

# Union Calendar No. 26

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 8

[Report No. 107-37]

To amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Ms. DUNN (for herself, Mr. TANNER, Mr. COX, Mr. ABERCROMBIE, Mr. BROWN of South Carolina, Mr. CULBERSON, Mr. EVERETT, Mr. GOODE, Mr. COOKSEY, Mr. BACHUS, Mr. PENCE, Mr. LAHOOD, Mr. SHADEGG, Mr. DUNCAN, Mr. WHITFIELD, Mr. SAXTON, Mr. BONILLA, Mrs. ROUKEMA, Mrs. BIGGERT, Mr. FERGUSON, Mr. GILCHREST, Mr. RADANOVICH, Mr. SHAW, Mr. MALONEY of Connecticut, Mr. SAM JOHNSON of Texas, Mr. TANCREDO, Mr. BOUCHER, Mr. TRAFICANT, Mr. KELLER, Mr. BURTON of Indiana, Mr. SHOWS, Mr. GARY MILLER of California, Mr. ROGERS of Michigan, Mr. CUNNINGHAM, Mr. ROYCE, Mr. GREENWOOD, Mr. SMITH of Texas, Mr. FOLEY, Mr. HAYWORTH, Mr. WELLER, Mr. KIRK, Mr. YOUNG of Alaska, Mr. BAIRD, Mr. WAMP, Mr. DOOLEY of California, Mr. EHLERS, Mr. CANTOR, Mr. POMBO, Mr. SIMMONS, Mr. CAMP, Mr. MCINTYRE, Mr. HAYES, Mr. NETHERCUTT, Ms. HART, Mr. BARTON of Texas, Mrs. WILSON, Mr. HALL of Texas, Mr. HYDE, Mr. WOLF, Mr. SUNUNU, Mr. GRUCCI, Mr. CALLAHAN, Mr. RYAN of Wisconsin, Mrs. KELLY, Mr. LARGENT, Mr. DEAL of Georgia, Mr. CANNON, Mr. ADERHOLT, Mr. CRANE, Ms. GRANGER, Mr. BLUNT, Mr. GREEN of Wisconsin, Mr. HERGER, Mr. ENGLISH, Mr. LOBIONDO, Mr. JENKINS, Mr. PITTS, Mr. LEWIS of California, Mr. OXLEY, Mr. RILEY, Mr. CHAMBLISS, Mr. WATTS of Oklahoma, Mrs. NORTHUP, Mr. OSE, Mr. SMITH of New Jersey, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, Mr. SIMPSON, Mr. PETERSON of Pennsylvania, Mr. MCCRERY, Mrs. BONO, Mr. CALVERT, Mr. NEY, Mr. DOOLITTLE, Mr. HUNTER, Mr. SKEEN, Mr. HOEKSTRA, Mr. LATOURETTE, Mr. SHIMKUS, Mr. FLETCHER, Mrs. CAPITO, Mr. EHRLICH, Mr. BISHOP, Mr. ROHRABACHER, Mr. BOEHLERT, Mr. RYUN of Kansas, Mr. CRAMER, Mrs. EMERSON, Mr. SCHAFFER, Mr. SESSIONS, Mr. ISAKSON, Ms. ROS-LEHTINEN, Mr. BURR of North Carolina, Mr. BARR of Georgia, Mr. HASTINGS of Washington,

