

Union Calendar No. 361

106TH CONGRESS
2D SESSION

H. R. 8

[Report No. 106-651]

To amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1999

Ms. DUNN (for herself and Mr. TANNER) introduced the following bill; which was referred to the Committee on Ways and Means

JUNE 6, 2000

Additional sponsors: Mr. HERGER, Mr. MCCRERY, Mr. HAYWORTH, Mr. ENGLISH, Mr. ADERHOLT, Mr. TALENT, Mr. HALL of Texas, Mrs. MYRICK, Mr. FOLEY, Mr. DEUTSCH, Mr. DREIER, Mr. SENSENBRENNER, Mr. GOODE, Mr. WICKER, Mr. SHAW, Mr. BOUCHER, Mr. NETHERCUTT, Ms. DANNER, Mr. MCCOLLUM, Mrs. EMERSON, Mr. WATTS of Oklahoma, Mr. CONDIT, Mr. ROYCE, Mr. SCHAFFER, Mr. NEY, Mr. CUNNINGHAM, Mr. HUTCHINSON, Mr. FORBES, Mr. MCINTYRE, Mr. HASTINGS of Washington, Mr. MANZULLO, Mr. CRANE, Mr. LOBIONDO, Mr. REYNOLDS, Mr. TANCREDO, Mr. JOHN, Mr. SALMON, Mr. DICKEY, Mr. SESSIONS, Mr. BARCIA, Mr. CHAMBLISS, Mr. HEFLEY, Mr. RAHALL, Mr. LAHOOD, Mr. KASICH, Mr. CRAMER, Mr. HOSTETTLER, Mr. CALLAHAN, Mr. BACHUS, Mr. BISHOP, Mr. SKEEN, Mrs. CHENOWETH-HAGE, Mr. LUCAS of Kentucky, Mr. BOEHNER, Mr. BILBRAY, Mr. PACKARD, Mrs. CUBIN, Mr. WELLER, Mr. RAMSTAD, Mr. MILLER of Florida, Mrs. BONO, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. NORTHUP, Mr. COOK, Mr. DEMINT, Mr. COBLE, Ms. PRYCE of Ohio, Mr. WATKINS, Ms. ROSLEHTINEN, Mr. GARY MILLER of California, Mr. GORDON, Mr. FRANKS of New Jersey, Mr. GALLEGLY, Mr. WALDEN of Oregon, Mr. KOLBE, Mr. BURTON of Indiana, Mr. RILEY, Mr. JENKINS, Mr. WOLF, Mr. PEASE, Mr. GOODLATTE, Mr. GOSS, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. PHELPS, Mr. PITTS, Mr. MCINNIS, Mr. METCALF, Mr. LUCAS of Oklahoma, Mr. KUYKENDALL, Mr. OSE, Mr. HILL of Montana, Mr. SIMPSON, Mr. COLLINS, Mr. COX, Mr. THOMAS, Mr. LEWIS of Kentucky, Mr. HULSHOF, Mr. HAYES, Mr. SWEENEY, Mr. BRYANT, Mr. HOUGH-

TON, Mr. CLEMENT, Ms. LOFGREN, Mr. RADANOVICH, Mr. GIBBONS, Mr. FLETCHER, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mr. LINDER, Mr. ARMEY, Mr. MCKEON, Mr. TIAHRT, Mr. EWING, Mr. BARRETT of Nebraska, Mr. KNOLLENBERG, Mr. SHERWOOD, Mr. SHOWS, Mr. SANDLIN, Mr. FORD, Mr. SHUSTER, Mr. HYDE, Mr. PAUL, Mr. CALVERT, Mr. TERRY, Mr. MCINTOSH, Mr. ROHRABACHER, Mr. DOOLITTLE, Mr. CANADY of Florida, Mr. POMBO, Mr. ROGERS, Mr. WELDON of Florida, Mr. BAIRD, Mr. ANDREWS, Mr. ISAKSON, Mr. GRAHAM, Mr. RYUN of Kansas, Mr. MORAN of Kansas, Mrs. FOWLER, Mr. BLUNT, Mr. PICKERING, Mr. PORTMAN, Mr. NUSSLE, Mr. WALSH, Mr. KINGSTON, Mr. EVERETT, Mr. CAMPBELL, Mr. STUMP, Mrs. CLAYTON, Mr. LARGENT, Mr. HUNTER, Mr. LATHAM, Mr. DUNCAN, Mr. HILLEARY, Mr. HOEKSTRA, Mr. TAYLOR of North Carolina, Mr. EHLERS, Mr. ROGAN, Mr. SCARBOROUGH, Mr. SAXTON, Mr. GREEN of Wisconsin, Mr. DEAL of Georgia, Mr. BASS, Mr. BOEHLERT, Mrs. BIGGERT, Mr. SAM JOHNSON of Texas, Mr. SUNUNU, Mr. WHITFIELD, Mr. MICA, Mr. LATOURETTE, Mr. GILLMOR, Mrs. MCCARTHY of New York, Mr. BLILEY, Mr. SPENCE, Mr. SHIMKUS, Mr. CAMP, Mr. THUNE, Mr. TOOMEY, Mr. SOUDER, Mr. EHRLICH, Mr. HANSEN, Mr. PORTER, Mr. BRADY of Texas, Mr. JONES of North Carolina, Mr. BILIRAKIS, Mr. JEFFERSON, Mr. ABERCROMBIE, Mr. CHABOT, Mrs. WILSON, Mr. DOOLEY of California, Mr. ENGEL, Mr. LAMPSON, Ms. GRANGER, Mr. BAKER, Mr. BONILLA, Mr. BURR of North Carolina, Mr. CANNON, Mr. TOWNS, Mr. COMBEST, Mr. GEKAS, Mr. BARTON of Texas, Mr. COOKSEY, Mr. GREENWOOD, Mr. COBURN, Mr. DELAY, Mr. FOSSELLA, Mr. BARTLETT of Maryland, Mr. BARR of Georgia, Mr. RYAN of Wisconsin, Mr. SHADEGG, Mr. GILMAN, Mr. HORN, Mr. OXLEY, Mr. NORWOOD, Mrs. ROUKEMA, Mrs. KELLY, Mr. KLINK, Mr. SMITH of Texas, Mr. KING, Mr. ISTOOK, Mr. WELDON of Pennsylvania, Mr. SMITH of Washington, Mr. THORNBERRY, Ms. VELAZQUEZ, Mr. PASTOR, Mr. CLAY, Mr. MASCARA, Ms. ESHOO, Ms. BERKLEY, Mr. MEEKS of New York, Mr. GILCREST, Mrs. MORELLA, Mr. MCHUGH, Mr. BLAGOJEVICH, Mr. BERRY, Mr. WYNN, Mr. VITTER, Mr. TAUZIN, Mrs. TAUSCHER, Mr. DAVIS of Virginia, Mr. TRAFICANT, Mr. MALONEY of Connecticut, and Mr. SMITH of New Jersey

