

104TH CONGRESS  
1ST SESSION

# S. 1481

To amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 1995

Mr. HATCH (for himself, Mr. HARKIN, Mr. CRAIG, and Mr. BENNETT) introduced the following bill; which was referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, 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. NONRECOGNITION OF GAIN ON SALE OF STOCK**

4       **TO CERTAIN FARMERS' COOPERATIVES.**

5       (a) APPLICATION OF SECTION 1042 TO CERTAIN  
6       FARMERS' COOPERATIVES.—Section 1042 of the Internal  
7       Revenue Code of 1986 (relating to sales of stock to em-  
8       ployee stock ownership plans or certain cooperatives) is

1 amended by adding at the end the following new sub-  
2 section:

3       “(g) APPLICATION OF SECTION TO SALES OF STOCK  
4 IN AGRICULTURAL REFINERS AND PROCESSORS TO ELI-  
5 GIBLE FARM COOPERATIVES.—

6       “(1) IN GENERAL.—This section shall apply to  
7 the sale of stock of a qualified refiner or processor  
8 to an eligible farmers' cooperative.

9       “(2) QUALIFIED REFINER OR PROCESSOR.—For  
10 purposes of this subsection, the term 'qualified re-  
11 finer or processor' means a domestic corporation—

12           “(A) substantially all of the activities of  
13 which consist of the active conduct of the trade  
14 or business of refining or processing agricul-  
15 tural or horticultural products, and

16           “(B) which purchases more than one-half  
17 of such products to be refined or processed  
18 from farmers who make up the eligible farmers'  
19 cooperative which is purchasing stock in the  
20 corporation in a transaction to which this sub-  
21 section is to apply.

22       “(3) ELIGIBLE FARMERS' COOPERATIVE.—For  
23 purposes of this section, the term 'eligible farmers'  
24 cooperative' means an organization to which part I

1 of subchapter T applies which is engaged in the  
2 marketing of agricultural or horticultural products.

3 “(4) SPECIAL RULES.—In applying this section  
4 to a sale to which paragraph (1) applies—

5 “(A) the eligible farmers’ cooperative shall  
6 be treated in the same manner as a cooperative  
7 described in subsection (b)(1)(B),

8 “(B) subsection (b)(2) shall be applied by  
9 substituting ‘100 percent’ for ‘30 percent’,

10 “(C) the determination as to whether any  
11 stock in the domestic corporation is a qualified  
12 security shall be made—

13 “(i) without regard to whether the  
14 stock is an employer security, and

15 “(ii) by treating the requirements of  
16 subsection (c)(1)(A) as being met if more  
17 than 50 percent of the outstanding stock  
18 of the corporation is not readily tradable  
19 on an established securities market, and

20 “(D) subsection (c)(7) shall not apply.”

21 (b) COORDINATION WITH SECTION 338(h)(10).—

22 Section 338(h)(10) of the Internal Revenue Code of 1986  
23 is amended by adding at the end the following new sub-  
24 paragraph:

1                     “(D) COORDINATION WITH SECTION  
2                     1042.—An election may be made under this  
3                     paragraph with respect to a sale described in  
4                     section 1042(g) for which an election was made  
5                     under section 1042(a), except that no gain shall  
6                     be recognized by reason of subparagraph (A)(ii)  
7                     to the extent it is not recognized under section  
8                     1042(a).”

9                     (c) EFFECTIVE DATE.—The amendments made by  
10    this section shall apply to sales after the date of the enact-  
11    ment of this Act.

○