

108TH CONGRESS
1ST SESSION

H. R. 159

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of certain farmland the use of which is restricted in perpetuity to use as farmland.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. PITTS 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 certain farmland the use of which is restricted in perpetuity to use as farmland.

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 2003”.

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 CERTAIN FARMLAND**
 10 **WHICH BY COVENANT IS RESTRICTED TO USE**
 11 **AS FARMLAND.**

12 “(a) GENERAL RULE.—In the case of an operator of
 13 qualified farmland, gross income does not include gain
 14 from the sale or exchange of qualified farmland if there
 15 is in effect on the date of such sale or exchange a qualified
 16 farmland conservation easement.

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

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

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

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

24 “(C) which is located in a county which
 25 has a population of 100 or more persons per
 26 square mile.

1 “(2) QUALIFIED FARMLAND CONSERVATION
 2 EASEMENT.—The term ‘qualified farmland conserva-
 3 tion easement’ means a restriction (granted in per-
 4 petuity) which does not permit any use of the land
 5 for any purpose other than use as a farm for farm-
 6 ing purposes (within the meaning of section
 7 2032A(e)).

8 “(c) VERIFICATION OF EASEMENT.—Subsection (a)
 9 shall not apply by reason of any qualified farmland con-
 10 servation easement unless the taxpayer—

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 ease-
 15 ment is recorded, and

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

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 certain farmland which by cov-
 enant is restricted to use as farmland.

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

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to restrictions first recorded after

- 1 December 31, 2003, and to sales and exchanges after such
- 2 date.

