

112TH CONGRESS
2D SESSION

H. R. 3885

To amend the Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2012

Mr. CRAWFORD (for himself and Mr. LUETKEMEYER) 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 authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts.

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 Risk Abatement
5 and Mitigation Election Act of 2012” or the “FRAME
6 Act of 2012”.

7 **SEC. 2. FARM RISK MANAGEMENT ACCOUNTS.**

8 (a) IN GENERAL.—Part VII of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 (relating to

1 additional itemized deductions for individuals) is amended
 2 by redesignating section 224 as section 225 and by insert-
 3 ing after section 223 the following new section:

4 **“SEC. 224. FRAME ACCOUNTS.**

5 “(a) DEDUCTION ALLOWED.—In the case of a quali-
 6 fied farmer, there shall be allowed as a deduction for the
 7 taxable year an amount equal to the aggregate amount
 8 paid in cash during such taxable year by or on behalf of
 9 such individual to a FRAME account of such individual.

10 “(b) LIMITATION.—The amount allowable as a de-
 11 duction under subsection (a) shall not exceed the least of
 12 the following:

13 “(1) The taxable income of the taxpayer for the
 14 taxable year which is attributable to farming and
 15 ranching.

16 “(2) \$50,000.

17 “(3) \$500,000 reduced by the aggregate con-
 18 tributions of the taxpayer to all FRAME accounts of
 19 the taxpayer for all taxable years.

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

23 “(1) was actively engaged in the trade or busi-
 24 ness of farming or ranching, and

1 “(2) has in effect an agreement with the Sec-
2 retary of Agriculture with respect to each FRAME
3 account of which the individual is an account bene-
4 ficiary.

5 “(d) FRAME ACCOUNT.—For purposes of this sec-
6 tion—

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

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

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

21 “(C) The assets of the trust will not be
22 commingled with other property except in a
23 common trust fund or common investment
24 fund.

1 “(D) The interest of an individual in the
2 balance in his account is nonforfeitable.

3 “(2) QUALIFIED DISTRIBUTION.—The term
4 ‘qualified distribution’ means any of the following
5 amounts paid from a FRAME account to the ac-
6 count beneficiary:

7 “(A) Any distributions in a taxable year
8 during which the gross income attributable to
9 farm to which the FRAME account relates is
10 less than 95 percent of the average gross in-
11 come attributable to such farm for the 5 pre-
12 ceding taxable years, but only so much as does
13 not exceed such difference.

14 “(B) Any distributions to the extent such
15 distribution does not exceed amounts necessary
16 to protect the solvency of the farm to which the
17 FRAME account relates, as determined by the
18 Secretary.

19 “(C) Any distributions to the extent such
20 distributions do not exceed amounts paid or in-
21 curred to procure revenue or crop insurance
22 with respect to the farm to which the FRAME
23 account relates.

1 “(3) ACCOUNT BENEFICIARY.—The term ‘ac-
2 count beneficiary’ means the individual on whose be-
3 half the FRAME account was established.

4 “(4) ACCOUNTS PER FARM LIMITATION.—The
5 Secretary of Agriculture shall have in effect not
6 more than 4 agreements for FRAME accounts with
7 respect to any farm. The Secretary of Agriculture
8 shall by regulation prescribe rules preventing the
9 avoidance of the preceding limitation through use of
10 multiple entities, related parties, division of farms,
11 or de minimis ownership.

12 “(5) OTHER RULES.—Rules similar to the fol-
13 lowing rules shall apply for purposes of this section:

14 “(A) Section 219(d)(2) (relating to no de-
15 duction for rollovers).

16 “(B) Section 219(f)(3) (relating to time
17 when contributions deemed made).

18 “(C) Section 408(g) (relating to commu-
19 nity property laws).

20 “(D) Section 408(h) (relating to custodial
21 accounts).

22 “(e) TAX TREATMENT OF ACCOUNTS.—

23 “(1) IN GENERAL.—A FRAME account is ex-
24 empt from taxation under this subtitle unless such
25 account has ceased to be a FRAME account. Not-

withstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

“(2) TERMINATION OF ACCOUNTS.—If the account beneficiary ceases to engage in the trade or business of farming or ranching—

“(A) all FRAME accounts of such individual shall cease to be such accounts, and

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

“(i) distributed to such individual,

and

“(ii) not paid in a qualified distribution.

“(f) TAX TREATMENT OF DISTRIBUTIONS.—

“(1) IN GENERAL.—Any amount paid or distributed out of a FRAME account (other than a rollover contribution described in paragraph (4)) shall be included in gross income.

