

104TH CONGRESS
1ST SESSION

H. R. 1748

To amend the Internal Revenue Code of 1986 to provide for farmers and closely held businesses a one-time exclusion of gain from certain sales or exchanges, for self-employed individuals a 100 percent deduction of health insurance costs, and for farmers a carryover of unused standard deductions and personal exemptions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 1995

Mr. JOHNSON of South Dakota 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 provide for farmers and closely held businesses a one-time exclusion of gain from certain sales or exchanges, for self-employed individuals a 100 percent deduction of health insurance costs, and for farmers a carryover of unused standard deductions and personal exemptions, 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 “Tax Fairness for
5 Farmers, Ranchers, and Small Businesses Act”.

1 **SEC. 2. ONE-TIME EXCLUSION OF GAIN FROM SALE OR EX-**
2 **CHANGE OF LAND USED IN TRADE OR BUSI-**
3 **NESS OF FARMING OR SALE OR EXCHANGE**
4 **OF CLOSELY HELD BUSINESS.**

5 (a) IN GENERAL.—Part III of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to
7 items specifically excluded from gross income) is amended
8 by inserting after section 121 the following new section:

9 **“SEC. 121A. ONE-TIME EXCLUSION OF GAIN FROM SALE OR**
10 **EXCHANGE OF LAND USED IN TRADE OR**
11 **BUSINESS OF FARMING OR SALE OR EX-**
12 **CHANGE OF CLOSELY HELD BUSINESS.**

13 “(a) IN GENERAL.—At the election of the taxpayer,
14 gross income does not include gain from the sale or ex-
15 change of a qualified property if—

16 “(1) the taxpayer has attained age 55 as of the
17 close of the taxable year,

18 “(2) the taxpayer or a member of the tax-
19 payer’s family has been actively engaged, throughout
20 the 10-year period ending on the date of the sale or
21 exchange, in the trade or business to which the
22 qualified property relates, and

23 “(3) the individual acquiring the qualified prop-
24 erty is a qualified buyer.

25 “(b) LIMITATIONS.—

1 “(1) DOLLAR LIMITATION.—The amount ex-
2 cluded from gross income under subsection (a) shall
3 not exceed \$500,000 (\$250,000 in the case of a sep-
4 arate return of a married individual).

5 “(2) APPLICATION TO ONLY 1 SALE OR EX-
6 CHANGE.—Subsection (a) shall not apply to any sale
7 or exchange by the taxpayer if an election by the
8 taxpayer or the taxpayer’s spouse is in effect under
9 subsection (a) with respect to any other sale or ex-
10 change.

11 “(c) ELECTION.—An election under subsection (a)
12 may be made or revoked at any time before the expiration
13 of the period for making a claim for credit or refund of
14 the tax imposed by this chapter for the taxable year in
15 which the sale or exchange referred to in subsection (a)
16 occurs, and shall be made or revoked in such manner as
17 the Secretary shall by regulations prescribe. In the case
18 of a taxpayer who is married, an election under subsection
19 (a) or a revocation thereof may be made only if his spouse
20 joins in such election or revocation.

21 “(d) RECAPTURE OF TAX BENEFIT IN CASE OF
22 EARLY CESSATION OF FARMING OR BUSINESS PARTICI-
23 PATION.—

24 “(1) IN GENERAL.—If, at any time during the
25 10-year period beginning on the date of the sale or

1 exchange referred to in subsection (a), the qualified
2 buyer fails to actively engage in the trade or busi-
3 ness to which the qualified property relates, then the
4 taxpayer's tax under this chapter for the taxable
5 year in which such failure begins shall be increased
6 by the recapture amount.

7 “(2) EXCEPTIONS.—

8 “(A) BANKRUPTCY.—Paragraph (1) shall
9 not apply to any failure that begins while the
10 qualified buyer is a debtor in a case under title
11 11, United States Code (relating to bank-
12 ruptcy), if such case is commenced after the
13 date of the sale or exchange referred to in sub-
14 section (a) and a discharge of indebtedness is
15 granted under such title in such case.

16 “(B) FAILURE TO REDUCE NET TAX.—
17 Paragraph (1) shall not apply to the extent that
18 the exclusion under subsection (a) did not re-
19 duce the net income tax of the taxpayer for the
20 taxable year to which the exclusion applied.

