

110TH CONGRESS
2^D SESSION

S. 2637

To amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

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

A BILL

To amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes.

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 “Beginning Farmers
5 and Ranchers Act of 2008”.

1 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN**
 2 **FARMLAND.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 items specifically excluded from gross income) is amended
 6 by adding after section 121 the following new section:

7 **“SEC. 121A. EXCLUSION OF GAIN FROM SALE OF QUALIFIED**
 8 **FARM PROPERTY.**

9 “(a) EXCLUSION.—In the case of a natural person,
 10 gross income shall not include—

11 “(1) 100 percent of the gain from the sale or
 12 exchange of qualified farm property to a first-time
 13 farmer who meets the certification requirement of
 14 subsection (d),

15 “(2) 50 percent of the gain from the sale or ex-
 16 change of qualified farm property to any other per-
 17 son who meets the certification requirement of sub-
 18 section (d), and

19 “(3) 25 percent of the gain from the sale or ex-
 20 change of qualified farm property to any other per-
 21 son for any other use.

22 “(b) LIMITATION ON AMOUNT OF EXCLUSION.—

23 “(1) IN GENERAL.—The amount of gain ex-
 24 cluded from gross income under subsection (a) with
 25 respect to any taxable year shall not exceed
 26 \$500,000 (\$250,000 in the case of a married indi-

1 vidual filing a separate return), reduced by the ag-
 2 gregate amount of gain excluded under subsection
 3 (a) for all preceding taxable years.

4 “(2) SPECIAL RULE FOR JOINT RETURNS.—The
 5 amount of the exclusion under subsection (a) on a
 6 joint return for any taxable year shall be allocated
 7 equally between the spouses for purposes of applying
 8 the limitation under paragraph (1) for any suc-
 9 ceeding taxable year.

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

11 “(1) FIRST-TIME FARMER.—The term ‘first-
 12 time farmer’ means a first-time farmer (as defined
 13 in section 147(c)(2)(C), determined without regard
 14 to clause (i)(II) thereof) who meets the requirements
 15 of section 147(c)(2)(B). For purposes of the pre-
 16 ceding sentence, in applying clause (ii) of section
 17 147(c)(2)(B), the material and substantial participa-
 18 tion standard shall be treated as met with respect to
 19 a qualified farm if the first-time farmer will—

20 “(A) perform not less than 1,000 hours of
 21 service with respect to such farm, or

22 “(B) provide half the required manage-
 23 ment and labor with respect to such farm.

1 “(2) QUALIFIED FARM PROPERTY.—The term
2 ‘qualified farm property’ means real property located
3 in the United States if—

4 “(A) during periods aggregating 3 years or
5 more of the 5-year period ending on the date of
6 the sale or exchange of such real property, such
7 real property was used as a farm for farming
8 purposes by the taxpayer, the taxpayer’s
9 spouse, or other member of the family of the
10 taxpayer, and

11 “(B) there was material participation by
12 the taxpayer, the taxpayer’s spouse, or other
13 member of the family of the taxpayer in the op-
14 eration of the farm during 3 years or more of
15 the 5-year period ending on the earlier of—

16 “(i) the sale or exchange of such real
17 property, or

18 “(ii) the later of the retirement of the
19 taxpayer or the taxpayer’s spouse who ma-
20 terially participated.

21 “(3) OTHER DEFINITIONS.—The terms ‘mem-
22 ber of the family’, ‘farm’, ‘farming purposes’, and
23 ‘material participation’ have the respective meanings
24 given such terms by paragraphs (2), (4), (5), and
25 (6) of section 2032A(e), respectively.

1 “(d) USE CERTIFICATION AS FARM FOR FARMING
2 PURPOSES.—The certification requirement of this sub-
3 section is a certification that the use of the qualified farm
4 property referred to in subsection (a)(1) will be as a farm
5 for farming purposes for not less than the 10-year period
6 beginning on the date of the sale or exchange referred to
7 in subsection (a)(1).

8 “(e) SPECIAL RULES.—For purposes of this section,
9 the following rules shall apply:

10 “(1) Rules similar to the rules of subsections
11 (e) and (f) of section 121.

12 “(2) Rules similar to the rules of paragraphs
13 (4) and (5) of section 2032A(b) and paragraph (3)
14 of section 2032A(e).