Mr. MILLER of Florida, Mr. HORN, Mr. RAMSTAD, Mr. McHUGH, Mr. WALSH, Mr. CRENSHAW, Mr. NORWOOD, Mr. COBLE, Mr. NUSSLE, Mr. PLATTS, Mr. JONES of North Carolina, Mr. GEKAS, Mr. ROGERS of Kentucky, Mr. BASS, Mr. TERRY, Mr. SCHROCK, Mr. GOODLATTE, Mr. TOOMEY, Mr. WICKER, Mr. PORTMAN, Mr. TAUZIN, Mr. HANSEN, Mr. ARMEY, Mr. HILLEARY, Mr. MCINNIS, Mr. COMBEST, Mr. DELAY, Mrs. CUBIN, Mr. LINDER, Mr. MICA, Mrs. MCCARTHY of New York, Mr. FRELINGHUYSEN, Mr. BERRY, Mr. JOHN, Mr. CONDIT, Mr. SANDLIN, Mr. SWEENEY, Mr. KNOLLENBERG, Mr. PHELPS, Mr. CARSON of Oklahoma, Mr. GANSKE, Mr. THUNE, Mr. KERNS, Ms. PRYCE of Ohio, Mr. STUMP, Mr. SENSENBRENNER, Mr. OTTER, Mr. RAHALL, Mr. SISISKY, Mr. HULSHOF, Mr. LUCAS of Kentucky, Mr. WALDEN of Oregon, Mr. WYNN, Mr. FORD, Mr. REYNOLDS, Mr. BRADY of Texas, Mr. PAUL, Mr. GORDON, Mrs. JO ANN DAVIS of Virginia, Mr. COSTELLO, Mr. GILLMOR, Mr. WATKINS, Mr. PUTNAM, Mr. GIBBONS, Mr. AKIN, Mr. ISSA, Mr. FARR of California, Mr. BARCIA, Mrs. MYRICK, Mr. BARTLETT of Maryland, Mr. CHABOT, Mr. KINGSTON, Mr. HEFLEY, Mr. GALLEGLY, Mr. GILMAN, Mr. GOSS, Mr. WELDON of Florida, Mr. DEMINT, Mr. SOUDER, Mr. FOSSELLA, Mr. KOLBE, Mr. BILIRAKIS, Mr. LATHAM, Mr. TIAHRT, Mr. TAYLOR of North Carolina, Mr. SCARBOROUGH, Mr. VITTER, Mr. HOSTETTLER, Mr. GRAHAM, Mr. SPENCE, Mr. TOM DAVIS of Virginia, Mr. BOEHNER, Mr. OSBORNE, Mr. BRYANT, Mr. DREIER, Mr. PICKERING, Mr. THORNBERRY, Mr. WELDON of Pennsylvania, Mr. BAKER, Mr. KING, Mr. HUTCHINSON, Mr. MCKEON, Mr. MANZULLO, Mr. SMITH of Washington, Mr. LAMPSON, and Mrs. CLAYTON) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 3, 2001

Additional sponsors: Ms. BERKLEY, Mr. STEARNS, Mr. THOMAS, and Mr. HASTERT

APRIL 3, 2001

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 March 14, 2001]

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## A BILL

To amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, 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; ETC.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Death Tax Elimination Act of 2001”.*

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        (c) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; etc.*

*TITLE I—REPEAL OF ESTATE, GIFT, AND GENERATION-SKIPPING  
 TAXES*

*Sec. 101. Repeal of estate, gift, and generation-skipping taxes.*

*TITLE II—REDUCTIONS OF ESTATE AND GIFT TAX RATES PRIOR  
 TO REPEAL*

*Sec. 201. Additional reductions of estate and gift tax rates.*

*TITLE III—UNIFIED CREDIT REPLACED WITH UNIFIED EXEMPTION  
 AMOUNT*

*Sec. 301. Unified credit against estate and gift taxes replaced with unified ex-  
 emption amount.*

*TITLE IV—CARRYOVER BASIS AT DEATH; OTHER CHANGES TAKING  
 EFFECT WITH REPEAL*

*Sec. 401. Termination of step-up in basis at death.*

*Sec. 402. Treatment of property acquired from a decedent dying after December  
 31, 2010.*

*TITLE V—CONSERVATION EASEMENTS*

*Sec. 501. Expansion of estate tax rule for conservation easements.*

TITLE VI—MODIFICATIONS OF GENERATION-SKIPPING TRANSFER  
TAX

*Sec. 601. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.*

*Sec. 602. Severing of trusts.*

*Sec. 603. Modification of certain valuation rules.*

*Sec. 604. Relief provisions.*

TITLE VII—EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX

*Sec. 701. Increase in number of allowable partners and shareholders in closely held businesses.*

