

104TH CONGRESS
1ST SESSION

S. 692

To amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 5), 1995

Mr. GREGG 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 preserve family-held forest lands, and for other purposes.

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 “Family Forestland Preservation Tax Act of 1995”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **TITLE I—ESTATE TAX**
4 **PROVISIONS**

5 **SEC. 101. ESTATE TAX TREATMENT OF QUALIFIED CON-**
6 **SERVATION EASEMENT.**

7 (a) IN GENERAL.—Section 2031 (relating to the defi-
8 nition of gross estate) is amended by redesignating sub-
9 section (c) as subsection (d) and by inserting after sub-
10 section (b) the following new subsection:

11 “(c) EXCLUSION OF CONSERVATION EASEMENT.—

12 “(1) IN GENERAL.—If an executor elects the
13 application of this subsection, with respect to any
14 real property included in the gross estate, there shall
15 be excluded from the gross estate, the value of a
16 qualified conservation contribution (as defined in
17 section 170(h)(1)) of a qualified real property inter-
18 est described in section 170(h)(2)(C) in such real
19 property made by the decedent or a member of the
20 decedent’s family.

21 “(2) CERTAIN CONTRIBUTIONS NOT IN-
22 CLUDED.—For purposes of paragraph (1), section
23 170(h)(4)(A) shall be applied without regard to
24 clause (iv) thereof in determining whether there is a
25 qualified conservation contribution.

1 “(3) FAMILY MEMBER.—For purposes of para-
2 graph (1), the term ‘member of the decedent’s fam-
3 ily’ has the same meaning given such term by sec-
4 tion 2032A(e)(2).

5 “(4) ELECTION.—An election under paragraph
6 (1) shall be made on the return of tax imposed by
7 section 2001. Such an election, once made, shall be
8 irrevocable.”

9 (b) CARRYOVER BASIS.—Section 1014(a) (relating to
10 basis of property acquired from a decedent) is amended
11 by striking the period at the end of paragraph (3) and
12 inserting “, or”, and by inserting at the end the following
13 new paragraph:

14 “(4) in the case of property subject to a quali-
15 fied conservation easement excluded from the gross
16 estate of the decedent under section 2031(c), the
17 basis of the property in the hands of the decedent.”

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to estates of decedents dying after
20 December 31, 1995, which include land subject to quali-
21 fied conservation easements granted after December 31,
22 1995.

1 **SEC. 102. SPECIAL ESTATE TAX VALUATION OF FOREST**
 2 **LANDS.**

3 (a) IN GENERAL.—Part III of subchapter A of chap-
 4 ter 11 (relating to gross estate) is amended by inserting
 5 after section 2032A the following new section:

6 **“SEC. 2032B. VALUATION OF CERTAIN FORESTLAND.**

7 “(a) VALUE BASED ON USE OF PROPERTY AS
 8 FORESTLAND.—If—

9 “(1) the decedent was (at the time of his death)
 10 a citizen or resident of the United States, and

11 “(2) the executor elects the application of this
 12 section and files the agreement referred to in sub-
 13 section (d)(2),

14 then, for purposes of this chapter, the value of qualified
 15 forestland shall be its value for use as a timber operation,
 16 under subsection (b), as qualified forestland.

17 “(b) QUALIFIED FORESTLAND.—

18 “(1) IN GENERAL.—For purposes of this sec-
 19 tion, the term ‘qualified forestland’ means real prop-
 20 erty located in the United States which was acquired
 21 from or passed from the decedent to a qualified devi-
 22 see or qualified heir and which, on the date of the
 23 decedent’s death, was being used for a qualified for-
 24 est use by the decedent or a member of the dece-
 25 dent’s family, but only if—

1 “(A) 25 percent or more of the adjusted
2 value of the gross estate consists of the ad-
3 justed value of real property which meets the
4 requirements of this paragraph,

5 “(B) during the 8-year period ending on
6 the date of the decedent’s death there have
7 been periods aggregating 5 years or more dur-
8 ing which the real property was used for a
9 qualified forest use, and

10 “(C) such real property is designated in
11 the agreement referred to in subsection (d)(2).

