

105TH CONGRESS
1ST SESSION

H. R. 2101

To amend the Internal Revenue Code of 1986 to exclude qualified conservation easements from a decedent's gross estate, exempt from tax the gain on the sale of qualified forest land to government entities or conservation groups, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1997

Mr. SUNUNU 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 exclude qualified conservation easements from a decedent's gross estate, exempt from tax the gain on the sale of qualified forest land to government entities or conservation groups, 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 AND AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Forest Conservation Act of 1997”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **SEC. 2. EXCLUSION OF CONSERVATION EASEMENTS FROM**
 6 **GROSS ESTATE.**

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 CONSERVATION EASEMENT.—

12 “(1) IN GENERAL.—If the executor elects the
 13 application of this subsection with respect to any
 14 qualified forestland included in the gross estate,
 15 there shall be excluded from the gross estate the
 16 value of any qualified conservation easement with re-
 17 spect to such qualified forestland.

18 “(2) QUALIFIED CONSERVATION EASEMENT.—

19 For purposes of this subsection, the term ‘qualified
 20 conservation easement’ means a qualified conserva-
 21 tion contribution (as defined in section 170(h)(1)) of
 22 a qualified real property interest described in section
 23 170(h)(2)(C) with respect to forestland which—

24 “(A) consists of 10 or more acres, and

1 “(B) is subject to a forest management
2 plan.

3 “(3) CERTAIN HISTORIC PRESERVATION CON-
4 TRIBUTIONS NOT INCLUDED.—For purposes of para-
5 graph (2), section 170(h)(4)(A) shall be applied
6 without regard to clause (iv) thereof in determining
7 whether there is a qualified conservation contribu-
8 tion.

9 “(4) QUALIFIED FOREST LAND.—For purposes
10 of this subsection, the term ‘qualified forestland’ has
11 the meaning given such term by section 2032B(b)
12 (determined without regard to whether or not such
13 forestland was acquired by or passed to a qualified
14 heir or devisee).

15 “(5) ELECTION.—An election under paragraph
16 (1) shall be made on the return of tax imposed by
17 section 2001. Such an election, once made, shall be
18 irrevocable.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to the estates of decedents dying
21 after December 31, 1997.

1 **SEC. 3. SPECIAL ESTATE TAX VALUATION OF FOREST**
2 **LANDS.**

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

6 **“SEC. 2032B. VALUATION OF CERTAIN FORESTLAND.**

7 “(a) VALUE BASED ON USE OF PROPERTY AS
8 FORESTLAND.—If—

9 “(1) the decedent was (at the time of his death)
10 a citizen or resident of the United States, and

11 “(2) the executor elects the application of this
12 section and files the agreement referred to in sub-
13 section (d)(2),

14 then, for purposes of this chapter, the value of qualified
15 forestland shall be its value for the use under which it
16 qualifies, under subsection (b), as qualified forestland.

17 “(b) QUALIFIED FORESTLAND.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the term ‘qualified forestland’ means real prop-
20 erty located in the United States which meets the re-
21 quirements of paragraph (3) and was acquired from
22 or passed from the decedent to a qualified devisee or
23 qualified heir and which, on the date of the dece-
24 dent’s death, was being used for a qualified forest
25 use by the decedent or a member of the decedent’s
26 family, but only if—

1 “(A) 25 percent or more of the adjusted
2 value of the gross estate consists of the ad-
3 justed value of real property which meets the
4 requirements of this paragraph,

5 “(B) during the 8-year period ending on
6 the date of the decedent’s death there have
7 been periods aggregating 5 years or more dur-
8 ing which the real property was used for a
9 qualified forest use, and

10 “(C) such real property is designated in
11 the agreement referred to in subsection (d)(2).

12 “(2) QUALIFIED FOREST USE.—For purposes
13 of this section, the term ‘qualified forest use’ means
14 the devotion of the property to—

15 “(A) use for a conservation purpose, as de-
16 fined in section 170(h)(4)(A) (determined with-
17 out regard to clause (iv) thereof), or

18 “(B) use in timber operations.

