

111TH CONGRESS  
2D SESSION

# H. R. 5475

To amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2010

Mr. THOMPSON of California (for himself, Mr. SALAZAR, Mr. MCCARTHY of California, Mr. BLUMENAUER, Mr. CARDOZA, Mr. COSTA, Mr. FARR, Mr. MANZULLO, Mr. ELLSWORTH, Mrs. CAPPS, Mr. KRATOVIL, Mr. CUELLAR, Mr. KIND, Ms. ESHOO, Mr. RADANOVICH, Mr. CONAWAY, Mr. GARAMENDI, Mr. BERRY, Ms. MATSUI, Ms. HERSETH SANDLIN, Mr. SIMPSON, and Mr. MINNICK) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax, 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 “Family Farm Estate  
5       Tax Relief Act of 2010”.

1 **SEC. 2. EXCLUSION FROM GROSS ESTATE OF CERTAIN**  
 2 **FARMLAND SO LONG AS FARMLAND USE**  
 3 **CONTINUES.**

4 (a) IN GENERAL.—Part III of subchapter A of chap-  
 5 ter 11 of the Internal Revenue Code of 1986 (relating to  
 6 gross estate) is amended by inserting after section 2033  
 7 the following new section:

8 **“SEC. 2033A. EXCLUSION OF CERTAIN FARMLAND SO LONG**  
 9 **AS USE AS FARMLAND CONTINUES.**

10 “(a) IN GENERAL.—In the case of an estate of a de-  
 11 cedent to which this section applies, the value of the gross  
 12 estate shall not include the adjusted value of qualified  
 13 farmland included in the estate.

14 “(b) ESTATES TO WHICH SECTION APPLIES.—This  
 15 section shall apply to an estate if—

16 “(1) the executor elects the application of this  
 17 section and files an agreement referred to in section  
 18 2032A(d)(2), and

19 “(2) the decedent was (at the date of the dece-  
 20 dent’s death) a citizen or resident of the United  
 21 States.

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

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

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

1           “(B) is used as a farm for farming pur-  
2           poses (within the meaning of section 2032A(e)),

3           “(C) was acquired from or passed from the  
4           decedent to a qualified heir of the decedent and  
5           which, on the date of the decedent’s death, was  
6           being so used by the decedent or a member of  
7           the decedent’s family, and

8           “(D) is property designated in the agree-  
9           ment filed under subsection (b)(1).

10          “(2) OTHER TERMS.—Any other term used in  
11          this section which is also used in section 2032A shall  
12          have the same meaning given such term by section  
13          2032A.

14          “(d) TAX TREATMENT OF DISPOSITIONS AND FAIL-  
15          URES TO USE FOR FARMING PURPOSES.—

16          “(1) IMPOSITION OF RECAPTURE TAX.—If, at  
17          any time after the decedent’s death and before the  
18          death of the qualified heir—

19                 “(A) the qualified heir disposes of any in-  
20                 terest in qualified farmland (other than by a  
21                 disposition to a member of his family), or

22                 “(B) the qualified heir ceases to use the  
23                 real property which was acquired (or passed)  
24                 from the decedent as a farm for farming pur-  
25                 poses,

1       then, there is hereby imposed a recapture tax.

2               “(2) AMOUNT OF RECAPTURE TAX, ETC.—

3                       “(A) IN GENERAL.—Except as provided in  
4                       subparagraph (B), rules similar to the rules of  
5                       section 2032A(c) (other than paragraph (2)(E)  
6                       thereof) with respect to the additional estate  
7                       tax shall apply for purposes of this subsection  
8                       with respect to the recapture tax.

9                       “(B) ADJUSTMENT OF RECAPTURE TAX TO  
10                      REFLECT INCREASE IN VALUE OF FARM-  
11                      LAND.—The amount of the recapture tax other-  
12                      wise determined under rules described in sub-  
13                      paragraph (A) shall be increased by the per-  
14                      centage (if any) by which the value of the inter-  
15                      est in the qualified farmland at the time of the  
16                      imposition of such tax is greater than the ad-  
17                      justed value of such farmland included in the  
18                      estate.

