

104TH CONGRESS
1ST SESSION

H. R. 2286

To amend the Internal Revenue Code of 1986 to provide tax incentives
for the conservation of endangered species.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

Mr. POMBO (for himself and Mr. YOUNG of Alaska) 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
tax incentives for the conservation of endangered species.

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 “Endangered Species
5 Conservation Incentives Act of 1995”.

6 **SEC. 2. DESIGNATIONS OF OVERPAYMENTS FOR ENDAN-**
7 **GERED SPECIES CONSERVATION.**

8 (a) GENERAL RULE.—Subchapter A of chapter 61 of
9 the Internal Revenue Code of 1986 is amended by adding
10 at the end the following new part:

1 **“PART IX—DESIGNATION OF OVERPAY-**
2 **MENTS FOR ENDANGERED SPECIES**
3 **CONSERVATION**

“Sec. 6097. Amounts for endangered species conservation.

4 **“SEC. 6097. AMOUNTS FOR ENDANGERED SPECIES CON-**
5 **SERVATION.**

6 “(a) IN GENERAL.—With respect to each taxpayer’s
7 return for the taxable year of the tax imposed by chapter
8 1, such taxpayer may designate that any overpayment of
9 such tax for such taxable year be paid over for endangered
10 species conservation.

11 “(b) MANNER AND TIME OF DESIGNATION.—A des-
12 ignation under subsection (a) may be made with respect
13 to any taxable year only at the time of filing the return
14 of the tax imposed by chapter 1 for such taxable year.
15 Such designation shall be made on the first page of the
16 return.

17 “(c) OVERPAYMENTS TREATED AS REFUNDED.—For
18 purposes of this title, any overpayment of tax designated
19 under subsection (a) shall be treated as being refunded
20 to the taxpayer as of the last date prescribed for filing
21 the return of tax imposed by chapter 1 (determined with-
22 out regard to extensions) or, if later, the date the return
23 is filed.”

1 (b) ENDANGERED SPECIES CONSERVATION TRUST
2 FUND.—

3 (1) IN GENERAL.—Subchapter A of chapter 98
4 of such Code (relating to trust fund code) is amend-
5 ed by adding at the end the following new section:

6 **“SEC. 9512. ENDANGERED SPECIES CONSERVATION TRUST**
7 **FUND.**

8 “(a) CREATION OF TRUST FUND.—There is estab-
9 lished in the Treasury of the United States a trust fund
10 to be known as the ‘Endangered Species Conservation
11 Trust Fund’, consisting of such amounts as may be appro-
12 priated or credited to the Endangered Species Conserva-
13 tion Trust Fund as provided in this section or section
14 9602(b).

15 “(b) TRANSFER TO ENDANGERED SPECIES CON-
16 SERVATION TRUST FUND OF AMOUNTS DESIGNATED.—
17 There is hereby appropriated to the Endangered Species
18 Conservation Trust Fund amounts equivalent to the
19 amounts designated under section 6097 and received in
20 the Treasury.

21 “(c) EXPENDITURES FROM TRUST FUND.—

22 “(1) IN GENERAL.—The Secretary shall pay,
23 not less often than quarterly, to Secretary of the In-
24 terior from the Endangered Species Conservation
25 Trust Fund an amount equal to the amount in such

1 Fund as of the time of such payment less any ad-
2 ministrative expenses of the Secretary which may be
3 paid under paragraph (2).

4 “(2) ADMINISTRATIVE EXPENSES.—Amounts in
5 the Endangered Species Conservation Trust Fund
6 shall be available to pay the administrative expenses
7 of the Department of the Treasury directly allocable
8 to—

9 “(A) modifying the individual income tax
10 return forms to carry out section 6097,

11 “(B) carrying out this chapter with respect
12 to such Fund, and

13 “(C) processing amounts received under
14 section 6097 and transferring such amounts to
15 such Fund.”

16 (c) CLERICAL AMENDMENTS.—

17 (1) The table of parts for subchapter A of chap-
18 ter 61 of such Code is amended by adding at the
19 end the following new item:

“Part IX. Designation of overpayments for endangered species
conservation.”

20 (2) The table of sections for such subchapter A
21 is amended by adding at the end the following new
22 item:

“Sec. 9512. Endangered Species Conservation Trust Fund.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of enactment of this Act.