JUNE 6, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 25, 1999]

A BILL

To amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period.

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; ETC.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Death Tax Elimination Act of 2000”.*

6 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 7 *expressly provided, whenever in this Act an amendment or*
 8 *repeal is expressed in terms of an amendment to, or repeal*
 9 *of, a section or other provision, the reference shall be consid-*
 10 *ered to be made to a section or other provision of the Inter-*
 11 *nal Revenue Code of 1986.*

12 **TITLE I—REPEAL OF ESTATE,**
 13 **GIFT, AND GENERATION-SKIP-**
 14 **PING TAXES; REPEAL OF STEP**
 15 **UP IN BASIS AT DEATH**

16 **SEC. 101. REPEAL OF ESTATE, GIFT, AND GENERATION-**
 17 **SKIPPING TAXES.**

18 (a) *IN GENERAL.*—*Subtitle B is hereby repealed.*

19 (b) *EFFECTIVE DATE.*—*The repeal made by subsection*
 20 *(a) shall apply to the estates of decedents dying, and gifts*
 21 *and generation-skipping transfers made, after December 31,*
 22 *2009.*

23 **SEC. 102. TERMINATION OF STEP UP IN BASIS AT DEATH.**

24 (a) *TERMINATION OF APPLICATION OF SECTION*
 25 *1014.*—*Section 1014 (relating to basis of property acquired*

1 from a decedent) is amended by adding at the end the fol-
 2 lowing:

3 “(f) *TERMINATION.*—In the case of a decedent dying
 4 after December 31, 2009, this section shall not apply to
 5 property for which basis is provided by section 1022.”.

6 (b) *CONFORMING AMENDMENT.*—Subsection (a) of sec-
 7 tion 1016 (relating to adjustments to basis) is amended by
 8 striking “and” at the end of paragraph (26), by striking
 9 the period at the end of paragraph (27) and inserting “,
 10 and”, and by adding at the end the following:

11 “(28) to the extent provided in section 1022 (re-
 12 lating to basis for certain property acquired from a
 13 decedent dying after December 31, 2009).”.

14 **SEC. 103. CARRYOVER BASIS AT DEATH.**

15 (a) *GENERAL RULE.*—Part II of subchapter O of chap-
 16 ter 1 (relating to basis rules of general application) is
 17 amended by inserting after section 1021 the following new
 18 section:

19 **“SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY AC-**
 20 **QUIRED FROM A DECEDENT DYING AFTER DE-**
 21 **CEMBER 31, 2009.**

22 “(a) *CARRYOVER BASIS.*—Except as otherwise pro-
 23 vided in this section, the basis of carryover basis property
 24 in the hands of a person acquiring such property from a
 25 decedent shall be determined under section 1015.

1 “(b) *CARRYOVER BASIS PROPERTY DEFINED.*—

2 “(1) *IN GENERAL.*—For purposes of this section,
3 the term ‘carryover basis property’ means any
4 property—

5 “(A) which is acquired from or passed from
6 a decedent who died after December 31, 2009,
7 and

8 “(B) which is not excluded pursuant to
9 paragraph (2).

10 The property taken into account under subparagraph
11 (A) shall be determined under section 1014(b) without
12 regard to subparagraph (A) of the last sentence of
13 paragraph (9) thereof.

14 “(2) *CERTAIN PROPERTY NOT CARRYOVER BASIS*
15 *PROPERTY.*—The term ‘carryover basis property’ does
16 not include—

17 “(A) any item of gross income in respect of
18 a decedent described in section 691,

19 “(B) property of the decedent to the extent
20 that the aggregate adjusted fair market value of
21 such property does not exceed \$1,300,000, and

22 “(C) property which was acquired from the
23 decedent by the surviving spouse of the decedent
24 (and which would be carryover basis property
25 without regard to this subparagraph) but only if

1 *the value of such property would have been de-*
2 *ductible from the value of the taxable estate of*
3 *the decedent under section 2056, as in effect on*
4 *the day before the date of the enactment of the*
5 *Death Tax Elimination Act of 2000.*

6 *For purposes of this subsection, the term ‘adjusted*
7 *fair market value’ means, with respect to any prop-*
8 *erty, fair market value reduced by any indebtedness*
9 *secured by such property.*