12 “(2) QUALIFIED FOREST USE.—For purposes
13 of this section, the term ‘qualified forest use’ means
14 the devotion of the property to use in timber oper-
15 ations.

16 “(c) TAX TREATMENT OF DISPOSITIONS AND FAIL-
17 URES TO USE AS QUALIFIED FOREST USE.—

18 “(1) IMPOSITION OF ADDITIONAL ESTATE TAX
19 (RECAPTURE).—

20 “(A) IN GENERAL.—If, within 25 years
21 after the decedent’s death and before the death
22 of the qualified devisee or qualified heir—

23 “(i) the qualified devisee or qualified
24 heir disposes of any interest in qualified
25 forestland,

1 “(ii) the qualified devisee or qualified
2 heir ceases to use for the qualified forest
3 use the qualified forestland which was ac-
4 quired (or passed) from the decedent for
5 an aggregated period of 3 years out of any
6 8-year period, or

7 “(iii) any depreciable improvements
8 are made to the property, other than those
9 relating to a qualified forest use,

10 then there is hereby imposed an additional es-
11 tate tax.

12 “(B) EXCEPTIONS.—Subparagraph (A)
13 shall not apply to—

14 “(i) a testamentary disposition that it-
15 self qualifies for special valuation under
16 this section,

17 “(ii) a disposition by a qualified heir
18 to any other person who agrees to continue
19 devoting the heir’s interest to a qualified
20 forest use and signs the agreement in sub-
21 section (d)(2) (such person shall thereafter
22 be treated as a qualified devisee with re-
23 spect to such interest),

24 “(iii) a disposition by a qualified devi-
25 see to a qualified heir of such devisee who

1 agrees to continue devoting the devisee's
2 interest to a qualified forest use and signs
3 the agreement in subsection (d)(2) (such
4 heir shall thereafter be treated as a quali-
5 fied devisee with respect to such interest),

6 “(iv) a disposition of timber used in a
7 timber operation; and

8 “(v) a disposition (other than by sale)
9 of a qualified conservation contribution (as
10 defined in section 170(h)).

11 “(2) AMOUNT OF ADDITIONAL TAX.—The
12 amount of the additional tax imposed by paragraph
13 (1)(A) with respect to any interest shall be the
14 amount equal to the lesser of—

15 “(A) the adjusted tax difference with re-
16 spect to the estate (within the meaning of sec-
17 tion 2032A(c)(2)(C), or

18 “(B) the amount realized from the disposi-
19 tion of the interest.

20 “(3) ONLY ONE ADDITIONAL TAX IMPOSED
21 WITH RESPECT TO ANY ONE PORTION.—In the case
22 of an interest acquired from (or passing from) any
23 decedent, if a particular clause of paragraph (1)(A)
24 applies to any portion of an interest, no other clause

1 of such paragraph shall apply with respect to the
2 same portion of such interest.

3 “(d) ELECTION; AGREEMENT.—

4 “(1) ELECTION.—The election under this sec-
5 tion shall be made on the return of the tax imposed
6 by section 2001. Such election shall be made in such
7 manner as the Secretary shall by regulations pre-
8 scribe. Such an election, once made, shall be irrev-
9 ocable.

10 “(2) AGREEMENT.—The agreement referred to
11 in this paragraph is a written agreement signed by
12 each person in being who has an interest (whether
13 or not in possession) in any property designated in
14 such agreement consenting to the application of sub-
15 section (c) with respect to such property.

16 “(e) DEFINITIONS; SPECIAL RULES.—For purposes
17 of this section—

18 “(1) QUALIFIED DEVISEE.—The term ‘qualified
19 devisee’ means, with respect to any property, a per-
20 son who acquired such property (or to whom such
21 property passed) from the decedent and who is not
22 a qualified heir of the decedent.

