

105TH CONGRESS
1ST SESSION

H. R. 1380

To amend the Internal Revenue Code of 1986 to reduce estate taxes on family-owned farm businesses and to exclude gain from the sale or exchange of a farming business to the extent of the medical expenses paid by the taxpayer.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 1997

Mr. HOYER 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 reduce estate taxes on family-owned farm businesses and to exclude gain from the sale or exchange of a farming business to the extent of the medical expenses paid by the taxpayer.

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 “Farmer Estate Tax
5 Relief Act of 1997”.

1 **SEC. 2. FAMILY-OWNED FARM EXCLUSION.**

2 (a) IN GENERAL.—Part III of subchapter A of chap-
3 ter 11 of the Internal Revenue Code of 1986 (relating to
4 gross estate) is amended by inserting after section 2032A
5 the following new section:

6 **“SEC. 2032B. FAMILY-OWNED FARM EXCLUSION.**

7 “(a) IN GENERAL.—In the case of an estate of a de-
8 cedent to which this section applies, the value of the gross
9 estate shall not include the lesser of—

10 “(1) the adjusted value of the qualified family-
11 owned farm interests of the decedent otherwise in-
12 cludible in the estate, or

13 “(2) \$1,400,000.

14 “(b) ESTATES TO WHICH SECTION APPLIES.—

15 “(1) IN GENERAL.—This section shall apply to
16 an estate if—

17 “(A) the decedent was (at the date of the
18 decedent’s death) a citizen or resident of the
19 United States,

20 “(B) the sum of—

21 “(i) the adjusted value of the qualified
22 family-owned farm interests described in
23 paragraph (2), plus

24 “(ii) the amount of the gifts of such
25 interests determined under paragraph (3),

1 exceeds 50 percent of the adjusted gross estate,
2 and

3 “(C) during the 8-year period ending on
4 the date of the decedent’s death there have
5 been periods aggregating 5 years or more dur-
6 ing which—

7 “(i) such interests were owned by the
8 decedent or a member of the decedent’s
9 family, and

10 “(ii) there was material participation
11 (within the meaning of section
12 2032A(e)(6)) by the decedent or a member
13 of the decedent’s family in the operation of
14 the farm to which such interests relate.

15 “(2) INCLUDIBLE QUALIFIED FAMILY-OWNED
16 FARM INTERESTS.—The qualified family-owned farm
17 interests described in this paragraph are the inter-
18 ests which—

19 “(A) are included in determining the value
20 of the gross estate (without regard to this sec-
21 tion), and

22 “(B) are acquired by any qualified heir
23 from, or passed to any qualified heir from, the
24 decedent (within the meaning of section
25 2032A(e)(9)).

1 “(3) INCLUDIBLE GIFTS OF INTERESTS.—The
2 amount of the gifts of qualified family-owned farm
3 interests determined under this paragraph is the ex-
4 cess of—

5 “(A) the sum of—

6 “(i) the amount of such gifts from the
7 decedent to members of the decedent’s
8 family taken into account under section
9 2001(b)(1)(B), plus

10 “(ii) the amount of such gifts other-
11 wise excluded under section 2503(b),
12 to the extent such interests are continuously
13 held by members of such family (other than the
14 decedent’s spouse) between the date of the gift
15 and the date of the decedent’s death, over

16 “(B) the amount of such gifts from the de-
17 cedent to members of the decedent’s family oth-
18 erwise included in the gross estate.

19 “(c) ADJUSTED GROSS ESTATE.—For purposes of
20 this section, the term ‘adjusted gross estate’ means the
21 value of the gross estate (determined without regard to
22 this section)—

23 “(1) reduced by any amount deductible under
24 paragraph (3) or (4) of section 2053(a), and

25 “(2) increased by the excess of—

1 “(A) the sum of—

2 “(i) the amount of gifts determined
3 under subsection (b)(3), plus

4 “(ii) the amount (if more than de
5 minimis) of other transfers from the dece-
6 dent to the decedent’s spouse (at the time
7 of the transfer) within 10 years of the date
8 of the decedent’s death, plus

9 “(iii) the amount of other gifts (not
10 included under clause (i) or (ii)) from the
11 decedent within 3 years of such date, other
12 than gifts to members of the decedent’s
13 family otherwise excluded under section
14 2503(b), over

15 “(B) the sum of the amounts described in
16 clauses (i), (ii), and (iii) of subparagraph (A)
17 which are otherwise includible in the gross es-
18 tate.

19 For purposes of the preceding sentence, the Secretary may
20 provide that de minimis gifts to persons other than mem-
21 bers of the decedent’s family shall not be taken into ac-
22 count.