10 “(3) *LIMITATION ON EXCEPTION FOR PROPERTY*
11 *ACQUIRED BY SURVIVING SPOUSE.—The adjusted fair*
12 *market value of property which is not carryover basis*
13 *property by reason of paragraph (2)(C) shall not ex-*
14 *ceed \$3,000,000.*

15 “(4) *ALLOCATION OF EXCEPTED AMOUNTS.—The*
16 *executor shall allocate the limitations under para-*
17 *graphs (2)(B) and (3).*

18 “(5) *INFLATION ADJUSTMENT OF EXCEPTED*
19 *AMOUNTS.—In the case of decedents dying in a cal-*
20 *endar year after 2010, the dollar amounts in para-*
21 *graphs (2)(B) and (3) shall each be increased by an*
22 *amount equal to the product of—*

23 “(A) *such dollar amount, and*

24 “(B) *the cost-of-living adjustment deter-*
25 *mined under section 1(f)(3) for such calendar*

1 year, determined by substituting ‘2009’ for
2 ‘1992’ in subparagraph (B) thereof.

3 If any increase determined under the preceding sen-
4 tence is not a multiple of \$10,000, such increase shall
5 be rounded to the nearest multiple of \$10,000.

6 “(c) REGULATIONS.—The Secretary shall prescribe
7 such regulations as may be necessary to carry out the pur-
8 poses of this section.”.

9 (b) MISCELLANEOUS AMENDMENTS RELATED TO CAR-
10 RYOVER BASIS.—

11 (1) CAPITAL GAIN TREATMENT FOR INHERITED
12 ART WORK OR SIMILAR PROPERTY.—

13 (A) IN GENERAL.—Subparagraph (C) of
14 section 1221(a)(3) (defining capital asset) is
15 amended by inserting “(other than by reason of
16 section 1022)” after “is determined”.

17 (B) COORDINATION WITH SECTION 170.—
18 Paragraph (1) of section 170(e) (relating to cer-
19 tain contributions of ordinary income and cap-
20 ital gain property) is amended by adding at the
21 end the following: “For purposes of this para-
22 graph, the determination of whether property is
23 a capital asset shall be made without regard to
24 the exception contained in section 1221(a)(3)(C)
25 for basis determined under section 1022.”.

1 (2) *DEFINITION OF EXECUTOR.*—Section 7701(a)
 2 *(relating to definitions) is amended by adding at the*
 3 *end the following:*

4 “(47) *EXECUTOR.*—The term ‘executor’ means
 5 *the executor or administrator of the decedent, or, if*
 6 *there is no executor or administrator appointed,*
 7 *qualified, and acting within the United States, then*
 8 *any person in actual or constructive possession of any*
 9 *property of the decedent.”.*

10 (3) *CLERICAL AMENDMENT.*—The table of sec-
 11 *tions for part II of subchapter O of chapter 1 is*
 12 *amended by adding at the end the following new item:*

*“Sec. 1022. Carryover basis for certain property acquired from a
 decedent dying after December 31, 2009.”.*

13 (c) *EFFECTIVE DATE.*—The amendments made by this
 14 *section shall apply to estates of decedents dying after De-*
 15 *cember 31, 2009.*

16 **TITLE II—REDUCTIONS OF ES-**
 17 **TATE AND GIFT TAX RATES**
 18 **PRIOR TO REPEAL**

19 **SEC. 201. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT**
 20 **TAX RATES.**

21 (a) *MAXIMUM RATE OF TAX REDUCED TO 50 PER-*
 22 *CENT.*—

1 *table contained in paragraph (1)) which is the*
 2 *same as such table; except that—*

3 *“(i) each of the rates of tax shall be re-*
 4 *duced by the number of percentage points*
 5 *determined under subparagraph (B), and*

6 *“(ii) the amounts setting forth the tax*
 7 *shall be adjusted to the extent necessary to*
 8 *reflect the adjustments under clause (i).*

9 “(B) *PERCENTAGE POINTS OF REDUC-*
 10 *TION.—*

“For calendar year:	The number of percentage points is:
2003	1.0
2004	2.0
2005	3.0
2006	4.0
2007	5.5
2008	7.5
2009	9.5.

11 “(C) *COORDINATION WITH INCOME TAX*
 12 *RATES.—The reductions under subparagraph*
 13 *(A)—*

14 *“(i) shall not reduce any rate under*
 15 *paragraph (1) below the lowest rate in sec-*
 16 *tion 1(c), and*

17 *“(ii) shall not reduce the highest rate*
 18 *under paragraph (1) below the highest rate*
 19 *in section 1(c).*

20 “(D) *COORDINATION WITH CREDIT FOR*
 21 *STATE DEATH TAXES.—Rules similar to the rules*

1 of subparagraph (A) shall apply to the table con-
 2 tained in section 2011(b) except that the Sec-
 3 retary shall prescribe percentage point reductions
 4 which maintain the proportionate relationship
 5 (as in effect before any reduction under this
 6 paragraph) between the credit under section
 7 2011 and the tax rates under subsection (c).”.

8 (d) *EFFECTIVE DATES.*—

9 (1) *SUBSECTIONS (a) AND (b).*—The amend-
 10 ments made by subsections (a) and (b) shall apply to
 11 estates of decedents dying, and gifts made, after De-
 12 cember 31, 2000.

13 (2) *SUBSECTION (c).*—The amendment made by
 14 subsection (c) shall apply to estates of decedents
 15 dying, and gifts made, after December 31, 2002.

