

113TH CONGRESS
1ST SESSION

S. 493

To amend the Internal Revenue Code of 1986 to establish dairy farm savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2013

Mr. SCHUMER (for himself and Mr. CRAPO) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to establish dairy farm savings accounts, 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. SHORT TITLE.**

4 This Act may be cited as the “Dairy Augmentation
5 for Increased Retail in Yogurt products (DAIRY) Act”.

6 **SEC. 2. ESTABLISHMENT OF DAIRY FARM SAVINGS AC-**
7 **COUNTS.**

8 (a) IN GENERAL.—Part VII of subchapter B of chap-
9 ter 1 of the Internal Revenue Code of 1986 is amended

1 by redesignating section 224 as section 225 and by insert-
2 ing after section 223 the following new section:

3 **“SEC. 224. DAIRY FARM SAVINGS ACCOUNTS.**

4 “(a) DEDUCTION ALLOWED.—In the case of a quali-
5 fied dairy farmer, there shall be allowed as a deduction
6 for the taxable year an amount equal to the aggregate
7 amount paid in cash during such taxable year by or on
8 behalf of such individual to a dairy farm savings account
9 of such individual.

10 “(b) ACCOUNT BALANCE LIMITATION.—A deduction
11 shall not be allowed under subsection (a) with respect to
12 any portion of a contribution to a dairy farm savings ac-
13 count of an individual if such contribution would result
14 in the sum of the balances in all such accounts of such
15 individual to exceed 150 percent of the individual’s 3-year
16 average of income derived from dairy farming.

17 “(c) QUALIFIED DAIRY FARMER.—For purposes of
18 this section, the term ‘qualified dairy farmer’ means, with
19 respect to any taxable year, any individual who, during
20 such year was engaged in the trade or business of dairy
21 farming.

22 “(d) DAIRY FARM SAVINGS ACCOUNT.—For pur-
23 poses of this section—

24 “(1) IN GENERAL.—The term ‘dairy farm sav-
25 ings account’ means a trust created or organized in

1 the United States as a dairy farm savings account
2 exclusively for the purpose of making qualified dis-
3 tributions, but only if the written governing instru-
4 ment creating the trust meets the following require-
5 ments:

6 “(A) Except in the case of a rollover con-
7 tribution described in subsection (f)(4), no con-
8 tribution will be accepted unless it is in cash.

9 “(B) The trustee is a bank (as defined in
10 section 408(n)), an insurance company (as de-
11 fined in section 816), or another person who
12 demonstrates to the satisfaction of the Sec-
13 retary that the manner in which such person
14 will administer the trust will be consistent with
15 the requirements of this section.

16 “(C) No part of the trust assets will be in-
17 vested in anything other than—

18 “(i) cash,

19 “(ii) securities issued by the United
20 States Treasury, or

21 “(iii) or such other low-risk, interest-
22 bearing securities as are approved by the
23 Secretary.

24 “(D) The assets of the trust will not be
25 commingled with other property except in a

1 common trust fund or common investment
2 fund.

3 “(E) The interest of an individual in the
4 balance in his account is nonforfeitable.

5 “(2) QUALIFIED DISTRIBUTION.—The term
6 ‘qualified distribution’ means any amount paid from
7 a dairy farm savings account to the account bene-
8 ficiary to the extent that such amount when added
9 to all other amounts paid from such accounts to
10 such beneficiary during the taxable year (other than
11 rollover contributions) does not exceed the excess (if
12 any) of—

13 “(A) 100 percent of such beneficiary’s 3-
14 year average of income derived from dairy
15 farming, over

16 “(B) such beneficiary’s gross income de-
17 rived from dairy farming for the taxable year.

