November 2, 2016

John Dalrymple
Deputy Commissioner for Services and Enforcement
CC:PA:LPD:PR (REG-163113-02)
Room 5203
Internal Revenue Service
POB 7604
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Washington, D.C. 20044

Submitted via Federal Rulemaking portal: http://www.regulations.gov

RE: Estate, Gift, and Generation-skipping Transfer Taxes: Restrictions on Liquidation of an Interest (Docket No. IRS-2016-0022-0001)

Deputy Commissioner Dalrymple:

The National Association of Conservation Districts (NACD) is pleased to submit the following comments on the Internal Revenue Service's (IRS) proposed rule: Estate, Gift, and Generation-skipping Transfer Taxes: Restrictions on Liquidation of an Interest (Docket No. IRS-2016-0022-0001).

NACD represents America's 3,000 locally led conservation districts that work with millions of cooperating landowners and operators to help them manage and protect land and water resources on private and public lands in the United States. Established under state law, conservation districts share a single mission: to work cooperatively with federal, state, and other local resource management agencies – as well as private entities – to provide technical, financial and other assistance to help landowners and operators implement conservation practices.

NACD has serious concerns with the new regulations as written and we urge the IRS to withdraw them. Specifically, the proposed regulations would:

- Reduce the money farms have available to invest in on-farm conservation practices;
- Compromise the ability of family farms to remain intact after intergenerational transfer; and
- Change the rules and policies that families have known, used, and based their planning decisions on.

NACD supports the use of financial assistance to support on-farm investments in conservation. The proposed rule change does precisely the opposite. Rather than freeing up additional money that could be used to implement voluntary conservation, the proposed change would increase the tax burden on farms. The opportunity cost of this tax would be less on-farm conservation and fewer soil health, water quality, and wildlife habitat benefits. We strongly urge the IRS to consider how this change would disincentivize farm families – the people who are responsible for producing this country's food, fuel, and fiber – from implementing needed conservation practices on their land.

The proposed changes are not only problematic for working lands conservation – NACD worries they will also negatively affect the intergenerational transfer of farms. Real estate is projected to account for 83 percent of all farm assets in 2016.[1] With such a high percentage of assets in relatively illiquid real estate, family farms are often forced to sell some of their farmland in order to pay the estate tax assessed on inherited acreage.

Farmers are in the business of sustainability. To be economically viable, it is in their best interest to improve soil health and protect their land's natural resources over the long run. The thousands of multi-generational family farms in America are proof that farmers can be excellent stewards of the land, particularly when they have future generations to consider. Federal policy should incentivize keeping farms in the same family if for no other reason than to support sustainable, long-term management of working lands.

This proposal could not come at a worse time for farmers. Net farm income is forecast to be down 11.5 percent for 2015, hitting the lowest levels since 2009 shortly after the Great Recession hit the U.S.[2] In the midst of a series of tough years for farmers, the proposed regulations would only add additional hardship on already struggling farm families.

Finally, NACD is concerned that the IRS's proposal would change the rules and policies that families have known, used, and relied on for years. Family farm ownership is complex and it is only becoming more so. Planning for intergenerational transfer requires difficult discussions among family members, some of whom may want to farm and some of whom may not. In the best of circumstances, families begin these discussions well in advance of the death of a family member. Since the implementation of conservation practices on the land takes time and money, if the federal government is potentially increasing the tax liability producers and their families may ultimately have to pay, they might be less willing to spend their own money now to put in the ground needed conservation practices. Changing the estate tax regulations disrupts this planning and adds additional uncertainty into an already fraught process.

NACD strongly urges the IRS to reconsider and withdraw the proposed changes to estate, gift, and generation-skipping transfer taxes. We appreciate the IRS's careful consideration of our comments and we stand ready to assist the IRS in this request.

Sincerely,

Lee D. McDaniel

Lee McDaniel
President

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[1] United States Department of Agriculture Economic Research Service. (2016). *Assets, Debt, and Wealth*. Available at: http://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/assets,-debt,-and-wealth.aspx
[2] United States Department of Agriculture Economic Research Service. (2016). *Highlights From the Farm Income Forecast*. Available at: http://www.ers.usda.gov/topics/farm-economy/farm-sector-income-finances/highlights-from-the-farm-income-forecast.aspx

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