16 **TITLE III—UNIFIED CREDIT RE-**
 17 **PLACED WITH UNIFIED EX-**
 18 **EMPTION AMOUNT**

19 **SEC. 301. UNIFIED CREDIT AGAINST ESTATE AND GIFT**
 20 **TAXES REPLACED WITH UNIFIED EXEMPTION**
 21 **AMOUNT.**

22 (a) *IN GENERAL.*—

23 (1) *ESTATE TAX.*—Subsection (b) of section 2001
 24 (relating to computation of tax) is amended to read
 25 as follows:

1 “(b) *COMPUTATION OF TAX.*—

2 “(1) *IN GENERAL.*—*The tax imposed by this sec-*
3 *tion shall be the amount equal to the excess (if any)*
4 *of—*

5 “(A) *the tentative tax determined under*
6 *paragraph (2), over*

7 “(B) *the aggregate amount of tax which*
8 *would have been payable under chapter 12 with*
9 *respect to gifts made by the decedent after De-*
10 *cember 31, 1976, if the provisions of subsection*
11 *(c) (as in effect at the decedent’s death) had been*
12 *applicable at the time of such gifts.*

13 “(2) *TENTATIVE TAX.*—*For purposes of para-*
14 *graph (1), the tentative tax determined under this*
15 *paragraph is a tax computed under subsection (c) on*
16 *the excess of—*

17 “(A) *the sum of—*

18 “(i) *the amount of the taxable estate,*
19 *and*

20 “(ii) *the amount of the adjusted tax-*
21 *able gifts, over*

22 “(B) *the exemption amount for the calendar*
23 *year in which the decedent died.*

24 “(3) *EXEMPTION AMOUNT.*—*For purposes of*
25 *paragraph (2), the term ‘exemption amount’ means*

1 *the amount determined in accordance with the fol-*
 2 *lowing table:*

<i>“In the case of calendar year:</i>	<i>The exemption amount is:</i>
2001	\$675,000
2002 and 2003	\$700,000
2004	\$850,000
2005	\$950,000
2006 or thereafter	\$1,000,000.

3 *“(4) ADJUSTED TAXABLE GIFTS.—For purposes*
 4 *of paragraph (2), the term ‘adjusted taxable gifts’*
 5 *means the total amount of the taxable gifts (within*
 6 *the meaning of section 2503) made by the decedent*
 7 *after December 31, 1976, other than gifts which are*
 8 *includible in the gross estate of the decedent.”*

9 *(2) GIFT TAX.—Subsection (a) of section 2502*
 10 *(relating to computation of tax) is amended to read*
 11 *as follows:*

12 *“(a) COMPUTATION OF TAX.—*

13 *“(1) IN GENERAL.—The tax imposed by section*
 14 *2501 for each calendar year shall be the amount equal*
 15 *to the excess (if any) of—*

16 *“(A) the tentative tax determined under*
 17 *paragraph (2), over*

18 *“(B) the tax paid under this section for all*
 19 *prior calendar periods.*

20 *“(2) TENTATIVE TAX.—For purposes of para-*
 21 *graph (1), the tentative tax determined under this*

1 paragraph for a calendar year is a tax computed
2 under section 2001(c) on the excess of—

3 “(A) the aggregate sum of the taxable gifts
4 for such calendar year and for each of the pre-
5 ceding calendar periods, over

6 “(B) the exemption amount under section
7 2001(b)(3) for such calendar year.”

8 (b) *REPEAL OF UNIFIED CREDITS.*—

9 (1) Section 2010 (relating to unified credit
10 against estate tax) is hereby repealed.

11 (2) Section 2505 (relating to unified credit
12 against gift tax) is hereby repealed.

13 (c) *CONFORMING AMENDMENTS.*—

14 (1)(A) Subsection (b) of section 2011 is
15 amended—

16 (i) by striking “adjusted” in the table, and

17 (ii) by striking the last sentence.

18 (B) Subsection (f) of section 2011 is amended by
19 striking “, reduced by the amount of the unified cred-
20 it provided by section 2010”.

21 (2) Subsection (a) of section 2012 is amended by
22 striking “and the unified credit provided by section
23 2010”.

24 (3) Subparagraph (A) of section 2013(c)(1) is
25 amended by striking “2010,”.

1 (4) Paragraph (2) of section 2014(b) is amended
2 by striking “2010, 2011,” and inserting “2011”.

3 (5) Clause (ii) of section 2056A(b)(12)(C) is
4 amended to read as follows:

5 “(ii) to treat any reduction in the tax
6 imposed by paragraph (1)(A) by reason of
7 the credit allowable under section 2010 (as
8 in effect on the day before the date of the en-
9 actment of the Death Tax Elimination Act
10 of 2000) or the exemption amount allowable
11 under section 2001(b) with respect to the de-
12 cedent as a credit under section 2505 (as so
13 in effect) or exemption under section 2521
14 (as the case may be) allowable to such sur-
15 viving spouse for purposes of determining
16 the amount of the exemption allowable
17 under section 2521 with respect to taxable
18 gifts made by the surviving spouse during
19 the year in which the spouse becomes a cit-
20 izen or any subsequent year.”.

21 (6) Subsection (a) of section 2057 is amended by
22 striking paragraphs (2) and (3) and inserting the fol-
23 lowing new paragraph:

24 “(2) *MAXIMUM DEDUCTION*.—The deduction al-
25 lowed by this section shall not exceed the excess of

1 \$1,300,000 over the exemption amount (as defined in
2 section 2001(b)(3)).”

3 (7)(A) Subsection (b) of section 2101 is amended
4 to read as follows:

5 “(b) COMPUTATION OF TAX.—

6 “(1) IN GENERAL.—The tax imposed by this sec-
7 tion shall be the amount equal to the excess (if any)
8 of—

9 “(A) the tentative tax determined under
10 paragraph (2), over

11 “(B) a tentative tax computed under section
12 2001(c) on the amount of the adjusted taxable
13 gifts.