1 **TITLE I—REPEAL OF ESTATE,**  
2 **GIFT, AND GENERATION-SKIP-**  
3 **PING TAXES**

4 **SEC. 101. REPEAL OF ESTATE, GIFT, AND GENERATION-**  
5 **SKIPPING TAXES.**

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

7 (b) *EFFECTIVE DATE.*—*The repeal made by subsection*

8 (a) *shall apply to the estates of decedents dying, and gifts*

9 *and generation-skipping transfers made, after December 31,*

10 *2010.*

11 **TITLE II—REDUCTIONS OF ES-**  
12 **TATE AND GIFT TAX RATES**  
13 **PRIOR TO REPEAL**

14 **SEC. 201. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT**  
15 **TAX RATES.**

16 (a) *MAXIMUM RATE OF TAX REDUCED TO 50 PER-*  
17 *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.—*

<b>“For calendar year:</b>	<b><i>The number of percentage points is:</i></b>
2004 .....	1.0
2005 .....	2.0
2006 .....	3.0
2007 .....	5.0
2008 .....	7.0
2009 .....	9.0
2010 .....	11.0.

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) applicable to the taxable year*  
 17                    *which includes the date of death (or, in the*  
 18                    *case of a gift, the date of the gift), and*

19                    “(ii) *shall not reduce the highest rate*  
 20                    *under paragraph (1) below the highest rate*  
 21                    *in section 1(c) for such taxable year.*

1           “(D) *COORDINATION WITH CREDIT FOR*  
 2           *STATE DEATH TAXES.—Rules similar to the rules*  
 3           *of subparagraph (A) shall apply to the table con-*  
 4           *tained in section 2011(b) except that the Sec-*  
 5           *retary shall prescribe percentage point reductions*  
 6           *which maintain the proportionate relationship*  
 7           *(as in effect before any reduction under this*  
 8           *paragraph) between the credit under section*  
 9           *2011 and the tax rates under subsection (c).”.*

10       (d) *EFFECTIVE DATES.—*

11           (1) *SUBSECTIONS (a) AND (b).—The amend-*  
 12           *ments made by subsections (a) and (b) shall apply to*  
 13           *estates of decedents dying, and gifts made, after De-*  
 14           *cember 31, 2001.*

15           (2) *SUBSECTION (c).—The amendment made by*  
 16           *subsection (c) shall apply to estates of decedents*  
 17           *dying, and gifts made, after December 31, 2003.*

18       **TITLE III—UNIFIED CREDIT RE-**  
 19       **PLACED WITH UNIFIED EX-**  
 20       **EMPTION AMOUNT**

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

24           (a) *IN GENERAL.—*

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

4           “(b) *COMPUTATION OF TAX.*—

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

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

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

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

20                   “(A) *the sum of—*

21                           “(i) *the amount of the taxable estate,*

22                           *and*

23                           “(ii) *the amount of the adjusted tax-*  
24                           *able gifts, over*

1           “(B) the exemption amount for the calendar  
2           year in which the decedent died.

3           “(3) *EXEMPTION AMOUNT.*—For purposes of  
4           paragraph (2), the term ‘exemption amount’ means  
5           the amount determined in accordance with the fol-  
6           lowing table:

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

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

13          (2) *GIFT TAX.*—Subsection (a) of section 2502  
14          (relating to computation of tax) is amended to read  
15          as follows:

16          “(a) *COMPUTATION OF TAX.*—

17                 “(1) *IN GENERAL.*—The tax imposed by section  
18                 2501 for each calendar year shall be the amount equal  
19                 to the excess (if any) of—

20                         “(A) the tentative tax determined under  
21                         paragraph (2) for such calendar year, over

1           “(B) the aggregate amount of tax that  
2           would have been payable under this chapter with  
3           respect to gifts made by the donor in preceding  
4           calendar periods if the tax had been computed  
5           under the provisions of section 2001(c) as in ef-  
6           fect for such calendar year.

