
 17 section 170(h)(1)) of a qualified real property inter-
 18 est described in section 170(h)(2)(C) in such real
 19 property made by the decedent or a member of the
 20 decedent’s family within 9 months after the date of
 21 the decedent’s death.

22 “(2) CERTAIN CONTRIBUTIONS NOT IN-
 23 CLUDED.—For purposes of paragraph (1), section
 24 170(h)(4)(A) shall be applied without regard to

1 clause (iv) thereof in determining whether there is a
 2 qualified conservation contribution.

3 “(3) FAMILY MEMBER.—For purposes of para-
 4 graph (1), the term ‘member of the decedent’s fam-
 5 ily’ has the same meaning given such term by sec-
 6 tion 2032A(e)(2).

7 “(4) ELECTION.—An election under paragraph
 8 (1) shall be made on the return of tax imposed by
 9 section 2001. Such an election, once made, shall be
 10 irrevocable.”

11 (b) CARRYOVER BASIS.—Section 1014(a) (relating to
 12 basis of property acquired from a decedent) is amended
 13 by striking the period at the end of paragraph (3) and
 14 inserting “, or”, and by inserting at the end the following
 15 new paragraph:

16 “(4) in the case of property subject to a quali-
 17 fied conservation easement excluded from the gross
 18 estate of the decedent under section 2031(c), the
 19 basis of the property in the hands of the decedent.”

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to estates of decedents dying after
 22 December 31, 1997, which include land subject to quali-
 23 fied conservation easements granted after December 31,
 24 1997.

1 **SEC. 102. SPECIAL ESTATE TAX VALUATION OF FOREST**
 2 **LANDS.**

3 (a) IN GENERAL.—Part III of subchapter A of chap-
 4 ter 11 (relating to gross estate) is amended by inserting
 5 after section 2032A the following new section:

6 **“SEC. 2032B. VALUATION OF CERTAIN FORESTLAND.**

7 “(a) VALUE BASED ON USE OF PROPERTY AS
 8 FORESTLAND.—

9 “(1) GENERAL RULE.—If—

10 “(A) the decedent was (at the time of his
 11 death) a citizen or resident of the United
 12 States, and

13 “(B) the executor elects the application of
 14 this section and files the agreement referred to
 15 in subsection (d)(2),

16 then, for purposes of this chapter, the value of quali-
 17 fied forestland shall be its value for use as a timber
 18 operation, under subsection (b), as qualified
 19 forestland.

20 “(2) LIMITATION ON AGGREGATE REDUCTION
 21 IN FAIR MARKET VALUE.—The aggregate decrease
 22 in the value of qualified forestland taken into ac-
 23 count for purposes of this chapter which results
 24 from the application of paragraph (1) with respect
 25 to any decedent shall not exceed \$1,000,000.

26 “(b) QUALIFIED FORESTLAND.—

1 “(1) IN GENERAL.—For purposes of this sec-
 2 tion, the term ‘qualified forestland’ means real prop-
 3 erty located in the United States which was acquired
 4 from or passed from the decedent to a qualified devi-
 5 see or qualified heir and which, on the date of the
 6 decedent’s death, was being used for a qualified for-
 7 est use by the decedent or a member of the dece-
 8 dent’s family, but only if—

9 “(A) 25 percent or more of the adjusted
 10 value of the gross estate consists of the ad-
 11 justed value of real property which meets the
 12 requirements of this paragraph,

13 “(B) during the 8-year period ending on
 14 the date of the decedent’s death there have
 15 been periods aggregating 5 years or more dur-
 16 ing which the real property was used for a
 17 qualified forest use, and

18 “(C) such real property is designated in
 19 the agreement referred to in subsection (d)(2).

20 “(2) QUALIFIED FOREST USE.—For purposes
 21 of this section, the term ‘qualified forest use’ means
 22 the devotion of the property to use in timber oper-
 23 ations.