23 “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-
24 OWNED FARM INTERESTS.—For purposes of this section,
25 the adjusted value of any qualified family-owned farm in-

1 terest is the value of such interest for purposes of this
 2 chapter (determined without regard to this section), re-
 3 duced by the excess of—

4 “(1) any amount deductible under paragraph
 5 (3) or (4) of section 2053(a), over

6 “(2) the sum of—

7 “(A) any indebtedness on any qualified
 8 residence of the decedent the interest on which
 9 is deductible under section 163(h)(3), plus

10 “(B) any indebtedness to the extent the
 11 taxpayer establishes that the proceeds of such
 12 indebtedness were used for the payment of edu-
 13 cational and medical expenses of the decedent,
 14 the decedent’s spouse, or the decedent’s depend-
 15 ents (within the meaning of section 152), plus

16 “(C) any indebtedness not described in
 17 subparagraph (A) or (B), to the extent such in-
 18 debtedness does not exceed \$10,000.

19 “(e) QUALIFIED FAMILY-OWNED FARM INTEREST.—

20 “(1) IN GENERAL.—For purposes of this sec-
 21 tion, the term ‘qualified family-owned farm interest’
 22 means—

23 “(A) an interest as a proprietor in a farm-
 24 ing trade or business carried on as a proprietor-
 25 ship, or

1 “(B) an interest in an entity carrying on
2 a farming trade or business, if—

3 “(i) at least—

4 “(I) 50 percent of such entity is
5 owned (directly or indirectly) by the
6 decedent and members of the dece-
7 dent’s family,

8 “(II) 70 percent of such entity is
9 so owned by members of 2 families, or

10 “(III) 90 percent of such entity
11 is so owned by members of 3 families,
12 and

13 “(ii) for purposes of subclause (II) or
14 (III) of clause (i), at least 30 percent of
15 such entity is so owned by the decedent
16 and members of the decedent’s family.

17 “(2) LIMITATION.—Such term shall not in-
18 clude—

19 “(A) any interest in a trade or business
20 the principal place of business of which is not
21 located in the United States,

22 “(B) any interest in an entity, if the stock
23 or debt of such entity or a controlled group (as
24 defined in section 267(f)(1)) of which such en-
25 tity was a member was readily tradable on an

1 established securities market or secondary mar-
2 ket (as defined by the Secretary) at any time
3 within 3 years of the date of the decedent's
4 death,

5 “(C) any interest in a trade or business
6 not described in section 542(c)(2), if more than
7 35 percent of the adjusted ordinary gross in-
8 come of such trade or business for the taxable
9 year which includes the date of the decedent's
10 death would qualify as personal holding com-
11 pany income (as defined in section 543(a)),

12 “(D) that portion of an interest in a trade
13 or business that is attributable to—

14 “(i) cash or marketable securities, or
15 both, in excess of the reasonably expected
16 day-to-day working capital needs of such
17 trade or business, and

18 “(ii) any other assets of the trade or
19 business (other than assets used in the ac-
20 tive conduct of a trade or business de-
21 scribed in section 542(c)(2)), the income of
22 which is described in section 543(a) or in
23 subparagraph (B), (C), (D), or (E) of sec-
24 tion 954(c)(1) (determined by substituting

1 ‘trade or business’ for ‘controlled foreign
2 corporation’).

3 “(3) RULES REGARDING OWNERSHIP.—

4 “(A) OWNERSHIP OF ENTITIES.—For pur-
5 poses of paragraph (1)(B)—

6 “(i) CORPORATIONS.—Ownership of a
7 corporation shall be determined by the
8 holding of stock possessing the appropriate
9 percentage of the total combined voting
10 power of all classes of stock entitled to vote
11 and the appropriate percentage of the total
12 value of shares of all classes of stock.

13 “(ii) PARTNERSHIPS.—Ownership of a
14 partnership shall be determined by the
15 owning of the appropriate percentage of
16 the capital interest in such partnership.

17 “(B) OWNERSHIP OF TIERED ENTITIES.—
18 For purposes of this section, if by reason of
19 holding an interest in a trade or business, a de-
20 cedent, any member of the decedent’s family,
21 any qualified heir, or any member of any quali-
22 fied heir’s family is treated as holding an inter-
23 est in any other trade or business—

24 “(i) such ownership interest in the
25 other trade or business shall be dis-

1 regarded in determining if the ownership
2 interest in the first trade or business is a
3 qualified family-owned farm interest, and

4 “(ii) this section shall be applied sepa-
5 rately in determining if such interest in
6 any other trade or business is a qualified
7 family-owned farm interest.