4 **SEC. 3. EXCLUSION FROM ESTATE FOR REAL PROPERTY**
5 **SUBJECT TO ENDANGERED SPECIES CON-**
6 **SERVATION AGREEMENT.**

7 (a) IN GENERAL.—Part IV of subchapter A of chap-
8 ter 11 of the Internal Revenue Code of 1986 (relating to
9 taxable estate) is amended by adding at the end the follow-
10 ing new section:

11 **“SEC. 2057. CERTAIN REAL PROPERTY SUBJECT TO ENDAN-**
12 **GERED SPECIES CONSERVATION AGREE-**
13 **MENT.**

14 “(a) GENERAL RULE.—For purposes of the tax im-
15 posed by section 2001, the value of the taxable estate shall
16 be determined by deducting from the value of the gross
17 estate an amount equal to the value of any endangered
18 species agreement property included in the gross estate.

19 “(b) ENDANGERED SPECIES AGREEMENT PROP-
20 erty.—For purposes of this section, the term ‘endangered
21 species agreement property’ means any real property if—

22 “(1) each person who has an interest in such
23 property (whether or not in possession)—

1 “(A) has entered into an endangered spe-
2 cies conservation agreement with respect to
3 such property, and

4 “(B) has entered into a written agreement
5 with the Secretary consenting to the application
6 of subsection (d), and

7 “(2) the executor of the decedent’s estate—

8 “(A) elects the application of this section,
9 and

10 “(B) files with the Secretary such endan-
11 gered species conservation agreement.

12 “(c) ENDANGERED SPECIES CONSERVATION AGREE-
13 MENT.—For purposes of this section, the term ‘endan-
14 gered species conservation agreement’ means a written
15 agreement, entered into with the Secretary of the Interior
16 or the Secretary of Commerce—

17 “(1) which commits each person who signed
18 such agreement to carry out on such property activi-
19 ties or practices not otherwise required by law, or to
20 refrain from carrying out on such property activities
21 or practices that such person could otherwise law-
22 fully carry out, or both,

23 “(2) which is certified by such Secretary as as-
24 sisting in the conservation of any species which is—

1 “(A) designated by such Secretary as an
2 endangered or threatened species under the En-
3 dangered Species Act of 1973,

4 “(B) proposed for such designation, or

5 “(C) officially identified by such Secretary
6 as a candidate for possible future protection as
7 an endangered or threatened species, and

8 “(3) the duration of which is at least 10 years.

9 “(d) COORDINATION WITH OTHER BENEFITS.—No
10 credit shall be allowed under section 30A with respect to
11 any endangered species conservation agreement with re-
12 spect to which an election under this section is made.

13 “(e) RECAPTURE OF TAX BENEFIT IN CERTAIN
14 CASES.—

15 “(1) DISPOSITION OF INTEREST OR MATERIAL
16 BREACH.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (C), if, at any time during the
19 10-year period beginning on the date the endan-
20 gered species conservation agreement is entered
21 into with respect to any property—

22 “(i) any person disposes of any inter-
23 est in such property, or

24 “(ii) there is a material breach by any
25 person who holds an interest in such prop-

1 erty of any endangered species conserva-
2 tion agreement with respect to such prop-
3 erty,

4 then there is hereby imposed an additional es-
5 tate tax.

6 “(B) AMOUNT OF TAX.—The amount of
7 the tax imposed by subparagraph (A) with re-
8 spect to any interest shall be the amount equal
9 to the lesser of—

10 “(i) the adjusted tax difference attrib-
11 utable to such interest (determined under
12 rules similar to the rules of section
13 2032A(c)(2)), or

14 “(ii) the amount realized with respect
15 to the interest (or, in any case other than
16 a sale or exchange at arm’s length, the fair
17 market value of the interest.

18 “(C) EXCEPTION IF TRANSFEREE AS-
19 SUMES OBLIGATIONS OF TRANSFEROR.—Sub-
20 paragraph (A) shall not apply to a disposition
21 if the transferee enters into a binding written
22 agreement—

23 “(i) to assume the obligations imposed
24 on the transferor under the endangered
25 species conservation agreement;

1 “(ii) to assume liability for any tax
2 imposed under subparagraph (A) with re-
3 spect to any future dispositions or breaches
4 by such transferee; and

5 “(iii) to notify the Secretary who en-
6 tered into the endangered species conserva-
7 tion agreement and the Secretary that the
8 transferee has assumed the obligations and
9 liabilities described in clauses (i) and (ii).

10 “(2) DUE DATE OF ADDITIONAL TAX.—The tax
11 imposed by paragraph (1) shall become due and pay-
12 able on the day that is 6 months after the date of
13 the disposition or breach referred to in paragraph
14 (1)(A).

15 “(f) STATUTE OF LIMITATIONS.—If a taxpayer in-
16 curs a tax liability pursuant to subsection (e)(1), then—

17 “(1) the statutory period for the assessment of
18 any additional tax imposed by subsection (e)(1) shall
19 not expire before the expiration of 3 years from the
20 date the Secretary is notified (in such manner as the
21 Secretary may by regulation prescribe) of the incur-
22 ring of such tax liability, and

23 “(2) such additional tax may be assessed before
24 the expiration of such 3-year period notwithstanding

1 the provisions of any other law or rule of law that
2 would otherwise prevent such assessment.