19 “(3) REQUIREMENTS FOR QUALIFIED
20 FORESTLAND.—Real property meets the require-
21 ments of this paragraph if such real property—

22 “(A) qualifies for a differential use value
23 assessment program for forestland in the State
24 in which the property is located; or

1 “(B) if a State has no differential use
2 value assessment program—

3 “(i) is forestland,

4 “(ii) is a minimum of 10 acres, exclu-
5 sive of a dwelling unit or other non-forest
6 related structure and its curtilage; and

7 “(iii) is subject to a forest manage-
8 ment plan.

9 “(c) TAX TREATMENT OF DISPOSITIONS AND FAIL-
10 URES TO USE AS QUALIFIED FOREST USE.—

11 “(1) IMPOSITION OF ADDITIONAL ESTATE TAX
12 (RECAPTURE).—

13 “(A) IN GENERAL.—If, within 25 years
14 after the decedent’s death and before the death
15 of the qualified devisee or qualified heir—

16 “(i) the qualified devisee or qualified
17 heir disposes of any interest in qualified
18 forestland,

19 “(ii) the qualified devisee or qualified
20 heir ceases to use for a qualified forest use
21 (whether or not the qualified forest use
22 under which the property qualified, under
23 subsection (b), as qualified forestland) the
24 qualified forestland which was acquired (or
25 passed) from the decedent for an aggre-

1 gated period of 3 years out of any 8-year
2 period, or

3 “(iii) any depreciable improvements
4 are made to the property, other than those
5 relating to any qualified forest use,

6 then there is hereby imposed an additional es-
7 tate tax.

8 “(B) EXCEPTIONS.—Subparagraph (A)
9 shall not apply to—

10 “(i) a testamentary disposition that it-
11 self qualifies for special valuation under
12 this section,

13 “(ii) a disposition by a qualified heir
14 to any other person who agrees to continue
15 devoting the heir’s interest to any qualified
16 forest use and signs the agreement in sub-
17 section (d)(2) (such person shall thereafter
18 be treated as a qualified devisee with re-
19 spect to such interest),

20 “(iii) a disposition by a qualified devi-
21 see to a qualified heir of such devisee who
22 agrees to continue devoting the devisee’s
23 interest to any qualified forest use and
24 signs the agreement in subsection (d)(2)
25 (such heir shall thereafter be treated as a

1 qualified devisee with respect to such inter-
2 est),

3 “(iv) a disposition of timber used in a
4 timber operation; and

5 “(v) a disposition (other than by sale)
6 of a qualified conservation contribution (as
7 defined in section 170(h)).

8 “(2) AMOUNT OF ADDITIONAL TAX.—The
9 amount of the additional tax imposed by paragraph
10 (1)(A) with respect to any interest shall be the
11 amount equal to the lesser of—

12 “(A) the adjusted tax difference with re-
13 spect to the estate (within the meaning of sec-
14 tion 2032A(c)(2)(C), determined by substitut-
15 ing ‘section 2032B’ for ‘subsection (a)’), or

16 “(B) the amount realized from the disposi-
17 tion of the interest.

18 “(3) ONLY ONE ADDITIONAL TAX IMPOSED
19 WITH RESPECT TO ANY ONE PORTION.—In the case
20 of an interest acquired from (or passing from) any
21 decedent, if a particular clause of paragraph (1)(A)
22 applies to any portion of an interest, no other clause
23 of such paragraph shall apply with respect to the
24 same portion of such interest.

25 “(d) ELECTION; AGREEMENT.—

1 “(1) ELECTION.—The election under this sec-
2 tion shall be made on the return of the tax imposed
3 by section 2001. Such election shall be made in such
4 manner as the Secretary shall by regulations pre-
5 scribe. Such an election, once made, shall be irrev-
6 ocable.

7 “(2) AGREEMENT.—The agreement referred to
8 in this paragraph is a written agreement signed by
9 each person in being who has an interest (whether
10 or not in possession) in any property designated in
11 such agreement consenting to the application of sub-
12 section (c) with respect to such property.

13 “(e) DEFINITIONS; SPECIAL RULES.—For purposes
14 of this section—

15 “(1) QUALIFIED DEVISEE.—The term ‘qualified
16 devisee’ means, with respect to any property, a per-
17 son who acquired such property (or to whom such
18 property passed) from the decedent and who is not
19 a qualified heir of the decedent.

20 “(2) PERSON.—The term ‘person’ means an in-
21 dividual, partnership, corporation, or governmental
22 entity.