24 “(c) TAX TREATMENT OF DISPOSITIONS AND FAIL-
 25 URES TO USE AS QUALIFIED FOREST USE.—

1 “(1) IMPOSITION OF ADDITIONAL ESTATE TAX
2 (RECAPTURE).—

3 “(A) IN GENERAL.—If, within 25 years
4 after the decedent’s death and before the death
5 of the qualified devisee or qualified heir—

6 “(i) the qualified devisee or qualified
7 heir disposes of any interest in qualified
8 forestland,

9 “(ii) the qualified devisee or qualified
10 heir ceases to use for the qualified forest
11 use the qualified forestland which was ac-
12 quired (or passed) from the decedent for
13 an aggregated period of 3 years out of any
14 8-year period, or

15 “(iii) any depreciable improvements
16 are made to the property, other than those
17 relating to a qualified forest use,

18 then there is hereby imposed an additional es-
19 tate tax.

20 “(B) EXCEPTIONS.—Subparagraph (A)
21 shall not apply to—

22 “(i) a testamentary disposition that it-
23 self qualifies for special valuation under
24 this section,

1 “(ii) a disposition by a qualified heir
 2 to any other person who agrees to continue
 3 devoting the heir’s interest to a qualified
 4 forest use and signs the agreement in sub-
 5 section (d)(2) (such person shall thereafter
 6 be treated as a qualified devisee with re-
 7 spect to such interest),

8 “(iii) a disposition by a qualified devi-
 9 see to a qualified heir of such devisee who
 10 agrees to continue devoting the devisee’s
 11 interest to a qualified forest use and signs
 12 the agreement in subsection (d)(2) (such
 13 heir shall thereafter be treated as a quali-
 14 fied devisee with respect to such interest),

15 “(iv) a disposition of timber used in a
 16 timber operation; and

17 “(v) a disposition (other than by sale)
 18 of a qualified conservation contribution (as
 19 defined in section 170(h)).

20 “(2) AMOUNT OF ADDITIONAL TAX.—The
 21 amount of the additional tax imposed by paragraph
 22 (1)(A) with respect to any interest shall be the
 23 amount equal to the lesser of—

1 “(A) the adjusted tax difference with re-
 2 spect to the estate (within the meaning of sec-
 3 tion 2032A(c)(2)(C), or

4 “(B) the amount realized from the disposi-
 5 tion of the interest.

6 “(3) ONLY ONE ADDITIONAL TAX IMPOSED
 7 WITH RESPECT TO ANY ONE PORTION.—In the case
 8 of an interest acquired from (or passing from) any
 9 decedent, if a particular clause of paragraph (1)(A)
 10 applies to any portion of an interest, no other clause
 11 of such paragraph shall apply with respect to the
 12 same portion of such interest.

13 “(d) ELECTION; AGREEMENT.—

14 “(1) ELECTION.—The election under this sec-
 15 tion shall be made on the return of the tax imposed
 16 by section 2001. Such election shall be made in such
 17 manner as the Secretary shall by regulations pre-
 18 scribe. Such an election, once made, shall be irrev-
 19 ocable.

20 “(2) AGREEMENT.—The agreement referred to
 21 in this paragraph is a written agreement signed by
 22 each person in being who has an interest (whether
 23 or not in possession) in any property designated in
 24 such agreement consenting to the application of sub-
 25 section (c) with respect to such property.

1 “(e) DEFINITIONS; SPECIAL RULES.—For purposes
2 of this section—

3 “(1) QUALIFIED DEVISEE.—The term ‘qualified
4 devisee’ means, with respect to any property, a per-
5 son who acquired such property (or to whom such
6 property passed) from the decedent and who is not
7 a qualified heir of the decedent.

8 “(2) PERSON.—The term ‘person’ means an in-
9 dividual, partnership, corporation, or governmental
10 entity.

