

104TH CONGRESS
1ST SESSION

H. R. 2423

To amend the Internal Revenue Code of 1986 to provide an estate tax credit with respect to property managed according to certain habitat conservation agreements, to provide a credit for certain conservation expenses, and to exclude from income amounts received from others to pay for such expenses.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1995

Mr. SAXTON (for himself, Mr. EWING, Mr. McCOLLUM, and Mr. THORNBERRY) 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 an estate tax credit with respect to property managed according to certain habitat conservation agreements, to provide a credit for certain conservation expenses, and to exclude from income amounts received from others to pay for such expenses.

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. ESTATE TAX DEFERRAL IF REAL PROPERTY**
2 **MANAGED ACCORDING TO HABITAT CON-**
3 **SERVATION AGREEMENT.**

4 (a) IN GENERAL.—Part IV of subchapter A of chap-
5 ter 11 of the Internal Revenue Code of 1986 (relating to
6 tax imposed) is amended by adding at the end the follow-
7 ing new section:

8 **“SEC. 2057. EXCLUSION OF REAL PROPERTY MANAGED**
9 **UNDER HABITAT CONSERVATION AGREE-**
10 **MENT.**

11 “(a) IN GENERAL.—If the executor elects the appli-
12 cation of this section and files the agreement referred to
13 in subsection (b), then for purposes of the tax imposed
14 by section 2001 the value of the taxable estate shall be
15 determined by deducting from the value of the gross estate
16 an amount equal to the value of the qualified real property
17 of the decedent included in determining the gross estate.

18 “(b) QUALIFIED REAL PROPERTY.—For purposes of
19 this section, the term ‘qualified real property’ means real
20 property with respect to which each owner has entered
21 into an agreement—

22 “(1) with the Secretary of the Interior or the
23 Secretary of Commerce, under which each owner
24 agrees to maintain the property in accordance with
25 habitat conservation concerns, as determined by the
26 agreement, or

1 “(2) with a State environmental agency, under
2 which each owner agrees to so maintain the prop-
3 erty, if the agreement is approved by the Secretary
4 of the Interior or the Secretary of Commerce.

5 “(c) RECAPTURE.—

6 “(1) DISPOSITION OF INTEREST, MATERIAL
7 BREACH, OR TERMINATION.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (C), if—

10 “(i) any owner disposes of any inter-
11 est in the property to which subsection (a)
12 applies, or

13 “(ii) there is a material breach or ter-
14 mination by any owner of any agreement
15 described in subsection (b) with respect to
16 such property,

17 then there is hereby imposed an additional tax.

18 “(B) AMOUNT OF TAX.—The amount of
19 the tax imposed by subparagraph (A) with re-
20 spect to any property shall equal the sum of—

21 “(i) the difference between—

22 “(I) the amount of the tax im-
23 posed by section 2001 on the estate of
24 the decedent, and

1 “(II) the amount of tax which
2 would have been so imposed if the
3 value of real property excluded under
4 subsection (a) had been included in
5 the gross estate at the fair market
6 value applicable at the time of the dis-
7 position, breach, or termination re-
8 ferred to in subparagraph (A), and

9 “(ii) if the disposition, breach, or ter-
10 mination referred to in subparagraph (A)
11 occurs during the 2-year period beginning
12 on the date of the death of the decedent
13 referred to subsection (a), interest on the
14 amount described in clause (i), determined
15 using the underpayment rate established
16 under section 6621, for the period begin-
17 ning on the due date of the return of the
18 tax imposed by section 2001 (determined
19 without regard to any extension) and end-
20 ing on the date of the payment of the addi-
21 tional tax under this paragraph.

22 “(C) EXCEPTION IF TRANSFEREE AS-
23 SUMES OBLIGATIONS OF TRANSFEROR.—Sub-
24 paragraph (A)(i) shall not apply to a disposition
25 by an owner if the owner (or his estate) and the

1 transferee of the property enter into a written
2 agreement under which the transferee agrees—

3 “(i) to assume the obligations imposed
4 on the owner under the agreement de-
5 scribed in subsection (b),

6 “(ii) to assume liability for any tax
7 imposed under subparagraph (A) with re-
8 spect to any future transfers or breaches
9 by such transferee, and

10 “(iii) to notify the Secretary of the In-
11 terior or the Secretary of Commerce
12 (whichever is applicable) and the Secretary
13 that the transferee has assumed the obliga-
14 tions and liabilities described in clauses (i)
15 and (ii).

16 If an owner and a transferee enter into an
17 agreement described in clauses (i), (ii), and
18 (iii), such transferee shall be treated for pur-
19 poses of this section as having entered into an
20 agreement described in subsection (b).

21 “(2) STATUTE OF LIMITATIONS.—If a taxpayer
22 incurs a tax liability pursuant to paragraph (1),
23 then—

24 “(A) the statutory period for the assess-
25 ment of any additional tax imposed by para-

1 graph (1) shall not expire before the expiration
2 of 3 years from the date the Secretary is noti-
3 fied (in such manner as the Secretary may by
4 regulation prescribe) of the incurring of such
5 tax liability, and

6 “(B) such additional tax may be assessed
7 before the expiration of such 3-year period not-
8 withstanding the provisions of any other law or
9 rule of law that would otherwise prevent such
10 assessment.

