

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2031

To amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote and to make technical changes to alternative valuation rules.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 1993

Mr. PAYNE of Virginia (for himself, Mr. WOLF, Mr. COYNE, Mrs. JOHNSON of Connecticut, Mr. ANDREWS of Texas, and Mr. SUNDQUIST) 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 provide an election to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote and to make technical changes to alternative valuation rules.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Rural Land Conservation Act of 1993”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-  
5 wise provided, whenever in this Act an amendment or re-  
6 peal is expressed in terms of an amendment to, or repeal  
7 of, a section or provision, the reference shall be considered  
8 to be made to a section or other provision of the Internal  
9 Revenue Code of 1986.

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

12 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT  
13 TO A QUALIFIED CONSERVATION EASEMENT.—Section  
14 2031 of the Internal Revenue Code of 1986 (relating to  
15 the definition of gross estate) is amended by redesignating  
16 subsection (c) as subsection (d) and by inserting after sub-  
17 section (b) the following new subsection:

18 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-  
19 JECT TO A QUALIFIED CONSERVATION EASEMENT.—(1)  
20 IN GENERAL.—If the executor makes the election de-  
21 scribed in paragraph (3) of this subsection, then, except  
22 as otherwise provided in this subsection, there shall be ex-  
23 cluded from the gross estate the value of land subject to  
24 a qualified conservation easement (reduced by the amount  
25 of any indebtedness to which such land is subject). For  
26 purposes of this subsection, the term ‘land subject to a

1 qualified conservation easement’ shall mean land that is  
2 located in or within fifty miles of an area which, on the  
3 date of the decedent’s death, is a metropolitan area (as  
4 defined by the Office of Management and Budget) or a  
5 National Park (unless it is determined by the Secretary  
6 that land in or within fifty miles of such a Park is not  
7 under significant development pressure), and which was  
8 owned by the decedent or a member of the decedent’s fam-  
9 ily at all times during the three-year period ending on the  
10 date of the decedent’s death, and with respect to which  
11 a qualified conservation contribution of a qualified real  
12 property interest (as defined in section 170(h)(1) and  
13 (2)(C)) is or has been made by the decedent or a member  
14 of the decedent’s family. For purposes of this subsection,  
15 the term ‘qualified real property interest’ shall not include  
16 any structure or building constituting a ‘certified historic  
17 structure’ (as defined in section 170(h)(4)(B)) or within  
18 the definition of a ‘historically important land area’ (as  
19 defined in section 170(h)(4)(A)(iv)). For purposes of this  
20 subsection, the term ‘member of the decedent’s family’  
21 shall have the same meaning as the term ‘member of the  
22 family’ in section 2032A.

23       “(2) PAYMENT OF TAX UPON CERTAIN DISPOSITION  
24 OF LAND SUBJECT TO RETAINED DEVELOPMENT  
25 RIGHT.—The exclusion described in paragraph (1) shall

1 not apply to the value of any development right retained  
2 by the donor in the conveyance of such qualified conserva-  
3 tion easement. The tax imposed by section 2001, if any,  
4 attributable to any development right so retained shall be  
5 imposed only upon the disposition of such property. For  
6 purposes of this paragraph, the term 'disposition' shall not  
7 include any gift or devise. The tax so imposed shall be  
8 due and payable by the person so disposing of such prop-  
9 erty on the fifteenth day of the fourth month following  
10 the calendar year in which such disposition occurs. For  
11 purposes of this paragraph, the term 'development right'  
12 shall mean the right to establish or use, any structure and  
13 the land immediately surrounding it for sale, or for rent  
14 or any other commercial purpose which is not subordinate  
15 to and directly supportive of the conservation purpose  
16 identified in the easement, or the activity of farming, for-  
17 estry, ranching, horticulture, viticulture, or recreation,  
18 whether or not for profit, conducted on land subject to  
19 the easement in which such right is retained.

