

112TH CONGRESS
2D SESSION

H. R. 6271

To amend the Internal Revenue Code of 1986 to exclude certain farmland and family-owned business interests from the value of the gross estate of decedents.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2012

Mr. TIPTON 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 exclude certain farmland and family-owned business interests from the value of the gross estate of decedents.

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 and
5 Small Business Tax Relief Act of 2012”.

1 **SEC. 2. EXCLUSION FROM GROSS ESTATE OF CERTAIN**
2 **FARMLAND AND FAMILY-OWNED BUSINESS**
3 **INTERESTS.**

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. CERTAIN FARMLAND AND FAMILY-OWNED**
9 **BUSINESS INTERESTS.**

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—

13 “(1) qualified farmland, and

14 “(2) the qualified family-owned business inter-
15 ests,

16 of the decedent otherwise includible in the estate.

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

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

22 “(2) the executor elects the application of this
23 section and files the agreement referred to in sub-
24 section (h),

1 “(3) during the 8-year period ending on the
2 date of the decedent’s death there have been periods
3 aggregating 5 years or more during which—

4 “(A) the qualified farmland or the quali-
5 fied family-owned business interest, or both, as
6 the case may be, was owned by the decedent or
7 a member of the decedent’s family, and

8 “(B) there was material participation
9 (within the meaning of section 2032A(e)(6)) by
10 the decedent or a member of the decedent’s
11 family in the operation of the qualified farm-
12 land or the business to which such interest re-
13 lates.

14 “(c) QUALIFIED FAMILY-OWNED BUSINESS INTER-
15 ESTS.—For purposes of this section—

16 “(1) ADJUSTED VALUE.—The adjusted value of
17 any qualified family-owned business interest is the
18 value of such interest for purposes of this chapter
19 (determined without regard to this section), reduced
20 by the excess of—

21 “(A) any amount deductible under para-
22 graph (3) or (4) of section 2053(a), over

23 “(B) the sum of—

24 “(i) any indebtedness on any qualified
25 residence of the decedent the interest on

1 which is deductible under section
2 163(h)(3), plus

3 “(ii) any indebtedness to the extent
4 the taxpayer establishes that the proceeds
5 of such indebtedness were used for the
6 payment of educational and medical ex-
7 penses of the decedent, the decedent’s
8 spouse, or the decedent’s dependents (with-
9 in the meaning of section 152), plus

10 “(iii) any indebtedness not described
11 in subparagraph (A) or (B), to the extent
12 such indebtedness does not exceed
13 \$10,000.

14 “(2) QUALIFIED FAMILY-OWNED BUSINESS IN-
15 TEREST DEFINED.—The term ‘qualified family-
16 owned business interest’ has the meaning given such
17 term by section 2057(e).

18 “(d) QUALIFIED FARMLAND.—For purposes of this
19 section, the term ‘qualified farmland’ means any real
20 property—

21 “(1) which is located in the United States,

22 “(2) which is used as a farm for farming pur-
23 poses (as defined in section 2032A(e)), and

24 “(3) which was acquired from or passed from
25 the decedent to a qualified heir of the decedent

1 which, on the date of the decedent's death, was
2 being so used by the decedent or a member of the
3 decedent's family.

4 “(e) TAX TREATMENT OF FAILURE TO MATERIALLY
5 PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-
6 ESTS.—

7 “(1) IN GENERAL.—There is imposed an addi-
8 tional estate tax if, within 10 years after the date
9 of the decedent's death and before the date of the
10 qualified heir's death—

11 “(A) in the case of a qualified family-
12 owned business interest—

13 “(i) the material participation require-
14 ments of subsection (b)(3)(B) are not met
15 with respect to the qualified family-owned
16 business interest which was acquired (or
17 passed) from the decedent,

18 “(ii) the principal place of business of
19 a trade or business of the qualified family-
20 owned business interest ceases to be lo-
21 cated in the United States, or

22 “(iii) the qualified heir disposes of any
23 interest in the qualified family-owned busi-
24 ness interest, other than by a disposition
25 to a member of the qualified heir's family,

1 “(B) in the case of qualified farmland—

2 “(i) the qualified heir ceases to use
3 the real property which was acquired (or
4 passed) from the decedent as a farm for
5 farming purposes, or

6 “(ii) the qualified heir disposes of any
7 interest in qualified farmland, other than
8 by a disposition to a member of the quali-
9 fied heir’s family, or

10 “(C)(i) the qualified heir loses United
11 States citizenship (within the meaning of sec-
12 tion 877) or with respect to whom an event de-
13 scribed in subparagraph (A) or (B) of section
14 877(e)(1) occurs, and

15 “(ii) such heir does not comply with the
16 rules similar to the rules of section 2057(g) (re-
17 lating to security requirements for noncitizen
18 qualified heirs).

