

108TH CONGRESS  
1ST SESSION

# H. R. 136

To amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture.

---

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. MCHUGH 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 provide a tax credit for farmers' investments in value-added agriculture.

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 "Agricultural Producers  
5 Value-Added Investment Tax Credit Act of 2003".

6 **SEC. 2. CREDIT FOR FARMER INVESTMENT IN VALUE-**  
7 **ADDED AGRICULTURAL PROPERTY.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by  
2 adding at the end the following new section:

3 **“SEC. 45G. VALUE-ADDED AGRICULTURAL PROPERTY IN-**  
4 **VESTMENT CREDIT.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
6 in the case of a taxpayer who is—

7 “(1) an eligible person, or

8 “(2) a farmer-owned entity,

9 the value-added agricultural property investment credit  
10 determined under this section for any taxable year is 50  
11 percent of the basis of any qualified value-added agricul-  
12 tural property placed in service during the taxable year.  
13 In the case of a farmer-owned entity, such credit shall be  
14 allocated on a pro rata basis among eligible persons hold-  
15 ing qualified interests in such entity as of the last day  
16 of such taxable year.

17 “(b) MAXIMUM CREDIT.—For purposes of subsection  
18 (a)—

19 “(1) PROPERTY PLACED IN SERVICE BY ELIGI-  
20 BLE PERSON.—In the case of property placed in  
21 service during a taxable year by an eligible person,  
22 the credit determined under this section for such  
23 year shall not exceed \$30,000, reduced by the  
24 amount of the creditable investments allowed for the  
25 taxable year under paragraph (2).

1           “(2) PROPERTY PLACED IN SERVICE BY FARM-  
2           ER-OWNED ENTITY.—

3           “(A) IN GENERAL.—In the case of prop-  
4           erty placed in service by a farmer-owned entity,  
5           the credit determined under this section shall  
6           not exceed the sum of the eligible person’s cred-  
7           itable investments in such entity as of the date  
8           such property is placed in service.

9           “(B) CREDITABLE INVESTMENTS.—For  
10          purposes of subparagraph (A), the term ‘cred-  
11          itable investments’ means, with respect to any  
12          property placed in service by a farmer-owned  
13          entity, the aggregate qualified investments  
14          made by the eligible person in such entity, re-  
15          duced (but not below zero) by the sum of—

16               “(i) the amount of the aggregate  
17               qualified investments made by such person  
18               in such entity which were taken into ac-  
19               count under this section with respect to  
20               property previously placed in service by  
21               such entity, and

22               “(ii) the amount of the aggregate  
23               qualified investments made by such person  
24               in all other farmer-owned entities which  
25               were taken into account under this section

1 with respect to property previously placed  
2 in service by such other entities.

3 “(C) LIMITATION.—For purposes of this  
4 paragraph, the aggregate qualified investments  
5 made by the eligible person which may be taken  
6 into account for any taxable year shall not ex-  
7 ceed \$30,000.

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

9 “(1) QUALIFIED VALUE-ADDED AGRICULTURAL  
10 PROPERTY.—The term ‘qualified value-added agri-  
11 cultural property’ means property—

12 “(A) which is used to add value to a good  
13 or product, suitable for food or nonfood use, de-  
14 rived in whole or in part from organic matter  
15 which is available on a renewable basis, includ-  
16 ing agricultural crops and agricultural wastes  
17 and residues, wood wastes and residues, and  
18 domesticated animal wastes,

19 “(B)(i) to which section 168 applies with-  
20 out regard to any useful life, or

21 “(ii) with respect to which depreciation (or  
22 amortization in lieu of depreciation) is allowable  
23 and having a useful life (determined as of the  
24 time such property is placed in service) of 3  
25 years or more, and

1           “(C) which is owned and operated by an  
2 eligible person or a farmer-owned entity.

3           “(2) ELIGIBLE PERSON.—

4           “(A) IN GENERAL.—The term ‘eligible per-  
5 son’ means a person who materially participates  
6 during the taxable year in an eligible farming  
7 business.

8           “(B) MATERIAL PARTICIPATION.—For  
9 purposes of subparagraph (A), the determina-  
10 tion of whether a person materially participates  
11 in the trade or business of farming shall be  
12 made in a manner similar to the manner in  
13 which such determination is made under section  
14 2032A(e)(6). In the case that the person is a  
15 corporation, cooperative, partnership, estate, or  
16 trust, such determination shall be made at the  
17 shareholder, partner, or beneficial interests level  
18 (as the case may be).