11 “(d) OWNER.—For purposes of this section, the term
12 ‘owner’ means a person in being who has an interest
13 (whether or not in possession) in real property.

14 “(e) ELECTION AND FILING OF AGREEMENT.—

15 “(1) ELECTION.—The election under this sec-
16 tion shall be made on the return of the tax imposed
17 by section 2001. Such election shall be made in such
18 manner as the Secretary shall by regulation provide.

19 “(2) AGREEMENT.—The agreement described
20 in subsection (b) shall be filed in such manner as the
21 Secretary shall by regulation prescribe.”

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

“Sec. 2017. Credit if real property managed under habitat con-
servation agreement.”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this Act shall apply to the estates of decedents dying after
 3 the date of the enactment of this Act.

4 **SEC. 2. CREDIT FOR CERTAIN CONSERVATION EXPENSES.**

5 (a) IN GENERAL.—Subpart B of part IV of sub-
 6 chapter A of chapter 1 of the Internal Revenue Code of
 7 1986 is amended by adding at the end the following new
 8 section:

9 **“SEC. 30A. CREDIT FOR CONSERVATION EXPENSES.**

10 “(a) IN GENERAL.—There shall be allowed as a cred-
 11 it against the tax imposed by this chapter for the taxable
 12 year an amount equal to the applicable conservation ex-
 13 pense amount for the taxable year.

14 “(b) APPLICABLE CONSERVATION EXPENSE
 15 AMOUNT.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘applicable con-
 17 servation expense amount’ means, with respect to
 18 qualified conservation expenses paid or incurred by
 19 the taxpayer during the taxable year—

20 “(A) such qualified conservation expenses,
 21 if the out-of-pocket expenses of the taxpayer are
 22 50 percent or more of such qualified conserva-
 23 tion expenses, or

24 “(B) the out-of-pocket expenses of the tax-
 25 payer, if the out-of-pocket expenses are less

1 than 50 percent of such qualified conservation
2 expenses.

3 “(2) OUT-OF-POCKET EXPENSES.—The term
4 ‘out-of-pocket expenses’ means, with respect to
5 qualified conservation expenses paid or incurred by
6 the taxpayer during the taxable year, the excess of—

7 “(A) such qualified conservation expenses,
8 over

9 “(B) the amount of any grant to the tax-
10 payer which is—

11 “(i) made for the purpose of paying
12 such qualified conservation expenses, and

13 “(ii) excludable from income.

14 “(c) QUALIFIED CONSERVATION EXPENSES.—For
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified con-
17 servation expenses’ means, with respect to any real
18 property, expenses paid or incurred for—

19 “(A) any action taken pursuant to a quali-
20 fied conservation agreement for such property,
21 or

22 “(B) any qualified conservation activity.

23 “(2) QUALIFIED CONSERVATION ACTIVITY.—
24 The term ‘qualified conservation activity’ means any
25 activity so designated for purposes of this paragraph

1 by the Director of the United States Fish and Wild-
2 life Service or the Administrator of the National Ma-
3 rine Fisheries Service.

4 “(3) QUALIFIED CONSERVATION AGREE-
5 MENT.—The term ‘qualified conservation agreement’
6 means an agreement described in section 2057(b).

7 “(d) LIMITATION.—The credit allowed under this sec-
8 tion for any taxable year may not exceed \$1,500.

9 “(e) CARRYFORWARD OR UNUSED CREDIT.—If the
10 credit allowable under subsection (a) for any taxable year
11 exceeds the limitation imposed by section 26(a) for such
12 taxable year reduced by the sum of the credits allowable
13 under subpart A and this subpart (other than this sec-
14 tion), such excess shall be carried to the succeeding tax-
15 able year and added to the credit allowable under sub-
16 section (a) for such succeeding taxable year up to 10
17 years.

18 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
19 may be allowed under this chapter for any expense for
20 which a credit is allowed under this section.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for subpart B of part IV of subchapter A of chapter 1
23 of such Code is amended by adding at the end the follow-
24 ing new item:

“Sec. 30A. Credit for conservation expenses.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenses paid or incurred after
3 the date of the enactment of this Act.

4 **SEC. 3. EXCLUSION FROM INCOME OF GRANTS MADE FOR**
5 **QUALIFIED CONSERVATION EXPENSES.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 of the Internal Revenue Code of 1986 is amended
8 by redesignating section 137 as section 138 and by insert-
9 ing after section 136 the following new section:

10 **“SEC. 137. GRANTS MADE FOR QUALIFIED CONSERVATION**
11 **EXPENSES.**

12 “(a) IN GENERAL.—Gross income shall not include
13 the amount of any grant which is—

14 (1) made to the taxpayer for the purpose of
15 paying, during the taxable year, qualified conserva-
16 tion expenses with respect to real property owned by
17 the taxpayer, and

18 (2) used by the taxpayer to pay such expenses.

19 “(b) QUALIFIED CONSERVATION EXPENSES.—For
20 purposes of this section, the term ‘qualified conservation
21 expenses’ has the meaning given such term by section
22 30A(d).”

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for part III of subchapter B of chapter 1 of such Code

1 is amended by striking the item relating to section 137
2 and inserting the following new items:

“Sec. 137. Grants made for qualified conservation expenses.
“Sec. 138. Cross references to other Acts.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to amounts received after the date
5 of the enactment of this Act.

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