

110TH CONGRESS
1ST SESSION

H. R. 2658

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

JUNE 11, 2007

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 2007”.

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. 45N. 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 investments 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).

“(C) MEMBERS OF FAMILY.—The family of any individual shall include only his spouse and children, grandchildren, and great grandchildren (whether by the whole or half blood), and the spouses of his children, grandchildren, and great grandchildren, who reside in the same household or jointly operate farming businesses (as defined in section 263A(e)(4)). For purposes of the preceding sentence, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

“(4) QUALIFIED INVESTMENTS.—

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

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

“(i) any stock in a domestic corporation if such stock is acquired by the taxpayer after December 31, 2004, and before January 1, 2011, at its original issue (di-

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

“(ii) any capital or profits interest in
 a domestic partnership if such interest is
 acquired by the taxpayer after December
 31, 2004, and before January 1, 2011, and

“(iii) any patronage interest in a co-
 operative if such interest is acquired by the
 taxpayer after December 31, 2004, and be-
 fore January 1, 2011.

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

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

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

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

“(A) ALLOCATION OF CREDIT IN THE CASE
 OF ESTATES AND TRUSTS.—Rules similar to the
 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, 2012.”.

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 “and”
25 at the end of paragraph (29), by striking the period at

1 the end of paragraph (30) and inserting “, and”, and by
2 adding at the end the following new paragraph:

3 “(31) in the case of an eligible person (as de-
4 fined in section 45N(c)(2)) or farmer-owned entity
5 (as defined in section 45N(c)(3)), the value-added
6 agricultural property investment credit determined
7 under section 45N(a).”.

8 (c) CREDIT ALLOWABLE AGAINST MINIMUM TAX.—
9 Subparagraph (B) of section 38(c)(4) of such Code is
10 amended by striking “and” at the end of clause (i), by
11 striking the period at the end of clause (ii) and inserting
12 “, and”, and by adding at the end the following new
13 clause:

14 “(iii) the credit determined under sec-
15 tion 45N (relating to value-added agricul-
16 tural property investment credit).”.

17 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS
18 CREDITS.—Subsection (c) of section 196 of such Code is
19 amended by striking “and” at the end of paragraph (12),
20 by striking the period at the end of paragraph (13) and
21 inserting “, and”, and by adding at the end the following
22 new paragraph:

23 “(14) the value-added agricultural property in-
24 vestment credit determined under section 45N.”.

1 (e) BASIS ADJUSTMENT.—Subsection (a) of section
 2 1016 of such Code is amended by striking “and” at the
 3 end of paragraph (36), by striking the period at the end
 4 of paragraph (37) and inserting “, and”, and by adding
 5 at the end the following new paragraph:

6 “(38) to the extent provided in section
 7 45N(d)(3), in the case of payments with respect to
 8 which a credit has been allowed under section 38.”.

9 (f) CLERICAL AMENDMENT.—The table of sections
 10 for subpart D of part IV of subchapter A of chapter 1
 11 of such Code is amended by adding at the end thereof
 12 the following new item:

“Sec. 45N. Value-added agricultural property investment credit.”.

13 (g) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to qualified investments (as defined
 15 in section 45N(c)(4) of the Internal Revenue Code of
 16 1986, as added by this section) made, and property placed
 17 in service, after December 31, 2006.

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