

110TH CONGRESS  
1ST SESSION

# S. 2167

To amend the Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm savings accounts in lieu of obtaining federally subsidized crop insurance or non-insured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2007

Mr. SESSIONS introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

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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 “Farm Savings Account  
5 Act of 2007”.

6 **SEC. 2. FARM SAVINGS ACCOUNTS.**

7       (a) IN GENERAL.—Part VII of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 (relating to  
9 additional itemized deductions for individuals) is amended  
10 by redesignating section 224 as section 225 and by insert-  
11 ing after section 223 the following new section:

12 **“SEC. 224. FARM SAVINGS ACCOUNTS.**

13       “(a) DEDUCTION ALLOWED.—In the case of a quali-  
14 fied farmer, there shall be allowed as a deduction for the  
15 taxable year an amount equal to the aggregate amount  
16 paid in cash during such taxable year by or on behalf of  
17 such individual to a farm savings account of such indi-  
18 vidual.

19       “(b) MINIMUM CONTRIBUTION REQUIREMENT.—A  
20 deduction shall not be allowed under subsection (a) for  
21 the taxable year with respect to an individual if, during  
22 such taxable year, the aggregate amount contributed by  
23 such individual to farm savings accounts of the individual  
24 is not equal to at least 2 percent of the individual’s 3-  
25 year average of income derived from farming or ranching.

1       “(c) ACCOUNT BALANCE LIMITATION.—A deduction  
2 shall not be allowed under subsection (a) with respect to  
3 any portion of a contribution to a farm savings account  
4 of an individual if such contribution would result in the  
5 sum of the balances in all such accounts of such individual  
6 to exceed 150 percent of the individual’s 3-year average  
7 of income derived from farming or ranching.

8       “(d) QUALIFIED FARMER.—For purposes of this sec-  
9 tion, the term ‘qualified farmer’ means, with respect to  
10 any taxable year, any individual who, during such year—

11               “(1) was engaged in the trade or business of  
12 farming or ranching,

13               “(2) has in effect an agreement with the Sec-  
14 retary of Agriculture to accept contributions under  
15 this section in lieu of—

16                       “(A) receiving, after the expiration of any  
17 transition period applicable to the individual  
18 under subsection (g)(2), any Federal subsidy  
19 toward the premium of any crop insurance pol-  
20 icy, or

21                       “(B) obtaining noninsured crop disaster  
22 assistance under section 196 of the Federal Ag-  
23 riculture Improvement and Reform Act of 1996  
24 (7 U.S.C. 7333), and

1           “(3) does not have any federally subsidized crop  
2 insurance policy, except during transition periods ap-  
3 plicable to the individual under subsection (g)(2).

4           “(e) FARM SAVINGS ACCOUNT.—For purposes of this  
5 section—

6           “(1) IN GENERAL.—The term ‘farm savings ac-  
7 count’ means a trust created or organized in the  
8 United States as a farm savings account exclusively  
9 for the purpose of making qualified distributions,  
10 but only if the written governing instrument creating  
11 the trust meets the following requirements:

12                   “(A) No contribution will be accepted un-  
13 less it is in cash.

14                   “(B) The trustee is a bank (as defined in  
15 section 408(n)) or another person who dem-  
16 onstrates to the satisfaction of the Secretary  
17 that the manner in which such person will ad-  
18 minister the trust will be consistent with the re-  
19 quirements of this section.

20                   “(C) The assets of the trust will be in-  
21 vested in securities issued by the United States  
22 Treasury or in such other low-risk interest-  
23 bearing securities as are approved by the Sec-  
24 retary.

1           “(D) The assets of the trust will not be  
2 commingled with other property except in a  
3 common trust fund or common investment  
4 fund.

5           “(E) The interest of an individual in the  
6 balance in his account is nonforfeitable.

7           “(2) QUALIFIED DISTRIBUTION.—The term  
8 ‘qualified distribution’ means any amount paid from  
9 a farm savings account to the account beneficiary to  
10 the extent that such amount when added to all other  
11 amounts paid from such accounts to such beneficiary  
12 during the taxable year (other than rollover con-  
13 tributions) does not exceed the excess (if any) of—

14           “(A) 80 percent of such beneficiary’s 3-  
15 year average of income derived from farming or  
16 ranching, over

17           “(B) such beneficiary’s gross income de-  
18 rived from farming or ranching for the taxable  
19 year.

