

103^D CONGRESS
1ST SESSION

S. 1013

To amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote, and to make technical changes to the alternative valuation rules.

IN THE SENATE OF THE UNITED STATES

MAY 24 (legislative day, APRIL 19), 1993

Mr. CHAFEE (for himself and Mr. THURMOND) 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 provide an election to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote, and to make technical changes to the alternative valuation rules.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rural Land Conservation Act of 1993”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
2 wise provided, whenever in this Act an amendment or re-
3 peal is expressed in terms of an amendment to, or repeal
4 of, a section or provision, the reference shall be considered
5 to be made to a section or other provision of the Internal
6 Revenue Code of 1986.

7 **SEC. 2. ESTATE TAX TREATMENT OF LAND SUBJECT TO A**
8 **QUALIFIED CONSERVATION EASEMENT.**

9 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT
10 TO A QUALIFIED CONSERVATION EASEMENT.—Section
11 2031 of the Internal Revenue Code of 1986 (relating to
12 the definition of gross estate) is amended by redesignating
13 subsection (c) as subsection (d) and by inserting after
14 subsection (b) the following new subsection:

15 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-
16 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

17 “(1) IN GENERAL.—If the executor makes the
18 election described in paragraph (4) of this sub-
19 section, then, except as otherwise provided in this
20 subsection, there shall be excluded from the gross
21 estate the value of land subject to a qualified con-
22 servation easement (reduced by the amount of any
23 indebtedness to which such land is subject).

1 “(2) LAND SUBJECT TO A QUALIFIED CON-
2 SERVATION EASEMENT.—For purposes of this sub-
3 section—

4 “(A) IN GENERAL.—The term ‘land sub-
5 ject to a qualified conservation easement’ means
6 land which—

7 “(i) is located in or within 50 miles of
8 an area which, on the date of the dece-
9 dent’s death, is—

10 “(I) a metropolitan area (as de-
11 fined by the Office of Management
12 and Budget), or

13 “(II) a national park, unless it is
14 determined by the Secretary that land
15 in or within 50 miles of the park is
16 not under significant development
17 pressure,

18 “(ii) which was owned by the decedent
19 or a member of the decedent’s family at all
20 times during the 3-year period ending on
21 the date of the decedent’s death, and

22 “(iii) with respect to which a qualified
23 conservation contribution (as defined in
24 section 170(h)(1)) of a qualified real prop-
25 erty interest described in section

1 170(h)(2)(C) is (or has been made) by the
2 decedent or a member of the decedent's
3 family.

4 “(B) CERTAIN CONTRIBUTIONS NOT IN-
5 CLUDED.—For purposes of subparagraph (A),
6 section 170(h)(4)(A) shall be applied without
7 regard to clause (iv) thereof in determining
8 whether there is a qualified conservation con-
9 tribution.

10 “(C) FAMILY MEMBER.—For purposes of
11 subparagraph (A), the term ‘member of the de-
12 cedent’s family’ has the same meaning given
13 such term by section 2032A(e)(2).

14 “(3) TAX ON DISPOSITION IF LAND SUBJECT
15 TO RETAINED DEVELOPMENT RIGHT.—

16 “(A) IN GENERAL.—If the donor retained
17 any development right when the qualified con-
18 servation contribution described in paragraph
19 (2)(A)(iii) was made, there is hereby imposed
20 an additional estate tax on the first person dis-
21 posing (other than by gift or devise) of the
22 property after the death of the decedent.

23 “(B) AMOUNT OF ADDITIONAL TAX.—

24 “(i) IN GENERAL.—The amount of
25 the additional tax imposed by subpara-

1 graph (A) shall be the amount equal to the
2 increase in estate tax liability which would
3 have occurred if the value of the develop-
4 ment right had been included in the gross
5 estate of the decedent (as determined
6 under paragraph (4)).

7 “(ii) PARTIAL DISPOSITION.—If only
8 a portion of the property is disposed of,
9 the person disposing of the property shall
10 pay a pro rata portion of the tax imposed
11 by subparagraph (A) (and such tax shall
12 be reduced with respect to subsequent dis-
13 positions by the taxes imposed with respect
14 to prior dispositions).

15 “(iii) TIME FOR PAYMENT OF TAX.—
16 Any tax imposed under subparagraph (A)
17 shall be due and payable by the person dis-
18 posing of the property no later than April
19 15 of the calendar year following the cal-
20 endar year in which the disposition occurs.

21 “(C) DEVELOPMENT RIGHT.—For pur-
22 poses of this paragraph, the term ‘development
23 right’ means the right—

24 “(i) to establish or use any structure
25 (and the land immediately surrounding it)

1 for sale, rent, or other commercial purpose
2 which is not subordinate to and directly
3 supportive of the conservation purpose of
4 the qualified conservation contribution de-
5 scribed in paragraph (2)(A)(iii), or

6 “(ii) to conduct the activity of farm-
7 ing, forestry, ranching, horticulture, viti-
8 culture, or recreation, whether or not for
9 profit, on the land.

10 “(4) ELECTION WITH RESPECT TO LAND SUB-
11 JECT TO QUALIFIED CONSERVATION EASEMENT.—

12 The election under this subsection shall be made on
13 the return of the tax imposed by section 2001 and
14 shall be made in such manner as the Secretary shall
15 by regulations prescribe. Such an election, once
16 made, shall be irrevocable.

17 “(5) CALCULATION AND NOTICE OF POTENTIAL
18 ESTATE TAX DUE.—

19 “(A) IN GENERAL.—An executor making
20 the election described in paragraph (4) of this
21 subsection shall compute the amount of the ad-
22 ditional estate tax described in paragraph
23 (3)(B).

24 “(B) NOTICE.—The executor shall file a
25 ‘Notice of Potential Estate Tax Due’ in the

1 place or places where deeds are put to public
2 record for the locality in which the land subject
3 to the qualified conservation easement is lo-
4 cated.

5 “(C) FORM AND MANNER.—The computa-
6 tion and filing required by this paragraph shall
7 be done in such manner and on such forms as
8 the Secretary may prescribe.”.

9 (b) CARRYOVER BASIS.—Section 1014(a) of the In-
10 ternal Revenue Code of 1986 (relating to basis of property
11 acquired from a decedent) is amended by striking the pe-
12 riod at the end of paragraph (3) and inserting “, or” at
13 the end thereof, and by inserting at the end the following
14 new paragraph:

15 “(4) in the case of property excluded from the
16 gross estate of the decedent under section 2031(c),
17 the basis of the property in the hands of the dece-
18 dent.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to estates of decedents dying after
21 December 31, 1992, which includes land subject to quali-
22 fied conservation easements granted after December 31,
23 1992.

1 **SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CON-**
2 **SERVATION EASEMENT.**

3 (a) GIFT TAX WITH RESPECT TO LAND SUBJECT
4 TO A QUALIFIED CONSERVATION EASEMENT.—Section
5 2503 of the Internal Revenue Code of 1986 (relating to
6 taxable gifts) is amended by adding at the end the follow-
7 ing new subsection:

8 “(h) GIFT TAX WITH RESPECT TO LAND SUBJECT
9 TO A QUALIFIED CONSERVATION EASEMENT.—

10 “(1) IN GENERAL.—At the election of the
11 donor, the transfer by gift of land subject to a quali-
12 fied conservation easement shall not be treated as a
13 transfer of property by gift for purposes of this
14 chapter. For purposes of this subsection, the term
15 ‘land subject to a qualified conservation easement’
16 shall have the same meaning as in section 2031(c),
17 except that any reference to ‘decedent’ or ‘the date
18 of the decedent’s death’ shall refer to the donor and
19 the date of the transfer by the donor, respectively.”

20 “(2) LAND SUBJECT TO RETAINED DEVELOP-
21 MENT RIGHTS.—

22 “(A) IN GENERAL.—If the donor retains
23 any development right when the gift is made,
24 then there is hereby imposed an additional gift
25 tax on the first person disposing (other than by

1 gift or device) of the property after the date of
2 the gift to which this subsection applies.

3 “(B) AMOUNT OF TAX.—The amount of
4 the tax under subparagraph (A) shall be equal
5 to the increase in gift tax liability which would
6 have occurred if the value of the development
7 right had been treated as a gift.

8 “(C) DEFINITION AND RULES.—For pur-
9 poses of this paragraph—

10 “(i) DEVELOPMENT RIGHT.—The
11 term ‘development right’ has the meaning
12 given such term by section 2031(c)(3)(C).

13 “(ii) OTHER RULES.—The rules of
14 clauses (ii) and (iii) of paragraph (3)(B)
15 and paragraph (5) of section 2031(c) shall
16 apply, except that ‘donor’ shall be sub-
17 stituted for ‘executor’ each place it ap-
18 pears.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to gifts of land subject to qualified
21 conservation easements granted after December 31, 1992.

1 **SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION WHERE**
2 **SURFACE AND MINERAL RIGHTS ARE SEPA-**
3 **RATED.**

4 (a) **IN GENERAL.**—Section 170(h)(5)(B)(ii) of the
5 Internal Revenue Code of 1986 (relating to special rule)
6 is amended to read as follows:

7 “(ii) **SPECIAL RULE.**—With respect to
8 any contribution of property in which the
9 ownership of the surface estate and min-
10 eral interests has been and remains sepa-
11 rated, subparagraph (A) shall be treated
12 as met if the probability of surface mining
13 occurring on such property is so remote as
14 to be negligible.”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 this section shall apply with respect to contributions made
17 after December 31, 1992, in taxable years ending after
18 such date.

19 **SEC. 5. QUALIFIED CONSERVATION CONTRIBUTION IS NOT**
20 **A DISPOSITION.**

21 (a) **QUALIFIED CONSERVATION CONTRIBUTION IS**
22 **NOT A DISPOSITION.**—Subsection (c) of section 2032A of
23 the Internal Revenue Code of 1986 (relating to alternative
24 valuation method) is amended by adding at the end there-
25 of the following new paragraph:

1 “(8) QUALIFIED CONSERVATION CONTRIBUTION
2 IS NOT A DISPOSITION.—A qualified conservation
3 contribution (as defined in section 170(h)) by gift or
4 otherwise shall not be treated as a disposition for
5 purposes of this subsection. If qualified real property
6 is land subject to a qualified conservation easement
7 (as defined in section 2031(c)), this subsection shall
8 not apply to such property.”.

9 (b) LAND SUBJECT TO A QUALIFIED CONSERVATION
10 EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of
11 section 2032A of the Internal Revenue Code of 1986 (re-
12 lating to alternative valuation method) is amended by add-
13 ing at the end the following paragraph:

14 “(6) QUALIFIED CONSERVATION EASEMENT.—
15 Property shall not fail to be treated as qualified real
16 property solely because it is land subject to a quali-
17 fied conservation easement (as defined in section
18 2031(c)).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to estates of decedents dying after
21 December 31, 1992, which include land subject to quali-
22 fied conservation easements granted after December 31,
23 1992.

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