21 “(3) RECAPTURE AMOUNT.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), the term ‘recapture amount’ means
24 the sum of—

1 “(i) the applicable percentage of the
2 excess of—

3 “(I) the amount which would
4 (but for subsection (a)) have been the
5 taxpayer’s net income tax for the tax-
6 able year in which the sale or ex-
7 change referred to in subsection (a)
8 occurred, over

9 “(II) the taxpayer’s net income
10 tax for such taxable year, plus

11 “(ii) interest on the applicable per-
12 centage of such excess at the overpayment
13 rate established under section 6621, for
14 the period beginning on the due date for
15 filing the return for the taxable year re-
16 ferred to in clause (i) and ending on the
17 date on which the recapture amount is
18 paid.

19 No deduction shall be allowed under this chap-
20 ter for interest described in clause (ii).

21 “(B) APPLICABLE PERCENTAGE.—For
22 purposes of this paragraph, the term ‘applicable
23 percentage’ means 100 percent reduced (but
24 not below zero) by the product of—

25 “(i) 10 percentage points, and

1 “(ii) the number of years (if any) oc-
2 curring within the period beginning on the
3 date of the sale or exchange referred to in
4 subsection (a) and ending on the earliest
5 subsequent date on which the qualified
6 buyer fails to actively engage in the trade
7 or business to which the qualified property
8 relates.

9 “(4) STATUTE OF LIMITATIONS EXTENDED.—
10 The statutory period for the assessment of an in-
11 crease in tax under paragraph (1) shall not expire
12 before the close of the 3-year period beginning on
13 the date that the taxpayer certifies to the Secretary
14 that no increase applies to the taxpayer under such
15 subsection. Such increase may be assessed before the
16 expiration of such 3-year period notwithstanding the
17 provisions of any law or rule of law which would oth-
18 erwise prevent such assessment.

19 “(e) DEFINITIONS.—For purposes of this section—

20 “(1) MEMBER OF FAMILY.—The term ‘member
21 of the family’ has the meaning given such term by
22 section 2032A(e)(2).

23 “(2) NET INCOME TAX.—The term ‘net income
24 tax’ has the meaning given such term in section
25 38(c)(1).

1 “(3) QUALIFIED BUYER.—The term ‘qualified
2 buyer’ means—

3 “(A) with respect to qualified property de-
4 scribed in paragraph (4)(A)—

5 “(i) a qualified beginning farmer or
6 rancher (as defined in section 343(a)(11)
7 of the Consolidated Farm and Rural De-
8 velopment Act (7 U.S.C. 1991(a)(11)), or

9 “(ii) a lineal descendant of the tax-
10 payer who, at the time of the sale or ex-
11 change referred to in subsection (a), meets
12 the requirements of section
13 343(a)(11)(D)(ii)(I) of such Act, or

14 “(B) with respect to qualified property de-
15 scribed in paragraph (4)(B), a lineal descendant
16 of the taxpayer.

17 “(4) QUALIFIED PROPERTY.—The term ‘quali-
18 fied property’ means—

19 “(A) land, including improvements on such
20 land, used in the trade or business of farming
21 (within the meaning of section 2032A(e)(4) or
22 (5)), or

23 “(B) any interest in a closely held business
24 (as defined in section 6166(b)(1)).

25 “(f) SPECIAL RULES.—For purposes of this section—

1 “(1) ACTIVELY ENGAGED IN TRADE OR BUSI-
2 NESS OF FARMING.—An individual shall be treated
3 as actively engaged in the trade or business of farm-
4 ing (within the meaning of section 2032A(e)(4) or
5 (5)) if such individual would not be treated as a lim-
6 ited partner or limited entrepreneur under subpara-
7 graphs (A) through (D) of section 464(c)(2).

8 “(2) ADDITIONAL RULES.—Rules similar to the
9 rules of paragraphs (1), (2), (4), (6), (7), and (8)
10 of section 121(d) (relating to one-time exclusion of
11 gain from sale of principal residence by individual
12 who has attained age 55) shall apply.”

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for such part III is amended by inserting after the item
15 relating to section 121 the following new item:

 “Sec. 121A. One-time exclusion of gain from sale or exchange of
 land used in trade or business of farming or sale
 or exchange of closely held business.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to sales and exchanges occurring
18 after the date of the enactment of this Act in taxable years
19 ending after such date.