20       “(3) ELECTION WITH RESPECT TO LAND SUBJECT  
21 TO QUALIFIED CONSERVATION EASEMENT.—The election  
22 under this subsection shall be made on the return of the  
23 tax imposed by section 2001 and in such manner as the  
24 Secretary shall by regulations prescribe. Such an election,  
25 once made, shall be irrevocable.

1       “(4) CALCULATION AND NOTICE OF POTENTIAL ES-  
2 TATE TAX DUE.—An executor making the election de-  
3 scribed in paragraph (3) of this subsection shall compute  
4 the amount of tax imposed by section 2001 upon any de-  
5 velopment right (as defined in paragraph (2) of this sub-  
6 section) retained by the donor in the conveyance of such  
7 qualified conservation easement and include such com-  
8 putation with the return of the tax imposed by section  
9 2001. The executor shall also file a ‘Notice of Potential  
10 Estate Tax Due’ in the place or places where deeds are  
11 put to public record for the locality in which the land sub-  
12 ject to such qualified conservation easement is located.  
13 The report of the computation of tax on any retained de-  
14 velopment right and the filing of the notice prescribed in  
15 this paragraph shall be done in such manner and on such  
16 forms as the Secretary shall prescribe.”

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

22               “(4) to the extent of the applicability of the ex-  
23 clusion described in section 2031(c), the basis in the  
24 hands of the decedent.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to gross estates including land on  
3 which qualified conservation easements were granted after  
4 December 31, 1992, in taxable years ending after such  
5 date.

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

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

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

24 (b) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to gifts of land on which qualified

1 conservation easements were granted after December 31,  
2 1992, in taxable years ending after such date.

3 **SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION WHERE**  
4 **SURFACE AND MINERAL RIGHTS ARE SEPA-**  
5 **RATED.**

6 (a) IN GENERAL.—Section 170(h)(5)(B)(ii) of the  
7 Internal Revenue Code of 1986 (relating to special rule)  
8 is amended to read as follows:

9 “(ii) SPECIAL RULE.—With respect to  
10 any contribution of property in which the  
11 ownership of the surface estate and min-  
12 eral interests has been and remains sepa-  
13 rated, subparagraph (A) shall be treated as  
14 met if the probability of surface mining oc-  
15 ccurring on such property is so remote as to  
16 be negligible.”

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply with respect to contributions made  
19 after December 31, 1992, in taxable years ending after  
20 such date.

21 **SEC. 5. QUALIFIED CONSERVATION CONTRIBUTION IS NOT**  
22 **A DISPOSITION.**

23 (a) QUALIFIED CONSERVATION CONTRIBUTION IS  
24 NOT A DISPOSITION.—Subsection (c) of section 2032A of  
25 the Internal Revenue Code of 1986 (relating to alternative

1 valuation method) is amended by adding at the end there-  
2 of the following paragraph:

3           “(8) QUALIFIED CONSERVATION CONTRIBUTION  
4           IS NOT A DISPOSITION.—A qualified conservation  
5           contribution (as defined in section 170(h)) by gift or  
6           otherwise shall not be deemed a disposition under  
7           subparagraph (c)(1)(A) of this section. If qualified  
8           real property is land subject to a qualified conserva-  
9           tion easement (as defined in section 2031(c)), sub-  
10          sections (c)(1)–(7) of this section shall not apply.”

11          (b) LAND SUBJECT TO A QUALIFIED CONSERVATION  
12          EASEMENT IS NOT DISQUALIFIED.—Subsection (b)(1) of  
13          section 2032A of the Internal Revenue Code of 1986 (re-  
14          lating to alternative valuation method) is amended by add-  
15          ing at the end thereof the following paragraph:

16                 “(E) If property is otherwise qualified real  
17                 property, the fact that it is land subject to a  
18                 qualified conservation easement shall not dis-  
19                 qualify it under this section.”

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