

PECONIC LAND TRUST



Farmland Preservation and Land Conservation Act (FPLCA) - HR 1328 Key Points

- Transfer Tax Exclusion
 - Broadened from just estate tax to include gift, generation skipping, or other such transfer taxes
 - Can only be elected at time of death, gift, or similar event that triggers transfer tax
 - Election is voluntary and irrevocable
 - Election binds owners and successors of interest
 - Runs with the land; land is subject to a tax lien
 - Land must have agricultural and/or conservation value within the meaning of 2032A(e) or 170(h)
 - Permanent exclusion as long as the land use is consistent with the recorded covenant

- How does it work?
 - A Transfer Tax Exclusion is included in the usual transfer (e.g. estate, gift, etc.) tax return
 - If elected, a Transfer Tax Lien is recorded by the IRS (binding on all successor landowners)
 - A covenant is recorded
 - As long as the land use is consistent with the recorded covenant, there is no transfer tax due; upon cessation of use, the deferred tax plus an additional tax is due.

- Tax Liability upon cessation of use
 - Use is defined within the recorded covenant
 - The tax liability is substantial and includes an additional tax; this is not a tax shelter
 - No tax is due when:
 - There is a conveyance of a qualified conservation contribution as defined in section 170(h)
 - There is a sale or transfer that is subject to the recorded covenant

- Why is this legislation important?
 - High values of land on urban fringes and major metropolitan areas have threatened regional, secure sources of food and water as well as access to

land that enhances the quality of life for all. In fact, present estate tax policy based on “highest and best use” rather than “current use” has caused the conversion of highly appreciated land of conservation value to residential and commercial development.

- The proposed bill is intended to provide the owners and successors of interest with a way to keep farmland and land of conservation value intact in the face of onerous Federal estate and other transfer taxes.
- A program of this type would transform Federal estate tax policy from a cause of land conversions to a land-based incentive program for conservation.
- At a time when transportation costs climb, the importance of regional food production, watershed areas, and recreational opportunities near major metropolitan areas could not be greater.

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