23 “(3) CERTAIN REAL PROPERTY INCLUDED.—In
24 the case of real property which meets the require-
25 ments of subparagraph (B) of subsection (b)(1), any

1 depreciable improvements, including roads, which
2 are related to the qualified forest use shall be treat-
3 ed as real property devoted to that use.

4 “(4) TIMBER OPERATIONS.—The term ‘timber
5 operations’ means the planting, cultivating, caring
6 for, or harvesting of trees in the process of using
7 and conserving renewable forest resources.

8 “(5) METHOD OF VALUING FORESTLAND.—The
9 value of forestland shall be determined according to
10 whichever of the following methods results in the
11 least value:

12 “(A) Assessed land values in a State which
13 provides a differential or use value assessment
14 for forestland.

15 “(B) Comparable sales of other forestland
16 in the same geographical area far enough re-
17 moved from a metropolitan or resort area so
18 that nonforest use is not a significant factor in
19 the sales price.

20 “(C) The capitalization of income which
21 the property can be expected to yield for timber
22 operations over a reasonable period of time
23 under prudent management, using traditional
24 forest management for the area, and taking

1 into account soil capacity, terrain configuration,
2 and similar factors.

3 “(D) Any other factor which fairly values
4 the timber value of the property.

5 “(6) APPLICABLE DEFINITIONS AND RULES OF
6 SECTION 2032A.—

7 “(A) DEFINITIONS.—Except as otherwise
8 provided in this section, any term used in this
9 section which is also used in section 2032A
10 shall have the meaning given such term by sec-
11 tion 2032A.

12 “(B) RULES.—Rules similar to the rules of
13 the following provisions of section 2032A shall
14 apply to this section, by substituting ‘qualified
15 forestland’ for ‘qualified real property’ and
16 ‘qualified forest use’ for ‘qualified use’, and
17 shall apply to qualified devisees as well as quali-
18 fied heirs:

19 “(i) Paragraphs (2)(D), (4), (5), and
20 (7)(A) (by substituting ‘25 years’ for ‘10
21 years’) of subsection (c).

22 “(ii) Subsection (d)(3).

23 “(iii) Paragraphs (9), (10), (11), and
24 (14) (by substituting ‘active management’

1 for ‘material participation’) of subsection
2 (e).

3 “(iv) Subsections (f) and (g).

4 “(f) SPECIAL RULES FOR INVOLUNTARY CONVER-
5 SIONS OF QUALIFIED FORESTLAND.—

6 “(1) TREATMENT OF CONVERTED PROPERTY.—

7 “(A) IN GENERAL.—If there is an involun-
8 tary conversion of an interest in qualified
9 forestland—

10 “(i) no tax shall be imposed by sub-
11 section (e) on such conversion if the cost of
12 the qualified replacement property equals
13 or exceeds the amount realized on such
14 conversion; or

15 “(ii) if clause (i) does not apply, the
16 amount of the tax imposed by subsection
17 (e) on such conversion shall be the amount
18 determined under subparagraph (B).

19 “(B) AMOUNT OF TAX WHERE THERE IS
20 NOT COMPLETE REINVESTMENT.—The amount
21 determined under this subparagraph with re-
22 spect to any involuntary conversion is the
23 amount of tax which (but for this subsection)
24 would have been imposed on such conversion re-
25 duced by an amount which—

1 “(i) bears the same ratio to such tax,
2 as

3 “(ii) the cost of the qualified replace-
4 ment property bears to the amount real-
5 ized on the conversion.

6 “(2) TREATMENT OF REPLACEMENT PROP-
7 ERTY.—For purposes of subsection (c)—

8 “(A) any qualified replacement property
9 shall be treated in the same manner as if it
10 were a portion of the interest in qualified
11 forestland which was involuntarily converted;
12 except that with respect to such qualified re-
13 placement property the 25-year period under
14 paragraph (1) of subsection (c) shall be ex-
15 tended by any period, beyond the 2-year period
16 referred to in section 1033(a)(2)(B)(i), during
17 which the qualified devisee or qualified heir was
18 allowed to replace the qualified forestland;

19 “(B) any tax imposed by subsection (c) on
20 the involuntary conversion shall be treated as a
21 tax imposed on a partial disposition, and

22 “(C) subparagraph (A)(ii) of subsection
23 (c)(1) shall be applied by not taking into ac-
24 count periods after the involuntary conversion

1 and before the acquisition of the qualified re-
2 placement property.