20 **SEC. 3. 100 PERCENT DEDUCTION FOR HEALTH INSURANCE**
21 **COSTS OF SELF-EMPLOYED INDIVIDUALS.**

22 (a) INCREASE IN AMOUNT OF DEDUCTION.—Para-
23 graph (1) of section 162(l) of the Internal Revenue Code
24 of 1986 is amended by striking “30 percent of”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to taxable years beginning after
3 December 31, 1994.

4 **SEC. 4. CARRYOVER OF UNUSED STANDARD DEDUCTION**
5 **AND PERSONAL EXEMPTION FOR FARMERS.**

6 (a) IN GENERAL.—Subsection (d) of section 172 of
7 the Internal Revenue Code of 1986 is amended by adding
8 at the end the following new paragraph:

9 “(7) FARMERS ALLOWED CARRYOVER OF UN-
10 USED PERSONAL EXEMPTION AND STANDARD DE-
11 DUCTION.—

12 “(A) IN GENERAL.—In the case of a quali-
13 fied farmer, paragraphs (3) and (4) shall not
14 apply with respect to any personal exemption
15 allowed under section 151 or any standard de-
16 duction (as defined in section 63(c)).

17 “(B) QUALIFIED FARMER.—For purposes
18 of this paragraph—

19 “(i) IN GENERAL.—The term ‘quali-
20 fied farmer’ means an individual—

21 “(I) who is actively engaged in
22 the trade or business of farming
23 (within the meaning of section
24 2032A(e) (4) or (5)), and

1 “(II) 50 percent or more of the
2 average annual gross income of whom
3 for the 3 preceding taxable years is
4 attributable to such trade or business.

5 “(ii) ACTIVELY ENGAGED.—A tax-
6 payer shall be treated as actively engaged
7 in the trade or business of farming only if
8 the taxpayer is involved in the operation of
9 such trade or business on a regular, con-
10 tinuous, and substantial basis.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to deductions allowable under sec-
13 tions 63 and 151 for taxable years ending after the date
14 of the enactment of this Act.

15 **SEC. 5. POSSESSIONS TAX CREDIT**

16 (a) IN GENERAL.—Section 936 of the Internal Reve-
17 nue Code of 1986 (relating to Puerto Rico and possession
18 tax credit) is hereby repealed.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for subpart D of part III of subchapter N of chapter 1
21 of such Code is amended by striking the item relating to
22 section 936.

23 (c) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 the date of the enactment of this Act.

1 **SEC. 5. REVISION OF TAX RULES ON EXPATRIATION.**

2 (a) IN GENERAL.—Subpart A of part II of sub-
3 chapter N of chapter 1 of the Internal Revenue Code of
4 1986 is amended by inserting after section 877 the follow-
5 ing new section:

6 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

7 “(a) GENERAL RULE.—For purposes of this subtitle,
8 if any United States citizen relinquishes his citizenship
9 during a taxable year—

10 “(1) except as provided in subsection (f)(2), all
11 property held by such citizen at the time imme-
12 diately before such relinquishment shall be treated
13 as sold at such time for its fair market value, and

14 “(2) notwithstanding any other provision of this
15 title, any gain or loss shall be taken into account for
16 such taxable year.

17 Paragraph (2) shall not apply to amounts excluded from
18 gross income under part III of subchapter B.

19 “(b) EXCLUSION FOR CERTAIN GAIN.—The amount
20 which would (but for this subsection) be includible in the
21 gross income of any individual by reason of subsection (a)
22 shall be reduced (but not below zero) by \$600,000.

23 “(c) PROPERTY TREATED AS HELD.—For purposes
24 of this section, except as otherwise provided by the Sec-
25 retary, an individual shall be treated as holding—

1 “(1) all property which would be includible in
2 his gross estate under chapter 11 were such individ-
3 ual to die at the time the property is treated as sold,

4 “(2) any other interest in a trust which the in-
5 dividual is treated as holding under the rules of sub-
6 section (f)(1), and

7 “(3) any other interest in property specified by
8 the Secretary as necessary or appropriate to carry
9 out the purposes of this section.

