

112TH CONGRESS  
2D SESSION

# S. 2200

To amend the Internal Revenue Code of 1986 to exempt certain family-owned farms and businesses from the estate tax.

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2012

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

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## A BILL

To amend the Internal Revenue Code of 1986 to exempt certain family-owned farms and businesses from the estate tax.

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 “Saving the Family  
5       Farm Act of 2012”.

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 is amended  
 6 by inserting after section 2033 the following new section:

7 **“SEC. 2033A. EXCLUSION OF CERTAIN FAMILY-OWNED**  
 8 **FARMS AND BUSINESSES.**

9 “(a) IN GENERAL.—In the case of an estate of a de-  
 10 cedent to which this section applies, the value of the gross  
 11 estate shall not include the adjusted value of any qualified  
 12 family-owned farm or business included in the estate.

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

15 “(1) the decedent was (at the date of the dece-  
 16 dent’s death) a citizen or resident of the United  
 17 States, and

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

21 “(A) not less than 60 percent of the quali-  
 22 fied family-owned farm or business was owned  
 23 by the decedent and members of the decedent’s  
 24 family, and

25 “(B) there was material participation  
 26 (within the meaning of section 2032A(e)(6)) by

1           the decedent or the qualified heir in the oper-  
 2           ation of such farm or business.

3 Rules similar to the rules of paragraphs (4) and (5) of  
 4 section 2032A(b) shall apply for purposes of subparagraph  
 5 (B).

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

7           “(1) QUALIFIED FAMILY-OWNED FARM OR  
 8 BUSINESS.—The term ‘qualified family-owned farm  
 9 or business’ means—

10                   “(A) any qualified farmland, or

11                   “(B) any qualified trade or business.

12           “(2) QUALIFIED FARMLAND.—The term ‘quali-  
 13 fied farmland’ means any real property—

14                   “(A) which is located in the United States,

15                   “(B) which is used as a farm for farming  
 16 purposes (within the meaning of section  
 17 2032A(e)), and

18                   “(C) which was acquired from or passed  
 19 from the decedent to a qualified heir of the de-  
 20 cedent and which, on the date of the decedent’s  
 21 death, was being so used by the decedent or a  
 22 member of the decedent’s family.

23           “(3) QUALIFIED TRADE OR BUSINESS.—The  
 24 term ‘qualified trade or business’ means any interest  
 25 in a trade or business of the taxpayer—

1           “(A) which is not an interest in a C cor-  
2           poration, and

3           “(B) which was acquired from or passed  
4           from the decedent to a qualified heir of the de-  
5           cedent.

6           “(4) ADJUSTED VALUE.—The term ‘adjusted  
7           value’ means the value of the qualified family-owned  
8           farm or business for purposes of this chapter (deter-  
9           mined without regard to this section), reduced by  
10          the amount deductible under paragraph (3) or (4) of  
11          section 2053(a).

12          “(5) OTHER TERMS.—Any other term used in  
13          this section which is also used in section 2032A shall  
14          have the same meaning given such term by section  
15          2032A.

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

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

21                 “(A) the qualified heir disposes of any in-  
22                 terest in qualified family-owned farm or busi-  
23                 ness (other than by a disposition to a member  
24                 of his family), or

1           “(B) in the case of qualified farmland, the  
 2           qualified heir ceases to use the real property  
 3           which was acquired (or passed) from the dece-  
 4           dent as a farm for farming purposes,  
 5           then, there is hereby imposed a recapture tax.

6           “(2) AMOUNT OF RECAPTURE TAX, ETC.—  
 7           Rules similar to the rules of section 2032A(c) with  
 8           respect to the additional estate tax shall apply for  
 9           purposes of this subsection with respect to the re-  
 10          capture tax.

11          “(e) APPLICATION OF OTHER RULES.—To the extent  
 12          provided by the Secretary in regulations, rules similar to  
 13          the rules of subsections (e), (f), (g), (h), and (i) of section  
 14          2032A shall apply for purposes of this section.”

15          (b) CLERICAL AMENDMENT.—The table of sections  
 16          for part III of subchapter A of chapter 11 of such Code  
 17          is amended by inserting after the item relating to section  
 18          2033 the following new item:

“Sec. 2033A. Exclusion of certain family-owned farms and businesses.”.

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

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