7           “(2) *TENTATIVE TAX.*—For purposes of para-  
8           graph (1), the tentative tax determined under this  
9           paragraph for a calendar year is a tax computed  
10          under section 2001(c) on the excess of—

11           “(A) the aggregate sum of the taxable gifts  
12           for such calendar year and for each of the pre-  
13           ceding calendar periods, over

14           “(B) the exemption amount under section  
15           2001(b)(3) for such calendar year.”.

16          (b) *REPEAL OF UNIFIED CREDITS.*—

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

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

21          (c) *CONFORMING AMENDMENTS.*—

22           (1)(A) Subsection (b) of section 2011 is  
23           amended—

24           (i) by striking “adjusted” in the table; and

25           (ii) by striking the last sentence.

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

4           (2) Subsection (a) of section 2012 is amended by  
5 striking “and the unified credit provided by section  
6 2010”.

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

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

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

13                   “(ii) to treat any reduction in the tax  
14 imposed by paragraph (1)(A) by reason of  
15 the credit allowable under section 2010 (as  
16 in effect on the day before the date of the en-  
17 actment of the Death Tax Elimination Act  
18 of 2001) or the exemption amount allowable  
19 under section 2001(b) with respect to the de-  
20 cedent as a credit under section 2505 (as so  
21 in effect) or exemption under section 2501  
22 (as the case may be) allowable to such sur-  
23 viving spouse for purposes of determining  
24 the amount of the exemption allowable  
25 under section 2501 with respect to taxable

1           *gifts made by the surviving spouse during*  
2           *the year in which the spouse becomes a cit-*  
3           *izen or any subsequent year,”.*

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

7           “(2) *MAXIMUM DEDUCTION.—The deduction al-*  
8           *lowed by this section shall not exceed the excess of*  
9           *\$1,300,000 over the exemption amount (as defined in*  
10           *section 2001(b)(3)).”.*

11           (7) *Subsection (b) of section 2101 is amended to*  
12           *read as follows:*

13           “(b) *COMPUTATION OF TAX.—*

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

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

19                   “(B) *a tentative tax computed under section*  
20                   *2001(c) on the amount of the adjusted taxable*  
21                   *gifts.*

22           “(2) *TENTATIVE TAX.—For purposes of para-*  
23           *graph (1), the tentative tax determined under this*  
24           *paragraph is a tax computed under section 2001(c)*  
25           *on the excess of—*

1           “(A) *the sum of—*

2                   “(i) *the amount of the taxable estate,*

3                   *and*

4                   “(ii) *the amount of the adjusted tax-*  
5                   *able gifts, over*

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

8           “(3) *EXEMPTION AMOUNT.—*

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

11                   “(B) *RESIDENTS OF POSSESSIONS OF THE*  
12                   *UNITED STATES.—In the case of a decedent who*  
13                   *is considered to be a nonresident not a citizen of*  
14                   *the United States under section 2209, the exemp-*  
15                   *tion amount under this paragraph shall be the*  
16                   *greater of—*

17                           “(i) *\$60,000, or*

18                           “(ii) *that proportion of \$175,000*  
19                           *which the value of that part of the dece-*  
20                           *dent’s gross estate which at the time of his*  
21                           *death is situated in the United States bears*  
22                           *to the value of his entire gross estate wher-*  
23                           *ever situated.*

24                   “(C) *SPECIAL RULES.—*

1           “(i) *COORDINATION WITH TREATIES.*—  
2           *To the extent required under any treaty ob-*  
3           *ligation of the United States, the exemption*  
4           *amount allowed under this paragraph shall*  
5           *be equal to the amount which bears the*  
6           *same ratio to the exemption amount under*  
7           *section 2001(b)(3) (for the calendar year in*  
8           *which the decedent died) as the value of the*  
9           *part of the decedent’s gross estate which at*  
10           *the time of his death is situated in the*  
11           *United States bears to the value of his en-*  
12           *tire gross estate wherever situated. For pur-*  
13           *poses of the preceding sentence, property*  
14           *shall not be treated as situated in the*  
15           *United States if such property is exempt*  
16           *from the tax imposed by this subchapter*  
17           *under any treaty obligation of the United*  
18           *States.*