23 “(2) PERSON.—The term ‘person’ means an in-
24 dividual, partnership, corporation, or governmental
25 entity.

1 “(3) CERTAIN REAL PROPERTY INCLUDED.—In
2 the case of real property which meets the require-
3 ments of subparagraph (B) of subsection (b)(1), any
4 depreciable improvements, including roads, which
5 are related to the qualified forest use shall be treat-
6 ed as real property devoted to that use.

7 “(4) QUALIFIED FORESTLAND.—The term
8 ‘qualified forestland’ means any real property
9 which—

10 “(A) qualifies for a differential use value
11 assessment program for forestland in the State
12 in which the property is located; or

13 “(B) if a State has no differential use
14 value assessment program—

15 “(i) is forestland,

16 “(ii) is a minimum of 10 acres, exclu-
17 sive of a dwelling unit or other non-forest
18 related structure and its curtilage; and

19 “(iii) is subject to a forest manage-
20 ment plan.

21 “(5) TIMBER OPERATIONS.—The term ‘timber
22 operations’ means the planting, cultivating, caring
23 for, or harvesting of trees in the process of using
24 and conserving renewable forest resources.

1 “(6) METHOD OF VALUING FORESTLAND.—The
2 value of forestland shall be determined according to
3 whichever of the following methods results in the
4 least value:

5 “(A) Assessed land values in a State which
6 provides a differential or use value assessment
7 for forestland.

8 “(B) Comparable sales of other forestland
9 in the same geographical area far enough re-
10 moved from a metropolitan or resort area so
11 that nonforest use is not a significant factor in
12 the sales price.

13 “(C) The capitalization of income which
14 the property can be expected to yield for timber
15 operations over a reasonable period of time
16 under prudent management; using traditional
17 forest management for the area, and taking
18 into account soil capacity, terrain configuration,
19 and similar factors.

20 “(D) Any other factor which fairly values
21 the timber value of the property.

22 “(7) APPLICABLE DEFINITIONS AND RULES OF
23 SECTION 2032A.—

24 “(A) DEFINITIONS.—Except as otherwise
25 provided in this section, any term used in this

1 section which is also used in section 2032A
2 shall have the meaning given such term by sec-
3 tion 2032A.

4 “(B) RULES.—The rules in the following
5 provisions of section 2032A shall apply to this
6 section, by substituting ‘qualified forestland’ for
7 ‘qualified real property’ and ‘qualified forest
8 use’ for ‘qualified use’, and shall apply to quali-
9 fied devisees as well as qualified heirs:

10 “(i) Paragraphs (2)(D) (by substitut-
11 ing ‘paragraph (2)(B)’ for ‘subparagraph
12 (A)(ii)’ in clause (i) thereof), (4), (5), and
13 (7)(A) (by substituting ‘25 years’ for ‘10
14 years’) of subsection (c).

15 “(ii) Subsection (d)(3).

16 “(iii) Paragraphs (9), (10), (11), and
17 (14) (by substituting ‘active management’
18 for ‘material participation’) of subsection
19 (e).

20 “(iv) Subsections (f) and (g).

21 “(f) SPECIAL RULES FOR INVOLUNTARY CONVER-
22 SIONS OF QUALIFIED FORESTLAND.—

23 “(1) TREATMENT OF CONVERTED PROPERTY.—

1 “(A) IN GENERAL.—If there is an involun-
2 tary conversion of an interest in qualified
3 forestland—

4 “(i) no tax shall be imposed by sub-
5 section (c) on such conversion if the cost of
6 the qualified replacement property equals
7 or exceeds the amount realized on such
8 conversion; or

9 “(ii) if clause (i) does not apply, the
10 amount of the tax imposed by subsection
11 (c) on such conversion shall be the amount
12 determined under subparagraph (B).

