

Estimated Tax Penalty Relief for Sale of Qualified Farmland

Cross References

- Notice 2026-3

The One Big Beautiful Bill Act (OBBBA) provides for a new election under IRC section 1062 that allows a taxpayer who has gain from the sale or exchange of qualified farmland property to a qualified farmer to elect to pay the applicable net tax liability in four equal installments. If the section 1062 election is made, the first installment must be paid by the due date of the return for the tax year in which the qualified sale or exchange occurs (without regard to any extensions). Each succeeding installment must be paid by the due date of the return for the tax year following the tax year with respect to which the preceding installment was made (without regard to any extensions).

Applicable net tax liability is the excess of:

- i) Such taxpayer's net income tax for the tax year, over
- ii) Such taxpayer's net income tax for the tax year determined without regard to any gain recognized from the qualified sale or exchange.

Qualified farmland property is real property located in the United States that:

- i) During substantially all of the 10-year period ending on the date of the qualified sale or exchange has been used by the taxpayer either as a farm for farming purposes or leased by the taxpayer to a qualified farmer for farming purposes, and
- ii) Is subject to a covenant or other legally enforceable restriction which prohibits the use of the property other than as a farm for farming purposes for 10 years after the date of the qualified sale or exchange.

Property that is used or leased by a partnership or S corporation is treated as used or leased by each person who holds a direct or indirect interest in such entity.

A qualified farmer is any individual who is actively engaged in farming.

The IRS is aware that taxpayers may be concerned that, in order to avoid the underpayment of estimated tax penalty, they may have to pay the full amount of applicable net tax liability, or a substantial portion of it, as estimated income tax for the tax year of the qualified sale or exchange. Doing so would be contrary to the purpose of the section 1062 election, which is to allow payment of the liability in installments over four years.

As a result, the IRS will waive a portion of the underpayment of estimated tax penalty that is attributable to the qualified sale or exchange for which the section 1062 election is made for taxpayers who both qualify to make a section 1062 election and properly make a section 1062 election. The limited waiver applies with respect to the applicable net tax liability the payment of which is deferred under IRC section 1062. Accordingly, a taxpayer may exclude 75% of the applicable net tax liability with respect to the qualified sale or exchange as to which the taxpayer has properly made the section 1062 election from the calculation of the required annual payment for purposes of determining estimated income tax installment amounts for the tax year.