

112TH CONGRESS
1ST SESSION

H. R. 2058

To amend the Internal Revenue Code of 1986 to clarify the capital gain or loss treatment of the sale or exchange of mitigation credits earned by restoring wetlands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2011

Mr. BOUSTANY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to clarify the capital gain or loss treatment of the sale or exchange of mitigation credits earned by restoring wetlands, 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 “Wetlands Conservation
5 Investment Act of 2011”.

1 **SEC. 2. CLARIFICATION OF TREATMENT OF SALES OR EX-**
2 **CHANGES OF WETLAND MITIGATION CRED-**
3 **ITS AS LONG-TERM CAPITAL GAIN OR LOSS.**

4 (a) **IN GENERAL.**—Part IV of subchapter P of chap-
5 ter 1 of the Internal Revenue Code of 1986 is amended
6 by inserting after section 1257 the following new section:

7 **“SEC. 1257A. GAINS OR LOSSES FROM SALES OR EX-**
8 **CHANGES OF WETLANDS MITIGATION CRED-**
9 **ITS.**

10 “(a) **GENERAL RULE.**—Gain or loss attributable to
11 the sale or exchange of a mitigation bank credit by the
12 sponsor of the mitigation bank who earned such credit
13 shall be considered the sale or exchange of a capital asset
14 held for more than 1 year.

15 “(b) **DEFINITIONS.**—For purposes of this section, the
16 terms ‘mitigation bank’ and ‘mitigation bank credit’ have
17 the respective meanings given such terms by part 332 of
18 title 33 of the Code of Federal Regulations.”.

19 (b) **CLERICAL AMENDMENT.**—The table of sections
20 for part IV of subchapter P of chapter 1 of the Internal
21 Revenue Code of 1986 is amended by inserting after the
22 item relating to section 1257 the following new item:

“Sec. 1257A. Gains or losses from sales or exchanges of wetlands mitigation
credits.”.

23 (c) **EFFECTIVE DATE.**—The amendments made by
24 this section shall apply with respect to sales or exchanges

1 of mitigation bank credits occurring before, on, or after
2 the date of enactment of this Act.

3 **SEC. 3. EXEMPTION OF WETLAND MITIGATION CREDIT**
4 **SALES FROM FIRPTA.**

5 (a) IN GENERAL.—Section 897(c)(6) of the Internal
6 Revenue Code of 1986 is amended by adding at the end
7 the following new subparagraph:

8 “(D) EXEMPTION OF WETLAND MITIGA-
9 TION CREDIT SALES.—The term ‘United States
10 real property interest’ does not include any
11 mitigation bank credit (as defined in part 332
12 of title 33 of the Code of Federal Regula-
13 tions).”.

14 (b) CONFORMING AMENDMENT.—Section
15 897(c)(1)(A) of the Internal Revenue Code of 1986 is
16 amended by inserting “and paragraph (6)(C)” after “sub-
17 paragraph (B)”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to sales or exchanges
20 of mitigation bank credits occurring before, on, or after
21 the date of enactment of this Act.

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