13 “(B) AMOUNT OF TAX WHERE THERE IS
14 NOT COMPLETE REINVESTMENT.—The amount
15 determined under this subparagraph with re-
16 spect to any involuntary conversion is the
17 amount of tax which (but for this subsection)
18 would have been imposed on such conversion re-
19 duced by an amount which—

20 “(i) bears the same ratio to such tax,
21 as

22 “(ii) the cost of the qualified replace-
23 ment property bears to the amount real-
24 ized on the conversion.

1 “(2) TREATMENT OF REPLACEMENT PROP-
2 ERTY.—For purposes of subsection (c)—

3 “(A) any qualified replacement property
4 shall be treated in the same manner as if it
5 were a portion of the interest in qualified
6 forestland which was involuntarily converted;
7 except that with respect to such qualified re-
8 placement property the 25-year period under
9 paragraph (1) of subsection (c) shall be ex-
10 tended by any period, beyond the 2-year period
11 referred to in section 1033(a)(2)(B)(i), during
12 which the qualified devisee or qualified heir was
13 allowed to replace the qualified forestland;

14 “(B) any tax imposed by subsection (c) on
15 the involuntary conversion shall be treated as a
16 tax imposed on a partial disposition, and

17 “(C) subparagraph (A)(ii) of subsection
18 (c)(1) shall be applied by not taking into ac-
19 count periods after the involuntary conversion
20 and before the acquisition of the qualified re-
21 placement property.

22 “(3) DEFINITIONS AND SPECIAL RULES.—For
23 purposes of this subsection—

24 “(A) INVOLUNTARY CONVERSION.—The
25 term ‘involuntary conversion’ means a compul-

1 sory or involuntary conversion within the mean-
2 ing of section 1033.

3 “(B) QUALIFIED REPLACEMENT PROP-
4 ERTY.—The term ‘qualified replacement prop-
5 erty’ means—

6 “(i) in the case of an involuntary con-
7 version described in section 1033(a)(1),
8 any real property into which the qualified
9 forestland is converted, or

10 “(ii) in the case of an involuntary con-
11 version described in section 1033(a)(2),
12 any real property purchased by the quali-
13 fied devisee or qualified heir during the pe-
14 riod specified in section 1033(a)(2)(B) for
15 purposes of replacing the qualified
16 forestland.

17 Such term only includes property which is to be
18 used for the qualified forest use set forth in
19 subsection (b)(2) under which the qualified
20 forestland qualified under subsection (a).

21 “(4) CERTAIN RULES MADE APPLICABLE.—The
22 rules of the last sentence of section 1033(a)(2)(A)
23 shall apply for purposes of paragraph (3)(B)(ii).

24 “(g) EXCHANGES OF QUALIFIED FORESTLAND.—

1 “(1) TREATMENT OF PROPERTY EX-
2 CHANGED.—

3 “(A) EXCHANGES SOLELY FOR QUALIFIED
4 EXCHANGE PROPERTY.—If an interest in quali-
5 fied forestland is exchanged solely for an inter-
6 est in qualified exchange property in a trans-
7 action which qualifies under section 1031, no
8 tax shall be imposed by subsection (c) by reason
9 of such exchange.

10 “(B) EXCHANGES WHERE OTHER PROP-
11 erty RECEIVED.—If an interest in qualified
12 forestland is exchanged for an interest in quali-
13 fied exchange property and other property in a
14 transaction which qualifies under section 1031,
15 the amount of the tax imposed by subsection (c)
16 by reason of such exchange shall be the
17 amount of tax which (but for this subpara-
18 graph) would have been imposed on such
19 exchange under subsection (c)(1), reduced by
20 an amount which—

21 “(i) bears the same ratio to such tax,

22 as

23 “(ii) the value of the qualified ex-
24 change property bears to the value of the
25 qualified forestland exchanged.