11 “(3) CERTAIN REAL PROPERTY INCLUDED.—In
12 the case of real property which meets the require-
13 ments of subparagraph (B) of subsection (b)(1), any
14 depreciable improvements, including roads, which
15 are related to the qualified forest use shall be treat-
16 ed as real property devoted to that use.

17 “(4) QUALIFIED FORESTLAND.—The term
18 ‘qualified forestland’ means any real property
19 which—

20 “(A) qualifies for a differential use value
21 assessment program for forestland in the State
22 in which the property is located; or

23 “(B) if a State has no differential use
24 value assessment program—

25 “(i) is forestland,

1 “(ii) is a minimum of 10 acres, exclu-
2 sive of a dwelling unit or other non-forest
3 related structure and its curtilage; and

4 “(iii) is subject to a forest manage-
5 ment plan.

6 “(5) TIMBER OPERATIONS.—The term ‘timber
7 operations’ means the planting, cultivating, caring
8 for, or harvesting of trees in the process of using
9 and conserving renewable forest resources.

10 “(6) METHOD OF VALUING FORESTLAND.—The
11 value of forestland shall be determined according to
12 whichever of the following methods results in the
13 least value:

14 “(A) Assessed land values in a State which
15 provides a differential or use value assessment
16 for forestland.

17 “(B) Comparable sales of other forestland
18 in the same geographical area far enough re-
19 moved from a metropolitan or resort area so
20 that nonforest use is not a significant factor in
21 the sales price.

22 “(C) The capitalization of income which
23 the property can be expected to yield for timber
24 operations over a reasonable period of time
25 under prudent management; using traditional

1 forest management for the area, and taking
 2 into account soil capacity, terrain configuration,
 3 and similar factors.

4 “(D) Any other factor which fairly values
 5 the timber value of the property.

6 “(7) APPLICABLE DEFINITIONS AND RULES OF
 7 SECTION 2032A.—

8 “(A) DEFINITIONS.—Except as otherwise
 9 provided in this section, any term used in this
 10 section which is also used in section 2032A
 11 shall have the meaning given such term by sec-
 12 tion 2032A.

13 “(B) RULES.—The rules in the following
 14 provisions of section 2032A shall apply to this
 15 section, by substituting ‘qualified forestland’ for
 16 ‘qualified real property’ and ‘qualified forest
 17 use’ for ‘qualified use’, and shall apply to quali-
 18 fied devisees as well as qualified heirs:

19 “(i) Paragraphs (2)(D) (by substitut-
 20 ing ‘paragraph (2)(B)’ for ‘subparagraph
 21 (A)(ii)’ in clause (i) thereof), (4), (5), and
 22 (7)(A) (by substituting ‘25 years’ for ‘10
 23 years’) of subsection (c).

24 “(ii) Subsection (d)(3).

1 “(iii) Paragraphs (9), (10), (11), and
 2 (14) (by substituting ‘active management’
 3 for ‘material participation’) of subsection
 4 (e).

5 “(iv) Subsections (f) and (g).

6 “(f) SPECIAL RULES FOR INVOLUNTARY CONVER-
 7 SIONS OF QUALIFIED FORESTLAND.—

8 “(1) TREATMENT OF CONVERTED PROPERTY.—

9 “(A) IN GENERAL.—If there is an involun-
 10 tary conversion of an interest in qualified
 11 forestland—

12 “(i) no tax shall be imposed by sub-
 13 section (c) on such conversion if the cost of
 14 the qualified replacement property equals
 15 or exceeds the amount realized on such
 16 conversion; or

17 “(ii) if clause (i) does not apply, the
 18 amount of the tax imposed by subsection
 19 (c) on such conversion shall be the amount
 20 determined under subparagraph (B).

21 “(B) AMOUNT OF TAX WHERE THERE IS
 22 NOT COMPLETE REINVESTMENT.—The amount
 23 determined under this subparagraph with re-
 24 spect to any involuntary conversion is the
 25 amount of tax which (but for this subsection)

1 would have been imposed on such conversion re-
 2 duced by an amount which—

3 “(i) bears the same ratio to such tax,
 4 as

5 “(ii) the cost of the qualified replace-
 6 ment property bears to the amount real-
 7 ized on the conversion.

