

106TH CONGRESS
1ST SESSION

H. R. 2497

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of farmland which by covenant is restricted to use as farmland and to exclude the value of such farmland from estate taxes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1999

Mr. PITTS (for himself, Mr. ENGLISH, Mr. BOEHLERT, Mr. WELDON of Pennsylvania, Mr. HOEFFEL, Mr. PETERSON of Pennsylvania, Mr. GREENWOOD, Mr. SAM JOHNSON of Texas, Mr. MCINTOSH, Mr. LARGENT, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. TANCREDO, Mrs. MORELLA, Mr. JONES of North Carolina, Mr. HOSTETTLER, Mr. DEMINT, Mr. GILMAN, and Mr. GOODE) 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 exclude from gross income gain on the sale or exchange of farmland which by covenant is restricted to use as farmland and to exclude the value of such farmland from estate taxes.

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 “Open Space Preserva-
5 tion Act of 1999”.

1 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN**
 2 **FARMLAND.**

3 (a) GENERAL RULE.—Part III of subchapter B of
 4 chapter 1 of the Internal Revenue Code of 1986 (relating
 5 to items specifically excluded from gross income) is
 6 amended by redesignating section 139 as section 139A
 7 and by inserting after section 138 the following new sec-
 8 tion:

9 **“SEC. 139. SALES AND EXCHANGES OF FARMLAND THE USE**
 10 **OF WHICH IS RESTRICTED TO FARMING.**

11 “(a) GENERAL RULE.—In the case of an operator of
 12 farmland, gross income does not include gain from the sale
 13 or exchange of farmland if there is in effect on the date
 14 of such sale or exchange a qualified covenant which does
 15 not permit any use of such farmland for any purpose other
 16 than use as farmland.

17 “(b) DEFINITIONS.—For purposes of this section—

18 “(1) FARMLAND.—The term ‘farmland’ means
 19 any real property—

20 “(A) which is located in the United States,
 21 and

22 “(B) which is used as a farm for farming
 23 purposes (within the meaning of section
 24 2032A(e)).

25 “(2) QUALIFIED COVENANT—The term ‘quali-
 26 fied covenant’ means a covenant—

1 “(A) which may not be revoked,

2 “(B) which, with respect to farmland to
3 which such covenant applies, is entered into by
4 all persons having any ownership interest in
5 such farmland, and

6 “(C) which binds all future owners of the
7 farmland to which such covenant applies.

8 “(c) VERIFICATION OF COVENANT.—Subsection (a)
9 shall not apply by reason of any covenant unless such
10 person—

11 “(1) notifies (in such form and manner as the
12 Secretary may by regulations prescribe) both the
13 Secretary and the Secretary of Agriculture of the
14 political subdivision of the State in which such cov-
15 enant is recorded, and

16 “(2) submits to the Secretary a copy of such
17 covenant.”

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for such part is amended by striking the last item and
20 inserting the following new items:

“Sec. 139. Sales and exchanges of farmland the use of which is
restricted to farming.

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

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to covenants first recorded after
23 December 31, 1999, and to sales and exchanges after such
24 date.

1 **SEC. 3. EXCLUSION FROM GROSS ESTATE OF FARMLAND**
 2 **WHICH BY COVENANT IS RESTRICTED TO USE**
 3 **AS FARMLAND.**

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

8 **“SEC. 2033A. EXCLUSION OF FARMLAND WHICH BY COV-**
 9 **ENANT IS RESTRICTED TO USE AS FARM-**
 10 **LAND.**

11 “(a) IN GENERAL.—In the case of an estate of a de-
 12 cedent to which this section applies, the value of the gross
 13 estate shall not include the adjusted value of farmland in-
 14 cluded in the estate if there is in effect on the date of
 15 death a qualified covenant which does not permit any use
 16 of such farmland for any purpose other than use as farm-
 17 land.

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

20 “(1) the decedent was (at the date of the dece-
 21 dent’s death) a citizen or resident of the United
 22 States, and

23 “(2) during the 8-year period ending on the
 24 date of the decedent’s death there have been periods
 25 aggregating 5 years or more during which—

1 “(A) the farmland was owned by the dece-
2 dent or a member of the decedent’s family, and

3 “(B) there was material participation
4 (within the meaning of section 2032A(e)(6)) by
5 the decedent or a member of the decedent’s
6 family in the operation of farmland.

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

8 “(1) FARMLAND.—The term ‘farmland’ means
9 any real property—

10 “(A) which is located in the United States,
11 and

12 “(B) which is used as a farm for farming
13 purposes (within the meaning of section
14 2032A(e)).

15 “(2) QUALIFIED COVENANT.—The term ‘quali-
16 fied covenant’ means a covenant—

17 “(A) which may not be revoked,

18 “(B) which, with respect to farmland to
19 which such covenant applies, is entered into by
20 all persons having any ownership interest in
21 such farmland, and

22 “(C) which binds all future owners of the
23 farmland to which such covenant applies.

24 “(3) ADJUSTED VALUE.—The term ‘adjusted
25 value’ means the value of farmland for purposes of

1 this chapter (determined without regard to this sec-
 2 tion), reduced by the amount deductible under para-
 3 graph (3) or (4) of section 2053(a).

4 “(d) VERIFICATION OF COVENANT.—Subsection (a)
 5 shall not apply by reason of any covenant unless such
 6 person—

7 “(1) notifies (in such form and manner as the
 8 Secretary may by regulations prescribe) both the
 9 Secretary and the Secretary of Agriculture of the
 10 political subdivision of the State in which such cov-
 11 enant is recorded, and

12 “(2) submits to the Secretary a copy of such
 13 covenant.”

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for part III of subchapter A of chapter 11 of such Code
 16 is amended by inserting after the item relating to section
 17 2033 the following new item:

“Sec. 2033A. Exclusion of farmland which by covenant is re-
 stricted to use as farmland.”

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to covenants first recorded after
 20 December 31, 1999, with respect to estates of decedents
 21 dying after such date.

○