1 For purposes of clause (ii) of the preceding sen-
2 tence, value shall be determined according to
3 subsection (e)(6).

4 “(2) TREATMENT OF QUALIFIED EXCHANGE
5 PROPERTY.—For purposes of subsection (c)—

6 “(A) any interest in qualified exchange
7 property shall be treated in the same manner as
8 if it were a portion of the interest in qualified
9 forestland which was exchanged; and

10 “(B) any tax imposed by subsection (c) by
11 reason of the exchange shall be treated as a tax
12 imposed on a partial disposition.

13 “(3) QUALIFIED EXCHANGE PROPERTY.—For
14 purposes of this subsection, the term ‘qualified ex-
15 change property’ means real property which is to be
16 used for a qualified forest use set forth in subsection
17 (b)(2) under which the real property exchanged
18 therefor originally qualified under subsection (a).”

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1014(a)(3), as amended by section
21 101(b), is amended by inserting “or 2032B” after
22 “2032A”.

23 (2) Section 1016(c) is amended—

1 (A) by inserting “or 2032B(c)(1)” after
2 “2032A(c)(1)” in paragraphs (1), (3), (4), and
3 (5)(B),

4 (B) by inserting “or qualified devisee”
5 after “qualified heir” in paragraph (1),

6 (C) by inserting “or 2032B(f)(3)(B)” after
7 “2032A(h)(3)(B)” in paragraph (4), and

8 (D) by inserting “or 2032B(g)(3)” after
9 “2032A(i)(3)” in paragraph (4).

10 (3) Section 1040 is amended—

11 (A) by inserting “or qualified devisee
12 (within the meaning of section 2032B(e)(1))”
13 before “any property” in subsection (a), and

14 (B) by inserting “or 2032B” after
15 “2032A” in subsections (a) and (b).

16 (4) Section 1223(12)(C) is amended by insert-
17 ing “or qualified devisee (within the meaning of sec-
18 tion 2032B(e)(1))” before “with respect”.

19 (5) Section 2013 is amended—

20 (A) by inserting “or 2032B” after
21 “2032A” each place it appears in subsection (f)
22 and the heading thereof, and

23 (B) by inserting “or 2032B(c)” after
24 “2032A(c)” both places it appears in subsection
25 (f).

1 (6) Section 2035(d)(3)(B) is amended by in-
2 serting “or section 2032B (relating to special valu-
3 ation of certain forestland)” after “real property”).

4 (7) Section 2056A(b)(10)(A) is amended by in-
5 serting “2032B,” after “2032A,”.

6 (8) Section 2624(b) is amended by striking
7 “sections 2032 and 2032A” and inserting “sections
8 2032, 2032A, and 2032B”.

9 (9) Section 2663(1) is amended by striking
10 “section 2032A(c)” and inserting “sections
11 2032A(c) and 2032B(c)”.

12 (10) Section 6324B is amended—

13 (A) by striking subsection (a) and insert-
14 ing the following new subsection:

15 “(a) GENERAL RULES.—

16 “(1) SECTION 2032A.—In the case of any inter-
17 est in qualified real property (within the meaning of
18 section 2032A(b)), an amount equal to the adjusted
19 tax difference attributable to such interest (within
20 the meaning of section 2032A(c)(2)(B)) shall be a
21 lien in favor of the United States on property in
22 which such interest exists.

23 “(2) SECTION 2032B.—In the case of any inter-
24 est in qualified forestland (within the meaning of
25 section 2032B(b)), an amount equal to the adjusted

1 tax difference with respect to the estate (within the
2 meaning of section 2032A(c)(2)(C)) shall be a lien
3 in favor of the United States on property in which
4 such interest exists.”,

5 (B) by inserting “or 2032B” after
6 “2032A” both places it appears in subsection
7 (b),

8 (C) by inserting “or 2032B(c)” after
9 “2032A(c)” in subsection (b)(2), and

10 (D) by adding at the end of subsection (c)
11 the following new paragraph:

12 “(3) QUALIFIED FORESTLAND.—For purposes
13 of this section, the term ‘qualified forestland’ in-
14 cludes qualified replacement property (within the
15 meaning of section 2032B(f)(3)(B)) and qualified
16 exchange property (within the meaning of section
17 2032B(g)(3)).”