14 “(2) TENTATIVE TAX.—For purposes of para-
15 graph (1), the tentative tax determined under this
16 paragraph is a tax computed under section 2001(c)
17 on the excess of—

18 “(A) the sum of—

19 “(i) the amount of the taxable estate,
20 and

21 “(ii) the amount of the adjusted tax-
22 able gifts, over

23 “(B) the exemption amount for the calendar
24 year in which the decedent died.

25 “(3) EXEMPTION AMOUNT.—

1 “(A) *IN GENERAL.*—The term ‘*exemption*
2 *amount*’ means \$60,000.

3 “(B) *RESIDENTS OF POSSESSIONS OF THE*
4 *UNITED STATES.*—In the case of a decedent who
5 is considered to be a nonresident not a citizen of
6 the United States under section 2209, the exemp-
7 tion amount under this paragraph shall be the
8 greater of—

9 “(i) \$60,000, or

10 “(ii) that proportion of \$175,000
11 which the value of that part of the dece-
12 dent’s gross estate which at the time of his
13 death is situated in the United States bears
14 to the value of his entire gross estate wher-
15 ever situated.

16 “(C) *SPECIAL RULES.*—

17 “(i) *COORDINATION WITH TREATIES.*—
18 To the extent required under any treaty ob-
19 ligation of the United States, the exemption
20 amount allowed under this paragraph shall
21 be equal to the amount which bears the
22 same ratio to the exemption amount under
23 section 2001(b)(3) (for the calendar year in
24 which the decedent died) as the value of the
25 part of the decedent’s gross estate which at

1 *the time of his death is situated in the*
2 *United States bears to the value of his en-*
3 *tire gross estate wherever situated. For pur-*
4 *poses of the preceding sentence, property*
5 *shall not be treated as situated in the*
6 *United States if such property is exempt*
7 *from the tax imposed by this subchapter*
8 *under any treaty obligation of the United*
9 *States.*

10 “(i) *COORDINATION WITH GIFT TAX*
11 *EXEMPTION AND UNIFIED CREDIT.—If an*
12 *exemption has been allowed under section*
13 *2521 (or a credit has been allowed under*
14 *section 2505 as in effect on the day before*
15 *the date of the enactment of the Death Tax*
16 *Elimination Act of 2000) with respect to*
17 *any gift made by the decedent, each dollar*
18 *amount contained in subparagraph (A) or*
19 *(B) or the exemption amount applicable*
20 *under clause (i) of this subparagraph*
21 *(whichever applies) shall be reduced by the*
22 *exemption so allowed under section 2521*
23 *(or, in the case of such a credit, by the*
24 *amount of the gift for which the credit was*
25 *so allowed).”.*

1 (8) *Section 2102 is amended by striking sub-*
2 *section (c).*

3 (9)(A) *Subsection (a) of section 2107 is amended*
4 *by adding at the end the following new paragraph:*

5 “*(3) LIMITATION ON EXEMPTION AMOUNT.—Sub-*
6 *paragraphs (B) and (C) of section 2101(b)(3) shall*
7 *not apply in applying section 2101 for purposes of*
8 *this section.*”.

9 (B) *Subsection (c) of section 2107 is amended—*

10 (i) *by striking paragraph (1) and by redес-*
11 *ignating paragraphs (2) and (3) as paragraphs*
12 *(1) and (2), respectively, and*

13 (ii) *by striking the second sentence of para-*
14 *graph (2) (as so redesignated).*

15 (10) *Paragraph (1) of section 6018(a) is amend-*
16 *ed by striking “the applicable exclusion amount in ef-*
17 *fect under section 2010(c)” and inserting “the exemp-*
18 *tion amount under section 2001(b)(3)”.*

19 (11) *Subparagraph (A) of section 6601(j)(2) is*
20 *amended to read as follows:*

21 “*(A) the amount of the tentative tax which*
22 *would be determined under the rate schedule set*
23 *forth in section 2001(c) if the amount with re-*
24 *spect to which such tentative tax is to be com-*
25 *puted were \$1,000,000, or*”.

1 (12) *The table of sections for part II of sub-*
 2 *chapter A of chapter 11 is amended by striking the*
 3 *item relating to section 2010.*

4 (13) *The table of sections for subchapter A of*
 5 *chapter 12 is amended by striking the item relating*
 6 *to section 2505.*

7 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section—*

9 (1) *insofar as they relate to the tax imposed by*
 10 *chapter 11 of the Internal Revenue Code of 1986, shall*
 11 *apply to estates of decedents dying after December 31,*
 12 *2000, and*

13 (2) *insofar as they relate to the tax imposed by*
 14 *chapter 12 of such Code, shall apply to gifts made*
 15 *after December 31, 2000.*

16 **TITLE IV—MODIFICATIONS OF**
 17 **GENERATION-SKIPPING**
 18 **TRANSFER TAX**

19 **SEC. 401. DEEMED ALLOCATION OF GST EXEMPTION TO**
 20 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**
 21 **ACTIVE ALLOCATIONS.**

22 (a) *IN GENERAL.*—*Section 2632 (relating to special*
 23 *rules for allocation of GST exemption) is amended by redес-*
 24 *ignating subsection (c) as subsection (e) and by inserting*
 25 *after subsection (b) the following new subsections:*

1 “(c) *DEEMED ALLOCATION TO CERTAIN LIFETIME*
2 *TRANSFERS TO GST TRUSTS.*—

3 “(1) *IN GENERAL.*—*If any individual makes an*
4 *indirect skip during such individual’s lifetime, any*
5 *unused portion of such individual’s GST exemption*
6 *shall be allocated to the property transferred to the ex-*
7 *tent necessary to make the inclusion ratio for such*
8 *property zero. If the amount of the indirect skip ex-*
9 *ceeds such unused portion, the entire unused portion*
10 *shall be allocated to the property transferred.*