8 “(2) TREATMENT OF REPLACEMENT PROP-
 9 ERTY.—For purposes of subsection (c)—

10 “(A) any qualified replacement property
 11 shall be treated in the same manner as if it
 12 were a portion of the interest in qualified
 13 forestland which was involuntarily converted;
 14 except that with respect to such qualified re-
 15 placement property the 25-year period under
 16 paragraph (1) of subsection (c) shall be ex-
 17 tended by any period, beyond the 2-year period
 18 referred to in section 1033(a)(2)(B)(i), during
 19 which the qualified devisee or qualified heir was
 20 allowed to replace the qualified forestland;

21 “(B) any tax imposed by subsection (c) on
 22 the involuntary conversion shall be treated as a
 23 tax imposed on a partial disposition, and

24 “(C) subparagraph (A)(ii) of subsection
 25 (c)(1) shall be applied by not taking into ac-

1 count periods after the involuntary conversion
 2 and before the acquisition of the qualified re-
 3 placement property.

4 “(3) DEFINITIONS AND SPECIAL RULES.—For
 5 purposes of this subsection—

6 “(A) INVOLUNTARY CONVERSION.—The
 7 term ‘involuntary conversion’ means a compul-
 8 sory or involuntary conversion within the mean-
 9 ing of section 1033.

10 “(B) QUALIFIED REPLACEMENT PROP-
 11 ERTY.—The term ‘qualified replacement prop-
 12 erty’ means—

13 “(i) in the case of an involuntary con-
 14 version described in section 1033(a)(1),
 15 any real property into which the qualified
 16 forestland is converted, or

17 “(ii) in the case of an involuntary con-
 18 version described in section 1033(a)(2),
 19 any real property purchased by the quali-
 20 fied devisee or qualified heir during the pe-
 21 riod specified in section 1033(a)(2)(B) for
 22 purposes of replacing the qualified
 23 forestland.

24 Such term only includes property which is to be
 25 used for the qualified forest use set forth in

1 subsection (b)(2) under which the qualified
2 forestland qualified under subsection (a).

3 “(4) CERTAIN RULES MADE APPLICABLE.—The
4 rules of the last sentence of section 1033(a)(2)(A)
5 shall apply for purposes of paragraph (3)(B)(ii).

6 “(g) EXCHANGES OF QUALIFIED FORESTLAND.—

7 “(1) TREATMENT OF PROPERTY EX-
8 CHANGED.—

9 “(A) EXCHANGES SOLELY FOR QUALIFIED
10 EXCHANGE PROPERTY.—If an interest in quali-
11 fied forestland is exchanged solely for an inter-
12 est in qualified exchange property in a trans-
13 action which qualifies under section 1031, no
14 tax shall be imposed by subsection (c) by reason
15 of such exchange.

16 “(B) EXCHANGES WHERE OTHER PROP-
17 ERTY RECEIVED.—If an interest in qualified
18 forestland is exchanged for an interest in quali-
19 fied exchange property and other property in a
20 transaction which qualifies under section 1031,
21 the amount of the tax imposed by subsection (c)
22 by reason of such exchange shall be the amount
23 of tax which (but for this subparagraph) would
24 have been imposed on such exchange under sub-
25 section (c)(1), reduced by an amount which—

1 “(i) bears the same ratio to such tax,
2 as

3 “(ii) the value of the qualified ex-
4 change property bears to the value of the
5 qualified forestland exchanged.

6 For purposes of clause (ii) of the preceding sen-
7 tence, value shall be determined according to
8 subsection (e)(6).

9 “(2) TREATMENT OF QUALIFIED EXCHANGE
10 PROPERTY.—For purposes of subsection (c)—

11 “(A) any interest in qualified exchange
12 property shall be treated in the same manner as
13 if it were a portion of the interest in qualified
14 forestland which was exchanged; and

15 “(B) any tax imposed by subsection (c) by
16 reason of the exchange shall be treated as a tax
17 imposed on a partial disposition.