20           “(3) 3-YEAR AVERAGE OF INCOME DERIVED  
21 FROM FARMING OR RANCHING.—The term ‘3-year  
22 average of income derived from farming or ranching’  
23 means, with respect to any individual—

24           “(A) the sum of the individual’s gross in-  
25 come derived from farming or ranching for the

1 taxable year and the 2 preceding taxable years,  
2 divided by

3 “(B) the number of taxable years taken  
4 into account under clause (i) during which such  
5 individual was engaged in the trade or business  
6 of farming or ranching.

7 “(4) ACCOUNT BENEFICIARY.—The term ‘ac-  
8 count beneficiary’ means the individual on whose be-  
9 half the farm savings account was established.

10 “(5) SPECIAL RULES.—

11 “(A) FEDERAL CONTRIBUTIONS.—For  
12 purposes of this title, any amount paid to a  
13 farm savings account by the Secretary of Agri-  
14 culture under subsection (g) shall be included in  
15 the account beneficiary’s gross income in the  
16 taxable year for which the amount was contrib-  
17 uted, whether or not a deduction for such pay-  
18 ment is allowable under this section to the ben-  
19 efiary.

20 “(B) OTHER RULES.—Rules similar to the  
21 following rules shall apply for purposes of this  
22 section:

23 “(i) Section 219(d)(2) (relating to no  
24 deduction for rollovers).

1                   “(ii) Section 219(f)(3) (relating to  
2                   time when contributions deemed made).

3                   “(iii) Section 408(g) (relating to com-  
4                   munity property laws).

5                   “(iv) Section 408(h) (relating to cus-  
6                   todial accounts).

7                   “(f) TAX TREATMENT OF ACCOUNTS.—

8                   “(1) IN GENERAL.—A farm savings account is  
9                   exempt from taxation under this subtitle unless such  
10                  account has ceased to be a farm savings account.  
11                  Notwithstanding the preceding sentence, any such  
12                  account is subject to the taxes imposed by section  
13                  511 (relating to imposition of tax on unrelated busi-  
14                  ness income of charitable, etc. organizations).

15                  “(2) TERMINATION OF ACCOUNTS.—If the ac-  
16                  count beneficiary ceases to engage in the trade or  
17                  business of farming or ranching, such trade or busi-  
18                  ness becomes covered under any crop insurance pol-  
19                  icy for which a premium subsidy is paid by the Sec-  
20                  retary of Agriculture, or the account beneficiary  
21                  seeks noninsured crop disaster assistance under sec-  
22                  tion 196 of the Federal Agriculture Improvement  
23                  and Reform Act of 1996 (7 U.S.C. 7333)—

24                               “(A) all farm savings accounts of such in-  
25                               dividual shall cease to be such accounts, and

1           “(B) the balance of all such accounts shall  
2           be treated as—

3                   “(i) distributed to such individual,  
4                   and  
5                   “(ii) not paid in a qualified distribu-  
6                   tion.

7           “(g) FEDERAL CONTRIBUTION TO ACCOUNTS.—

8                   “(1) CONTRIBUTIONS REQUIRED.—Using  
9                   amounts in the insurance fund established under  
10                   section 516(c) of the Federal Crop Insurance Act (7  
11                   U.S.C. 1516(c)), the Secretary of Agriculture shall  
12                   match the contributions made for a taxable year to  
13                   farm savings accounts of an individual who has en-  
14                   tered into the agreement with the Secretary required  
15                   by subsection (d)(2) in an aggregate amount equal  
16                   to 2 percent of the individual’s 3-year average of in-  
17                   come derived from farming or ranching.

18                   “(2) TRANSITION PERIODS.—Notwithstanding  
19                   paragraph (1), during the first 3 taxable years for  
20                   which the Secretary of Agriculture makes contribu-  
21                   tions under such paragraph to farm savings ac-  
22                   counts of an individual and during the first 3 tax-  
23                   able years following any taxable year during which  
24                   there occurs a qualified distribution from a farm

1 savings account of the individual, the amount con-  
2 tributed by the Secretary may not exceed—

3 “(A) for the first taxable year, 25 percent  
4 of the amount the Secretary would otherwise  
5 contribute under paragraph (1) for that taxable  
6 year,

7 “(B) for the second taxable year, 50 per-  
8 cent of the amount the Secretary would other-  
9 wise contribute under paragraph (1) for that  
10 taxable year, and

11 “(C) for the third taxable year, 75 percent  
12 of the amount the Secretary would otherwise  
13 contribute under paragraph (1) for that taxable  
14 year.