11 “(2) *UNUSED PORTION.*—*For purposes of para-*
12 *graph (1), the unused portion of an individual’s GST*
13 *exemption is that portion of such exemption which*
14 *has not previously been—*

15 “(A) *allocated by such individual,*

16 “(B) *treated as allocated under subsection*
17 *(b) with respect to a direct skip occurring during*
18 *or before the calendar year in which the indirect*
19 *skip is made, or*

20 “(C) *treated as allocated under paragraph*
21 *(1) with respect to a prior indirect skip.*

22 “(3) *DEFINITIONS.*—

23 “(A) *INDIRECT SKIP.*—*For purposes of this*
24 *subsection, the term ‘indirect skip’ means any*
25 *transfer of property (other than a direct skip)*

1 *subject to the tax imposed by chapter 12 made*
2 *to a GST trust.*

3 “(B) *GST TRUST.*—*The term ‘GST trust’*
4 *means a trust that could have a generation-skip-*
5 *ping transfer with respect to the transferor*
6 *unless—*

7 “(i) *the trust instrument provides that*
8 *more than 25 percent of the trust corpus*
9 *must be distributed to or may be withdrawn*
10 *by 1 or more individuals who are non-skip*
11 *persons—*

12 “(I) *before the date that the indi-*
13 *vidual attains age 46,*

14 “(II) *on or before one or more*
15 *dates specified in the trust instrument*
16 *that will occur before the date that*
17 *such individual attains age 46, or*

18 “(III) *upon the occurrence of an*
19 *event that, in accordance with regula-*
20 *tions prescribed by the Secretary, may*
21 *reasonably be expected to occur before*
22 *the date that such individual attains*
23 *age 46;*

24 “(ii) *the trust instrument provides that*
25 *more than 25 percent of the trust corpus*

1 *must be distributed to or may be withdrawn*
2 *by one or more individuals who are non-*
3 *skip persons and who are living on the date*
4 *of death of another person identified in the*
5 *instrument (by name or by class) who is*
6 *more than 10 years older than such individ-*
7 *uals;*

8 “(iii) *the trust instrument provides*
9 *that, if one or more individuals who are*
10 *non-skip persons die on or before a date or*
11 *event described in clause (i) or (ii), more*
12 *than 25 percent of the trust corpus either*
13 *must be distributed to the estate or estates*
14 *of one or more of such individuals or is sub-*
15 *ject to a general power of appointment exer-*
16 *cisable by one or more of such individuals;*

17 “(iv) *the trust is a trust any portion*
18 *of which would be included in the gross es-*
19 *tate of a non-skip person (other than the*
20 *transferor) if such person died immediately*
21 *after the transfer;*

22 “(v) *the trust is a charitable lead an-*
23 *nuity trust (within the meaning of section*
24 *2642(e)(3)(A)) or a charitable remainder*
25 *annuity trust or a charitable remainder*

1 *unitrust (within the meaning of section*
2 *664(d)); or*

3 *“(vi) the trust is a trust with respect*
4 *to which a deduction was allowed under sec-*
5 *tion 2522 for the amount of an interest in*
6 *the form of the right to receive annual pay-*
7 *ments of a fixed percentage of the net fair*
8 *market value of the trust property (deter-*
9 *mined yearly) and which is required to pay*
10 *principal to a non-skip person if such per-*
11 *son is alive when the yearly payments for*
12 *which the deduction was allowed terminate.*

13 *For purposes of this subparagraph, the value of*
14 *transferred property shall not be considered to be*
15 *includible in the gross estate of a non-skip per-*
16 *son or subject to a right of withdrawal by reason*
17 *of such person holding a right to withdraw so*
18 *much of such property as does not exceed the*
19 *amount referred to in section 2503(b) with re-*
20 *spect to any transferor, and it shall be assumed*
21 *that powers of appointment held by non-skip*
22 *persons will not be exercised.*

23 *“(4) AUTOMATIC ALLOCATIONS TO CERTAIN GST*
24 *TRUSTS.—For purposes of this subsection, an indirect*
25 *skip to which section 2642(f) applies shall be deemed*

1 to have been made only at the close of the estate tax
2 inclusion period. The fair market value of such trans-
3 fer shall be the fair market value of the trust property
4 at the close of the estate tax inclusion period.

5 “(5) *APPLICABILITY AND EFFECT.*—

6 “(A) *IN GENERAL.*—An individual—

7 “(i) may elect to have this subsection
8 not apply to—

9 “(I) an indirect skip, or

10 “(II) any or all transfers made by
11 such individual to a particular trust,
12 and

13 “(ii) may elect to treat any trust as a
14 GST trust for purposes of this subsection
15 with respect to any or all transfers made by
16 such individual to such trust.

17 “(B) *ELECTIONS.*—

18 “(i) *ELECTIONS WITH RESPECT TO IN-*
19 *DIRECT SKIPS.*—An election under subpara-
20 graph (A)(i)(I) shall be deemed to be timely
21 if filed on a timely filed gift tax return for
22 the calendar year in which the transfer was
23 made or deemed to have been made pursu-
24 ant to paragraph (4) or on such later date

1 or dates as may be prescribed by the Sec-
2 retary.

3 “(ii) *OTHER ELECTIONS.*—An election
4 under clause (i)(II) or (ii) of subparagraph
5 (A) may be made on a timely filed gift tax
6 return for the calendar year for which the
7 election is to become effective.