15 “(f) TREATMENT OF DISPOSITION OR CHANGE IN
16 USE OF PROPERTY.—

17 “(1) IN GENERAL.—If, as of the close of any
18 taxable year, there is a recapture event with respect
19 to any qualified farm property transferred to the
20 taxpayer in a sale or exchange described in para-
21 graph (1) or (2) of subsection (a), then the tax of
22 the taxpayer under this chapter for such taxable
23 year shall be increased by an amount equal to the
24 product of—

1 “(A) the applicable recapture percentage,
2 and

3 “(B) 10 percent of the taxpayer’s adjusted
4 basis in the property on the date such property
5 was transferred to the taxpayer.

6 “(2) APPLICABLE RECAPTURE PERCENTAGE.—

7 “(A) IN GENERAL.—For purposes of this
8 subsection, the applicable recapture percentage
9 shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Years 1 through 5	100
Year 6	80
Year 7	60
Year 8	40
Year 9	20
Years 10 and thereafter	0.

10 “(B) YEARS.—For purposes of subpara-
11 graph (A), year 1 shall begin on the date of the
12 sale or exchange described in paragraph (1) or
13 (2) of subsection (a).

14 “(3) RECAPTURE EVENT DEFINED.—For pur-
15 poses of this subsection, the term ‘recapture event’
16 means—

17 “(A) CESSATION OF OPERATION.—The
18 cessation of the operation of any property the
19 sale or exchange of which to the taxpayer is de-
20 scribed in paragraph (1) or (2) of subsection
21 (a) as a farm for farming purposes.

1 “(B) CHANGE IN OWNERSHIP.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in clause (ii), the disposition of a
4 taxpayer’s interest in any property the sale
5 or exchange of which to the taxpayer is de-
6 scribed in paragraph (1) or (2) of sub-
7 section (a).

8 “(ii) AGREEMENT TO ASSUME RECAP-
9 TURE LIABILITY.—Clause (i) shall not
10 apply if the person acquiring such interest
11 in the property agrees in writing to assume
12 the recapture liability of the person dis-
13 posing of such interest in effect imme-
14 diately before such disposition. In the
15 event of such an assumption, the person
16 acquiring the interest in the property shall
17 be treated as the taxpayer for purposes of
18 assessing any recapture liability (computed
19 as if there had been no change in owner-
20 ship).

21 “(4) SPECIAL RULES.—

22 “(A) NO CREDITS AGAINST TAX.—Any in-
23 crease in tax under this subsection shall not be
24 treated as a tax imposed by this chapter for

1 purposes of determining the amount of any
2 credit under subpart A, B, or D of this part.

3 “(B) NO RECAPTURE BY REASON OF
4 HARDSHIP.—The increase in tax under this
5 subsection shall not apply to any disposition of
6 property or cessation of the operation of any
7 property as a farm for farming purposes by rea-
8 son of any hardship as determined by the Sec-
9 retary.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-
11 tions for part III of subchapter B of chapter 1 of the In-
12 ternal Revenue Code of 1986 is amended by adding after
13 the item relating to section 121 the following new item:

“Sec. 121A. Exclusion of gain from sale of qualified farm property.”.

14 (c) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to any sale or exchange on or after
16 the date of the enactment of this Act, in taxable years
17 ending after such date.

18 **SEC. 3. INCREASE IN ALLOWABLE DOLLAR AMOUNT OF**
19 **BONDS ISSUED FOR FIRST-TIME FARMER**
20 **PROJECTS.**

21 (a) ACQUISITION OF DEPRECIABLE FARM PROP-
22 erty.—Subparagraph (A) of section 144(a)(11) of the In-
23 ternal Revenue Code of 1986 (relating to limitation on ac-
24 quisition of depreciable farm property) is amended by
25 striking “\$250,000” and inserting “\$500,000”.

1 (b) FIRST-TIME FARMER.—Subparagraphs (A) and
2 (C)(i)(II) of section 147(c)(2) of such Code (relating to
3 exception for first-time farmers) are each amended by
4 striking “\$250,000” and inserting “\$500,000”.

5 (c) SUBSTANTIAL FARMLAND.—Clause (ii) of section
6 147(c)(2)(E) of such Code (defining substantial farmland)
7 is amended by striking “\$125,000” and inserting
8 “\$250,000”.

9 (d) USED EQUIPMENT LIMITATION.—Subparagraph
10 (F) of section 147(c)(2) of such Code (relating to used
11 equipment limitation) is amended by striking “\$62,500”
12 and inserting “\$500,000”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to bonds issued after the date of
15 the enactment of this Act.

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