10 “(d) EXCEPTIONS.—The following property shall not
11 be treated as sold for purposes of this section:

12 “(1) UNITED STATES REAL PROPERTY INTER-
13 ESTS.—Any United States real property interest (as
14 defined in section 897(c)(1)), other than stock of a
15 United States real property holding corporation
16 which does not, on the date the individual relin-
17 quishes his citizenship, meet the requirements of sec-
18 tion 897(c)(2).

19 “(2) INTEREST IN CERTAIN RETIREMENT
20 PLANS.—

21 “(A) IN GENERAL.—Any interest in a
22 qualified retirement plan (as defined in section
23 4974(c)), other than any interest attributable to
24 contributions which are in excess of any limita-

1 tion or which violate any condition for tax-
2 favored treatment.

3 “(B) FOREIGN PENSION PLANS.—

4 “(i) IN GENERAL.—Under regulations
5 prescribed by the Secretary, interests in
6 foreign pension plans or similar retirement
7 arrangements or programs.

8 “(ii) LIMITATION.—The value of prop-
9 erty which is treated as not sold by reason
10 of this subparagraph shall not exceed
11 \$500,000.

12 “(e) RELINQUISHMENT OF CITIZENSHIP.—For pur-
13 poses of this section, a citizen shall be treated as relin-
14 quishing his United States citizenship on the earliest of—

15 “(1) the date the individual renounces his
16 United States nationality before a diplomatic or con-
17 sular officer of the United States pursuant to para-
18 graph (5) of section 349(a) of the Immigration and
19 Nationality Act (8 U.S.C. 1481(a)(5)),

20 “(2) the date the individual furnishes to the
21 United States Department of State a signed state-
22 ment of voluntary relinquishment of United States
23 nationality confirming the performance of an act of
24 expatriation specified in paragraph (1), (2), (3), or

1 (4) of section 349(a) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1481(a)(1)–(4)),

3 “(3) the date the United States Department of
4 State issues to the individual a certificate of loss of
5 nationality, or

6 “(4) the date a court of the United States can-
7 cels a naturalized citizen’s certificate of naturaliza-
8 tion.

9 Paragraph (1) or (2) shall not apply to any individual un-
10 less the renunciation or voluntary relinquishment is subse-
11 quently approved by the issuance to the individual of a
12 certificate of loss of nationality by the United States De-
13 partment of State.

14 “(f) SPECIAL RULES APPLICABLE TO BENE-
15 FICIARIES’ INTERESTS IN TRUST.—

16 “(1) DETERMINATION OF BENEFICIARIES’ IN-
17 TEREST IN TRUST.—For purposes of this section—

18 “(A) GENERAL RULE.—A beneficiary’s in-
19 terest in a trust shall be based upon all relevant
20 facts and circumstances, including the terms of
21 the trust instrument and any letter of wishes or
22 similar document, historical patterns of trust
23 distributions, and the existence of and functions
24 performed by a trust protector or any similar
25 advisor.

1 “(B) SPECIAL RULE.—In the case of bene-
2 ficiaries whose interests in a trust cannot be de-
3 termined under subparagraph (A)—

4 “(i) the beneficiary having the closest
5 degree of kinship to the grantor shall be
6 treated as holding the remaining interests
7 in the trust not determined under subpara-
8 graph (A) to be held by any other bene-
9 ficiary, and

10 “(ii) if 2 or more beneficiaries have
11 the same degree of kinship to the grantor,
12 such remaining interests shall be treated
13 as held equally by such beneficiaries.

14 “(C) CONSTRUCTIVE OWNERSHIP.—If a
15 beneficiary of a trust is a corporation, partner-
16 ship, trust, or estate, the shareholders, part-
17 ners, or beneficiaries shall be deemed to be the
18 trust beneficiaries for purposes of this section.

19 “(D) TAXPAYER RETURN POSITION.—A
20 taxpayer shall clearly indicate on its income tax
21 return—

22 “(i) the methodology used to deter-
23 mine that taxpayer’s trust interest under
24 this section, and

1 “(ii) if the taxpayer knows (or has
2 reason to know) that any other beneficiary
3 of such trust is using a different methodol-
4 ogy to determine such beneficiary’s trust
5 interest under this section.

6 “(2) DEEMED SALE IN CASE OF TRUST INTER-
7 EST.—If an individual who relinquishes his citizen-
8 ship during the taxable year is treated under para-
9 graph (1) as holding an interest in a trust for pur-
10 poses of this section—

11 “(A) the individual shall not be treated as
12 having sold such interest,

13 “(B) such interest shall be treated as a
14 separate share in the trust, and

15 “(C)(i) such separate share shall be treat-
16 ed as a separate trust consisting of the assets
17 allocable to such share,

18 “(ii) the separate trust shall be treated as
19 having sold its assets immediately before the re-
20 linquishment for their fair market value and as
21 having distributed all of its assets to the indi-
22 vidual as of such time, and

23 “(iii) the individual shall be treated as hav-
24 ing recontributed the assets to the separate
25 trust.

1 Subsection (a)(2) shall apply to any income, gain, or
2 loss of the individual arising from a distribution de-
3 scribed in subparagraph (B)(ii).

4 “(g) TERMINATION OF DEFERRALS, ETC.—On the
5 date any property held by an individual is treated as sold
6 under subsection (a), notwithstanding any other provision
7 of this title—

8 “(1) any period during which recognition of in-
9 come or gain is deferred shall terminate, and

10 “(2) any extension of time for payment of tax
11 shall cease to apply and the unpaid portion of such
12 tax shall be due and payable at the time and in the
13 manner prescribed by the Secretary.

14 “(h) RULES RELATING TO PAYMENT OF TAX.—

15 “(1) IMPOSITION OF TENTATIVE TAX.—

16 “(A) IN GENERAL.—If an individual is re-
17 quired to include any amount in gross income
18 under subsection (a) for any taxable year, there
19 is hereby imposed, immediately before the indi-
20 vidual relinquishes United States citizenship, a
21 tax in an amount equal to the amount of tax
22 which would be imposed if the taxable year were
23 a short taxable year ending on the date of such
24 relinquishment.

1 “(B) DUE DATE.—The due date for any
2 tax imposed by subparagraph (A) shall be the
3 90th day after the date the individual relin-
4 quishes United States citizenship.

5 “(C) TREATMENT OF TAX.—Any tax paid
6 under subparagraph (A) shall be treated as a
7 payment of the tax imposed by this chapter for
8 the taxable year to which subsection (a) applies.

9 “(2) DEFERRAL OF TAX.—The provisions of
10 section 6161 shall apply to the portion of any tax at-
11 tributable to amounts included in gross income
12 under subsection (a) in the same manner as if such
13 portion were a tax imposed by chapter 11.

14 “(i) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be necessary or appropriate to
16 carry out the purposes of this section, including regula-
17 tions providing appropriate adjustments to basis to reflect
18 gain recognized by reason of subsection (a) and the exclu-
19 sion provided by subsection (b).

20 “(j) CROSS REFERENCE.—

**“For termination of United States citizenship for
tax purposes, see section 7701(a)(47).”**

21 (b) DEFINITION OF TERMINATION OF UNITED
22 STATES CITIZENSHIP.—Section 7701(a) of the Internal
23 Revenue Code of 1986 is amended by adding at the end
24 the following new paragraph:

1 “(47) TERMINATION OF UNITED STATES CITI-
2 ZENSHIP.—An individual shall not cease to be treat-
3 ed as a United States citizen before the date on
4 which the individual’s citizenship is treated as relin-
5 quished under section 877A(e).”

6 (c) CONFORMING AMENDMENT.—Section 877 of the
7 Internal Revenue Code of 1986 is amended by adding at
8 the end the following new subsection:

9 “(f) APPLICATION.—This section shall not apply to
10 any individual who relinquishes (within the meaning of
11 section 877A(e)) United States citizenship on and after
12 the date of the enactment of this subsection.”

13 (d) CLERICAL AMENDMENT.—The table of sections
14 for subpart A of part II of subchapter N of chapter 1
15 of the Internal Revenue Code of 1986 is amended by in-
16 serting after the item relating to section 877 the following
17 new item:

 “Sec. 877A. Tax responsibilities of expatriation.”

18 (e) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to United States citizens who
21 relinquish (within the meaning of section 877A(e) of
22 the Internal Revenue Code of 1986, as added by this
23 section) United States citizenship on or after the
24 date of the enactment of this Act.

1 (2) DUE DATE FOR TENTATIVE TAX.—The due
2 date under section 877A(h)(1)(B) of such Code shall
3 in no event occur before the 90th day after the date
4 of the enactment of this Act.

○

HR 1748 IH——2