19               “(e) APPLICATION OF OTHER RULES.—Rules similar  
20       to the rules of subsections (d), (e) (other than paragraph  
21       (13) thereof), (f), (g), (h), and (i) of section 2032A shall  
22       apply for purposes of this section.”.

23               (b) APPLICATION OF LIEN.—Section 6324B of the  
24       Internal Revenue Code of 1986 (relating to special lien  
25       for additional estate tax attributable to farm, etc., valu-

1 ation) is amended by adding at the end the following new  
 2 subsection:

3 “(e) APPLICATION TO QUALIFIED FARMLAND.—

4 “(1) IN GENERAL.—In the case of any interest  
 5 in qualified farmland (within the meaning of section  
 6 2033A(c)(1)), this section shall apply in the same  
 7 manner as such section applies to qualified real  
 8 property.

9 “(2) FORM AND CONTENT.—In addition to any  
 10 form and content otherwise required by the Sec-  
 11 retary with respect to a notice of lien filed against  
 12 qualified farmland, such notice shall include a state-  
 13 ment that such lien is imposed solely for purposes of  
 14 the estate tax exclusion granted with respect to such  
 15 qualified farmland under section 2033A.”.

16 (c) WOODLANDS SUBJECT TO MANAGEMENT  
 17 PLAN.—Paragraph (2) of section 2032A(c) of such Code  
 18 is amended by adding at the end the following new sub-  
 19 paragraph:

20 “(F) EXCEPTION FOR WOODLANDS SUB-  
 21 JECT TO FOREST STEWARDSHIP PLAN.—

22 “(i) IN GENERAL.—Subparagraph (E)  
 23 shall not apply to any disposition or sever-  
 24 ance of standing timber on a qualified  
 25 woodland that is made pursuant to a forest

stewardship plan developed under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a) or an equivalent plan approved by the State Forester.

“(ii) COMPLIANCE WITH FOREST STEWARDSHIP PLAN.—Clause (i) shall not apply if, during the 10-year period under paragraph (1), the qualified heir fails to comply with such forest stewardship plan or equivalent plan.”.

(d) CERTAIN CONSERVATION TRANSACTIONS NOT TREATED AS DISPOSITIONS.—Paragraph (8) of section 2032A(c) of such Code is amended to read as follows:

“(8) CERTAIN CONSERVATION TRANSACTIONS NOT TREATED AS DISPOSITIONS.—

“(A) QUALIFIED CONSERVATION CONTRIBUTIONS.—A qualified conservation contribution by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).

“(B) QUALIFIED CONSERVATION EASEMENT SOLD TO QUALIFIED ORGANIZATION.—A sale of a qualified conservation easement to a qualified organization shall not be deemed a disposition under subsection (c)(1)(A).

1 “(C) DEFINITIONS.—For purposes of this  
2 paragraph—

“(i) the terms ‘qualified conservation  
contribution’ and ‘qualified organization’  
have the meanings given such terms by  
section 170(h), and

7 “(ii) the term ‘qualified conservation  
8 easement’ has the meaning given such  
9 term by section 2031(c)(8).”.

(e) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 2033 the following new item:

“Sec. 2033A. Exclusion of certain farmland so long as use as farmland continues.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

17 SEC. 3. INCREASE IN LIMITATIONS ON THE AMOUNT EX-  
18 CLUDED FROM THE GROSS ESTATE WITH RE-  
19 SPECT TO LAND SUBJECT TO A QUALIFIED  
20 CONSERVATION EASEMENT.

(a) INCREASE IN DOLLAR LIMITATION ON EXCLUSION.—Paragraph (3) of section 2031(c) of the Internal Revenue Code of 1986 (relating to exclusion limitation) is amended by striking “the exclusion limitation is” and

1 all that follows and inserting “the exclusion limitation is  
2 \$5,000,000.”.

3 (b) INCREASE IN PERCENTAGE OF VALUE OF LAND  
4 WHICH IS EXCLUDABLE.—Paragraph (2) of section  
5 2031(c) of the Internal Revenue Code of 1986 (relating  
6 to applicable percentage) is amended—

7 (1) by striking “40 percent” and inserting “50  
8 percent”, and

9 (2) by striking “2 percentage points” and in-  
10 serting “2.5 percentage points”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to the estates of decedents dying  
13 after the date of the enactment of this Act.

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