

AMERICAN WORKING FARMS ACT

Legislative Proposal - Short Version

Proposed by Taner Demirci Lopez

PURPOSE

The American Working Farms Act is designed to help genuine American farms remain economically viable, protect family farms across generations, encourage lawful agricultural employment, and reduce federal tax pressures that can make it more difficult to continue farming.

The federal government should not pay people to farm. It should stop making it unnecessarily expensive to keep land in agriculture and people employed in agricultural production.

This proposal uses targeted federal tax relief rather than creating new grant programs, federal land-use mandates, or recurring inspection programs.

1. PROTECT WORKING FARMS FROM DEVELOPMENT-VALUE ESTATE TAX PRESSURE

Federal tax law already recognizes that qualifying farmland should sometimes be valued according to its agricultural use rather than its potential development value. The Act would remove the aggregate federal dollar limitation on the special-use valuation reduction for bona fide qualifying agricultural property. Existing safeguards concerning qualified use, ownership, material participation, qualified heirs, elections, and continued agricultural use would remain in place.

2. PROTECT FAMILY FARM SUCCESSION

Qualifying heirs who continue genuine agricultural use would receive stronger protection. Legitimate transfers or buyouts among qualifying family heirs would not, by themselves, terminate agricultural-use protection when the farm remains in qualifying agricultural use. No family member would be forced to farm or prevented from selling or developing privately owned property.

3. RECOGNIZE REAL FARMING PRACTICES

Bona fide fallow periods for crop rotation, soil restoration, drought response, conservation, pest or disease management, weather recovery, pasture recovery, and comparable agricultural purposes would not automatically be treated as abandonment of agricultural use. Land merely held idle principally in anticipation of development would not receive the same protection.

4. MONTHLY RECAPTURE WITHOUT AN UNFAIR CUTOFF

The Act replaces the all-or-nothing recapture cliff with a 120-month vesting rule. Each completed month of genuine qualified agricultural use earns one one-hundred-twentieth of the estate-tax benefit. If qualified use ends early, only the unearned portion may be recaptured, plus reasonable interest on that unearned amount. No interest applies to the portion already earned. Partial conversion produces proportionate recapture, and an owner remains free to sell, convert, or stop farming.

- After 24 qualifying months, 24/120, or 20 percent, is vested and no longer subject to recapture; 80 percent remains subject to recapture.
- After 60 qualifying months, 60/120, or 50 percent, is vested; 50 percent remains subject to recapture.
- After 108 qualifying months, 108/120, or 90 percent, is vested; only 10 percent remains subject to recapture.
- After 120 qualifying months, the benefit is fully vested and no recapture remains.

5. FAIR SUCCESSION WHEN A QUALIFIED HEIR DIES

Death of a qualified heir would not itself trigger recapture. A successor choosing continued treatment would first complete the deceased heir's remaining months. The successor could then qualify for an additional, nonoverlapping period equal to the months completed by the deceased heir, so the successor's total period is no more than 120 months. Months cannot be counted twice, and any new benefit requires the successor's inheritance and property to satisfy all applicable tax-law requirements. The Act creates no new citizenship requirement.

- If the deceased heir farmed for 24 months, the successor completes 96 inherited months and may then qualify for 24 additional months. Any new benefit is limited to 20 percent of the otherwise allowable amount.
- If the deceased heir farmed for 48 months, the successor completes 72 inherited months and may then qualify for 48 additional months. Any new benefit is limited to 40 percent.
- If the deceased heir farmed for 90 months, the successor completes 30 inherited months and may then qualify for 90 additional months. Any new benefit is limited to 75 percent.

6. AMERICAN AGRICULTURAL EMPLOYMENT DEDUCTION

The Act would create an enhanced federal income-tax deduction for qualifying compensation paid by genuine agricultural operations. Qualifying workers must be legally authorized to work in the United States, perform bona fide agricultural services, and be properly reported. Existing employees and new employees would be treated under the same rules.

7. SMOOTH EMPLOYMENT RELIEF BASED ON FARM INCOME

The strongest employment incentive would go to low-sales working farms, but the benefit would decline smoothly as Gross Cash Farm Income (GCFI) rises. A qualifying operation with GCFI of up to \$150,000 would receive a total deduction equal to 175 percent of qualifying compensation. Above \$150,000, the percentage would decline continuously - dollar by dollar - until reaching 105 percent at \$1,000,000 of GCFI. At \$1,000,000 and above, the 105 percent rate would apply. Illustrative points on the continuous phase-down are approximately: \$200,000 GCFI - 170.88%; \$300,000 - 162.65%; \$500,000 - 146.18%; \$750,000 - 125.59%; and \$1,000,000 - 105.00%. These examples illustrate the formula; the rate would not jump at those amounts.

A farm earning one additional dollar would therefore experience only the tiny proportional adjustment produced by the formula - not a sudden loss of a major tax benefit.

8. NO GROWTH CLIFFS

The revised structure replaces the prior overlapping GCFI phase-down and payroll-rate brackets with one continuous GCFI-based rate. This makes the incentive easier to understand and reduces incentives to manipulate income merely to remain below an arbitrary threshold. The \$150,000 and \$1,000,000 reference thresholds would be indexed for inflation, subject to technical drafting and revenue scoring.

9. PROTECT BEGINNING FARMERS

A genuine beginning agricultural operation would not face an arbitrary waiting period. Once it constitutes a bona fide farming trade or business and otherwise satisfies the Act, its qualifying employment may receive the deduction.

10. PREVENT TAX SHELTERS AND ARTIFICIAL FARM SPLITTING

Related entities under common ownership or control that substantially constitute one agricultural enterprise would be aggregated for GCFI and applicable-rate purposes. Artificial divisions, reorganizations, or entity structures principally designed to multiply benefits could be disregarded, while genuinely independent farms would remain separate.

11. PROTECT LEGITIMATE FAMILY FARM EMPLOYMENT

Family employment would qualify when real services are performed, compensation is reasonable, payments are properly reported, and ordinary records substantiate the work. Artificial compensation for nonexistent or nominal services would not qualify.

12. LOW BUREAUCRACY

Claiming the deduction would not, by itself, create a new recurring federal inspection, certification, special audit, or daily work-diary requirement. Existing payroll, employment, accounting, tax, and agricultural records would generally substantiate eligibility, while existing enforcement authority would remain intact.

EXPECTED BENEFITS

- strengthen the economic viability of genuine working farms;
- protect qualifying family farms across generations;
- reduce federal tax pressure associated with lawful agricultural employment;
- provide the strongest relative employment incentive to lower-income working farms without penalizing growth;
- replace the estate-tax recapture cliff with monthly, proportional vesting;
- preserve continued family-farm succession when a qualified heir dies without allowing duplicate benefits;
- reduce incentives created by sharp tax cliffs;
- support beginning farms and legitimate family employment;
- reduce pressure to convert productive farmland solely for economic reasons;
- support domestic agricultural production while preserving private-property rights; and
- prevent agricultural tax relief from becoming an artificial tax shelter.

GUIDING PRINCIPLE

Protect the land. Protect the family farm. Reward lawful agricultural employment. Reduce the tax burden. Prevent the benefits from becoming tax shelters.

Discussion Draft - This document is a policy proposal and has not been introduced in Congress or reviewed by the Office of Legislative Counsel or the Joint Committee on Taxation.