No Farms
No Food®

American Farmland Trust

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Revising the United State Tax Code to Conserve and Protect Farmland

For farmers living near or in the path of development, their farmland is both an asset and a liability. They are uniquely situated to produce food for a growing urban population, but at the same time their financial and tax burden is greater than other farmers because of development pressure on their land. The ability to manage these burdens may drive their families and future generations off the land forever, or saddle them with debts they can hardly pay. And it's not because they are rich.

Some family farmers have mortgaged the land to pay the taxes and then struggled to stay in business, while others clear-cut their timber to do so, even though they did not want to.

Across the nation, an estimated $26 trillion in farmland assets are in the process of changing hands. And, to further complicate this massive shift, the baby boomers inheriting this property are looking toward retirement.

American Farmland Trust is uniquely positioned to help protect farmland through tax code reform by advocating common sense policy to alleviate unintended consequences of tax policy.

Threat to Agricultural Land Base

Economic research from the U.S. Department of Agriculture (USDA) shows that nationally the number of family farmers 65 or older has risen sharply since 1989. Statistics also show that as small farmers near retirement, they're not transferring farms to younger operators. Of the more than 2 million farms in the United States, 99 percent are family owned. Of these, 30 percent will pass to a second generation, but less than 10 percent will pass to a third.

According to USDA, land in farms in the U.S. declined by over 25 million acres from 2001 to 2011, much of that decline occurring at the urban fringe where land values are highest. At the same time, due to increased pressure on land for development and high commodity prices, the average value per acre of farm real estate has increased in parts of the U.S. by over 30 percent annually. And farm real estate accounts for 85 percent of the total value of U.S. farm assets.

Farmers are often land rich and cash poor, making estate planning, securing farmland conservation easements and land transfers exceedingly difficult.

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American Farmland Trust's Priorities for Tax Reform

As Congress considers tax reform, AFT is seeking to create new incentives for farmland preservation and fair tax treatment. AFT believes estate tax reform that is targeted at and focused on keeping high-value farms and ranches intact makes a connection between individual tax relief and a broader societal benefit, enabling our nation to meet its need for food and fiber now and into the future. AFT's proposal offers a variety of solutions that could be adopted:

- Eliminate the requirement that to qualify for agricultural valuation the real and personal property must comprise at least 50 percent of the value of the decedent's estate.
- Expand the period that land must stay in agriculture from 10 to 30 years, otherwise full value must be paid, ensuring the land stays in agriculture. (This would increase the protection against conversion of property to non-farm use.)
- Allow property to be freely transferred without triggering recapture as long as it is maintained in its qualified use, and eliminate recapture on conservation easement sales.
- Eliminate the cap on the amount by which an estate's value may be reduced, currently $1.07 million.
- Deferral of estate taxes on land remaining in agricultural production.

These benefits would apply for farms that agree to keep land in agriculture for 30 years or more. In this way any tax relief would be off-set by the benefits we all receive from working farm and ranch lands.

Permanent Extension of the Enhanced Conservation Easement Deduction

First established in 2006, the enhanced conservation easement deduction incentive increases the pace of farmland conservation by:

- Raising the maximum deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income (AGI) in any year to 50%;
- Allowing qualified farmers and ranchers to deduct up to 100% of their AGI; and
- Increasing the number of years over which a donor can take deductions from 6 years to 16 years.

The enhanced deduction was expired on December 30, 2013 and legislation has been introduced in both the House of Representatives (H.R. 2807) and the Senate (S. 526) which would permanently extend this important tax incentive.

Exemption of Conservation Easement Value from Section 2032A

Agricultural conservation easements are substantial conveyances of real estate interests and should be undertaken with careful thought and planning. One of the central questions for those considering the sale of a conservation easement is in regard to estate planning – Will the value of an easement be counted for estate tax purposes? The value of a conservation easement is currently treated the same as any real property and subject to estate tax. This presents a significant disincentive for landowners seeking to secure a conservation easement on the farm or forestland.

Amending the tax code to exclude the value of farmland conservation easements from estate taxes could result in greater landowner interest in easements and more protected farmland.

Conclusion

We continue to lose U.S. farmland at a rate of more than an acre every minute. Restoring predictability for farmers in the U.S. tax code can help avoid this massive conversion of farmland. Protecting valuable working farms not only helps secure our nation's food security, but it also helps provide countless environmental and wildlife benefits, and maintains rural places for generations to come.