I

109TH CONGRESS
2D SESSION

H. R. 5932

To amend the Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts in lieu of obtaining federally subsidized crop insurance or noninsured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2006

Mr. EVERETT (for himself, Mr. BONNER, and Mr. ROGERS of Alabama) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend the Internal Revenue Code of 1986 to authorize agricultural producers to establish and contribute to tax-exempt farm risk management accounts in lieu of obtaining federally subsidized crop insurance or noninsured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Risk Management Act of 2006".

SEC. 2. FARM RISK MANAGEMENT ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

"SEC. 224. FARM RISK MANAGEMENT ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of a qualified farmer, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by or on behalf of such individual to a farm risk management account of such individual.

"(b) MINIMUM CONTRIBUTION REQUIREMENT.—A deduction shall not be allowed under subsection (a) for the taxable year with respect to an individual if, during such taxable year, the aggregate amount contributed by such individual to farm risk management accounts of the individual is not equal to at least 2 percent of the individual's 3-year average of income derived from farming or ranching.

"(c) ACCOUNT BALANCE LIMITATION.—A deduction shall not be allowed under subsection (a) with respect to any portion of a contribution to a farm risk management account of an individual if such contribution would result in the sum of the balances in all such accounts of such individual to exceed 150 percent of the individual's 3-year average of income derived from farming or ranching.

"(d) QUALIFIED FARMER.—For purposes of this section, the term 'qualified farmer' means, with respect to any taxable year, any individual who, during such year—

"(1) was engaged in the trade or business of farming or ranching,

"(2) has in effect an agreement with the Secretary of Agriculture to accept contributions under this section in lieu of—

"(A) receiving, after the transition period of the individual referred to in subsection (g)(2), any Federal subsidy toward the premium of any crop insurance policy, or

"(B) obtaining noninsured crop assistance under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), and

"(3) does not have any federally subsidized crop insurance policy after the transition period of the individual referred to in subsection (g)(2).

"(e) FARM RISK MANAGEMENT ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'farm risk management account' means a trust created or organized in the United States as a farm risk management account exclusively for the purpose of making qualified distributions, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) The assets of the trust will be invested in securities issued by the United States Treasury or in such other low-risk interest-bearing securities as are approved by the Secretary.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any amount paid from a farm risk management account to the account beneficiary to the extent that such amount when added to all other amounts paid from such accounts to such beneficiary during the taxable year (other than rollover contributions) does not exceed the excess (if any) of—

"(A) 80 percent of such beneficiary's 3-year average of income derived from farming or ranching, over

"(B) such beneficiary's gross income derived from farming or ranching for the taxable year.

"(3) 3-YEAR AVERAGE OF INCOME DERIVED FROM FARMING OR RANCHING.—The term '3-year average of income derived from farming or ranching' means, with respect to any individual—

"(A) the sum of the individual's gross income derived from farming or ranching for the taxable year and the 2 preceding taxable years, divided by

"(B) the number of taxable years taken into account under clause (i) during which such individual was engaged in the trade or business of farming or ranching.

"(4) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual on whose behalf the farm risk management account was established.

"(5) SPECIAL RULES.—

"(A) FEDERAL CONTRIBUTIONS.—For purposes of this title, any amount paid to a farm risk management account by the Secretary of Agriculture under subsection (g) shall be included in the account beneficiary's gross income in the taxable year for which the amount was contributed, whether or not a deduction for such payment is allowable under this section to the beneficiary.

"(B) OTHER RULES.—Rules similar to the following rules shall apply for purposes of this section:

"(i) Section 219(d)(2) (relating to no deduction for rollovers).

"(ii) Section 219(f)(3) (relating to time when contributions deemed made).

"(iii) Section 408(g) (relating to community property laws).

"(iv) Section 408(h) (relating to custodial accounts).

"(f) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A farm risk management account is exempt from taxation under this subtitle unless such account has ceased to be a farm risk management account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) TERMINATION OF ACCOUNTS.—If the account beneficiary ceases to engage in the trade or business of farming or ranching, such trade or business becomes covered under any crop insurance policy for which a premium subsidy is paid by the Secretary of Agriculture, or the account beneficiary seeks noninsured crop assistance under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333)—

"(A) all farm risk management accounts of such individual shall cease to be such accounts, and

"(B) the balance of all such accounts shall be treated as—

"(i) distributed to such individual, and

"(ii) not paid in a qualified distribution.

"(g) FEDERAL CONTRIBUTION TO ACCOUNTS.—

"(1) CONTRIBUTIONS REQUIRED.—Using amounts in the insurance fund established under section 516(c) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)), the Secretary of Agriculture shall match the contributions made for a taxable year to farm risk management accounts of an individual who has entered into the agreement with the Secretary required by subsection (d)(2) in an aggregate amount equal to 2 percent of the individual's 3-year average of income derived from farming or ranching.

"(2) TRANSITIONAL PERIOD.—Notwithstanding paragraph (1), during the first 3 taxable years for which the Secretary of Agriculture makes contributions under such paragraph to farm risk management accounts of an individual, the amount contributed by the Secretary may not exceed—

"(A) for the first taxable year, 25 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year,

"(B) for the second taxable year, 50 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year, and

"(C) for the third taxable year, 75 percent of the amount the Secretary would otherwise contribute under paragraph (1) for that taxable year.