18 “(3) QUALIFIED EXCHANGE PROPERTY.—For
19 purposes of this subsection, the term ‘qualified ex-
20 change property’ means real property which is to be
21 used for a qualified forest use set forth in subsection
22 (b)(2) under which the real property exchanged
23 therefor originally qualified under subsection (a).”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1014(a)(3), as amended by section
 2 101(b), is amended by inserting “or 2032B” after
 3 “2032A”.

4 (2) Section 1016(c) is amended—

5 (A) by inserting “or 2032B(c)(1)” after
 6 “2032A(c)(1)” in paragraphs (1), (3), (4), and
 7 (5)(B),

8 (B) by inserting “or qualified devisee”
 9 after “qualified heir” in paragraph (1),

10 (C) by inserting “or 2032B(f)(3)(B)” after
 11 “2032A(h)(3)(B)” in paragraph (4), and

12 (D) by inserting “or 2032B(g)(3)” after
 13 “2032A(i)(3)” in paragraph (4).

14 (3) Section 1040 is amended—

15 (A) by inserting “or qualified devisee
 16 (within the meaning of section 2032B(e)(1))”
 17 before “any property” in subsection (a), and

18 (B) by inserting “or 2032B” after
 19 “2032A” in subsections (a) and (b).

20 (4) Section 1223(12)(C) is amended by insert-
 21 ing “or qualified devisee (within the meaning of sec-
 22 tion 2032B(e)(1))” before “with respect”.

23 (5) Section 2013 is amended—

1 (A) by inserting “or 2032B” after
 2 “2032A” each place it appears in subsection (f)
 3 and the heading thereof, and

4 (B) by inserting “or 2032B(c)” after
 5 “2032A(c)” both places it appears in subsection
 6 (f).

7 (6) Section 2035(d)(3)(B) is amended by in-
 8 serting “or section 2032B (relating to special valu-
 9 ation of certain forestland)” after “real property”).

10 (7) Section 2056A(b)(10)(A) is amended by in-
 11 serting “2032B,” after “2032A,”.

12 (8) Section 2624(b) is amended by striking
 13 “sections 2032 and 2032A” and inserting “sections
 14 2032, 2032A, and 2032B”.

15 (9) Section 2663(1) is amended by striking
 16 “section 2032A(c)” and inserting “sections
 17 2032A(c) and 2032B(c)”.

18 (10) Section 6324B is amended—

19 (A) by striking subsection (a) and insert-
 20 ing the following new subsection:

21 “(a) GENERAL RULES.—

22 “(1) SECTION 2032A.—In the case of any inter-
 23 est in qualified real property (within the meaning of
 24 section 2032A(b)), an amount equal to the adjusted
 25 tax difference attributable to such interest (within

1 the meaning of section 2032A(c)(2)(B)) shall be a
 2 lien in favor of the United States on property in
 3 which such interest exists.

4 “(2) SECTION 2032B.—In the case of any inter-
 5 est in qualified forestland (within the meaning of
 6 section 2032B(b)), an amount equal to the adjusted
 7 tax difference with respect to the estate (within the
 8 meaning of section 2032A(c)(2)(C)) shall be a lien
 9 in favor of the United States on property in which
 10 such interest exists.”,

11 (B) by inserting “or 2032B” after
 12 “2032A” both places it appears in subsection
 13 (b),

14 (C) by inserting “or 2032B(c)” after
 15 “2032A(c)” in subsection (b)(2), and

16 (D) by adding at the end of subsection (c)
 17 the following new paragraph:

18 “(3) QUALIFIED FORESTLAND.—For purposes
 19 of this section, the term ‘qualified forestland’ in-
 20 cludes qualified replacement property (within the
 21 meaning of section 2032B(f)(3)(B)) and qualified
 22 exchange property (within the meaning of section
 23 2032B(g)(3)).”