3 “(3) DEFINITIONS AND SPECIAL RULES.—For
4 purposes of this subsection—

5 “(A) INVOLUNTARY CONVERSION.—The
6 term ‘involuntary conversion’ means a compul-
7 sory or involuntary conversion within the mean-
8 ing of section 1033.

9 “(B) QUALIFIED REPLACEMENT PROP-
10 ERTY.—The term ‘qualified replacement prop-
11 erty’ means—

12 “(i) in the case of an involuntary con-
13 version described in section 1033(a)(1),
14 any real property into which the qualified
15 forestland is converted, or

16 “(ii) in the case of an involuntary con-
17 version described in section 1033(a)(2),
18 any real property purchased by the quali-
19 fied devisee or qualified heir during the pe-
20 riod specified in section 1033(a)(2)(B) for
21 purposes of replacing the qualified
22 forestland.

23 Such term only includes property which is to be
24 used for the qualified forest use set forth in

1 subsection (b)(2) under which the qualified
2 forestland qualified under subsection (a).

3 “(4) CERTAIN RULES MADE APPLICABLE.—The
4 rules of the last sentence of section 1033(a)(2)(A)
5 shall apply for purposes of paragraph (3)(B)(ii).

6 “(g) EXCHANGES OF QUALIFIED FORESTLAND.—

7 “(1) TREATMENT OF PROPERTY EX-
8 CHANGED.—

9 “(A) EXCHANGES SOLELY FOR QUALIFIED
10 EXCHANGE PROPERTY.—If an interest in quali-
11 fied forestland is exchanged solely for an inter-
12 est in qualified exchange property in a trans-
13 action which qualifies under section 1031, no
14 tax shall be imposed by subsection (c) by reason
15 of such exchange.

16 “(B) EXCHANGES WHERE OTHER PROP-
17 ERTY RECEIVED.—If an interest in qualified
18 forestland is exchanged for an interest in quali-
19 fied exchange property and other property in a
20 transaction which qualifies under section 1031,
21 the amount of the tax imposed by subsection (c)
22 by reason of such exchange shall be the amount
23 of tax which (but for this subparagraph) would
24 have been imposed on such exchange under sub-
25 section (c)(1), reduced by an amount which—

1 “(i) bears the same ratio to such tax,
2 as

3 “(ii) the value of the qualified ex-
4 change property bears to the value of the
5 qualified forestland exchanged.

6 For purposes of clause (ii), value shall be deter-
7 mined according to subsection (e)(6).

8 “(2) TREATMENT OF QUALIFIED EXCHANGE
9 PROPERTY.—For purposes of subsection (c)—

10 “(A) any interest in qualified exchange
11 property shall be treated in the same manner as
12 if it were a portion of the interest in qualified
13 forestland which was exchanged; and

14 “(B) any tax imposed by subsection (c) by
15 reason of the exchange shall be treated as a tax
16 imposed on a partial disposition.

17 “(3) QUALIFIED EXCHANGE PROPERTY.—For
18 purposes of this subsection, the term ‘qualified ex-
19 change property’ means real property which is to be
20 used for a qualified forest use set forth in subsection
21 (b)(2) under which the real property exchanged
22 therefor originally qualified under subsection (a).”

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 1014(a)(3) is amended by inserting
25 “or 2032B” after “2032A”.

1 (2) Section 1016(c) is amended—

2 (A) by inserting “or 2032B(c)(1)” after
3 “2032A(c)(1)” in paragraphs (1), (3), (4), and
4 (5)(B),

5 (B) by inserting “or qualified devisee”
6 after “qualified heir” in paragraph (1),

7 (C) by inserting “or 2032B(f)(3)(B)” after
8 “2032A(h)(3)(B)” in paragraph (4), and

9 (D) by inserting “or 2032B(g)(3)” after
10 “2032A(i)(3)” in paragraph (4).

11 (3) Section 1040 is amended—

12 (A) by inserting “or qualified devisee
13 (within the meaning of section 2032B(e)(1))”
14 before “any property” in subsection (a), and

15 (B) by inserting “or 2032B” after
16 “2032A” in subsections (a) and (b).

