

## Protecting Stepped-Up Basis

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American Farm Bureau Federation (AFBF) and Kansas Farm Bureau (KFB) oppose legislation that has been proposed in the House and Senate to end stepped-up basis and impose capital gains taxes at death. The bills treat property transferred by gift or death as if it were sold for its fair market value. Deeming this as a “sale” causes a recognition of gain (the amount the asset increased in value while owned by the descendant) that is subject to a capital gains tax. The legislation contains an exclusion for up to \$1 million of gain.

This new capital gains tax at death would be applied on top of existing estate taxes, so both the new capital gains tax and existing estate taxes would be collected when a farm or ranch owner dies.

### Legislation in the 117<sup>th</sup> Congress

The proposed [bill](#) in the Senate is called the *Sensible Taxation and Equity Promotion (STEP) Act*. A section by section discussion of the bill can be found [here](#). The introduced House bill is [H.R 2286](#).

### What is Capital Gains Tax?

A capital gain is the difference between the amount received when an asset is sold and the asset’s basis/purchase price. Capital gains are typically taxed when an asset is sold. Under current law, transfers at death are not treated as a sale and the capital gain is not taxed. Additionally, under current law that asset is stepped-up to current value so if that property were sold, capital gains taxes would only be paid on appreciation since the property was inherited. Currently, the top capital gains tax rate is 20 percent.

The value of family farms tied to illiquid assets such as land, buildings and equipment. With an estimated 82 percent of farm assets in farm real estate, producers often have few options to generate cash to pay taxes after the death of a loved one. This may result in surviving family members and future farm families being forced to sell off land, buildings or equipment to keep their farm business in operation. As AFBF President Zippy Duvall said, “Cash flow on most farms is much too small to pay large capital gains taxes. These taxes would cause further consolidation in agriculture with small farms more likely to be forced out of business by the tax liability.”

Current top capital gains tax rate of 20 percent is typically only assessed on high-income taxpayers. However, farmers and ranchers often pay the top rate because their capital gains can be realized in a single year, for example when the farm is sold. This high tax rate discourages farmers and ranchers to make improvements that advance sustainable practices and promote animal wellbeing.

Capital gains taxes make it harder for beginning farmers and ranchers to get started as it creates a disincentive for established farmers to sell land and buildings. These proposals



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would compound the trend of larger farms getting larger and make it more difficult for new and young farmers to begin a future in agriculture.

### **What is Stepped-Up Basis?**

Stepped-up basis allows a farmer to pay capital gains taxes only on the property's increase in value since the land was inherited, instead of the full increase in value since it was purchased by that farmer's parents or grandparents. When farm assets, land for example, are transferred at death they receive a step-up in basis. This means the beneficiary receives a bump up to fair-market value on the date of death of the original owner for the asset they are inheriting. If the heir then decides to sell the property, the stepped-up basis allows the heir to pay capital gains taxes based on the property's appreciation from the time of inheritance rather than the increase in value since it was purchased. Farm assets including land, equipment, livestock, inventory and interests in partnership are subject to a stepped-up basis.

*An example to explain:*

Assume Dad buys land for \$1,000/ acre. If Dad would sell those acres today and current market value is \$2,000 per acre, Dad would owe capital gains tax on the difference between \$2,000 (current) and \$1,000 (original purchase) [capital gains tax on the \$1,000 difference =  $20\% \times \$1,000 = \$200$  per acre]. However, if Dad holds onto the land and lets the next generation (his beneficiary) inherit the land, the beneficiary gets the land at fair-market value on the day of Dad's death. Therefore, the beneficiary receives a new basis of \$2,000 per acre when they inherit it.

Furthermore, assume the beneficiary inherits the land and on the day of Dad's death fair market value is \$3,000 per acre. If the beneficiary sold the land for \$3,000, they would not owe tax on it. However, if the beneficiary sells the land for \$4,000 per acre a few years later, they will pay capital gains tax on that \$1,000 per acre difference.

Stepped-up basis plays a vital role in estate planning and provides a tax savings for farm families who inherit farm assets. Farms are often kept in the family for many years with generations of hard work behind it. Over time, land significantly appreciates in value, and family farms and the legacy they have been built on should not be harmed due to appreciating land assets that position them to be taxed at alarming rates.

### **AFBF Policy on Capital Gains Tax and Stepped-Up Basis**

- Farm Bureau opposes the collection of capital gains taxes at death and supports the continuation of unlimited stepped-up basis.
- Farm Bureau supports allowing inherited farmland to be valued at agricultural value, rather than at development value, without limitation under Special Use Valuation Section 2032A. Timber harvesting or the sale of a conservation easement should not trigger a recapture of estate taxes under Section 2032A.



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### **What is AFBF and KFB Doing on the Issue?**

AFBF and KFB are working hard to advocate against this legislation. Farm Bureau knows how hard farmers and ranchers work to pass their farms on from generation to generation and that is something we need to protect. AFBF and KFB are in contact with legislators to ensure they know how important it is to protect stepped-up basis and that the elimination could be devastating to farm and ranch families.

Your story is the most impactful part of fighting this legislation. Please visit [here](#) to complete an action alert that will be sent to members of Congress who represent Kansas. **Within that action alert consider including a personal story about how stepped-up basis has impacted or will impact your family farm as it is passed from generation to generation.** If you are open to sharing that same story with our communications team so they can highlight farm and ranch families in Kansas in the fight against this legislation, please email [kfb@kfb.org](mailto:kfb@kfb.org).