19           “(ii) *COORDINATION WITH GIFT TAX*  
20           *EXEMPTION AND UNIFIED CREDIT.*—*If an*  
21           *exemption has been allowed under section*  
22           *2501 (or a credit has been allowed under*  
23           *section 2505 as in effect on the day before*  
24           *the date of the enactment of the Death Tax*  
25           *Elimination Act of 2001) with respect to*

1           *any gift made by the decedent, each dollar*  
2           *amount contained in subparagraph (A) or*  
3           *(B) or the exemption amount applicable*  
4           *under clause (i) of this subparagraph*  
5           *(whichever applies) shall be reduced by the*  
6           *exemption so allowed under section 2501*  
7           *(or, in the case of such a credit, by the*  
8           *amount of the gift for which the credit was*  
9           *so allowed).”.*

10           (8) *Section 2102 is amended by striking sub-*  
11           *section (c).*

12           (9)(A) *Paragraph (1) of section 2107(a) is*  
13           *amended by striking “the table contained in”.*

14           (B) *Paragraph (1) of section 2107(c) is amended*  
15           *to read as follows:*

16           “(1) *EXEMPTION AMOUNT.—For purposes of sub-*  
17           *section (a), the exemption amount under section 2001*  
18           *shall be \$60,000.”*

19           (C) *Paragraph (3) of section 2107(c) is amended*  
20           *by striking the second sentence.*

21           (D) *The heading of subsection (c) of section 2107*  
22           *is amended to read as follows:*

23           “(c) *EXEMPTION AMOUNT AND CREDITS.—”*.

24           (10) *Paragraph (1) of section 6018(a) is amend-*  
25           *ed by striking “the applicable exclusion amount in ef-*

1 *fect under section 2010(c)” and inserting “the exemp-*  
2 *tion amount under section 2001(b)(3)”.*

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

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

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

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

16 *(d) EFFECTIVE DATE.—The amendments made by this*  
17 *section shall apply to estates of decedents dying and gifts*  
18 *made after December 31, 2001.*

1 **TITLE IV—CARRYOVER BASIS AT**  
 2 **DEATH; OTHER CHANGES**  
 3 **TAKING EFFECT WITH RE-**  
 4 **PEAL**

5 **SEC. 401. TERMINATION OF STEP-UP IN BASIS AT DEATH.**

6 *Section 1014 (relating to basis of property acquired*  
 7 *from a decedent) is amended by adding at the end the fol-*  
 8 *lowing new subsection:*

9 “(f) *TERMINATION.*—*This section shall not apply with*  
 10 *respect to decedents dying after December 31, 2010.*”.

11 **SEC. 402. TREATMENT OF PROPERTY ACQUIRED FROM A**  
 12 **DECEDENT DYING AFTER DECEMBER 31, 2010.**

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

17 **“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A**  
 18 **DECEDENT DYING AFTER DECEMBER 31, 2010.**

19 “(a) *IN GENERAL.*—*Except as otherwise provided in*  
 20 *this section—*

21 “(1) *property acquired from a decedent dying*  
 22 *after December 31, 2010, shall be treated for purposes*  
 23 *of this subtitle as transferred by gift, and*

24 “(2) *the basis of the person acquiring property*  
 25 *from such a decedent shall be the lesser of—*

1           “(A) *the adjusted basis of the decedent, or*  
2           “(B) *the fair market value of the property*  
3           *at the date of the decedent’s death.*

4           “(b) *BASIS INCREASE FOR CERTAIN PROPERTY.—*

5           “(1) *IN GENERAL.—In the case of property to*  
6           *which this subsection applies, the basis of such prop-*  
7           *erty under subsection (a) shall be increased by its*  
8           *basis increase under this subsection.*

9           “(2) *BASIS INCREASE.—For purposes of this*  
10          *subsection—*