19           “(C) ELIGIBLE FARMING BUSINESS.—For  
20 purposes of subparagraph (A), the term ‘eligible  
21 farming business’ means a farming business (as  
22 defined in section 263A(e)(4)) which is not a  
23 passive activity (within the meaning of section  
24 469(c)).

25           “(3) FARMER-OWNED ENTITY.—

1           “(A) IN GENERAL.—The term ‘farmer-  
2 owned entity’ means—

3           “(i) a corporation (including an S cor-  
4 poration) in which eligible persons own 50  
5 percent or more of the total voting power  
6 of the stock and 50 percent or more (in  
7 value) of the stock,

8           “(ii) a partnership in which eligible  
9 persons own 50 percent or more of the  
10 total voting power of the profits interest  
11 and 50 percent or more (in value) of the  
12 profits interest, and

13           “(iii) a cooperative in which eligible  
14 persons own 50 percent or more of the  
15 total voting power of the member patron-  
16 age interests and 50 percent or more (in  
17 value) of the member patronage interests.

18           “(B) CONSTRUCTIVE OWNERSHIP  
19 RULES.—For purposes of subparagraph (A),  
20 rules similar to the rules of section  
21 263A(e)(2)(B) shall apply; except that, in ap-  
22 plying such rules, the members of an individ-  
23 ual’s family shall be the individuals described in  
24 subparagraph (C).

1           “(C) MEMBERS OF FAMILY.—The family  
2 of any individual shall include only his spouse  
3 and children, grandchildren, and great grand-  
4 children (whether by the whole or half blood),  
5 and the spouses of his children, grandchildren,  
6 and great grandchildren, who reside in the  
7 same household or jointly operate farming busi-  
8 nesses (as defined in section 263A(e)(4)). For  
9 purposes of the preceding sentence, a child who  
10 is legally adopted, or who is placed with the  
11 taxpayer by an authorized placement agency for  
12 adoption by the taxpayer, shall be treated as a  
13 child by blood.

14           “(4) QUALIFIED INVESTMENTS.—

15           “(A) IN GENERAL.—The term ‘qualified  
16 investments’ means a payment of cash for the  
17 purchase of a qualified equity interest in a  
18 farmer-owned entity.

19           “(B) QUALIFIED EQUITY INTEREST.—The  
20 term ‘qualified equity interest’ means—

21           “(i) any stock in a domestic corpora-  
22 tion if such stock is acquired by the tax-  
23 payer after December 31, 2002, and before  
24 January 1, 2009, at its original issue (di-

1 rectly or through an underwriter) from the  
2 corporation solely in exchange for cash,

3 “(ii) any capital or profits interest in  
4 a domestic partnership if such interest is  
5 acquired by the taxpayer after December  
6 31, 2002, and before January 1, 2009, and

7 “(iii) any patronage interest in a co-  
8 operative if such interest is acquired by the  
9 taxpayer after December 31, 2002, and be-  
10 fore January 1, 2009.

11 Rules similar to the rules of section 1202(e)(3)  
12 shall apply for purposes of this paragraph.

13 “(d) SPECIAL RULES.—For purposes of this sec-  
14 tion—

15 “(1) TREATMENT OF MARRIED INDIVIDUALS.—  
16 In the case of a separate return by a married indi-  
17 vidual (as defined in section 7703), subsection  
18 (b)(3)(A) shall be applied by substituting ‘\$15,000’  
19 for ‘\$30,000’.

20 “(2) APPLICABLE RULES.—Under regulations  
21 prescribed by the Secretary—

22 “(A) ALLOCATION OF CREDIT IN THE CASE  
23 OF ESTATES AND TRUSTS.—Rules similar to the  
24 rules of subsection (d) of section 52 shall apply.

1           “(B) CERTAIN PROPERTY NOT ELIGI-  
2           BLE.—Rules similar to the rules of section  
3           50(b) shall apply.

4           “(3) BASIS ADJUSTMENT.—For purposes of  
5           this subtitle, if a credit is allowed under this section  
6           to any eligible person with respect to qualified value-  
7           added agricultural property, the basis of such prop-  
8           erty shall be reduced by the amount of the credit so  
9           allowed and increased by the amount of recapture  
10          under subsection (e).

11          “(e) RECAPTURE IN THE CASE OF CERTAIN DISPOSI-  
12          TIONS.—

13           “(1) IN GENERAL.—Under regulations pre-  
14           scribed by the Secretary, rules similar to the rules  
15           of section 50(a) shall apply with respect to an eligi-  
16           ble person if, within the 5-year period beginning on  
17           the date qualified value-added agricultural property  
18           with respect to which such person was allowed a  
19           credit under subsection (a) is originally placed in  
20           service—

21           “(A) such property ceases to be qualified  
22           for purposes of this section,

23           “(B) the eligible person or the farmer-  
24           owned entity (as the case may be) disposes of  
25           all or part of such property, or

1           “(C) the eligible person or the farmer-  
2 owned entity (as the case may be) ceases to be  
3 an eligible person or farmer-owned entity for  
4 purposes of this section.

