

104TH CONGRESS
1ST SESSION

H. R. 12

To amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. WALKER 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 from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, 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 Protec-
5 tion Act”.

1 **SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED**
2 **CONSERVATION EASEMENT.**

3 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT
4 TO A QUALIFIED CONSERVATION EASEMENT.—Section
5 2031 of the Internal Revenue Code of 1986 (relating to
6 the definition of gross estate) is amended by redesignating
7 subsection (c) as subsection (d) and by inserting after sub-
8 section (b) the following new subsection:

9 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-
10 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

11 “(1) IN GENERAL.—If the executor makes the
12 election described in paragraph (3) of this sub-
13 section, then, except as otherwise provided in this
14 subsection, there shall be excluded from the gross
15 estate the value of land subject to a qualified con-
16 servation easement (reduced by the amount of any
17 indebtedness to which such land is subject). For
18 purposes of this subsection, the term ‘land subject to
19 a qualified conservation easement’ means land that
20 is located in an area which, on the date of the dece-
21 dent’s death, is a metropolitan area (as defined by
22 the Office of Management and Budget), and which
23 was owned by the decedent or a member of the dece-
24 dent’s family at all times during the three-year pe-
25 riod ending on the date of the decedent’s death, and
26 with respect to which a qualified conservation con-

1 tribution of a qualified real property interest (as de-
2 fined in section 170(h)(1) and (2)(C)) is or has been
3 made by the decedent or a member of the decedent's
4 family. For purposes of this subsection, the term
5 'qualified real property interest' shall not include
6 any structure or building constituting a 'certified
7 historic structure' (as defined in section
8 170(h)(4)(B)) or within the definition of a 'histori-
9 cally important land area' (as defined in section
10 170(h)(4)(A)(iv)). For purposes of this subsection,
11 the term 'member of the decedent's family' shall
12 have the same meaning as the term 'member of the
13 family' in section 2032A.

14 “(2) PAYMENT OF TAX UPON CERTAIN DISPOSI-
15 TION OF LAND SUBJECT TO RETAINED DEVELOP-
16 MENT RIGHT.—The exclusion described in paragraph
17 (1) shall not apply to the value of any development
18 right retained by the donor in the conveyance of
19 such qualified conservation easement. The tax im-
20 posed by section 2001, if any, attributable to any de-
21 velopment right so retained shall be imposed only
22 upon the disposition of such property. For purposes
23 of this paragraph, the term 'disposition' shall not in-
24 clude any gift or devise. The tax so imposed shall be
25 due and payable by the person so disposing of such

1 property on the fifteenth day of the fourth month
2 following the calendar year in which such disposition
3 occurs. For purposes of this paragraph, the term
4 ‘development right’ shall mean the right to establish
5 or use, any structure and the land immediately sur-
6 rounding it for sale, or for rent or any other com-
7 mercial purpose which is not subordinate to and di-
8 rectly supportive of the conservation purpose identi-
9 fied in the easement, or the activity of farming, for-
10 estry, ranching, horticulture, viticulture, or recre-
11 ation, whether or not for profit, conducted on land
12 subject to the easement in which such right is
13 retained.

14 “(3) ELECTION WITH RESPECT TO LAND SUB-
15 JECT TO QUALIFIED CONSERVATION EASEMENT.—
16 The election under this subsection shall be made on
17 the return of the tax imposed by section 2001 and
18 in such manner as the Secretary shall by regulations
19 prescribe. Such an election, once made, shall be
20 irrevocable.

21 “(4) CALCULATION AND NOTICE OF POTENTIAL
22 ESTATE TAX DUE.—An executor making the election
23 described in paragraph (3) of this subsection shall
24 compute the amount of tax imposed by section 2001
25 upon any development right (as defined in para-

1 graph (2) of this subsection) retained by the donor
2 in the conveyance of such qualified conservation
3 easement and include such computation with the re-
4 turn of the tax imposed by section 2001. The execu-
5 tor shall also file a 'Notice of Potential Estate Tax
6 Due' in the place or places where deeds are put to
7 public record for the locality in which the land sub-
8 ject to such qualified conservation easement is lo-
9 cated. The report of the computation of tax on any
10 retained development right and the filing of the no-
11 tice prescribed in this paragraph shall be done in
12 such manner and on such forms as the Secretary
13 shall prescribe."

14 (b) CARRYOVER BASIS.—Section 1014(a) of the In-
15 ternal Revenue Code of 1986 (relating to basis of property
16 acquired from a decedent) is amended by striking the pe-
17 riod at the end of paragraph (3), inserting “, or” at the
18 end thereof, and inserting the following new paragraph:

19 “(4) to the extent of the applicability of the ex-
20 clusion described in section 2031(c), the basis in the
21 hands of the decedent.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to gross estates including land on
24 which qualified conservation easements were granted after

1 December 31, 1994, in taxable years ending after such
2 date.

3 **SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CON-**
4 **SERVATION EASEMENT.**

5 (a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO
6 A QUALIFIED CONSERVATION EASEMENT.—Section 2503
7 of the Internal Revenue Code of 1986 (relating to taxable
8 gifts) is amended by adding a new subsection (h) to read
9 as follows:

10 “(h) GIFT TAX WITH RESPECT TO LAND SUBJECT
11 TO A QUALIFIED CONSERVATION EASEMENT.—The trans-
12 fer by gift of land subject to a qualified conservation ease-
13 ment shall not be treated as a transfer of property by gift
14 for purposes of this chapter. For purposes of this sub-
15 section, the term ‘land subject to a qualified conservation
16 easement’ shall have the same meaning as in section
17 2031(c), except that references therein to ‘decedent’ shall
18 refer to the donor and references to ‘the date of the dece-
19 dent’s death’ shall refer to the date of the transfer by the
20 donor.”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to gifts of land on which qualified
23 conservation easements were granted after December 31,
24 1994, in taxable years ending after such date.

1 **SEC. 4. EXCLUSION OF GAIN FROM SALE OF CERTAIN**
2 **FARMLAND.**

3 (a) GENERAL RULE.—Part III of subchapter B of
4 chapter 1 of the Internal Revenue Code of 1986 (relating
5 to items specifically excluded from gross income) is
6 amended by redesignating section 137 as section 138 and
7 by inserting after section 136 the following new section:

8 **“SEC. 137. SALES AND EXCHANGES OF FARMLAND THE USE**
9 **OF WHICH IS RESTRICTED TO FARMING.**

10 “(a) GENERAL RULE.—In the case of an operator of
11 farmland, gross income does not include gain from the sale
12 or exchange of farmland if there is in effect on the date
13 of such sale or exchange a qualified covenant which does
14 not permit any use of such farmland for any purpose other
15 than use as farmland.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) FARMLAND.—The term ‘farmland’ means
18 any real property—

19 “(A) which is located in the United States,
20 and

21 “(B) which is used as a farm for farming
22 purposes (within the meaning of section
23 2032A(e)).

24 “(2) QUALIFIED COVENANT—The term ‘quali-
25 fied covenant’ means a covenant—

26 “(A) which may not be revoked,

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to covenants first recorded after
3 December 31, 1994, in taxable years ending after such
4 date.

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