

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2477

To amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 12), 1994

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

---

## A BILL

To amend the Internal Revenue Code of 1986 to preserve family-held forest lands, 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; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Family Forestland Preservation Tax Act of 1994”.

6       (b) AMENDMENT OF 1986 CODE.—Except as other-  
7       wise expressly provided, whenever in this Act an amend-  
8       ment or repeal is expressed in terms of an amendment  
9       to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 **TITLE I—ESTATE TAX**  
 4 **PROVISIONS**

5 **SEC. 101. ESTATE TAX TREATMENT OF LAND SUBJECT TO**  
 6 **QUALIFIED CONSERVATION EASEMENT.**

7 (a) IN GENERAL.—Section 2031 (relating to the defi-  
 8 nition of gross estate) is amended by redesignating sub-  
 9 section (c) as subsection (d) and by inserting after sub-  
 10 section (b) the following new subsection:

11 “(c) EXCLUSION OF LAND SUBJECT TO A CONSERVA-  
 12 TION EASEMENT.—

13 “(1) IN GENERAL.—If an executor elects the  
 14 application of this subsection, there shall be excluded  
 15 from the gross estate the value of any real prop-  
 16 erty—

17 “(A) which is used in timber operations (as  
 18 defined in section 2032A(e)(13)(C)), and

19 “(B) which is subject to a qualified con-  
 20 servation easement (reduced by the amount of  
 21 any indebtedness to which such land is subject).

22 “(2) REAL PROPERTY SUBJECT TO QUALIFIED  
 23 CONSERVATION EASEMENT.—For purposes of this  
 24 subsection:

1           “(A) IN GENERAL.—Real property shall be  
2           treated as subject to a qualified conservation  
3           easement if the decedent or a member of the  
4           decedent’s family has made a qualified con-  
5           servation contribution (as defined in section  
6           170(h)(1)) of a qualified real property interest  
7           described in section 170(h)(2)(C) in such real  
8           property.

9           “(B) CERTAIN CONTRIBUTIONS NOT IN-  
10          CLUDED.—For purposes of subparagraph (A),  
11          section 170(h)(4)(A) shall be applied without  
12          regard to clause (iv) thereof in determining  
13          whether there is a qualified conservation con-  
14          tribution.

15          “(C) FAMILY MEMBER.—For purposes of  
16          subparagraph (A), the term ‘member of the de-  
17          cedent’s family’ has the same meaning given  
18          such term by section 2032A(e)(2).

19          “(3) ELECTION.—An election under paragraph  
20          (1) shall be made on the return of tax imposed by  
21          section 2001. Such an election, once made, shall be  
22          irrevocable.”

23          (b) CARRYOVER BASIS.—Section 1014(a) (relating to  
24          basis of property acquired from a decedent) is amended  
25          by striking the period at the end of paragraph (3) and

1 inserting “, or”, and by inserting at the end the following  
2 new paragraph:

3 “(4) in the case of property excluded from the  
4 gross estate of the decedent under section 2031(c),  
5 the basis of the property in the hands of the dece-  
6 dent.”

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to estates of decedents dying after  
9 December 31, 1994, which include land subject to quali-  
10 fied conservation easements granted after December 31,  
11 1994.

12 **SEC. 102. INCREASE IN RECAPTURE PERIOD FOR SPECIAL**  
13 **ESTATE TAX VALUATION OF FOREST LANDS.**

14 (a) IN GENERAL.—Section 2032A(c)(7) is amended  
15 by adding at the end the following new subparagraph:

16 “(E) LONGER PERIOD FOR WOODLANDS.—  
17 In the case of any real property which is used  
18 in timber operations (as defined in subsection  
19 (e)(13)(C)), paragraph (1) shall be applied by  
20 substituting ‘25 years’ for ‘10 years’.”

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to estates of decedents dying after  
23 December 31, 1994.

1                   **TITLE II—INCOME TAX**  
2                                   **TREATMENT**

3 **SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.**

4           (a) IN GENERAL.—Part I of subchapter P of chapter  
5 1 (relating to treatment of capital gains) is amended by  
6 adding at the end the following new section:

7 **“SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIM-**  
8                                   **BER.**

9           “(a) IN GENERAL.—At the election of any taxpayer  
10 who has qualified timber gain for any taxable year, there  
11 shall be allowed as a deduction from gross income an  
12 amount equal to the qualified percentage of such gain.

13           “(b) QUALIFIED TIMBER GAIN.—For purposes of  
14 this section, the term ‘qualified timber gain’ means the  
15 lesser of—

16                   “(1) the net capital gain for the taxable year,  
17           or

18                   “(2) the net capital gain for the taxable year  
19           determined by taking into account only gains and  
20           losses from timber.

21           “(c) QUALIFIED PERCENTAGE.—For purposes of this  
22 section, the term ‘qualified percentage’ means the percent-  
23 age (not exceeding 50 percent) determined by multiply-  
24 ing—

25                   “(1) 3 percent, by

1           “(2) the number of years in the holding period  
2 of the taxpayer with respect to the timber.

3           “(d) ESTATES AND TRUSTS.—In the case of an es-  
4 tate or trust, the deduction under subsection (a) shall be  
5 computed by excluding the portion (if any) of the gains  
6 for the taxable year from sales or exchanges of capital as-  
7 sets which, under sections 652 and 662 (relating to inclu-  
8 sions of amounts in gross income of beneficiaries of  
9 trusts), is includible by the income beneficiaries as gain  
10 derived from the sale or exchange of capital assets.”

11           (b) COORDINATION WITH EXISTING LIMITATIONS.—

12           (1) Subsection (h) of section 1 (relating to max-  
13 imum capital gains rate) is amended by inserting  
14 after “net capital gain” each place it appears the  
15 following: “(other than qualified timber gain with re-  
16 spect to which an election is made under section  
17 1203)”.

18           (2) Subsection (a) of section 1201 (relating to  
19 alternative tax for corporations) is amended by in-  
20 sserting after “net capital gain” each place it appears  
21 the following: “(other than qualified timber gain  
22 with respect to which an election is made under sec-  
23 tion 1203)”.

24           (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-  
25 JUSTED GROSS INCOME.—Subsection (a) of section 62

1 (relating to definition of adjusted gross income) is amend-  
 2 ed by adding after paragraph (15) the following new para-  
 3 graph:

4           “(16) PARTIAL INFLATION ADJUSTMENT FOR  
 5           TIMBER.—The deduction allowed by section 1203.”

6           (d) CONFORMING AMENDMENT.—The table of sec-  
 7 tions for part I of subchapter P of chapter 1 is amended  
 8 by adding at the end the following new item:

                  “Sec. 1203. Partial inflation adjustment for timber.”

9           (e) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to sales or exchanges after Decem-  
 11 ber 31, 1994.

12 **SEC. 202. EXCLUSION OF GAIN FROM SALE OF INTERESTS**  
 13 **IN FOREST LANDS.**

14           (a) IN GENERAL.—Part III of subchapter B of chap-  
 15 ter 1 (relating to items specifically excluded from gross  
 16 income) is amended by redesignating section 137 as sec-  
 17 tion 138 and by inserting after section 136 the following  
 18 new section:

19 **“SEC. 137. SALES OF INTERESTS IN CERTAIN FOREST**  
 20 **LANDS.**

21           “(a) EXCLUSION.—

22                   “(1) IN GENERAL.—Gross income shall not in-  
 23 clude the applicable percentage of any qualified tim-  
 24 ber gain.

1           “(2) APPLICABLE PERCENTAGE.—For purposes  
2 of paragraph (1), the term ‘applicable percentage’  
3 means—

4                   “(A) 35 percent, or

5                   “(B) in the case of qualified timber gain  
6 from the sale of a qualified real property inter-  
7 est described in section 170(h)(2)(C), 100 per-  
8 cent.

9           “(b) LIMITATION.—The total amount of gain which  
10 may be excluded from gross income under subsection (a)  
11 for any taxable year shall not exceed the sum of—

12                   “(1) the amount of qualified timber gain de-  
13 scribed in subsection (a)(2)(B), plus

14                   “(2) \$800,000.

15           “(c) QUALIFIED TIMBER GAIN.—For purposes of  
16 this section:

17                   “(1) IN GENERAL.—The term ‘qualified timber  
18 gain’ means gain from the sale or exchange of a  
19 qualified real property interest in real property  
20 which is used in timber operations to a governmental  
21 unit described in section 170(c)(1) for conservation  
22 purposes.

23                   “(2) QUALIFIED REAL PROPERTY INTEREST.—  
24 The term ‘qualified real property interest’ has the  
25 meaning given such term by section 170(h)(2).

1           “(3) TIMBER OPERATIONS.—The term ‘timber  
2 operations’ has the meaning given such term by sec-  
3 tion 2032A(e)(13)(C).

4           “(4) CONSERVATION PURPOSES.—The term  
5 ‘conservation purposes’ has the meaning given such  
6 term by section 170(h)(4)(A) (without regard to  
7 clause (iv) thereof).

8           “(d) SPECIAL RULE FOR SALES TO NONGOVERN-  
9 MENTAL ENTITIES.—

10           “(1) IN GENERAL.—Subsection (a) shall apply  
11 to the sale or exchange to a qualified organization  
12 described in section 170(h)(3) if such interest is  
13 transferred during the 2-year period beginning on  
14 the date of the sale or exchange to a governmental  
15 unit described in section 170(c)(1).

16           “(2) TIME FOR EXCLUSION.—If the transfer to  
17 which paragraph (1) applies occurs in a taxable year  
18 after the taxable year in which the sale or exchange  
19 occurred—

20           “(A) no exclusion shall be allowed under  
21 subsection (a) for the taxable year of the sale  
22 or exchange, but

23           “(B) the taxpayer’s tax for the taxable  
24 year of the transfer shall be reduced by the  
25 amount of the reduction in the taxpayer’s tax

1           for the taxable year of the sale or exchange  
 2           which would have occurred if subparagraph (A)  
 3           had not applied.”

4           (b) CONFORMING AMENDMENT.—The table of sec-  
 5 tions for part III of subchapter B of chapter 1 is amended  
 6 by striking the item relating to section 137 and by insert-  
 7 ing the following new items after the item relating to sec-  
 8 tion 136:

“Sec. 137. Sales of interests in certain forest lands.

“Sec. 138. Cross references to other Acts.”

9           (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 December 31, 1994.

12 **SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**  
 13 **TIMBER ACTIVITIES.**

14           (a) IN GENERAL.—Treasury regulations sections  
 15 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely  
 16 held timber activity if the nature of such activity is such  
 17 that the aggregate hours devoted to management of the  
 18 activity for any year is generally less than 100 hours.

19           (b) DEFINITIONS.—For purposes of subsection (a):

20           (1) CLOSELY HELD ACTIVITY.—An activity  
 21 shall be treated as closely held if at least 80 percent  
 22 of the ownership interests in the activity is held—  
 23           (A) by 5 or fewer individuals, or

1           (B) by individuals who are members of the  
2           same family (within the meaning of section  
3           2032A(e)(2) of the Internal Revenue Code of  
4           1986).

5           An interest in a limited partnership shall in no event  
6           be treated as a closely held activity for purposes of  
7           this section.

8           (2) TIMBER ACTIVITY.—The term “timber ac-  
9           tivity” means the planting, cultivating, caring, cut-  
10          ting, or preparation (other than milling) for market,  
11          of trees.

12          (c) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to taxable years beginning after  
14          December 31, 1994.

○