5           “(2) SPECIAL RULES IN EVENT OF DEATH.—

6           “(A) IN GENERAL.—The period in para-  
7 graph (1) shall be suspended with respect to an  
8 eligible person for the 2-year period beginning  
9 on the date of death of such person.

10           “(B) HEIRS WHO ARE ELIGIBLE PER-  
11 SONS.—In the case that an heir of an eligible  
12 person is also an eligible person, neither para-  
13 graph (1) nor subparagraph (A) of this para-  
14 graph (unless elected by such heir) shall apply  
15 with respect to the transfer of property to such  
16 heir.

17           “(f) REGULATIONS.—The Secretary shall prescribe  
18 such regulations as may be necessary to carry out the pur-  
19 poses of this section.

20           “(g) TERMINATION.—This section shall not apply to  
21 property placed in service after December 31, 2008.”.

22           (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
23 NESS CREDIT.—Section 38(b) of such Code (defining cur-  
24 rent year business credit) is amended by striking “plus”  
25 at the end of paragraph (14), by striking the period at

1 the end of paragraph (15) and inserting “, plus”, and by  
2 adding at the end the following new paragraph:

3 “(16) in the case of an eligible person (as de-  
4 fined in section 45G(c)), the value-added agricul-  
5 tural property investment credit determined under  
6 section 45G(a).”.

7 (c) CREDIT ALLOWABLE AGAINST MINIMUM TAX.—

8 (1) IN GENERAL.—Paragraph (3) of section 38  
9 of such Code is amended—

10 (A) by inserting “AND VALUE-ADDED AGRI-  
11 CULTURAL PROPERTY CREDIT” after “EM-  
12 PLOYEE CREDIT” in the heading,

13 (B) by inserting “and the value-added ag-  
14 ricultural property credit” after “employee  
15 credit” each place it appears in subparagraph  
16 (A), and

17 (C) by adding at the end the following new  
18 subparagraph:

19 “(C) VALUE-ADDED AGRICULTURAL PROP-  
20 ERTY CREDIT.—For purposes of this sub-  
21 section, the term ‘value-added agricultural prop-  
22 erty credit’ means the credit determined under  
23 section 45G.”

24 (2) CONFORMING AMENDMENT.—Subclause (II)  
25 of section 38(c)(2)(A)(ii) of such Code is amended

1 by inserting “or the value-added agricultural prop-  
2 erty credit” after “employment credit”.

3 (d) LIMITATION ON CARRYBACK.—Subsection (d) of  
4 section 39 of such Code is amended by adding at the end  
5 thereof the following new paragraph:

6 “(10) NO CARRYBACK OF VALUE-ADDED AGRI-  
7 CULTURAL PROPERTY INVESTMENT CREDIT BEFORE  
8 EFFECTIVE DATE.—No portion of the unused busi-  
9 ness credit for any taxable year which is attributable  
10 to the credit determined under section 45G may be  
11 carried back to any taxable year ending before the  
12 date of the enactment of section 45G.”.

13 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
14 CREDITS.—Subsection (e) of section 196 of such Code is  
15 amended by striking “and” at the end of paragraph (9),  
16 by striking the period at the end of paragraph (10) and  
17 inserting “, and”, and by adding after paragraph (10) the  
18 following new paragraph:

19 “(11) the value-added agricultural property in-  
20 vestment credit determined under section 45G.”.

21 (f) BASIS ADJUSTMENT.—Subsection (a) of section  
22 1016 of such Code is amended by striking “and” at the  
23 end of paragraph (27), by striking the period at the end  
24 of paragraph (28) and inserting “; and”, and by adding  
25 at the end the following new paragraph:

1           “(29) to the extent provided in section  
2           45G(d)(3), in the case of payments with respect to  
3           which a credit has been allowed under section 38.”.

4           (g) CLERICAL AMENDMENT.—The table of sections  
5 for subpart D of part IV of subchapter A of chapter 1  
6 of such Code is amended by adding at the end thereof  
7 the following new section:

                  “Sec. 45G. Value-added agricultural property investment cred-  
                  it.”.

8           (h) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to qualified investments (as defined  
10 in section 45G(e)(5) of the Internal Revenue Code of 1986  
11 (as added by this section) made, and property placed in  
12 service, after December 31, 2002.

○