"(3) CROP INSURANCE COVERAGE.—During the transition period referred to in paragraph (2) for an individual receiving contributions under this subsection, the individual shall procure, as a condition of receiving the contributions, at least catastrophic risk protection provided under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). During this period, the individual would be covered with any claim at the same level of coverage purchased, but subject to the condition that any claim would first use amounts in the farm risk management accounts of an individual before conventional crop insurance would make any payment, if necessary.

"(h) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed out of a farm risk management account (other than a rollover contribution described in paragraph (4)) shall be included in gross income.

"(2) ADDITIONAL TAX ON NON-QUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account beneficiary for any taxable year in which there is a payment or distribution from a farm risk management account of such beneficiary which is not a qualified distribution shall be increased by 15 percent of the amount of such payment or distribution which is not a qualified distribution.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

"(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to a farm risk management account of an individual, paragraph (2) shall not apply to distributions from the farm risk management accounts of such individual (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such individual for such year) if—

"(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.

"(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term 'excess contribution' means any contribution (other than a rollover contribution) which is not deductible under this section.

"(4) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—For purposes of this section, any amount paid or distributed from a farm risk management account to the account beneficiary shall be treated as a qualified distribution to the extent the amount received is paid into a farm risk management account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a farm risk management account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a farm risk management account which was not included in the individual's gross income because of the application of this paragraph.

"(5) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a farm risk management account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a farm risk management account with respect to which such spouse is the account beneficiary.

"(6) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—If the account beneficiary's surviving spouse acquires such beneficiary's interest in a farm risk management account by reason of being the designated beneficiary of such account at the death of the account beneficiary, such farm risk management account shall be treated as if the spouse were the account beneficiary.

"(B) OTHER CASES.—

"(i) IN GENERAL.—If, by reason of the death of the account beneficiary, any person acquires the account beneficiary's interest in a farm risk management account in a case to which subparagraph (A) does not apply—

"(I) such account shall cease to be a farm risk management account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be included if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for the last taxable year of such beneficiary.

"(ii) DEDUCTION FOR ESTATE TAXES.—An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

"(i) REPORTS.—The Secretary may require the trustee of a farm risk management account to make such reports regarding such account to the Secretary and to the account beneficiary with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (20) the following new paragraph:

"(21) FARM RISK MANAGEMENT ACCOUNTS.—The deduction allowed by section 224.".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended—

(1) by striking "or" at the end of subsection (a)(4), by inserting "or" at the end of subsection (a)(5), and by inserting after subsection (a)(5) the following new paragraph:

"(6) a farm risk management account (within the meaning of section 224(e)),", and

(2) by adding at the end the following new subsection:

"(h) EXCESS CONTRIBUTIONS TO FARM RISK MANAGEMENT ACCOUNTS.—For purposes of this section, in the case of farm risk management accounts (within the meaning of section 224(e)), the term 'excess contribution' means the sum of—

"(1) the aggregate amount contributed for the taxable year to the accounts (other than rollover contributions described in section 224(h)(4)) which is not allowable as a deduction under section 224 for such year, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the accounts with respect to which additional tax was imposed under section 224(h)(2), and

"(B) the excess (if any) of—

"(i) the maximum amount allowable as a deduction under section 224(c) for the taxable year, over

"(ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the farm risk management account in a distribution to which section 224(h)(3) applies shall be treated as an amount not contributed.''.

(d) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975(c) of such Code (relating to tax on prohibited transactions) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR FARM RISK MANAGEMENT ACCOUNTS.—An individual for whose benefit a farm risk management account (within the meaning of section 224(e)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a farm risk management account by reason of the application of section 224(f)(2) to such account.''.

(2) Section 4975(e)(1) of such Code is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) a farm risk management account described in section 224(e),".

(e) FAILURE TO PROVIDE REPORTS ON FARM RISK MANAGEMENT ACCOUNTS.—Section 6693(a)(2) of such Code (relating to reports) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) section 224(i) (relating to farm risk management accounts),".

(f) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 224. Farm risk management accounts.
"Sec. 225. Cross reference.".

(g) CONFORMING AMENDMENTS TO FEDERAL CROP INSURANCE ACT.—

(1) PAYMENT OF PORTION OF PREMIUM BY FEDERAL CROP INSURANCE CORPORATION.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by adding at the end the following new paragraph:

"(6) TRANSITION TO FARM RISK MANAGEMENT ACCOUNTS.—If a producer enters into an agreement under section 224 of the Internal Revenue Code of

1986 to forgo any Federal subsidy toward the premium of any crop insurance policy in exchange for contributions by the Secretary to a farm risk management account of the producer, then, in connection with the purchase of any crop insurance policy during the first 3 taxable years for which the Secretary makes contributions under subsection (g) of such section to a farm risk management account of the producer, the amount of the premium to be paid by the Corporation under this subsection shall be equal to—

"(A) for the first taxable year, 75 percent of the amount of the premium that would otherwise be paid by the Corporation under this subsection;

"(B) for the second taxable year, 50 percent of the amount of the premium that would otherwise be paid by the Corporation under this subsection; and

"(C) for the third taxable year, 25 percent of the amount of the premium that would otherwise be paid by the Corporation under this subsection.".

(2) FUNDING SOURCE.—Section 516(b) of such Act (7 U.S.C. 1516(b)) is amended by adding at the end the following new paragraph:

"(3) CONTRIBUTIONS TO FARM RISK MANAGEMENT ACCOUNTS.—The Secretary shall use the insurance fund established under subsection (c) to make required contributions to farm risk management accounts established under section 224 of the Internal Revenue Code of 1986.".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

○