15 “(3) CROP INSURANCE COVERAGE.—During  
16 any transition period applicable to an individual  
17 under paragraph (1), the individual shall procure, as  
18 a condition of receiving contributions under this sub-  
19 section, at least catastrophic risk protection provided  
20 under section 508(b) of the Federal Crop Insurance  
21 Act (7 U.S.C. 1508(b)). During this period, the indi-  
22 vidual would be covered with any claim at the same  
23 level of coverage purchased, but subject to the condi-  
24 tion that any claim would first use amounts in the  
25 farm savings accounts of an individual before con-

1       ventional crop insurance would make any payment,  
2       if necessary.

3       “(h) TAX TREATMENT OF DISTRIBUTIONS.—

4               “(1) IN GENERAL.—Any amount paid or dis-  
5       tributed out of a farm savings account (other than  
6       a rollover contribution described in paragraph (4))  
7       shall be included in gross income.

8               “(2) ADDITIONAL TAX ON NON-QUALIFIED DIS-  
9       TRIBUTIONS.—

10               “(A) IN GENERAL.—The tax imposed by  
11       this chapter on the account beneficiary for any  
12       taxable year in which there is a payment or dis-  
13       tribution from a farm savings account of such  
14       beneficiary which is not a qualified distribution  
15       shall be increased by 15 percent of the amount  
16       of such payment or distribution which is not a  
17       qualified distribution.

18               “(B) EXCEPTION FOR DISABILITY OR  
19       DEATH.—Subparagraph (A) shall not apply if  
20       the payment or distribution is made after the  
21       account beneficiary becomes disabled within the  
22       meaning of section 72(m)(7) or dies.

23               “(3) EXCESS CONTRIBUTIONS RETURNED BE-  
24       FORE DUE DATE OF RETURN.—

1           “(A) IN GENERAL.—If any excess con-  
2           tribution is contributed for a taxable year to a  
3           farm savings account of an individual, para-  
4           graph (2) shall not apply to distributions from  
5           the farm savings accounts of such individual (to  
6           the extent such distributions do not exceed the  
7           aggregate excess contributions to all such ac-  
8           counts of such individual for such year) if—

9                   “(i) such distribution is received by  
10                   the individual on or before the last day  
11                   prescribed by law (including extensions of  
12                   time) for filing such individual’s return for  
13                   such taxable year, and

14                   “(ii) such distribution is accompanied  
15                   by the amount of net income attributable  
16                   to such excess contribution.

17           Any net income described in clause (ii) shall be  
18           included in the gross income of the individual  
19           for the taxable year in which it is received.

20           “(B) EXCESS CONTRIBUTION.—For pur-  
21           poses of subparagraph (A), the term ‘excess  
22           contribution’ means any contribution (other  
23           than a rollover contribution) which is not de-  
24           ductible under this section.

1           “(4) ROLLOVER CONTRIBUTION.—An amount is  
2 described in this paragraph as a rollover contribu-  
3 tion if it meets the requirements of subparagraphs  
4 (A) and (B).

5           “(A) IN GENERAL.—For purposes of this  
6 section, any amount paid or distributed from a  
7 farm savings account to the account beneficiary  
8 shall be treated as a qualified distribution to  
9 the extent the amount received is paid into a  
10 farm savings account for the benefit of such  
11 beneficiary not later than the 60th day after  
12 the day on which the beneficiary receives the  
13 payment or distribution.

14           “(B) LIMITATION.—This paragraph shall  
15 not apply to any amount described in subpara-  
16 graph (A) received by an individual from a  
17 farm savings account if, at any time during the  
18 1-year period ending on the day of such receipt,  
19 such individual received any other amount de-  
20 scribed in subparagraph (A) from a farm sav-  
21 ings account which was not included in the indi-  
22 vidual’s gross income because of the application  
23 of this paragraph.