17 (4) Section 1223(12)(C) is amended by insert-
18 ing “or qualified devisee (within the meaning of sec-
19 tion 2032B(e)(1))” before “with respect”.

20 (5) Section 2013 is amended—

21 (A) by inserting “or 2032B” after
22 “2032A” each place it appears in subsection (f)
23 and the heading thereof, and

1 (B) by inserting “or 2032B(c)” after
2 “2032A(c)” both places it appears in subsection
3 (f).

4 (6) Section 2035(d)(3)(B) is amended by in-
5 serting “or section 2032B (relating to special valu-
6 ation of certain forestland)” after “real property”.

7 (7) Section 2056A(b)(10)(A) is amended by in-
8 serting “2032B,” after “2032A,”.

9 (8) Section 2624(b) is amended by striking
10 “sections 2032 and 2032A” and inserting “sections
11 2032, 2032A, and 2032B”.

12 (9) Section 2663(1) is amended by striking
13 “section 2032A(c)” and inserting “sections
14 2032A(c) and 2032B(c)”.

15 (10) Section 6324B is amended—

16 (A) by striking subsection (a) and insert-
17 ing the following new subsection:

18 “(a) GENERAL RULES.—

19 “(1) SECTION 2032A.—In the case of any inter-
20 est in qualified real property (within the meaning of
21 section 2032A(b)), an amount equal to the adjusted
22 tax difference attributable to such interest (within
23 the meaning of section 2032B(c)(2)(A)) shall be a
24 lien in favor of the United States on property in
25 which such interest exists.

1 “(2) SECTION 2032B.—In the case of any inter-
2 est in qualified forestland (within the meaning of
3 section 2032B(b)), an amount equal to the adjusted
4 tax difference with respect to the estate (within the
5 meaning of section 2032A(c)(2)(C)) shall be a lien
6 in favor of the United States on property in which
7 such interest exists.”,

8 (B) by inserting “or 2032B” after
9 “2032A” both places it appears in subsection
10 (b),

11 (C) by inserting “or 2032B(e)” after
12 “2032A(c)” in subsection (b)(2), and

13 (D) by adding at the end of subsection (c)
14 the following new paragraph:

15 “(3) QUALIFIED FORESTLAND.—For purposes
16 of this section, the term ‘qualified forestland’ in-
17 cludes qualified replacement property (within the
18 meaning of section 2032B(f)(3)(B)) and qualified
19 exchange property (within the meaning of section
20 2032B(g)(3)).”

21 (c) CLERICAL AMENDMENT.—The table of sections
22 for part III of subchapter A of chapter 11 is amended
23 by adding at the end the following new item:

 “Sec. 2032B. Valuation of certain forestland.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to estates of decedents dying after
3 December 31, 1998.

4 **SEC. 4. EXCLUSION OF GAIN FROM SALE OF INTERESTS IN**
5 **FOREST LANDS.**

6 (a) IN GENERAL.—Part III of subchapter B of chap-
7 ter 1 (relating to items specifically excluded from gross
8 income) is amended by redesignating section 138 as sec-
9 tion 139 and by inserting after section 137 the following
10 new section:

11 **“SEC. 138. SALES OF INTERESTS IN CERTAIN FOREST**
12 **LANDS.**

13 “(a) EXCLUSION.—Gross income shall not include
14 qualified timber gain.

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 quali-
19 fied forestland to a qualified organization (as de-
20 fined in section 170(h)(3)) for conservation pur-
21 poses.

22 “(2) CONSERVATION PURPOSES.—The term
23 ‘conservation purposes’ has the meaning given such
24 term by section 170(h)(4)(A) (without regard to
25 clause (iv) thereof).

1 “(3) QUALIFIED FORESTLAND.—The term
2 ‘qualified forestland’ has the meaning given such
3 term by section 2032B(b) (determined without re-
4 gard to whether or not such forestland was acquired
5 by or passed to a qualified heir or devisee and with-
6 out regard to section 2032B(b)(1)(C)).”

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for part III of subchapter B of chapter 1 is amended by
9 striking the item relating to section 138 and by inserting
10 the following new items after the item relating to section
11 137:

 “Sec. 138. Sales of interests in certain forest lands.
 “Sec. 139. Cross references to other Acts.”

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

○