

109TH CONGRESS
1ST SESSION

H. R. 658

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of farmland development rights.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2005

Mr. PITTS (for himself and Mr. GERLACH) 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 development rights.

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 Preser-
5 vation Act of 2005”.

6 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF FARMLAND DE-**
7 **VELOPMENT RIGHTS.**

8 (a) GENERAL RULE.—Part III of subchapter B of
9 chapter 1 of the Internal Revenue Code of 1986 (relating
10 to items specifically excluded from gross income) is

1 amended by inserting after section 139A the following new
2 section:

3 **“SEC. 139B. SALES AND EXCHANGES OF FARMLAND DEVELOP-**
4 **MENT RIGHTS TO QUALIFIED CONSERVA-**
5 **TION ORGANIZATION.**

6 “(a) GENERAL RULE.—In the case of the owner of
7 eligible farmland, gross income does not include gain from
8 the sale or exchange of qualified farmland development
9 rights to a qualified conservation organization.

10 “(b) QUALIFIED FARMLAND DEVELOPMENT
11 RIGHTS.—For purposes of subsection (a)—

12 “(1) IN GENERAL.—The term ‘qualified farm-
13 land development rights’ means a restriction (grant-
14 ed in perpetuity) with respect to eligible farmland
15 which does not permit any use of such farmland for
16 any purpose other than use as a farm for farming
17 purposes (within the meaning of section 2032A(e))
18 or for exclusively conservation purposes (within the
19 meaning of section 170(h)(5)).

20 “(2) FARM AND FARMING PURPOSES.—The
21 terms ‘farm’ and ‘farming purposes’ have the mean-
22 ings given such terms by section 2032A(e).

23 “(3) ELIGIBLE FARMLAND.—The term ‘eligible
24 farmland’ means any real property—

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

1 “(B) which is used as a farm for farming
2 purposes (within the meaning of section
3 2032A(e)), and

4 “(C) which is located in a county which
5 has a population of 100 or more persons per
6 square mile.

7 “(c) QUALIFIED CONSERVATION ORGANIZATION.—
8 For purposes of this section, the term ‘qualified conserva-
9 tion organization’ means, with respect to any taxable year,
10 an organization described in section 170(h)(3) and orga-
11 nized to serve primarily conservation purposes (as defined
12 in section 170(h)(4)).

13 “(d) REGULATIONS.—The Secretary may prescribe
14 such regulations as may be necessary or appropriate to
15 carry out this section, including regulations providing
16 for—

17 “(1) a recapture of the benefit of the exclusion
18 from gross income under subsection (a) if the quali-
19 fied farmland development rights are extinguished in
20 a subsequent taxable year, and

21 “(2) interest at the underpayment rate estab-
22 lished under section 6621 on the amount determined
23 pursuant to paragraph (1) for each prior taxable
24 year for the period beginning on the due date for fil-
25 ing the return for the prior taxable year involved.

1 No deduction shall be allowed under this chapter for inter-
2 est described in paragraph (2).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for such part is amended by striking the last item and
5 inserting the following new item:

“Sec. 139B. Sales and exchanges of farmland development rights to qualified
conservation organization.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to sales and exchanges after De-
8 cember 31, 2005.

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