

# PECONIC LAND TRUST



To the Editor of **The New York Times**:

Re: Protect the Farm, Tax the Manor, November 21, 2009 and subsequent letters to the editor

We read with interest the Op-Ed and subsequent letters concerning federal estate tax policy and the plight of farmers. While all concerned have reasonable arguments both for and against adjustments to current law, they all miss a fundamental issue – we are losing land of conservation value at alarming rates because it is taxed based on its potential development value rather than its current use. This results in the loss of working farms, watershed areas, recreational lands, historic properties, coastal resources, etc. This is particularly a problem near major metropolitan areas across the country where property values have appreciated tremendously over the last 30 years or where there is a strong second-home market. The appreciated land values, even in times of recession, are enough to force the sale of land given the imperative to pay the federal estate tax 9 months after death. On Long Island, dozens of properties have been sold since the late 1970's because of the tax, or the anticipation of it. It is one thing for a landowner to decide to sell one's land, it is quite another thing for a landowner to be forced to sell because of federal tax policy.

Currently, there are three bills in the House that are seeking to address this inequity. None of the bills call for the repeal of the estate tax, but two of them defer the estate tax until such time that the land is either sold or developed. For land that is subject to a perpetual conservation restriction, two of the bills would increase the exclusion from estate taxes. These bills are:

- H.R. 1328: Farmland Preservation and Land Conservation Act. Introduced by Rep. Tim Bishop (D-NY), HR1328 would allow an unlimited exclusion from estate taxes and other transfer taxes for certain farmland and land of conservation value. A recapture tax would be imposed on such land when and if developed in the future.
- H.R. 3524: Family Farm Preservation Estate Tax Act. Introduced by Rep. Mike Thompson (D-CA), HR 3524 would indefinitely defer estate taxes on working

farms so long as it remains in the family. A recapture tax would be imposed when sold outside the family. Land protected by a perpetual conservation restriction would be entitled to an increased exclusion.

- H.R. 3050: American Family Farm and Ranchland Protection Act. Introduced by Reps. Earl Blumenauer (D-OR) and Eric Cantor (R-VA), HR 3050 would expand the current estate tax exclusion under Section 2031(c) of the Internal Revenue Code from \$500,000 to \$5 million for land protected by a perpetual conservation restriction.

We are struggling as a society with issues related to food availability and security, unemployment, loss of agricultural and natural resources, costs to transport food and other products, diminished opportunities for outdoor recreation, and threats to safe drinking water to name but a few. Many of these issues are the result of the unintended consequences of tax policy. At the very least, we should be looking at ways to protect the very resources that sustain us as families, communities, and a nation. By deferring the federal estate tax on land of conservation value, we will have neutralized a major factor in the loss of working farms and natural lands close to our cities and within second-home communities. We will have turned the tax code on its head and created an incentive to keep farmland in production and land available for conservation purposes rather than requiring its demise where land values are highly appreciated. All this by taxing land based on what it is rather than what it could be.

John v.H. Halsey  
President  
Peconic Land Trust  
Southampton, New York