8 “(C) INDIVIDUAL OWNERSHIP RULES.—

9 For purposes of this section, an interest owned,
10 directly or indirectly, by or for an entity de-
11 scribed in paragraph (1)(B) shall be considered
12 as being owned proportionately by or for the en-
13 tity’s shareholders, partners, or beneficiaries. A
14 person shall be treated as a beneficiary of any
15 trust only if such person has a present interest
16 in such trust.

17 “(f) TAX TREATMENT OF FAILURE TO MATERIALLY
18 PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-
19 ESTS.—

20 “(1) IN GENERAL.—There is imposed an addi-
21 tional estate tax if, within 10 years after the date
22 of the decedent’s death and before the date of the
23 qualified heir’s death—

24 “(A) the material participation require-
25 ments described in section 2032A(c)(6)(B) are

1 not met with respect to the qualified family-
2 owned farm interest which was acquired (or
3 passed) from the decedent,

4 “(B) the qualified heir disposes of any por-
5 tion of a qualified family-owned farm interest
6 (other than by a disposition to a member of the
7 qualified heir’s family or through a qualified
8 conservation contribution under section
9 170(h)),

10 “(C) the qualified heir loses United States
11 citizenship (within the meaning of section 877)
12 or with respect to whom an event described in
13 subparagraph (A) or (B) of section 877(e)(1)
14 occurs, and such heir does not comply with the
15 requirements of subsection (g), or

16 “(D) the principal place of business of a
17 trade or business of the qualified family-owned
18 farm interest ceases to be located in the United
19 States.

20 “(2) ADDITIONAL ESTATE TAX.—

21 “(A) IN GENERAL.—The amount of the
22 additional estate tax imposed by paragraph (1)
23 shall be equal to—

24 “(i) the applicable percentage of the
25 adjusted tax difference attributable to the

1 qualified family-owned farm interest (as
 2 determined under rules similar to the rules
 3 of section 2032A(c)(2)(B)), plus

4 “(ii) interest on the amount deter-
 5 mined under clause (i) at the underpay-
 6 ment rate established under section 6621
 7 for the period beginning on the date the
 8 estate tax liability was due under this
 9 chapter and ending on the date such addi-
 10 tional estate tax is due.

11 “(B) APPLICABLE PERCENTAGE.—For
 12 purposes of this paragraph, the applicable per-
 13 centage shall be determined under the following
 14 table:

“If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

15 “(g) SECURITY REQUIREMENTS FOR NONCITIZEN
 16 QUALIFIED HEIRS.—

17 “(1) IN GENERAL.—Except upon the applica-
 18 tion of subparagraph (F) or (M) of subsection
 19 (h)(3), if a qualified heir is not a citizen of the Unit-
 20 ed States, any interest under this section passing to
 21 or acquired by such heir (including any interest held

1 by such heir at a time described in subsection
2 (f)(1)(C)) shall be treated as a qualified family-
3 owned farm interest only if the interest passes or
4 is acquired (or is held) in a qualified trust.

5 “(2) QUALIFIED TRUST.—The term ‘qualified
6 trust’ means a trust—

7 “(A) which is organized under, and gov-
8 erned by, the laws of the United States or a
9 State, and

10 “(B) except as otherwise provided in regu-
11 lations, with respect to which the trust instru-
12 ment requires that at least 1 trustee of the
13 trust be an individual citizen of the United
14 States or a domestic corporation.

15 “(h) OTHER DEFINITIONS AND APPLICABLE
16 RULES.—For purposes of this section—

17 “(1) QUALIFIED HEIR.—The term ‘qualified
18 heir’—

19 “(A) has the meaning given to such term
20 by section 2032A(e)(1), and

21 “(B) includes any active employee of the
22 trade or business to which the qualified family-
23 owned farm interest relates if such employee
24 has been employed by such trade or business

1 for a period of at least 10 years before the date
2 of the decedent's death.

3 “(2) MEMBER OF THE FAMILY.—The term
4 ‘member of the family’ has the meaning given to
5 such term by section 2032A(e)(2).

6 “(3) APPLICABLE RULES.—Rules similar to the
7 following rules shall apply:

8 “(A) Section 2032A(b)(4) (relating to de-
9 cedents who are retired or disabled).

10 “(B) Section 2032A(b)(5) (relating to spe-
11 cial rules for surviving spouses).

12 “(C) Section 2032A(c)(2)(D) (relating to
13 partial dispositions).

14 “(D) Section 2032A(c)(3) (relating to only
15 1 additional tax imposed with respect to any 1
16 portion).