“(2) ADDITIONAL TAX ON NON-QUALIFIED DISTRIBUTIONS.—

“(A) IN GENERAL.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or dis-

1 tribution from a FRAME account of such bene-
2 ficiary which is not a qualified distribution shall
3 be increased by 20 percent of the amount of
4 such payment or distribution which is not a
5 qualified distribution.

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

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

13 “(A) IN GENERAL.—If any excess con-
14 tribution is contributed for a taxable year to a
15 FRAME account of an individual, paragraph
16 (2) shall not apply to distributions from the
17 FRAME accounts of such individual (to the ex-
18 tent such distributions do not exceed the aggre-
19 gate excess contributions to all such accounts of
20 such individual for such year) if—

21 “(i) such distribution is received by
22 the individual on or before the last day
23 prescribed by law (including extensions of
24 time) for filing such individual’s return for
25 such taxable year, and

1 “(ii) such distribution is accompanied
2 by the amount of net income attributable
3 to such excess contribution.

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

7 “(B) EXCESS CONTRIBUTION.—For pur-
8 poses of subparagraph (A), the term ‘excess
9 contribution’ means any contribution (other
10 than a rollover contribution) which is not de-
11 ductible under this section.

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

16 “(A) IN GENERAL.—For purposes of this
17 section, any amount paid or distributed from a
18 FRAME account to the account beneficiary
19 shall be treated as a qualified distribution to
20 the extent the amount received is paid into a
21 FRAME account for the benefit of such bene-
22 ficiary not later than the 60th day after the day
23 on which the beneficiary receives the payment
24 or distribution.

1 “(B) LIMITATION.—This paragraph shall
2 not apply to any amount described in subpara-
3 graph (A) received by an individual from a
4 FRAME account if, at any time during the 1-
5 year period ending on the day of such receipt,
6 such individual received any other amount de-
7 scribed in subparagraph (A) from a FRAME
8 account which was not included in the individ-
9 ual’s gross income because of the application of
10 this paragraph.

11 “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-
12 VORCE.—The transfer of an individual’s interest in
13 a FRAME account to an individual’s spouse or
14 former spouse under a divorce or separation instru-
15 ment described in subparagraph (A) of section
16 71(b)(2) shall not be considered a taxable transfer
17 made by such individual notwithstanding any other
18 provision of this subtitle, and such interest shall,
19 after such transfer, be treated as a FRAME account
20 with respect to which such spouse is the account
21 beneficiary.

22 “(6) TREATMENT AFTER DEATH OF ACCOUNT
23 BENEFICIARY.—

24 “(A) TREATMENT IN CASE OF INDIVIDUAL
25 DESIGNATED BENEFICIARY.—If any individual

1 acquires such beneficiary's interest in a
2 FRAME account by reason of being the des-
3 ignated beneficiary of such account at the death
4 of the account beneficiary, such FRAME ac-
5 count shall be treated as if such individual were
6 the account beneficiary.

7 “(B) OTHER CASES.—

8 “(i) IN GENERAL.—If, by reason of
9 the death of the account beneficiary, any
10 person acquires the account beneficiary's
11 interest in a FRAME account in a case to
12 which subparagraph (A) does not apply—

13 “(I) such account shall cease to
14 be a FRAME account as of the date
15 of death, and

16 “(II) an amount equal to the fair
17 market value of the assets in such ac-
18 count on such date shall be included
19 if such person is not the estate of
20 such beneficiary, in such person's
21 gross income for the taxable year
22 which includes such date, or if such
23 person is the estate of such bene-
24 ficiary, in such beneficiary's gross in-

1 come for the last taxable year of such
2 beneficiary.

3 “(ii) DEDUCTION FOR ESTATE
4 TAXES.—An appropriate deduction shall be
5 allowed under section 691(c) to any person
6 (other than the decedent or the decedent’s
7 spouse) with respect to amounts included
8 in gross income under clause (i) by such
9 person.

10 “(g) REPORTS.—The Secretary may require the
11 trustee of a FRAME account to make such reports regard-
12 ing such account to the Secretary and to the account bene-
13 ficiary with respect to contributions, distributions, and
14 such other matters as the Secretary determines appro-
15 priate. The reports required by this subsection shall be
16 filed at such time and in such manner and furnished to
17 such individuals at such time and in such manner as may
18 be required by the Secretary.”.