24           “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-  
25 VORCE.—The transfer of an individual’s interest in

1 a farm savings account to an individual's spouse or  
2 former spouse under a divorce or separation instru-  
3 ment described in subparagraph (A) of section  
4 71(b)(2) shall not be considered a taxable transfer  
5 made by such individual notwithstanding any other  
6 provision of this subtitle, and such interest shall,  
7 after such transfer, be treated as a farm savings ac-  
8 count with respect to which such spouse is the ac-  
9 count beneficiary.

10 “(6) TREATMENT AFTER DEATH OF ACCOUNT  
11 BENEFICIARY.—

12 “(A) TREATMENT IF DESIGNATED BENE-  
13 FICIARY IS SPOUSE.—If the account bene-  
14 ficiary's surviving spouse acquires such bene-  
15 ficiary's interest in a farm savings account by  
16 reason of being the designated beneficiary of  
17 such account at the death of the account bene-  
18 ficiary, such farm savings account shall be  
19 treated as if the spouse were the account bene-  
20 ficiary.

21 “(B) OTHER CASES.—

22 “(i) IN GENERAL.—If, by reason of  
23 the death of the account beneficiary, any  
24 person acquires the account beneficiary's  
25 interest in a farm savings account in a

1 case to which subparagraph (A) does not  
2 apply—

3 “(I) such account shall cease to  
4 be a farm savings account as of the  
5 date of death, and

6 “(II) an amount equal to the fair  
7 market value of the assets in such ac-  
8 count on such date shall be included  
9 if such person is not the estate of  
10 such beneficiary, in such person’s  
11 gross income for the taxable year  
12 which includes such date, or if such  
13 person is the estate of such bene-  
14 ficiary, in such beneficiary’s gross in-  
15 come for the last taxable year of such  
16 beneficiary.

17 “(ii) DEDUCTION FOR ESTATE  
18 TAXES.—An appropriate deduction shall be  
19 allowed under section 691(c) to any person  
20 (other than the decedent or the decedent’s  
21 spouse) with respect to amounts included  
22 in gross income under clause (i) by such  
23 person.

24 “(i) REPORTS.—The Secretary may require the trust-  
25 ee of a farm savings account to make such reports regard-

1 ing such account to the Secretary and to the account bene-  
2 ficiary with respect to contributions, distributions, and  
3 such other matters as the Secretary determines appro-  
4 priate. The reports required by this subsection shall be  
5 filed at such time and in such manner and furnished to  
6 such individuals at such time and in such manner as may  
7 be required by the Secretary.”.

8 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
9 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
10 of section 62 of such Code is amended by inserting after  
11 paragraph (21) the following new paragraph:

12 “(22) FARM SAVINGS ACCOUNTS.—The deduc-  
13 tion allowed by section 224.”.

14 (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973  
15 of such Code (relating to tax on excess contributions to  
16 certain tax-favored accounts and annuities) is amended—

17 (1) by striking “or” at the end of subsection  
18 (a)(4), by inserting “or” at the end of subsection  
19 (a)(5), and by inserting after subsection (a)(5) the  
20 following new paragraph:

21 “(6) a farm savings account (within the mean-  
22 ing of section 224(e)),”, and

23 (2) by adding at the end the following new sub-  
24 section:

1       “(h) EXCESS CONTRIBUTIONS TO FARM SAVINGS AC-  
2 COUNTS.—For purposes of this section, in the case of farm  
3 savings accounts (within the meaning of section 224(e)),  
4 the term ‘excess contribution’ means the sum of—

5           “(1) the aggregate amount contributed for the  
6 taxable year to the accounts (other than rollover  
7 contributions described in section 224(h)(4)) which  
8 is not allowable as a deduction under section 224 for  
9 such year, and

10          “(2) the amount determined under this sub-  
11 section for the preceding taxable year, reduced by  
12 the sum of—

13           “(A) the distributions out of the accounts  
14 with respect to which additional tax was im-  
15 posed under section 224(h)(2), and

16           “(B) the excess (if any) of—

17               “(i) the maximum amount allowable  
18 as a deduction under section 224(c) for the  
19 taxable year, over

20               “(ii) the amount contributed to the  
21 accounts for the taxable year.