1 (c) CLERICAL AMENDMENT.—The table of sections
 2 for part III of subchapter A of chapter 11 is amended
 3 by adding at the end the following new item:

“Sec. 2032B. Valuation of certain forestland.”

4 (d) EFFECTIVE DATE.—The amendment made by
 5 this section shall apply to estates of decedents dying after
 6 December 31, 1997.

7 **TITLE II—INCOME TAX**

8 **TREATMENT**

9 **SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.**

10 (a) IN GENERAL.—Part I of subchapter P of chapter
 11 1 (relating to treatment of capital gains) is amended by
 12 adding at the end the following new section:

13 **“SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIM-**

14 **BER.**

15 “(a) IN GENERAL.—At the election of any taxpayer
 16 who has qualified timber gain for any taxable year, there
 17 shall be allowed as a deduction from gross income an
 18 amount equal to the qualified percentage of such gain.

19 “(b) QUALIFIED TIMBER GAIN.—For purposes of
 20 this section, the term ‘qualified timber gain’ means the
 21 lesser of—

22 “(1) the net capital gain for the taxable year,

23 or

1 “(2) the net capital gain for the taxable year
2 determined by taking into account only gains and
3 losses from timber.

4 “(c) QUALIFIED PERCENTAGE.—For purposes of this
5 section, the term ‘qualified percentage’ means the percent-
6 age (not exceeding 50 percent) determined by multiply-
7 ing—

8 “(1) 3 percent, by

9 “(2) the number of years in the holding period
10 of the taxpayer with respect to the timber.

11 “(d) ESTATES AND TRUSTS.—In the case of an es-
12 tate or trust, the deduction under subsection (a) shall be
13 computed by excluding the portion (if any) of the gains
14 for the taxable year from sales or exchanges of capital as-
15 sets which, under sections 652 and 662 (relating to inclu-
16 sions of amounts in gross income of beneficiaries of
17 trusts), is includible by the income beneficiaries as gain
18 derived from the sale or exchange of capital assets.”

19 (b) COORDINATION WITH EXISTING LIMITATIONS.—

20 (1) Subsection (h) of section 1 (relating to max-
21 imum capital gains rate) is amended by inserting
22 after “net capital gain” each place it appears the
23 following: “(other than qualified timber gain with re-
24 spect to which an election is made under section
25 1203)”.

1 (2) Subsection (a) of section 1201 (relating to
2 alternative tax for corporations) is amended by in-
3 serting after “net capital gain” each place it appears
4 the following: “(other than qualified timber gain
5 with respect to which an election is made under sec-
6 tion 1203)”.

7 (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
8 JUSTED GROSS INCOME.—Subsection (a) of section 62
9 (relating to definition of adjusted gross income) is amend-
10 ed by adding after paragraph (16) the following new para-
11 graph:

12 “(17) PARTIAL INFLATION ADJUSTMENT FOR
13 TIMBER.—The deduction allowed by section 1203.”

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for part I of subchapter P of chapter 1 is amended by
16 adding at the end the following new item:

“Sec. 1203. Partial inflation adjustment for timber.”

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to sales or exchanges after Decem-
19 ber 31, 1997.

20 **SEC. 202. EXCLUSION OF GAIN FROM SALE OF INTERESTS**
21 **IN FOREST LANDS.**

22 (a) IN GENERAL.—Part III of subchapter B of chap-
23 ter 1 (relating to items specifically excluded from gross
24 income) is amended by redesignating section 138 as sec-

1 tion 139 and by inserting after section 137 the following
 2 new section:

3 **“SEC. 138. SALES OF INTERESTS IN CERTAIN FOREST**
 4 **LANDS.**

5 “(a) EXCLUSION.—

6 “(1) IN GENERAL.—Gross income shall not in-
 7 clude the applicable percentage of any qualified tim-
 8 ber gain.