19 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIV-
20 IDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
21 of section 62 of such Code is amended by inserting after
22 paragraph (20) the following new paragraph:

23 “(21) FRAME ACCOUNTS.—The deduction al-
24 lowed by section 224.”.

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

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

8 “(6) a FRAME account (within the meaning of
9 section 224(d)),”, and

10 (2) by adding at the end the following new sub-
11 section:

12 “(h) EXCESS CONTRIBUTIONS TO FRAME AC-
13 COUNTS.—For purposes of this section, in the case of
14 FRAME accounts (within the meaning of section 224(d)),
15 the term ‘excess contribution’ means the sum of—

16 “(1) the aggregate amount contributed for the
17 taxable year to the accounts (other than rollover
18 contributions described in section 224(f)(4)) which is
19 not allowable as a deduction under section 224 for
20 such year, and

21 “(2) the amount determined under this sub-
22 section for the preceding taxable year, reduced by
23 the sum of—

1 “(A) the distributions out of the accounts
2 with respect to which additional tax was im-
3 posed under section 224(f)(2), and

4 “(B) the excess (if any) of—

5 “(i) the maximum amount allowable
6 as a deduction under section 224(b) for
7 the taxable year, over

8 “(ii) the amount contributed to the
9 accounts for the taxable year.

10 For purposes of this subsection, any contribution
11 which is distributed out of the FRAME account in
12 a distribution to which section 224(f)(3) applies
13 shall be treated as an amount not contributed.”.

14 (d) TAX ON PROHIBITED TRANSACTIONS.—

15 (1) Section 4975(c) of such Code (relating to
16 tax on prohibited transactions) is amended by add-
17 ing at the end the following new paragraph:

18 “(7) SPECIAL RULE FOR FRAME ACCOUNTS.—

19 An individual for whose benefit a FRAME account
20 (within the meaning of section 224(d)) is established
21 shall be exempt from the tax imposed by this section
22 with respect to any transaction concerning such ac-
23 count (which would otherwise be taxable under this
24 section) if, with respect to such transaction, the ac-
25 count ceases to be a FRAME account by reason of

1 the application of section 224(e)(2) to such ac-
 2 count.”.

3 (2) Section 4975(e)(1) of such Code is amended
 4 by redesignating subparagraphs (F) and (G) as sub-
 5 paragraphs (G) and (H), respectively, and by insert-
 6 ing after subparagraph (E) the following new sub-
 7 paragraph:

8 “(F) a FRAME account described in sec-
 9 tion 224(d),”.

10 (e) FAILURE TO PROVIDE REPORTS ON FRAME AC-
 11 COUNTS.—Section 6693(a)(2) of such Code (relating to
 12 reports) is amended by redesignating subparagraphs (D)
 13 and (E) as subparagraphs (E) and (F), respectively, and
 14 by inserting after subparagraph (C) the following new sub-
 15 paragraph:

16 “(D) section 224(g) (relating to FRAME
 17 accounts),”.

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

“Sec. 224. FRAME accounts.

“Sec. 225. Cross reference.”.

22 (g) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 the date of the enactment of this Act.

1 **SEC. 3. FRAME CONTRIBUTION CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 section:

6 **“SEC. 45S. FRAME CONTRIBUTION CREDIT.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 in the case of a qualified farmer (as defined in section
9 224(c)), the FRAME contribution credit determined
10 under this section for any taxable year is an amount equal
11 to the applicable percentage of the taxpayer’s contribu-
12 tions to any FRAME account of the taxpayer.

13 “(b) APPLICABLE PERCENTAGE.—For purposes of
14 subsection (a), the applicable percentage is—

15 “(1) in the case of the taxable year during
16 which the first FRAME account of the taxpayer is
17 established, and the 2nd and 3rd taxable years
18 thereafter, 10 percent,

19 “(2) in the case of the 4th through 5th taxable
20 years thereafter, 5 percent, and

21 “(3) in the case of the 7th through 9th taxable
22 years thereafter, 3.5 percent.

23 “(c) LIMITATION.—Only contributions for which a
24 deduction is allowed under section 224 shall be taken into
25 account under this section.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS

2 CREDIT.—Subsection (b) of section 38 of such Code is
3 amended by striking “plus” at the end of paragraph (35),
4 by striking the period at the end of paragraph (36) and
5 inserting “, plus”, and by adding at the end the following
6 new paragraph:

7 “(37) the FRAME contribution credit deter-
8 mined under section 45S(a).”.

9 (c) 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 the fol-
12 lowing new item:

“Sec. 45S. FRAME contribution credit.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

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