18 (c) CLERICAL AMENDMENT.—The table of sections
19 for part III of subchapter A of chapter 11 is amended
20 by adding at the end the following new item:

“Sec. 2032B. Valuation of certain forestland.”

21 (d) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to estates of decedents dying after
23 December 31, 1995.

1 **TITLE II—INCOME TAX**
2 **TREATMENT**

3 **SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.**

4 (a) IN GENERAL.—Part I of subchapter P of chapter
5 1 (relating to treatment of capital gains) is amended by
6 adding at the end the following new section:

7 **“SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIM-**
8 **BER.**

9 “(a) IN GENERAL.—At the election of any taxpayer
10 who has qualified timber gain for any taxable year, there
11 shall be allowed as a deduction from gross income an
12 amount equal to the qualified percentage of such gain.

13 “(b) QUALIFIED TIMBER GAIN.—For purposes of
14 this section, the term ‘qualified timber gain’ means the
15 lesser of—

16 “(1) the net capital gain for the taxable year,
17 or

18 “(2) the net capital gain for the taxable year
19 determined by taking into account only gains and
20 losses from timber.

21 “(c) QUALIFIED PERCENTAGE.—For purposes of this
22 section, the term ‘qualified percentage’ means the percent-
23 age (not exceeding 50 percent) determined by multiply-
24 ing—

25 “(1) 3 percent, by

1 “(2) the number of years in the holding period
2 of the taxpayer with respect to the timber.

3 “(d) ESTATES AND TRUSTS.—In the case of an es-
4 tate or trust, the deduction under subsection (a) shall be
5 computed by excluding the portion (if any) of the gains
6 for the taxable year from sales or exchanges of capital as-
7 sets which, under sections 652 and 662 (relating to inclu-
8 sions of amounts in gross income of beneficiaries of
9 trusts), is includible by the income beneficiaries as gain
10 derived from the sale or exchange of capital assets.”

11 (b) COORDINATION WITH EXISTING LIMITATIONS.—

12 (1) Subsection (h) of section 1 (relating to max-
13 imum capital gains rate) is amended by inserting
14 after “net capital gain” each place it appears the
15 following: “(other than qualified timber gain with re-
16 spect to which an election is made under section
17 1203)”.

18 (2) Subsection (a) of section 1201 (relating to
19 alternative tax for corporations) is amended by in-
20 serting after “net capital gain” each place it appears
21 the following: “(other than qualified timber gain
22 with respect to which an election is made under sec-
23 tion 1203)”.

24 (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
25 JUSTED GROSS INCOME.—Subsection (a) of section 62

1 (relating to definition of adjusted gross income) is amend-
 2 ed by adding after paragraph (15) the following new para-
 3 graph:

4 “(16) PARTIAL INFLATION ADJUSTMENT FOR
 5 TIMBER.—The deduction allowed by section 1203.”

6 (d) CLERICAL AMENDMENT.—The table of sections
 7 for part I of subchapter P of chapter 1 is amended by
 8 adding at the end the following new item:

 “Sec. 1203. Partial inflation adjustment for timber.”

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to sales or exchanges after Decem-
 11 ber 31, 1995.

12 **SEC. 202. EXCLUSION OF GAIN FROM SALE OF INTERESTS**
 13 **IN FOREST LANDS.**

14 (a) IN GENERAL.—Part III of subchapter B of chap-
 15 ter 1 (relating to items specifically excluded from gross
 16 income) is amended by redesignating section 137 as sec-
 17 tion 138 and by inserting after section 136 the following
 18 new section:

19 **“SEC. 137. SALES OF INTERESTS IN CERTAIN FOREST**
 20 **LANDS.**

21 “(a) EXCLUSION.—

22 “(1) IN GENERAL.—Gross income shall not in-
 23 clude the applicable percentage of any qualified tim-
 24 ber gain.

1 “(2) APPLICABLE PERCENTAGE.—For purposes
2 of paragraph (1), the term ‘applicable percentage’
3 means—

4 “(A) 35 percent, or

5 “(B) in the case of qualified timber gain
6 from the sale of a qualified real property inter-
7 est described in section 170(h)(2)(C), 100 per-
8 cent.

9 “(b) LIMITATION.—The total amount of gain which
10 may be excluded from gross income under subsection (a)
11 for any taxable year shall not exceed the sum of—

12 “(1) the amount of qualified timber gain de-
13 scribed in subsection (a)(2)(B), plus

14 “(2) \$800,000.

15 “(c) QUALIFIED TIMBER GAIN.—For purposes of
16 this section—

17 “(1) IN GENERAL.—The term ‘qualified timber
18 gain’ means gain from the sale or exchange of a
19 qualified real property interest in real property
20 which is used in timber operations to a governmental
21 unit described in section 170(c)(1) for conservation
22 purposes.

23 “(2) QUALIFIED REAL PROPERTY INTEREST.—
24 The term ‘qualified real property interest’ has the
25 meaning given such term by section 170(h)(2).

1 “(3) TIMBER OPERATIONS.—The term ‘timber
2 operations’ has the meaning given such term by sec-
3 tion 2032B(e)(5).

4 “(4) CONSERVATION PURPOSES.—The term
5 ‘conservation purposes’ has the meaning given such
6 term by section 170(h)(4)(A) (without regard to
7 clause (iv) thereof).

8 “(d) SPECIAL RULE FOR SALES TO NONGOVERN-
9 MENTAL ENTITIES.—

10 “(1) IN GENERAL.—Subsection (a) shall apply
11 to the sale or exchange to a qualified organization
12 described in section 170(h)(3) if such interest is
13 transferred during the 2-year period beginning on
14 the date of the sale or exchange to a governmental
15 unit described in section 170(c)(1).

16 “(2) TIME FOR EXCLUSION.—If the transfer to
17 which paragraph (1) applies occurs in a taxable year
18 after the taxable year in which the sale or exchange
19 occurred—

20 “(A) no exclusion shall be allowed under
21 subsection (a) for the taxable year of the sale
22 or exchange, but

23 “(B) the taxpayer’s tax for the taxable
24 year of the transfer shall be reduced by the
25 amount of the reduction in the taxpayer’s tax

1 for the taxable year of the sale or exchange
2 which would have occurred if subparagraph (A)
3 had not applied.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part III of subchapter B of chapter 1 is amended by
6 striking the item relating to section 137 and by inserting
7 the following new items after the item relating to section
8 136:

 “Sec. 137. Sales of interests in certain forest lands.
 “Sec. 138. Cross references to other Acts.”

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 1995.

12 **SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**
13 **TIMBER ACTIVITIES.**

14 (a) IN GENERAL.—Treasury regulations sections
15 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely
16 held timber activity if the nature of such activity is such
17 that the aggregate hours devoted to management of the
18 activity for any year is generally less than 100 hours.

19 (b) DEFINITIONS.—For purposes of subsection (a)—

20 (1) CLOSELY HELD ACTIVITY.—An activity
21 shall be treated as closely held if at least 80 percent
22 of the ownership interests in the activity is held—
23 (A) by 5 or fewer individuals, or

1 (B) by individuals who are members of the
2 same family (within the meaning of section
3 2032A(e)(2) of the Internal Revenue Code of
4 1986).

5 An interest in a limited partnership shall in no event
6 be treated as a closely held activity for purposes of
7 this section.

8 (2) TIMBER ACTIVITY.—The term “timber ac-
9 tivity” means the planting, cultivating, caring, cut-
10 ting, or preparation (other than milling) for market,
11 of trees.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 1995.

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S 692 IS—2