

106TH CONGRESS  
1ST SESSION

# H. R. 1386

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale of a family farming business to a family member.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 1999

Mr. GREEN of Wisconsin (for himself, Mr. TERRY, Mr. NUSSLE, Mr. SKEEN, Mr. POMBO, Mr. SHOWS, Mr. METCALF, Mr. ISTOOK, Mr. NETHERCUTT, Mr. SCHAFER, Mr. MCHUGH, Mr. HANSEN, Mrs. EMERSON, Mr. LIPINSKI, Mr. NEY, Mr. RYUN of Kansas, Mr. HILL of Montana, Mr. RYAN of Wisconsin, Mr. PETRI, Mr. SWEENEY, Mr. BURTON of Indiana, Mr. GILMAN, and Mr. HASTINGS of Washington) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale of a family farming business to a family member.

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 “Family Farm Protec-  
5       tion Act”.

1 **SEC. 2. EXCLUSION OF GAIN ON SALE OF FAMILY FARMING**  
 2 **BUSINESS TO FAMILY MEMBER.**

3 (a) IN GENERAL.—Part I of subchapter P of chapter  
 4 1 of the Internal Revenue Code of 1986 (relating to treat-  
 5 ment of capital gains) is amended by adding at the end  
 6 the following new section:

7 **“SEC. 1203. EXCLUSION OF GAIN ON SALE OF FAMILY FARM**  
 8 **TO FAMILY MEMBER.**

9 “(a) IN GENERAL.—At the election of the taxpayer,  
 10 gross income shall not include any gain from the sale of  
 11 a qualified family farm interest to a member of the tax-  
 12 payer’s family if—

13 “(1) at all times during the 5-year period end-  
 14 ing on the date of such sale, there was material par-  
 15 ticipation by the taxpayer or a member of the tax-  
 16 payer’s family in the operation of the farming busi-  
 17 ness to which such interest relates, and

18 “(2)(A) such interest is being acquired by a  
 19 member of the taxpayer’s family, and

20 “(B) such member agrees—

21 “(i) for the 5-year period beginning on the  
 22 day after the date of such sale, to materially  
 23 participate in the operation of the farming busi-  
 24 ness to which such interest relates, and

25 “(ii) to the provisions of subsection (b).

1       “(b) RECAPTURE OF TAX IF INTEREST CEASES TO  
2 BE USED IN A FARMING BUSINESS.—

3               “(1) IN GENERAL.—If, during any year within  
4 the 5-year period beginning on the date of such  
5 sale—

6               “(A) a qualified family farm interest with  
7 respect to which an election is made under sub-  
8 section (a) is disposed of, or otherwise ceases to  
9 be a qualified family farm interest of the mem-  
10 ber of the family who acquired such interest,  
11 other than through the bankruptcy or insol-  
12 vency of such member of the family, or

13               “(B) the member of the family who ac-  
14 quired such interest fails to materially partici-  
15 pate (directly or through a family member of  
16 such member) in the operation of the farming  
17 business to which such interest relates,

18 then the tax imposed on such member of the family  
19 under this subtitle for the year shall be increased by  
20 an amount equal to the recapture percentage of the  
21 excluded tax amount, plus interest on the amount of  
22 such increase at the underpayment rate established  
23 under section 6621 for the period beginning on the  
24 date the return of tax for the year of such sale was  
25 due under this chapter (without regard to extensions

1       thereof) and ending on the date the increase in tax  
 2       under this subsection is due (without regard to ex-  
 3       tensions thereof).

4               “(2) RECAPTURE PERCENTAGE.—For purposes  
 5       of paragraph (1), the recapture percentage shall be  
 6       determined under the following table:

| <b>“If the event described<br/>in paragraph (1) occurs<br/>in the following years<br/>after such sale:</b> | <b>The recapture<br/>percentage is:</b> |
|--|---|
| 1 .....  | 100                                     |
| 2 .....  | 80                                      |
| 3 .....  | 60                                      |
| 4 .....  | 40                                      |
| 5 .....  | 20.                                     |

7               “(3) EXCLUDED TAX AMOUNT.—For purposes  
 8       of paragraph (1), the term ‘excluded tax amount’  
 9       means the excess of—

10              “(A) the amount of tax that would have  
 11       been imposed on the taxpayer under this sub-  
 12       title for the taxable year ending with or within  
 13       which the sale for which an election was made  
 14       under subsection (a), over

15              “(B) the amount of tax imposed on the  
 16       taxpayer under this subtitle for such taxable  
 17       year.

18       This paragraph shall be applied without regard to  
 19       the installment method of accounting or averaging of  
 20       farm income under section 1301.

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

1 “(1) QUALIFIED FAMILY FARM INTEREST.—

2 The term ‘qualified family farm interest’ means an  
3 interest which is a qualified family-owned business  
4 interest in a farming business.

5 “(2) QUALIFIED FAMILY-OWNED BUSINESS IN-

6 TEREST.—The term ‘qualified family-owned business  
7 interest’ has the meaning given such term by section  
8 2057(e), determined by substituting ‘taxpayer’ for  
9 ‘decedent’ each place it appears.

10 “(3) FARMING BUSINESS.—The term ‘farming

11 business’ has the meaning given such term by sec-  
12 tion 263A(e)(4).

13 “(4) MEMBER OF THE FAMILY.—The term

14 ‘member of the family’ has the meaning given such  
15 term by section 2032A(e).

16 “(5) MATERIAL PARTICIPATION.—The term

17 ‘material participation’ has the meaning given such  
18 term by section 2032A(e)(6).”.

19 (b) CLERICAL AMENDMENT.—The table of sections

20 for part I of subchapter P of chapter 1 of the Internal

21 Revenue Code of 1986 is amended by adding at the end

22 the following new item:

“Sec. 1203. Exclusion of gain on sale of family farm to family member.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to sales occurring on or after the  
3 date of enactment of this Act.

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