NATIONAL ISSUES
ACTION ALERT

2012 Kentucky Farm Bureau Agricultural Contact Team (FBACT)
Congressional Lame Duck Session
November 26, 2012

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ISSUE: Congress will return to work this week with a number of our 2012 National Priority Issues that must be addressed before the 112th Session of Congress is adjourned. As the "fiscal cliff" approaches by years' end, it is vital we continue to push to maintain the tax provisions that are critical to agriculture. The fiscal cliff is a combination of factors that refers to sequestration or automatic spending cuts set to take place along with the tax cuts that would expire if Congress fails to act by December 31, 2012.

ESTATE TAX: The Unemployment Insurance Reauthorization and Job Creation Act of 2010 set the estate tax exemption at $5 million per person and the top rate at 35 percent for 2011 and 2012. The bill put in place a new provision for 2011 and 2012 that allows the unused portion of a spouse's exemption to be used by a surviving spouse. In addition, the legislation permanently reinstated stepped-up basis. If Congress fails to act, the federal estate tax beginning January 1, 2013 will revert to a $1 million exemption rate with a 55 percent top rate and no spousal transfer exemptions. For most farm families, these tax stipulations will be woefully inadequate, as many family farm values, including other assets would exceed the $1 million exemption.

CAPITAL GAINS TAX: The capital gains tax affects farmers in a big way. Starting or expanding a farm requires a large investment because of the capital-intensive nature of the business. The added acquisition cost associated with covering the tax can increase the cost of starting or expanding a farm. The cost impact also increases the likelihood that farm land will be sold outside of agriculture to commercial interest that are willing to pay for the asset. With such a large amount invested in fixed assets, it is imperative that capital gains taxes are maintained at a reasonable level. The current top capital gains tax rate is 15 percent but is set to increase to 20 percent in 2013. Keeping the top capital gains tax rate at 15 percent is especially significant for farm owners because they are much more likely to pay capital gains taxes than the population at large. Forty percent of all agricultural producers report some capital gains; nearly double the share for all taxpayers. The average amount of capital gain reported by farmers is about 50 percent higher than the average capital gain reported by other taxpayers.

FARM BILL: On June 21 the Senate passed its version of the Farm Bill (S 3240) making significant changes to farm programs and consolidating several conservation programs. The Senate passed version reduced spending by approximately $23 billion. In the House, members of the House Agriculture Committee approved their version of the bill (HR 6083) on July 11. This version was similar in many ways to the Senate passed bill, however it reduces spending by about $35 billion. The bill is currently awaiting full House consideration. The main issue delaying passage of a new farm bill is how the two bills treat budget reductions for nutrition programs. About $4 billion of the $23 billion savings in S 3240 comes from reductions in nutrition program funding while a little over $16 billion of the $35 billion in savings in HR 6083 comes from nutrition. Some feel this is too much reduction while others argue it is not enough. If members can agree on an amount of cost savings for nutrition programs, a new farm bill could be passed fairly quickly by Congress.

When Congress returns this week to continue the lame duck session it will be just four short weeks until Christmas. In that time period, Congress has a lot of unfinished business to do to avoid the so called "fiscal cliff" and get a new farm bill passed. The question is will there be time to consider these and other issues during that time period, or will Congress simply "punt" everything to the 113th Congress?

IMPACT: Failure to act on these issues before the end of the 112th Session of Congress will result in tax measures reverting back to 2001 levels and 1949 Permanent Law for farm bill programs. Some feel the savings resulting from farm bill passage could be packaged with other pending budget-reducing legislative measures and passed as a means to avoid the fiscal cliff and allow Congress time to reach agreement on other cost saving measures. There appears to be widespread agreement to address estate taxes to avoid reverting to 2001 levels, and two levels are being discussed. One consideration is to allow it to remain at the level it currently is; a $5 million exemption and top rate of 35 percent, but the other level being considered is to reduce the exemption to $3.5 million and raise the top tax rate to 45 percent. It is important to set the exemption levels at high enough levels to allow farmers the ability to pass assets from one generation to the next without undue tax burdens.

ACTION: Please contact your members of Congress to urge action on farm bill reauthorization and tax reform issues. Kentucky Farm Bureau policy calls for a permanent repeal of the federal estate tax. However, if that is not possible, we urge Congress to keep the exemption levels and tax rate at current levels. Leaders should urge passage of a new farm bill before Congress adjourns in December. Passage of a new farm bill will provide farmers with more certainty on national farm policy as they prepare for 2013 and beyond.

Congressional Contact Information:

Senator Mitch McConnell
Washington: (202) 224-2541
LA-AGR: Eric King
Louisville Office: (502) 582-6304

Senator Rand Paul
Washington: (202) 224-4343
LA-AGR: Rachel Bovard
Bowling Green Office: (270) 782-8303

District 1: Congressman Ed Whitfield
Washington: (202) 225-3115
LD & LA-AGR: Cory Hicks
Hopkinsville Office: (270) 885-8079

District 2: Congressman Brett Guthrie
Washington: (202) 225-3501
LA-AGR: Tate Bennett
Bowling Green Office: (270) 842-9896

District 3: Congressman John Yarmuth
Washington: (202) 225-5401
LD & LA-AGR: Ashley Bromagen
Louisville Office: (502) 582-5129

District 4: Congressman Thomas Massie
Washington: (202) 225-3465
(Staff and District Office have not been set)

District 5: Congressman Hal Rogers
Washington: (202) 225-4601
LA-AGR: Aaron Jones
Somerset Office: (606) 679-8346

District 6: Congressman Ben Chandler
Washington: (202) 225-4706
LA-AGR: Jason Robinson
Lexington Office: (859) 219-1366

For more information contact: L. Joe Cain, Director, National Affairs and Political Education
9201 Bunsen Parkway • Louisville, KY 40220 • Phone: 502-495-7738 • Fax: 502-495-5114
Email: joe.cain@kyfb.com • Web site: kyfb.com