19 “(2) ADDITIONAL ESTATE TAX.—

20 “(A) IN GENERAL.—The amount of the
21 additional estate tax imposed by paragraph (1)
22 shall be equal to—

23 “(i) the applicable percentage of the
24 adjusted tax difference attributable to the
25 qualified family-owned business interest

(as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

“(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

“(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

“If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

“(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value

of such interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

“(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term ‘adjusted tax difference with respect to the estate’ means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term ‘estate tax liability’ means the tax imposed by section 2001 reduced by the credits allowable against such tax.

“(f) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

“(1) QUALIFIED HEIR.—The term ‘qualified heir’—

“(A) has the meaning given to such term by section 2032A(e)(1), and

“(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business

1 for a period of at least 10 years before the date
2 of the decedent's death.

3 “(2) MEMBER OF THE FAMILY.—The term
4 ‘member of the family’ has the meaning given to
5 such term by section 2032A(e)(2).

6 “(3) MATERIAL PARTICIPATION.—The term
7 ‘material participation’ has the meaning given to
8 such term by section 2032A(e)(6).

9 “(4) APPLICABLE RULES.—Rules similar to the
10 following rules shall apply:

11 “(A) Section 2032A(b)(4) (relating to de-
12 cedents who are retired or disabled).

13 “(B) Section 2032A(b)(5) (relating to spe-
14 cial rules for surviving spouses).

15 “(C) Section 2032A(c)(2)(D) (relating to
16 partial dispositions).

17 “(D) Section 2032A(c)(3) (relating to only
18 1 additional tax imposed with respect to any 1
19 portion).

20 “(E) Section 2032A(c)(4) (relating to due
21 date).

22 “(F) Section 2032A(c)(5) (relating to li-
23 ability for tax; furnishing of bond).

24 “(G) Section 2032A(c)(6) (relating to ces-
25 sation of qualified use).

1 “(H) Section 2032A(c)(7) (relating to no
2 tax if use begins within 2 years; active manage-
3 ment by eligible qualified heir treated as mate-
4 rial participation).

5 “(I) Section 2032A(c)(8) (relating to
6 qualified conservation contribution is not a dis-
7 position).

8 “(J) Paragraphs (1) and (3) of section
9 2032A(d) (relating to election; agreement).

10 “(K) Section 2032A(e)(10) (relating to
11 community property).

12 “(L) Section 2032A(e)(14) (relating to
13 treatment of replacement property acquired in
14 section 1031 or 1033 transactions).

15 “(M) Section 2032A(f) (relating to statute
16 of limitations).

17 “(N) Section 2032A(g) (relating to appli-
18 cation of this section and section 6324B to in-
19 terests in partnerships, corporations, and
20 trusts).

21 “(O) Section 2032A(h) (relating to special
22 rules for involuntary conversions of qualified
23 real property).

24 “(P) Section 2032A(i) (relating to ex-
25 changes of qualified real property).

1 “(Q) Section 6166(b)(3) (relating to farm-
2 houses and certain other structures taken into
3 account).

4 “(R) Subparagraphs (B), (C), and (D) of
5 section 6166(g)(1) (relating to acceleration of
6 payment).

7 “(S) Section 6324B (relating to special
8 lien for additional estate tax).”.

9 (b) CONFORMING AMENDMENT.—Section 2032A of
10 such Code is amended by adding at the end the following:

11 “(e) TERMINATION.—This section shall not apply
12 with respect to decedents dying after December 31,
13 2012.”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for part III of subchapter A of chapter 11 of such Code
16 is amended by inserting after the item relating to section
17 2033 the following new item:

 “Sec. 2033A. Family-owned business exclusion.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to estates of decedents dying after
20 December 31, 2012.

21 **SEC. 3. ESTATE TAX MADE PERMANENT.**

22 (a) IN GENERAL.—Title III of the Tax Relief, Unem-
23 ployment Insurance Reauthorization, and Job Creation
24 Act of 2010 is amended by striking section 304.

1 (b) CONFORMING AMENDMENT.—Section 901 of the
2 Economic Growth and Tax Relief Reconciliation Act of
3 2001 shall not apply to title V of such Act.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to estates of decedents dying,
6 gifts made, and generation skipping transfers after De-
7 cember 31, 2012.

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