8 “(d) *RETROACTIVE ALLOCATIONS.*—

9 “(1) *IN GENERAL.*—If—

10 “(A) a non-skip person has an interest or a
11 future interest in a trust to which any transfer
12 has been made,

13 “(B) such person—

14 “(i) is a lineal descendant of a grand-
15 parent of the transferor or of a grandparent
16 of the transferor’s spouse or former spouse,
17 and

18 “(ii) is assigned to a generation below
19 the generation assignment of the transferor,
20 and

21 “(C) such person predeceases the transferor,
22 then the transferor may make an allocation of any of
23 such transferor’s unused GST exemption to any pre-
24 vious transfer or transfers to the trust on a chrono-
25 logical basis.

1 “(2) *SPECIAL RULES.*—If the allocation under
2 paragraph (1) by the transferor is made on a gift tax
3 return filed on or before the date prescribed by section
4 6075(b) for gifts made within the calendar year with-
5 in which the non-skip person’s death occurred—

6 “(A) the value of such transfer or transfers
7 for purposes of section 2642(a) shall be deter-
8 mined as if such allocation had been made on a
9 timely filed gift tax return for each calendar
10 year within which each transfer was made,

11 “(B) such allocation shall be effective imme-
12 diately before such death, and

13 “(C) the amount of the transferor’s unused
14 GST exemption available to be allocated shall be
15 determined immediately before such death.

16 “(3) *FUTURE INTEREST.*—For purposes of this
17 subsection, a person has a future interest in a trust
18 if the trust may permit income or corpus to be paid
19 to such person on a date or dates in the future.”.

20 (b) *CONFORMING AMENDMENT.*—Paragraph (2) of sec-
21 tion 2632(b) is amended by striking “with respect to a di-
22 rect skip” and inserting “or subsection (c)(1)”.

23 (c) *EFFECTIVE DATES.*—

24 (1) *DEEMED ALLOCATION.*—Section 2632(c) of
25 the Internal Revenue Code of 1986 (as added by sub-

1 *section (a)), and the amendment made by subsection*
 2 *(b), shall apply to transfers subject to chapter 11 or*
 3 *12 made after December 31, 1999, and to estate tax*
 4 *inclusion periods ending after December 31, 1999.*

5 (2) *RETROACTIVE ALLOCATIONS.—Section*
 6 *2632(d) of the Internal Revenue Code of 1986 (as*
 7 *added by subsection (a)) shall apply to deaths of non-*
 8 *skip persons occurring after December 31, 1999.*

9 **SEC. 402. SEVERING OF TRUSTS.**

10 (a) *IN GENERAL.—Subsection (a) of section 2642 (re-*
 11 *lating to inclusion ratio) is amended by adding at the end*
 12 *the following new paragraph:*

13 “(3) *SEVERING OF TRUSTS.—*

14 “(A) *IN GENERAL.—If a trust is severed in*
 15 *a qualified severance, the trusts resulting from*
 16 *such severance shall be treated as separate trusts*
 17 *thereafter for purposes of this chapter.*

18 “(B) *QUALIFIED SEVERANCE.—For pur-*
 19 *poses of subparagraph (A)—*

20 “(i) *IN GENERAL.—The term ‘qualified*
 21 *severance’ means the division of a single*
 22 *trust and the creation (by any means avail-*
 23 *able under the governing instrument or*
 24 *under local law) of two or more trusts if—*

1 “(I) *the single trust was divided*
2 *on a fractional basis, and*

3 “(II) *the terms of the new trusts,*
4 *in the aggregate, provide for the same*
5 *succession of interests of beneficiaries*
6 *as are provided in the original trust.*

7 “(ii) *TRUSTS WITH INCLUSION RATIO*
8 *GREATER THAN ZERO.—If a trust has an*
9 *inclusion ratio of greater than zero and less*
10 *than 1, a severance is a qualified severance*
11 *only if the single trust is divided into two*
12 *trusts, one of which receives a fractional*
13 *share of the total value of all trust assets*
14 *equal to the applicable fraction of the single*
15 *trust immediately before the severance. In*
16 *such case, the trust receiving such fractional*
17 *share shall have an inclusion ratio of zero*
18 *and the other trust shall have an inclusion*
19 *ratio of 1.*

20 “(iii) *REGULATIONS.—The term*
21 *‘qualified severance’ includes any other sev-*
22 *erance permitted under regulations pre-*
23 *scribed by the Secretary.*

24 “(C) *TIMING AND MANNER OF*
25 *SEVERANCES.—A severance pursuant to this*

1 *paragraph may be made at any time. The Sec-*
2 *retary shall prescribe by forms or regulations the*
3 *manner in which the qualified severance shall be*
4 *reported to the Secretary.”.*

5 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
6 *section shall apply to severances after December 31, 1999.*

7 ***SEC. 403. MODIFICATION OF CERTAIN VALUATION RULES.***

8 ***(a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR***
9 ***DEEMED ALLOCATION MADE.***—*Paragraph (1) of section*
10 *2642(b) (relating to valuation rules, etc.) is amended to*
11 *read as follows:*

12 ***“(1) GIFTS FOR WHICH GIFT TAX RETURN FILED***
13 ***OR DEEMED ALLOCATION MADE.***—*If the allocation of*
14 *the GST exemption to any transfers of property is*
15 *made on a gift tax return filed on or before the date*
16 *prescribed by section 6075(b) for such transfer or is*
17 *deemed to be made under section 2632 (b)(1) or*
18 ***(c)(1)—***

19 ***“(A) the value of such property for purposes***
20 ***of subsection (a) shall be its value as finally de-***
21 ***termined for purposes of chapter 12 (within the***
22 ***meaning of section 2001(f)(2)), or, in the case of***
23 ***an allocation deemed to have been made at the***
24 ***close of an estate tax inclusion period, its value***