18 “(3) 3-YEAR AVERAGE OF INCOME DERIVED
19 FROM DAIRY FARMING.—The term ‘3-year average
20 of income derived from dairy farming’ means, with
21 respect to any individual—

22 “(A) the sum of the individual’s gross in-
23 come derived from dairy farming for the taxable
24 year and the 2 preceding taxable years, divided
25 by

1 “(B) the number of taxable years taken
2 into account under subparagraph (A) during
3 which such individual was engaged in the trade
4 or business of dairy farming.

5 “(4) ACCOUNT BENEFICIARY.—The term ‘ac-
6 count beneficiary’ means the individual on whose be-
7 half the dairy farm savings account was established.

8 “(5) SPECIAL RULES; OTHER RULES.—Rules
9 similar to the following rules shall apply for pur-
10 poses of this section:

11 “(A) Section 219(d)(2) (relating to no de-
12 duction for rollovers).

13 “(B) Section 219(f)(3) (relating to time
14 when contributions deemed made).

15 “(C) Section 408(g) (relating to commu-
16 nity property laws).

17 “(D) Section 408(h) (relating to custodial
18 accounts).

19 “(e) TAX TREATMENT OF ACCOUNTS.—

20 “(1) IN GENERAL.—A dairy farm savings ac-
21 count is exempt from taxation under this subtitle
22 unless such account has ceased to be a dairy farm
23 savings account. Notwithstanding the preceding sen-
24 tence, any such account is subject to the taxes im-
25 posed by section 511 (relating to imposition of tax

1 on unrelated business income of charitable, etc. or-
2 ganizations).

3 “(2) TERMINATION OF ACCOUNTS.—If the ac-
4 count beneficiary ceases to engage in the trade or
5 business of dairy farming—

6 “(A) all dairy farm savings accounts of
7 such individual shall cease to be such accounts,
8 and

9 “(B) the balance of all such accounts shall
10 be treated as—

11 “(i) distributed to such individual,
12 and

13 “(ii) not paid in a qualified distribu-
14 tion.

15 “(3) PROHIBITED TRANSACTIONS; PLEDGING
16 ACCOUNT AS SECURITY.—Rules similar to the rules
17 of paragraphs (2) and (4) of section 408(e) shall
18 apply to dairy farm savings accounts, and any
19 amount treated as distributed under such rules shall
20 be treated as not used to pay qualified distributions.

21 “(f) TAX TREATMENT OF DISTRIBUTIONS.—

22 “(1) IN GENERAL.—Any amount paid or dis-
23 tributed out of a dairy farm savings account (other
24 than a rollover contribution described in paragraph
25 (4)) shall be included in gross income of the account

1 beneficiary in the manner provided under section 72.
2 Rules similar to the rules of paragraphs (2) and
3 (3)(H) of section 408(d) shall apply for purposes of
4 this paragraph.

5 “(2) ADDITIONAL TAX ON NON-QUALIFIED DIS-
6 TRIBUTIONS.—

7 “(A) IN GENERAL.—The tax imposed by
8 this chapter on the account beneficiary for any
9 taxable year in which there is a payment or dis-
10 tribution from a dairy farm savings account of
11 such beneficiary which is not a qualified dis-
12 tribution shall be increased by 15 percent of the
13 amount of such payment or distribution which
14 is not a qualified distribution.

15 “(B) EXCEPTION FOR DISABILITY OR
16 DEATH.—Subparagraph (A) shall not apply if
17 the payment or distribution is made after the
18 account beneficiary becomes disabled within the
19 meaning of section 72(m)(7) or dies.

20 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
21 FORE DUE DATE OF RETURN.—

22 “(A) IN GENERAL.—If any excess con-
23 tribution is contributed for a taxable year to a
24 dairy farm savings account of an individual,
25 paragraph (2) shall not apply to distributions

1 from the dairy farm savings accounts of such
2 individual (to the extent such distributions do
3 not exceed the aggregate excess contributions to
4 all such accounts of such individual for such
5 year) if—

6 “(i) such distribution is received by
7 the individual on or before the last day
8 prescribed by law (including extensions of
9 time) for filing such individual’s return for
10 such taxable year, and

11 “(ii) such distribution is accompanied
12 by the amount of net income attributable
13 to such excess contribution.

14 Any net income described in clause (ii) shall be
15 included in the gross income of the individual
16 for the taxable year in which it is received.

17 “(B) EXCESS CONTRIBUTION.—For pur-
18 poses of subparagraph (A), the term ‘excess
19 contribution’ means any contribution (other
20 than a rollover contribution) which is not de-
21 ductible under this section.

22 “(4) ROLLOVER CONTRIBUTION.—An amount is
23 described in this paragraph as a rollover contribu-
24 tion if it meets the requirements of subparagraphs
25 (A) and (B).

1 “(A) IN GENERAL.—For purposes of this
2 section, any amount paid or distributed from a
3 dairy farm savings account to the account bene-
4 ficiary shall be treated as a qualified distribu-
5 tion to the extent the amount received is paid
6 into a dairy farm savings account for the ben-
7 efit of such beneficiary not later than the 60th
8 day after the day on which the beneficiary re-
9 ceives the payment or distribution.

10 “(B) LIMITATION.—This paragraph shall
11 not apply to any amount described in subpara-
12 graph (A) received by an individual from a
13 dairy farm savings account if, at any time dur-
14 ing the 1-year period ending on the day of such
15 receipt, such individual received any other
16 amount described in subparagraph (A) from a
17 dairy farm savings account which was not in-
18 cluded in the individual’s gross income because
19 of the application of this paragraph.

20 “(5) TRANSFER OF ACCOUNT INCIDENT TO DI-
21 VORCE.—The transfer of an individual’s interest in
22 a dairy farm savings account to an individual’s
23 spouse or former spouse under a divorce or separa-
24 tion instrument described in subparagraph (A) of
25 section 71(b)(2) shall not be considered a taxable

1 transfer made by such individual notwithstanding
2 any other provision of this subtitle, and such interest
3 shall, after such transfer, be treated as a dairy farm
4 savings account with respect to which such spouse is
5 the account beneficiary.

6 “(6) TREATMENT AFTER DEATH OF ACCOUNT
7 BENEFICIARY.—

8 “(A) TREATMENT IF DESIGNATED BENE-
9 FICIARY IS SPOUSE.—If the account bene-
10 ficiary’s surviving spouse acquires such bene-
11 ficiary’s interest in a dairy farm savings ac-
12 count by reason of being the designated bene-
13 ficiary of such account at the death of the ac-
14 count beneficiary, such dairy farm savings ac-
15 count shall be treated as if the spouse were the
16 account beneficiary.

17 “(B) OTHER CASES.—

18 “(i) IN GENERAL.—If, by reason of
19 the death of the account beneficiary, any
20 person acquires the account beneficiary’s
21 interest in a dairy farm savings account in
22 a case to which subparagraph (A) does not
23 apply—

1 “(I) such account shall cease to
2 be a dairy farm savings account as of
3 the date of death, and

4 “(II) an amount equal to the fair
5 market value of the assets in such ac-
6 count on such date shall be included
7 if such person is not the estate of
8 such beneficiary, in such person’s
9 gross income for the taxable year
10 which includes such date, or if such
11 person is the estate of such bene-
12 ficiary, in such beneficiary’s gross in-
13 come for the last taxable year of such
14 beneficiary.

15 “(ii) DEDUCTION FOR ESTATE
16 TAXES.—An appropriate deduction shall be
17 allowed under section 691(c) to any person
18 (other than the decedent or the decedent’s
19 spouse) with respect to amounts included
20 in gross income under clause (i) by such
21 person.

22 “(g) REPORTS.—The Secretary may require the
23 trustee of a dairy farm savings account to make such re-
24 ports regarding such account to the Secretary and to the
25 account beneficiary with respect to contributions, distribu-

1 tions, and such other matters as the Secretary determines
 2 appropriate. The reports required by this subsection shall
 3 be filed at such time and in such manner and furnished
 4 to such individuals at such time and in such manner as
 5 may be required by the Secretary.”.

6 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
 7 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
 8 of section 62 of such Code is amended by inserting after
 9 paragraph (21) the following new paragraph:

10 “(22) DAIRY FARM SAVINGS ACCOUNTS.—The
 11 deduction allowed by section 224.”.

12 (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973
 13 of such Code (relating to tax on excess contributions to
 14 certain tax-favored accounts and annuities) is amended—

15 (1) by striking “or” at the end of subsection
 16 (a)(4), by inserting “or” at the end of subsection
 17 (a)(5), and by inserting after subsection (a)(5) the
 18 following new paragraph:

19 “(6) a dairy farm savings account (within the
 20 meaning of section 224(d)),”; and

21 (2) by adding at the end the following new sub-
 22 section:

23 “(h) EXCESS CONTRIBUTIONS TO DAIRY FARM SAV-
 24 INGS ACCOUNTS.—For purposes of this section, in the
 25 case of dairy farm savings accounts (within the meaning

1 of section 224(d)), the term ‘excess contribution’ means
2 the sum of—

3 “(1) the aggregate amount contributed for the
4 taxable year to the accounts (other than rollover
5 contributions described in section 224(f)(4)) which is
6 not allowable as a deduction under section 224 for
7 such year, and

8 “(2) the amount determined under this sub-
9 section for the preceding taxable year, reduced by
10 the sum of—

11 “(A) the distributions out of the accounts
12 with respect to which additional tax was im-
13 posed under section 224(f)(2), and

14 “(B) the excess (if any) of—

15 “(i) the maximum amount allowable
16 as a deduction under section 224(b) for
17 the taxable year, over

18 “(ii) the amount contributed to the
19 accounts for the taxable year.

20 For purposes of this subsection, any contribu-
21 tion which is distributed out of the dairy farm
22 savings account in a distribution to which sec-
23 tion 224(f)(3) applies shall be treated as an
24 amount not contributed.”.

25 (d) TAX ON PROHIBITED TRANSACTIONS.—

1 (1) Section 4975(e) of such Code (relating to
2 tax on prohibited transactions) is amended by add-
3 ing at the end the following new paragraph:

4 “(7) SPECIAL RULE FOR DAIRY FARM SAVINGS
5 ACCOUNTS.—An individual for whose benefit a dairy
6 farm savings account (within the meaning of section
7 224(d)) is established shall be exempt from the tax
8 imposed by this section with respect to any trans-
9 action concerning such account (which would other-
10 wise be taxable under this section) if, with respect
11 to such transaction, the account ceases to be a dairy
12 farm savings account by reason of the application of
13 section 224(e)(2) to such account.”.

14 (2) Section 4975(e)(1) of such Code is amended
15 by redesignating subparagraphs (F) and (G) as sub-
16 paragraphs (G) and (H), respectively, and by insert-
17 ing after subparagraph (E) the following new sub-
18 paragraph:

19 “(F) a dairy farm savings account de-
20 scribed in section 224(d),”.

21 (e) FAILURE TO PROVIDE REPORTS ON DAIRY FARM
22 SAVINGS ACCOUNTS.—Section 6693(a)(2) of such Code
23 (relating to reports) is amended by redesignating subpara-
24 graphs (D) and (E) as subparagraphs (E) and (F), respec-

1 tively, and by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) section 224(g) (relating to dairy farm
4 savings accounts),”.

5 (f) CLERICAL AMENDMENT.—The table of sections
6 for part VII of subchapter B of chapter 1 of such Code
7 is amended by redesignating the item relating to section
8 224 as relating to section 225 and by inserting after the
9 item relating to section 223 the following:

“Sec. 224. Dairy farm savings accounts.”.

10 (g) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years ending after the
12 date of the enactment of this Act.

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