9 “(2) APPLICABLE PERCENTAGE.—For purposes
 10 of paragraph (1), the term ‘applicable percentage’
 11 means—

12 “(A) 35 percent, or

13 “(B) in the case of qualified timber gain
 14 from the sale of a qualified real property inter-
 15 est described in section 170(h)(2)(C), 100 per-
 16 cent.

17 “(b) LIMITATION.—The total amount of gain which
 18 may be excluded from gross income under subsection (a)
 19 for any taxable year shall not exceed the sum of—

20 “(1) the amount of qualified timber gain de-
 21 scribed in subsection (a)(2)(B), plus

22 “(2) \$800,000.

23 “(c) QUALIFIED TIMBER GAIN.—For purposes of
 24 this section—

1 “(1) IN GENERAL.—The term ‘qualified timber
2 gain’ means gain from the sale or exchange of a
3 qualified real property interest in real property
4 which is used in timber operations to a governmental
5 unit described in section 170(c)(1) for conservation
6 purposes.

7 “(2) QUALIFIED REAL PROPERTY INTEREST.—
8 The term ‘qualified real property interest’ has the
9 meaning given such term by section 170(h)(2).

10 “(3) TIMBER OPERATIONS.—The term ‘timber
11 operations’ has the meaning given such term by sec-
12 tion 2032B(e)(5).

13 “(4) CONSERVATION PURPOSES.—The term
14 ‘conservation purposes’ has the meaning given such
15 term by section 170(h)(4)(A) (without regard to
16 clause (iv) thereof).

17 “(d) SPECIAL RULE FOR SALES TO NONGOVERN-
18 MENTAL ENTITIES.—

19 “(1) IN GENERAL.—Subsection (a) shall apply
20 to the sale or exchange to a qualified organization
21 described in section 170(h)(3) if such interest is
22 transferred during the 2-year period beginning on
23 the date of the sale or exchange to a governmental
24 unit described in section 170(c)(1).

1 “(2) TIME FOR EXCLUSION.—If the transfer to
 2 which paragraph (1) applies occurs in a taxable year
 3 after the taxable year in which the sale or exchange
 4 occurred—

5 “(A) no exclusion shall be allowed under
 6 subsection (a) for the taxable year of the sale
 7 or exchange, but

8 “(B) the taxpayer’s tax for the taxable
 9 year of the transfer shall be reduced by the
 10 amount of the reduction in the taxpayer’s tax
 11 for the taxable year of the sale or exchange
 12 which would have occurred if subparagraph (A)
 13 had not applied.”

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for part III of subchapter B of chapter 1 is amended by
 16 striking the item relating to section 138 and by inserting
 17 the following new items after the item relating to section
 18 137:

 “Sec. 138. Sales of interests in certain forest lands.

 “Sec. 139. Cross references to other Acts.”

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 1997.

1 **SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**
 2 **TIMBER ACTIVITIES.**

3 (a) IN GENERAL.—Treasury regulations sections
 4 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely
 5 held timber activity if the nature of such activity is such
 6 that the aggregate hours devoted to management of the
 7 activity for any year is generally less than 100 hours.

8 (b) DEFINITIONS.—For purposes of subsection (a)—

9 (1) CLOSELY HELD ACTIVITY.—An activity
 10 shall be treated as closely held if at least 80 percent
 11 of the ownership interests in the activity is held—

12 (A) by 5 or fewer individuals, or

13 (B) by individuals who are members of the
 14 same family (within the meaning of section
 15 2032A(e)(2) of the Internal Revenue Code of
 16 1986).

17 An interest in a limited partnership shall in no event
 18 be treated as a closely held activity for purposes of
 19 this section.

20 (2) TIMBER ACTIVITY.—The term “timber ac-
 21 tivity” means the planting, cultivating, caring, cut-
 22 ting, or preparation (other than milling) for market,
 23 of trees.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1997.

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