

103D CONGRESS  
1ST SESSION

# S. 545

To amend the Internal Revenue Code of 1986 to allow farmers' cooperatives to elect to include gains or losses from certain dispositions in the determination of net earnings, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. BOREN (for himself, Mr. DOLE, Mr. DANFORTH, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow farmers' cooperatives to elect to include gains or losses from certain dispositions in the determination of net earnings, 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. GAINS AND LOSSES FROM CERTAIN DISPOSI-**  
4 **TIONS BY FARMERS COOPERATIVES.**

5 (a) IN GENERAL.—Section 1388 of the Internal Rev-  
6 enue Code of 1986 (relating to definitions and special  
7 rules) is amended by adding at the end thereof the follow-  
8 ing new subsection:

1       “(k) TREATMENT OF GAINS OR LOSSES ON THE DIS-  
2 POSITION OF CERTAIN ASSETS.—For purposes of this  
3 title, in the case of any farmer cooperative—

4           “(1) IN GENERAL.—A farmer cooperative may  
5 elect to include gain or loss from the sale or other  
6 disposition of any asset (including stock or any other  
7 ownership or financial interest in another entity) in  
8 net earnings of the organization from business done  
9 with or for patrons, if such asset was used by the  
10 organization to facilitate the conduct of business  
11 done with or for patrons.

12          “(2) ALLOCATION.—An election under para-  
13 graph (1) shall not apply to gain or loss on the sale  
14 or other disposition of any asset to the extent that  
15 such asset was used for purposes other than to fa-  
16 cilitate the conduct of business done with or for pa-  
17 trons. For purposes of this paragraph, the extent of  
18 such use may be determined on the basis of any rea-  
19 sonable method for making allocations of income or  
20 expense between patronage and nonpatronage oper-  
21 ations.

22          “(3) PERIOD OF ELECTION.—An election under  
23 paragraph (1) shall apply to the taxable year for  
24 which made and all subsequent taxable years unless  
25 revoked by the organization. Any such revocation

1 shall be effective for taxable years beginning after  
2 the date on which notice of the revocation is filed  
3 with the Secretary.

4 “(4) ELECTION AFTER REVOCATION.—If an or-  
5 ganization has made an election under paragraph  
6 (1) and such election has been revoked under para-  
7 graph (3), such organization shall not be eligible to  
8 make an election under paragraph (1) for any tax-  
9 able year before its 3rd taxable year which begins  
10 after the 1st taxable year for which such revocation  
11 is effective, unless the Secretary consents to such  
12 election.

13 “(5) COORDINATION WITH SECTION 1231.—If  
14 an organization has made an election under para-  
15 graph (1), section 1231 shall be applied separately  
16 with respect to both patronage-sourced gains and  
17 losses and nonpatronage-sourced gains and losses.

18 “(6) FARMER COOPERATIVE.—For purposes of  
19 this subsection, the term ‘farmer cooperative’ means  
20 any farmers’, fruit growers’, or like association to  
21 which subpart I of this subchapter applies.

22 “(7) NO INFERENCE.—Nothing in this sub-  
23 section shall be construed to infer that a change in  
24 the law is intended for farmer cooperatives not hav-  
25 ing in effect an election under paragraph (1) or

1       other organizations. Any gain or loss from the sale  
2       or other disposition of any asset by such organiza-  
3       tion shall be treated as if this subsection had not  
4       been enacted.”

5       (b) EFFECTIVE DATE.—The amendment made by  
6       subsection (a) shall apply to sales or other dispositions in  
7       taxable years beginning after the date of the enactment  
8       of this Act.

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