

105TH CONGRESS
2D SESSION

S. 2371

To amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers.

IN THE SENATE OF THE UNITED STATES

JULY 30, 1998

Mr. GRASSLEY (for Mr. LOTT) (for himself, Mr. GRASSLEY, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CRAIG, Mr. SHELBY, Mr. SESSIONS, Mr. THOMAS, Mr. COVERDELL, and Mr. COCHRAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Investment and Rural Savings Tax Act”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES

Sec. 101. Reduction in individual capital gains tax rates.

TITLE II—TAX INCENTIVES FOR FARMERS

Sec. 201. Farm and ranch risk management accounts.

Sec. 202. Permanent extension of income averaging for farmers.

1 **TITLE I—REDUCTION IN INDI-**
 2 **VIDUAL CAPITAL GAINS TAX**
 3 **RATES**

4 **SEC. 101. REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX**
 5 **RATES.**

6 (a) IN GENERAL.—Subsection (h) of section 1 of the
 7 Internal Revenue Code of 1986 is amended to read as fol-
 8 lows:

9 “(h) MAXIMUM CAPITAL GAINS RATE.—

10 “(1) IN GENERAL.—If a taxpayer has a net
 11 capital gain for any taxable year, the tax imposed by
 12 this section for such taxable year shall not exceed
 13 the sum of—

14 “(A) a tax computed at the rates and in
 15 the same manner as if this subsection had not
 16 been enacted on taxable income reduced by the
 17 net capital gain,

18 “(B) 7.5 percent of so much of the net
 19 capital gain (or, if less, taxable income) as does
 20 not exceed the excess (if any) of—

21 “(i) the amount of taxable income
 22 which would (without regard to this para-

1 graph) be taxed at a rate below 28 per-
2 cent, over

3 “(ii) the taxable income reduced by
4 the net capital gain, and

5 “(C) 15 percent of the amount of taxable
6 income in excess of the sum of the amounts on
7 which tax is determined under subparagraphs
8 (A) and (B).

9 “(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT
10 AS INVESTMENT INCOME.—For purposes of this sub-
11 section, the net capital gain for any taxable year
12 shall be reduced (but not below zero) by the amount
13 which the taxpayer takes into account as investment
14 income under section 163(d)(4)(B)(iii).”

15 (b) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of
16 section 55(b) of such Code is amended to read as follows:

17 “(3) MAXIMUM RATE OF TAX ON NET CAPITAL
18 GAIN OF NONCORPORATE TAXPAYERS.—The amount
19 determined under the first sentence of paragraph
20 (1)(A)(i) shall not exceed the sum of—

21 “(A) the amount determined under such
22 first sentence computed at the rates and in the
23 same manner as if this paragraph had not been
24 enacted on the taxable excess reduced by the
25 net capital gain,

1 “(B) 7.5 percent of so much of the net
2 capital gain (or, if less, taxable excess) as does
3 not exceed the amount on which a tax is deter-
4 mined under section 1(h)(1)(B), and

5 “(C) 15 percent of the amount of taxable
6 excess in excess of the sum of the amounts on
7 which tax is determined under subparagraphs
8 (A) and (B).”

9 (c) CONFORMING AMENDMENTS.—

10 (1) Paragraph (1) of section 1445(e) of such
11 Code is amended by striking “20 percent” and in-
12 serting “15 percent”.

13 (2) The second sentence of section
14 7518(g)(6)(A) of such Code, and the second sen-
15 tence of section 607(h)(6)(A) of the Merchant Ma-
16 rine Act, 1936, are each amended by striking “20
17 percent” and inserting “15 percent”.

18 (3) Section 311 of the Taxpayer Relief Act of
19 1997 is amended by striking subsection (e).

20 (4) Paragraph (7) of section 57(a) of such Code
21 (as amended by the Internal Revenue Service Re-
22 structuring and Reform Act of 1998) is amended by
23 striking the last sentence.

24 (5) Paragraphs (11) and (12) of section 1223,
25 and section 1235(a), of such Code (as amended by

1 the Internal Revenue Service Restructuring and Re-
2 form Act of 1998) are each amended by striking “18
3 months” each place it appears and inserting “1
4 year”.

5 (d) TRANSITIONAL RULES FOR TAXABLE YEARS
6 WHICH INCLUDE JUNE 24, 1998.—

7 (1) IN GENERAL.—Subsection (h) of section 1
8 of such Code (as amended by the Internal Revenue
9 Service Restructuring and Reform Act of 1998) is
10 amended by adding at the end the following new
11 paragraph:

12 “(14) SPECIAL RULES FOR TAXABLE YEARS
13 WHICH INCLUDE JUNE 24, 1998.—For purposes of
14 applying this subsection in the case of a taxable year
15 which includes June 24, 1998—

16 “(A) Gains or losses properly taken into
17 account for the period on or after such date
18 shall be disregarded in applying paragraph
19 (5)(A)(i), subclauses (I) and (II) of paragraph
20 (5)(A)(ii), paragraph (5)(B), paragraph (6),
21 and paragraph (7)(A).

22 “(B) The amount determined under sub-
23 paragraph (B) of paragraph (1) shall be the
24 sum of—

1 “(i) 7.5 percent of the amount which
2 would be determined under such subpara-
3 graph if the amount of gain taken into ac-
4 count under such subparagraph did not ex-
5 ceed the net capital gain taking into ac-
6 count only gain or loss properly taken into
7 account for the portion of the taxable year
8 on or after such date, plus

9 “(ii) 10 percent of the excess of the
10 amount determined under such subpara-
11 graph (determined without regard to this
12 paragraph) over the amount determined
13 under clause (i).

14 “(C) The amount determined under sub-
15 paragraph (C) of paragraph (1) shall be the
16 sum of—

17 “(i) 15 percent of the amount which
18 would be determined under such subpara-
19 graph if the adjusted net capital gain did
20 not exceed the net capital gain taking into
21 account only gain or loss properly taken
22 into account for the portion of the taxable
23 year on or after such date, plus

24 “(ii) 20 percent of the excess of the
25 amount determined under such subpara-

1 graph (determined without regard to this
2 paragraph) over the amount determined
3 under clause (i).

4 “(D) Rules similar to the rules of para-
5 graph (13)(C) shall apply.”

6 (2) ALTERNATIVE MINIMUM TAX.—Paragraph
7 (3) of section 55(b) of such Code (as amended by
8 the Internal Revenue Service Restructuring and Re-
9 form Act of 1998) is amended by adding at the end
10 the following new sentence: “For purposes of apply-
11 ing this paragraph for a taxable year which includes
12 June 24, 1998, rules similar to the rules of section
13 1(h)(14) shall apply.”

14 (e) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall apply to taxable years beginning on
18 or after June 24, 1998.

19 (2) TRANSITIONAL RULES FOR TAXABLE YEARS
20 WHICH INCLUDE JUNE 24, 1998.—The amendments
21 made by subsection (d) shall apply to taxable years
22 beginning before such date and ending on or after
23 June 24, 1998.

1 shall not exceed 20 percent of so much of the taxable in-
2 come of the taxpayer (determined without regard to this
3 section) which is attributable (determined in the manner
4 applicable under section 1301) to any eligible farming
5 business.

6 “(c) ELIGIBLE FARMING BUSINESS.—For purposes
7 of this section, the term ‘eligible farming business’ means
8 any farming business (as defined in section 263A(e)(4))
9 which is not a passive activity (within the meaning of sec-
10 tion 469(c)) of the taxpayer.

11 “(d) FARRM ACCOUNT.—For purposes of this sec-
12 tion—

13 “(1) IN GENERAL.—The term ‘FARRM Ac-
14 count’ means a trust created or organized in the
15 United States for the exclusive benefit of the tax-
16 payer, but only if the written governing instrument
17 creating the trust meets the following requirements:

18 “(A) No contribution will be accepted for
19 any taxable year in excess of the amount al-
20 lowed as a deduction under subsection (a) for
21 such year.

22 “(B) The trustee is a bank (as defined in
23 section 408(n)) or another person who dem-
24 onstrates to the satisfaction of the Secretary
25 that the manner in which such person will ad-

1 minister the trust will be consistent with the re-
2 quirements of this section.

3 “(C) The assets of the trust consist en-
4 tirely of cash or of obligations which have ade-
5 quate stated interest (as defined in section
6 1274(c)(2)) and which pay such interest not
7 less often than annually.

8 “(D) All income of the trust is distributed
9 currently to the grantor.

10 “(E) The assets of the trust will not be
11 commingled with other property except in a
12 common trust fund or common investment
13 fund.

14 “(2) ACCOUNT TAXED AS GRANTOR TRUST.—
15 The grantor of a FARRM Account shall be treated
16 for purposes of this title as the owner of such Ac-
17 count and shall be subject to tax thereon in accord-
18 ance with subpart E of part I of subchapter J of
19 this chapter (relating to grantors and others treated
20 as substantial owners).

21 “(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), there shall be includible in the gross in-
24 come of the taxpayer for any taxable year—

1 “(A) any amount distributed from a
2 FARRM Account of the taxpayer during such
3 taxable year, and

4 “(B) any deemed distribution under—

5 “(i) subsection (f)(1) (relating to de-
6 posits not distributed within 5 years),

7 “(ii) subsection (f)(2) (relating to ces-
8 sation in eligible farming business), and

9 “(iii) subparagraph (A) or (B) of sub-
10 section (f)(3) (relating to prohibited trans-
11 actions and pledging account as security).

12 “(2) EXCEPTIONS.—Paragraph (1)(A) shall not
13 apply to—

14 “(A) any distribution to the extent attrib-
15 utable to income of the Account, and

16 “(B) the distribution of any contribution
17 paid during a taxable year to a FARRM Ac-
18 count to the extent that such contribution ex-
19 ceeds the limitation applicable under subsection
20 (b) if requirements similar to the requirements
21 of section 408(d)(4) are met.

22 For purposes of subparagraph (A), distributions
23 shall be treated as first attributable to income and
24 then to other amounts.

1 “(3) EXCLUSION FROM SELF-EMPLOYMENT
2 TAX.—Amounts included in gross income under this
3 subsection shall not be included in determining net
4 earnings from self-employment under section 1402.

5 “(f) SPECIAL RULES.—

6 “(1) TAX ON DEPOSITS IN ACCOUNT WHICH
7 ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

8 “(A) IN GENERAL.—If, at the close of any
9 taxable year, there is a nonqualified balance in
10 any FARRM Account—

11 “(i) there shall be deemed distributed
12 from such Account during such taxable
13 year an amount equal to such balance, and

14 “(ii) the taxpayer’s tax imposed by
15 this chapter for such taxable year shall be
16 increased by 10 percent of such deemed
17 distribution.

18 The preceding sentence shall not apply if an
19 amount equal to such nonqualified balance is
20 distributed from such Account to the taxpayer
21 before the due date (including extensions) for
22 filing the return of tax imposed by this chapter
23 for such year (or, if earlier, the date the tax-
24 payer files such return for such year).

1 “(B) NONQUALIFIED BALANCE.—For pur-
2 poses of subparagraph (A), the term ‘non-
3 qualified balance’ means any balance in the Ac-
4 count on the last day of the taxable year which
5 is attributable to amounts deposited in such Ac-
6 count before the 4th preceding taxable year.

7 “(C) ORDERING RULE.—For purposes of
8 this paragraph, distributions from a FARRM
9 Account shall be treated as made from deposits
10 in the order in which such deposits were made,
11 beginning with the earliest deposits. For pur-
12 poses of the preceding sentence, income of such
13 an Account shall be treated as a deposit made
14 on the date such income is received by the Ac-
15 count.

16 “(2) CESSATION IN ELIGIBLE FARMING BUSI-
17 NESS.—At the close of the first disqualification pe-
18 riod after a period for which the taxpayer was en-
19 gaged in an eligible farming business, there shall be
20 deemed distributed from the FARRM Account (if
21 any) of the taxpayer an amount equal to the balance
22 in such Account at the close of such disqualification
23 period. For purposes of the preceding sentence, the
24 term ‘disqualification period’ means any period of 2

1 consecutive taxable years for which the taxpayer is
2 not engaged in an eligible farming business.

3 “(3) CERTAIN RULES TO APPLY.—Rules similar
4 to the following rules shall apply for purposes of this
5 section:

6 “(A) Section 408(e)(2) (relating to loss of
7 exemption of account where individual engages
8 in prohibited transaction).

9 “(B) Section 408(e)(4) (relating to effect
10 of pledging account as security).

11 “(C) Section 408(g) (relating to commu-
12 nity property laws).

13 “(D) Section 408(h) (relating to custodial
14 accounts).

15 “(4) TIME WHEN PAYMENTS DEEMED MADE.—
16 For purposes of this section, a taxpayer shall be
17 deemed to have made a payment to a FARRM Ac-
18 count on the last day of a taxable year if such pay-
19 ment is made on account of such taxable year and
20 is made within 3½ months after the close of such
21 taxable year.

22 “(5) INDIVIDUAL.—For purposes of this sec-
23 tion, the term ‘individual’ shall not include an estate
24 or trust.

1 “(g) REPORTS.—The trustee of a FARRM Account
2 shall make such reports regarding such Account to the
3 Secretary and to the person for whose benefit the Account
4 is maintained with respect to contributions, distributions,
5 and such other matters as the Secretary may require
6 under regulations. The reports required by this subsection
7 shall be filed at such time and in such manner and fur-
8 nished to such persons at such time and in such manner
9 as may be required by those regulations.”

10 (b) DEDUCTION ALLOWED IN COMPUTING AD-
11 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
12 such Code (defining adjusted gross income) is amended
13 by inserting after paragraph (17) the following new para-
14 graph:

15 “(18) CONTRIBUTIONS TO FARM AND RANCH
16 RISK MANAGEMENT ACCOUNTS.—The deduction al-
17 lowed by section 468C(a).”

18 (c) TAX ON EXCESS CONTRIBUTIONS.—

19 (1) Subsection (a) of section 4973 of such Code
20 (relating to tax on certain excess contributions) is
21 amended by striking “or” at the end of paragraph
22 (3), by redesignating paragraph (4) as paragraph
23 (5), and by inserting after paragraph (3) the follow-
24 ing new paragraph:

1 (1) Subsection (c) of section 4975 of such Code
2 (relating to prohibited transactions) is amended by
3 adding at the end the following new paragraph:

4 “(6) SPECIAL RULE FOR FARRM ACCOUNTS.—
5 A person for whose benefit a FARRM Account
6 (within the meaning of section 468C(d)) is estab-
7 lished shall be exempt from the tax imposed by this
8 section with respect to any transaction concerning
9 such Account (which would otherwise be taxable
10 under this section) if, with respect to such trans-
11 action, the account ceases to be a FARRM Account
12 by reason of the application of section 468C(f)(3)(A)
13 to such Account.”

14 (2) Paragraph (1) of section 4975(e) of such
15 Code is amended by redesignating subparagraphs
16 (E) and (F) as subparagraphs (F) and (G), respec-
17 tively, and by inserting after subparagraph (D) the
18 following new subparagraph:

19 “(E) a FARRM Account described in sec-
20 tion 468C(d),”.

21 (e) FAILURE TO PROVIDE REPORTS ON FARRM AC-
22 COUNTS.—Paragraph (2) of section 6693(a) of such Code
23 (relating to failure to provide reports on certain tax-fa-
24 vored accounts or annuities) is amended by redesignating
25 subparagraphs (C) and (D) as subparagraphs (D) and

1 (E), respectively, and by inserting after subparagraph (B)
2 the following new subparagraph:

3 “(C) section 468C(g) (relating to FARRM
4 Accounts).”

5 (f) CLERICAL AMENDMENT.—The table of sections
6 for subpart C of part II of subchapter E of chapter 1 of
7 such Code is amended by inserting after the item relating
8 to section 468B the following new item:

 “Sec. 468C. Farm and Ranch Risk Management Accounts.”

9 (g) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

12 **SEC. 202. PERMANENT EXTENSION OF INCOME AVERAGING**
13 **FOR FARMERS.**

14 Section 933(c) of the Taxpayer Relief Act of 1997
15 is amended by striking “, and before January 1, 2001”.

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