1 *at the time of the close of the estate tax inclusion*
2 *period, and*

3 “(B) *such allocation shall be effective on*
4 *and after the date of such transfer, or, in the*
5 *case of an allocation deemed to have been made*
6 *at the close of an estate tax inclusion period, on*
7 *and after the close of such estate tax inclusion*
8 *period.”.*

9 **(b) TRANSFERS AT DEATH.**—*Subparagraph (A) of sec-*
10 *tion 2642(b)(2) is amended to read as follows:*

11 “(A) **TRANSFERS AT DEATH.**—*If property is*
12 *transferred as a result of the death of the trans-*
13 *feror, the value of such property for purposes of*
14 *subsection (a) shall be its value as finally deter-*
15 *mined for purposes of chapter 11; except that, if*
16 *the requirements prescribed by the Secretary re-*
17 *specting allocation of post-death changes in value*
18 *are not met, the value of such property shall be*
19 *determined as of the time of the distribution con-*
20 *cerned.”.*

21 **(c) EFFECTIVE DATE.**—*The amendments made by this*
22 *section shall apply to transfers subject to chapter 11 or 12*
23 *of the Internal Revenue Code of 1986 made after December*
24 *31, 1999.*

1 **SEC. 404. RELIEF PROVISIONS.**

2 (a) *IN GENERAL.*—Section 2642 is amended by adding
3 at the end the following new subsection:

4 “(g) *RELIEF PROVISIONS.*—

5 “(1) *RELIEF FROM LATE ELECTIONS.*—

6 “(A) *IN GENERAL.*—The Secretary shall by
7 regulation prescribe such circumstances and pro-
8 cedures under which extensions of time will be
9 granted to make—

10 “(i) an allocation of GST exemption
11 described in paragraph (1) or (2) of sub-
12 section (b), and

13 “(ii) an election under subsection
14 (b)(3) or (c)(5) of section 2632.

15 Such regulations shall include procedures for re-
16 questing comparable relief with respect to trans-
17 fers made before the date of the enactment of this
18 paragraph.

19 “(B) *BASIS FOR DETERMINATIONS.*—In de-
20 termining whether to grant relief under this
21 paragraph, the Secretary shall take into account
22 all relevant circumstances, including evidence of
23 intent contained in the trust instrument or in-
24 strument of transfer and such other factors as the
25 Secretary deems relevant. For purposes of deter-
26 mining whether to grant relief under this para-

1 *graph, the time for making the allocation (or*
2 *election) shall be treated as if not expressly pre-*
3 *scribed by statute.*

4 “(2) *SUBSTANTIAL COMPLIANCE.*—*An allocation*
5 *of GST exemption under section 2632 that dem-*
6 *onstrates an intent to have the lowest possible inclu-*
7 *sion ratio with respect to a transfer or a trust shall*
8 *be deemed to be an allocation of so much of the*
9 *transferor’s unused GST exemption as produces the*
10 *lowest possible inclusion ratio. In determining wheth-*
11 *er there has been substantial compliance, all relevant*
12 *circumstances shall be taken into account, including*
13 *evidence of intent contained in the trust instrument*
14 *or instrument of transfer and such other factors as the*
15 *Secretary deems relevant.”.*

16 *(b) EFFECTIVE DATES.*—

17 (1) *RELIEF FROM LATE ELECTIONS.*—*Section*
18 *2642(g)(1) of the Internal Revenue Code of 1986 (as*
19 *added by subsection (a)) shall apply to requests pend-*
20 *ing on, or filed after, December 31, 1999.*

21 (2) *SUBSTANTIAL COMPLIANCE.*—*Section*
22 *2642(g)(2) of such Code (as so added) shall apply to*
23 *transfers subject to chapter 11 or 12 of the Internal*
24 *Revenue Code of 1986 made after December 31, 1999.*
25 *No implication is intended with respect to the avail-*

1 *ability of relief from late elections or the application*
 2 *of a rule of substantial compliance on or before such*
 3 *date.*

4 ***TITLE V—CONSERVATION***
 5 ***EASEMENTS***

6 ***SEC. 501. EXPANSION OF ESTATE TAX RULE FOR CON-***
 7 ***SERVATION EASEMENTS.***

8 *(a) WHERE LAND IS LOCATED.—*

9 *(1) IN GENERAL.—Clause (i) of section*
 10 *2031(c)(8)(A) (defining land subject to a conservation*
 11 *easement) is amended—*

12 *(A) by striking “25 miles” both places it*
 13 *appears and inserting “50 miles”, and*

14 *(B) striking “10 miles” and inserting “25*
 15 *miles”.*

16 *(2) EFFECTIVE DATE.—The amendments made*
 17 *by this subsection shall apply to estates of decedents*
 18 *dying after December 31, 1999.*

19 *(b) CLARIFICATION OF DATE FOR DETERMINING*
 20 *VALUE OF LAND AND EASEMENT.—*

21 *(1) IN GENERAL.—Section 2031(c)(2) (defining*
 22 *applicable percentage) is amended by adding at the*
 23 *end the following new sentence: “The values taken*
 24 *into account under the preceding sentence shall be*

1 *such values as of the date of the contribution referred*
2 *to in paragraph (8)(B).”.*

3 (2) *EFFECTIVE DATE.*—*The amendment made by*
4 *this subsection shall apply to estates of decedents*
5 *dying after December 31, 1997.*

Union Calendar No. 361

106TH CONGRESS
2D SESSION

H. R. 8

[Report No. 106-651]

A BILL

To amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period.

JUNE 6, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed