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## ESTATE TAXES AND SPECIAL USE VALUATION

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### Background:

America values family-owned farms and ranches because of the food, fiber, and fuel they produce, the contribution that agriculture makes to job creation and the economy, and the open space that farming and ranching protects. Yet, our nation's estate tax policy can be in direct conflict with the desire to preserve and protect our nation's family-owned farms and ranches.

Individuals, family partnerships and family corporations own 98 percent of our nation's 2 million farms and ranches. When estate taxes on an agricultural business exceed cash and other liquid assets, surviving family partners may be forced to sell land, buildings or equipment needed to keep their businesses running. This not only can cripple a farm or ranch operation, but also hurts the rural communities and businesses that agriculture supports.

The value of family-owned farms and ranches is usually tied to illiquid assets, such as land, buildings and equipment. With 85 percent of farm and ranch assets illiquid, producers have few options when it comes to generating cash to pay the estate tax. Recent increases in agriculture cropland values, on average 15 percent from 2011 to 2012, have greatly expanded the number of farms and ranches that now top the estate tax exemption.

Special Use Valuation (Sec. 2032A) allows farmers, ranchers and other business owners the ability to reduce their estate taxes by allowing a limited amount of business property to be valued for its actual use rather than for its highest value use for estate tax purposes. For example, farmland could be valued at its farm value rather than what it would be worth if sold for development.

Many farmers and ranchers are reluctant to use Section 2032A because it is complex and there are significant penalties imposed when the terms of its use is violated. More family farms and ranches would be willing to deal with the rigors of compliance if the benefits were greater or certain transfers were allowed.

One such restriction says that part or all of the tax savings from using 2032A must be paid back if, within ten years, the use of the property is changed or if the property is sold outside of the family. Sale of a conservation easement triggers the recapture tax and so does the harvesting of standing timber.

Another limitation is that the value of property may not be reduced by more than \$1 million indexed for inflation. This means that if the value of a farm for development purposes was \$8 million and the farm value was \$5 million, the value assigned to the property under 2032A for estate tax purposes would be \$7 million.

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Legislative Status:

The *American Taxpayer Relief Act of 2012* made permanent the \$5 million per person estate tax exemption indexed for inflation with any unused amount allowed to transfer to a spouse (portability). The estate and gift tax exemptions were unified. The maximum estate tax rate was set at 40 percent. Stepped-up basis, which was already permanent law, will continue.

Legislation has been introduced in the House and Senate to repeal estate taxes, maintain stepped-up basis, and to make permanent the 35 percent maximum gift tax rate and \$5 million lifetime gift tax exemption indexed for inflation. Farm Bureau supports the bills, H.R. 2429 and S. 1183, called The Death Tax Repeal Act of 2013.

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AFBF Policy:

Farm Bureau believes that estate taxes should be eliminated permanently and opposes any roll back of the *American Taxpayer Relief Act of 2012* and its \$5 million exemption and 40 percent top rate.

Farm Bureau supports removing the limitation on the amount that property values can be reduced under Special Use Valuation Section 2032A.

Farm Bureau believes that harvesting of timber can be likened to the harvesting of other agricultural commodities and therefore Section 2032A should be modified so that a timber sale does not trigger a recapture of estate taxes.

Farm Bureau believes that conservation easements are complementary to the Section 2032A purpose of continuing ownership of the farm as an operating farm and ranch business from one generation to the next. Therefore, Section 2032A should be modified so that the sale of a conservation easement does not trigger a recapture of estate taxes.

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