22       For purposes of this subsection, any contribution  
23 which is distributed out of the farm savings account  
24 in a distribution to which section 224(h)(3) applies  
25 shall be treated as an amount not contributed.”.

1 (d) TAX ON PROHIBITED TRANSACTIONS.—

2 (1) Section 4975(e) of such Code (relating to  
3 tax on prohibited transactions) is amended by add-  
4 ing at the end the following new paragraph:

5 “(7) SPECIAL RULE FOR FARM SAVINGS AC-  
6 COUNTS.—An individual for whose benefit a farm  
7 savings account (within the meaning of section  
8 224(e)) is established shall be exempt from the tax  
9 imposed by this section with respect to any trans-  
10 action concerning such account (which would other-  
11 wise be taxable under this section) if, with respect  
12 to such transaction, the account ceases to be a farm  
13 savings account by reason of the application of sec-  
14 tion 224(f)(2) to such account.”.

15 (2) Section 4975(e)(1) of such Code is amended  
16 by redesignating subparagraphs (F) and (G) as sub-  
17 paragraphs (G) and (H), respectively, and by insert-  
18 ing after subparagraph (E) the following new sub-  
19 paragraph:

20 “(F) a farm savings account described in  
21 section 224(e),”.

22 (e) FAILURE TO PROVIDE REPORTS ON FARM SAV-  
23 INGS ACCOUNTS.—Section 6693(a)(2) of such Code (relat-  
24 ing to reports) is amended by redesignating subpara-  
25 graphs (D) and (E) as subparagraphs (E) and (F), respec-

1 tively, and by inserting after subparagraph (C) the fol-  
 2 lowing new subparagraph:

3                   “(D) section 224(i) (relating to farm sav-  
 4                   ings accounts),”.

5           (f) CLERICAL AMENDMENT.—The table of sections  
 6 for part VII of subchapter B of chapter 1 of such Code  
 7 is amended by striking the last item and inserting the fol-  
 8 lowing:

“Sec. 224. Farm savings accounts.

“Sec. 225. Cross reference.”.

9           (g) CONFORMING AMENDMENTS TO FEDERAL CROP  
 10 INSURANCE ACT.—

11                   (1) PAYMENT OF PORTION OF PREMIUM BY  
 12 FEDERAL CROP INSURANCE CORPORATION.—Section  
 13 508(e) of the Federal Crop Insurance Act (7 U.S.C.  
 14 1508(e)) is amended by adding at the end the fol-  
 15 lowing new paragraph:

16                   “(6) TRANSITION TO FARM SAVINGS AC-  
 17 COUNTS.—If a producer enters into an agreement  
 18 under section 224 of the Internal Revenue Code of  
 19 1986 to forgo any Federal subsidy toward the pre-  
 20 mium of any crop insurance policy in exchange for  
 21 contributions by the Secretary to a farm savings ac-  
 22 count of the producer, then, in connection with the  
 23 purchase of any crop insurance policy during the  
 24 first 3 taxable years for which the Secretary makes

1 contributions under subsection (g) of such section to  
2 a farm savings account of the producer, the amount  
3 of the premium to be paid by the Corporation under  
4 this subsection shall be equal to—

5 “(A) for the first taxable year, 75 percent  
6 of the amount of the premium that would oth-  
7 erwise be paid by the Corporation under this  
8 subsection;

9 “(B) for the second taxable year, 50 per-  
10 cent of the amount of the premium that would  
11 otherwise be paid by the Corporation under this  
12 subsection; and

13 “(C) for the third taxable year, 25 percent  
14 of the amount of the premium that would oth-  
15 erwise be paid by the Corporation under this  
16 subsection.”.

17 (2) FUNDING SOURCE.—Section 516(b) of such  
18 Act (7 U.S.C. 1516(b)) is amended by adding at the  
19 end the following new paragraph:

20 “(3) CONTRIBUTIONS TO FARM SAVINGS AC-  
21 COUNTS.—The Secretary shall use the insurance  
22 fund established under subsection (c) to make re-  
23 quired contributions to farm savings accounts estab-  
24 lished under section 224 of the Internal Revenue  
25 Code of 1986.”.

1           (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after the  
3 date of the enactment of this Act.

○