3 “(g) ELECTION AND FILING OF AGREEMENT.—The
4 election under this section shall be made on the return
5 of the tax imposed by section 2001. Such election, and
6 the filing under subsection (a) of an endangered species
7 conservation agreement, shall be made in such manner as
8 the Secretary shall by regulation provide.”

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for part IV of subchapter A of chapter 11 of such Code
11 is amended by adding at the end the following new item:

“Sec. 2057. Certain real property subject to endangered species
conservation agreement.”

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

15 **SEC. 4. ENHANCED DEDUCTION FOR DONATION OF A CON-**
16 **SERVATION EASEMENT.**

17 (a) IN GENERAL.— Subsection (h) of section 170 of
18 the Internal Revenue Code of 1986 (relating to charitable,
19 etc., contributions and gifts) is amended by adding at the
20 end the following new paragraph:

21 “(7) ENHANCED VALUATION OF EASEMENT
22 FOR PROTECTION OF ENDANGERED SPECIES.—

23 “(A) IN GENERAL.—For purposes of this
24 section, if the taxpayer elects the application of

1 this paragraph, the value of any contribution of
2 a qualified endangered species easement shall
3 be an amount equal to the excess of—

4 “(i) the value of the property bur-
5 dened by the easement, determined without
6 regard to—

7 “(I) such easement, and

8 “(II) any restrictions imposed by
9 the Endangered Species Act of 1973,
10 over

11 “(ii) the value of such property, deter-
12 mined with regard to such easement and
13 restrictions.

14 “(B) QUALIFIED ENDANGERED SPECIES
15 EASEMENT.—For purposes of this paragraph,
16 the term ‘qualified endangered species ease-
17 ment’ means any restriction referred to in para-
18 graph (1)(C) contributed to the Secretary of the
19 Interior, the Secretary of Commerce, or a State
20 agency implementing an endangered species
21 program for the purpose described in paragraph
22 (4)(A)(iii). For purposes of the preceding sen-
23 tence, a restriction which is granted for at least
24 20 years shall be treated as granted in perpetu-
25 ity.”

1 (b) PROTECTION OF ENDANGERED SPECIES AS CON-
2 SERVATION PURPOSE.—

3 (1) Subparagraph (A) of section 170(h)(4) of
4 such Code is amended by redesignating clauses (iii)
5 and (iv) as clauses (iv) and (v), respectively, and by
6 inserting after clause (ii) the following new clause:

7 “(iii) the protection of a species des-
8 ignated endangered by the Secretary of the
9 Interior, or the Secretary of Commerce,
10 under the Endangered Species Act of
11 1973.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to contributions made after the
14 date of the enactment of this Act.

15 **SEC. 5. CREDIT FOR COSTS OF COMPLIANCE WITH ENDAN-**
16 **GERED SPECIES CONSERVATION AGREE-**
17 **MENT.**

18 (a) IN GENERAL.—Subpart B of part IV of sub-
19 chapter A of chapter 1 of the Internal Revenue Code of
20 1986 is amended by adding at the end the following new
21 section:

22 **“SEC. 30A. COSTS OF COMPLIANCE WITH ENDANGERED**
23 **SPECIES CONSERVATION AGREEMENT.**

24 “(a) IN GENERAL.—There shall be allowed as a cred-
25 it against the tax imposed by this chapter for the taxable

1 year an amount equal to the endangered species conserva-
2 tion agreement costs paid or incurred by the taxpayer dur-
3 ing the taxable year.

4 “(b) ENDANGERED SPECIES CONSERVATION AGREE-
5 MENT COSTS.—For purposes of subsection (a), the term
6 ‘endangered species conservation agreement costs’ means
7 expenses which would not have been incurred by the tax-
8 payer but for an endangered species conservation agree-
9 ment (as defined in section 2057(c) but without regard
10 to paragraph (3) thereof) entered into by the taxpayer.

11 “(c) APPLICATION WITH OTHER CREDITS.—The
12 credit allowed by subsection (a) for any taxable year shall
13 not exceed the excess (if any) of—

14 “(1) the regular tax for the taxable year re-
15 duced by the sum of the credits allowable under sub-
16 part A and sections 27, 28, 29, and 30, over

17 “(2) the tentative minimum tax for the taxable
18 year.”

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for such subpart B is amended by adding at the end the
21 following new item:

“Sec. 30A. Costs of compliance with endangered species conserva-
tion agreement.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after the
3 date of the enactment of this Act.

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