17 “(E) Section 2032A(c)(4) (relating to due
18 date).

19 “(F) Section 2032A(c)(5) (relating to li-
20 ability for tax; furnishing of bond).

21 “(G) Section 2032A(c)(7) (relating to no
22 tax if use begins within 2 years; active manage-
23 ment by eligible qualified heir treated as mate-
24 rial participation).

1 “(H) Section 2032A(e)(10) (relating to
2 community property).

3 “(I) Section 2032A(e)(14) (relating to
4 treatment of replacement property acquired in
5 section 1031 or 1033 transactions).

6 “(J) Section 2032A(f) (relating to statute
7 of limitations).

8 “(K) Section 6166(b)(3) (relating to farm-
9 houses and certain other structures taken into
10 account).

11 “(L) Subparagraphs (B), (C), and (D) of
12 section 6166(g)(1) (relating to acceleration of
13 payment).

14 “(M) Section 6324B (relating to special
15 lien for additional estate tax).”

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for part III of subchapter A of chapter 11 of such Code
18 is amended by inserting after the item relating to section
19 2032A the following new item:

 “Sec. 2032B. Family-owned farm exclusion.”.

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

1 **SEC. 3. ONE-TIME EXCLUSION OF GAIN FROM SALE OR EX-**
2 **CHANGE OF LAND USED IN FARMING TRADE**
3 **OR BUSINESS.**

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

8 **“SEC. 121A. ONE-TIME EXCLUSION OF GAIN FROM SALE OR**
9 **EXCHANGE OF QUALIFIED FAMILY-OWNED**
10 **FARM INTERESTS.**

11 “(a) IN GENERAL.—At the election of the taxpayer,
12 gross income does not include gain from the sale or ex-
13 change of a qualified family-owned farm interest (as de-
14 fined in section 2032B) if—

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

17 “(2) during the 8-year period ending on the
18 date of the sale or exchange there have been periods
19 aggregating 5 years or more during which—

20 “(A) such interests were owned by the tax-
21 payer or a member of the taxpayer’s family,
22 and

23 “(B) there was material participation
24 (within the meaning of section 2032A(e)(6)) by
25 the taxpayer or a member of the taxpayer’s

1 family in the operation of the farm to which
2 such interests relate.

3 “(b) LIMITATIONS.—

4 “(1) DOLLAR LIMITATION.—The amount ex-
5 cluded from gross income under subsection (a) shall
6 not exceed the lesser of—

7 “(A) the qualified medical expenses paid
8 by the taxpayer during the period of 3 taxable
9 years beginning with the last taxable year end-
10 ing before the date of the sale or exchange, or

11 “(B) \$500,000 (\$250,000 in the case of a
12 separate return of a married individual).

13 “(2) APPLICATION TO ONLY 1 SALE OR EX-
14 CHANGE.—Subsection (a) shall not apply to any sale
15 or exchange by the taxpayer if an election by the
16 taxpayer or the taxpayer’s spouse is in effect under
17 subsection (a) with respect to any other sale or ex-
18 change.

19 “(c) QUALIFIED MEDICAL EXPENSES.—For pur-
20 poses of this section, the term ‘qualified medical expenses’
21 means expenses for medical care (as defined in section
22 213) of the taxpayer, the spouse of the taxpayer, or any
23 dependent (as defined in section 152).

24 “(d) ELECTION.—An election under subsection (a)
25 may be made or revoked at any time before the expiration

1 of the period for making a claim for credit or refund of
2 the tax imposed by this chapter for the taxable year in
3 which the sale or exchange referred to in subsection (a)
4 occurs, and shall be made or revoked in such manner as
5 the Secretary shall by regulations prescribe. In the case
6 of a taxpayer who is married, an election under subsection
7 (a) or a revocation thereof may be made only if his spouse
8 joins in such election or revocation.”

9 “(e) CERTAIN RULES TO APPLY.—Rules similar to
10 the following rules shall apply:

11 “(1) Section 2032A(b)(4) (relating to decedents
12 who are retired or disabled).

13 “(2) Section 2032A(b)(5) (relating to special
14 rules for surviving spouses).

15 “(3) Section 2032A(e)(10) (relating to commu-
16 nity property).

17 “(4) Section 2032A(e)(14) (relating to treat-
18 ment of replacement property acquired in section
19 1031 or 1033 transactions).”

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

“Sec. 121A. One-time exclusion of gain from sale or exchange of
qualified family-owned farm interests.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to sales and exchanges occurring

- 1 after the date of the enactment of this Act in taxable years
- 2 ending after such date.

○