11          “(A) *IN GENERAL.—The basis increase*  
12          *under this subsection for any property is the*  
13          *portion of the aggregate basis increase which is*  
14          *allocated to the property pursuant to this sec-*  
15          *tion.*

16          “(B) *AGGREGATE BASIS INCREASE.—In the*  
17          *case of any estate, the aggregate basis increase*  
18          *under this subsection is \$1,300,000.*

19          “(C) *LIMIT INCREASED BY UNUSED BUILT-*  
20          *IN LOSSES AND LOSS CARRYOVERS.—The limita-*  
21          *tion under subparagraph (B) shall be increased*  
22          *by—*

23                  “(i) *the sum of the amount of any cap-*  
24                  *ital loss carryover under section 1212(b),*  
25                  *and the amount of any net operating loss*

1           *carryover under section 172, which would*  
2           *(but for the decedent's death) be carried*  
3           *from the decedent's last taxable year to a*  
4           *later taxable year of the decedent, plus*

5           *“(ii) the sum of the amount of any*  
6           *losses that would have been allowable under*  
7           *section 165 if the property acquired from*  
8           *the decedent had been sold at fair market*  
9           *value immediately before the decedent's*  
10          *death.*

11          “(3) *DECEDENT NONRESIDENTS WHO ARE NOT*  
12          *CITIZENS OF THE UNITED STATES.—In the case of a*  
13          *decedent nonresident not a citizen of the United*  
14          *States—*

15                 “(A) *paragraph (2)(B) shall be applied by*  
16                 *substituting ‘\$60,000’ for ‘\$1,300,000’, and*

17                 “(B) *paragraph (2)(C) shall not apply.*

18          “(c) *ADDITIONAL BASIS INCREASE FOR PROPERTY AC-*  
19          *QUIRED BY SURVIVING SPOUSE.—*

20                 “(1) *IN GENERAL.—In the case of property to*  
21                 *which this subsection applies and which is qualified*  
22                 *spousal property, the basis of such property under*  
23                 *subsection (a) (as increased, if any, under subsection*  
24                 *(b)) shall be increased by its spousal property basis*  
25                 *increase.*

1           “(2) *SPOUSAL PROPERTY BASIS INCREASE.*—*For*  
2           *purposes of this subsection—*

3                   “(A) *IN GENERAL.*—*The spousal property*  
4                   *basis increase for property referred to in para-*  
5                   *graph (1) is the portion of the aggregate spousal*  
6                   *property basis increase which is allocated to the*  
7                   *property pursuant to this section.*

8                   “(B) *AGGREGATE SPOUSAL PROPERTY*  
9                   *BASIS INCREASE.*—*In the case of any estate, the*  
10                   *aggregate spousal property basis increase is*  
11                   *\$3,000,000.*

12           “(3) *QUALIFIED SPOUSAL PROPERTY.*—*For pur-*  
13           *poses of this subsection, the term ‘qualified spousal*  
14           *property’ means—*

15                   “(A) *outright transfer property, and*

16                   “(B) *qualified terminable interest property.*

17           “(4) *OUTRIGHT TRANSFER PROPERTY.*—*For pur-*  
18           *poses of this subsection—*

19                   “(A) *IN GENERAL.*—*The term ‘outright*  
20                   *transfer property’ means any interest in prop-*  
21                   *erty acquired from the decedent by the decedent’s*  
22                   *surviving spouse.*

23                   “(B) *EXCEPTION.*—*Subparagraph (A) shall*  
24                   *not apply where, on the lapse of time, on the oc-*  
25                   *currence of an event or contingency, or on the*

1           *failure of an event or contingency to occur, an*  
2           *interest passing to the surviving spouse will ter-*  
3           *minate or fail—*

4                     “(i)(I) *if an interest in such property*  
5                     *passes or has passed (for less than an ade-*  
6                     *quate and full consideration in money or*  
7                     *money’s worth) from the decedent to any*  
8                     *person other than such surviving spouse (or*  
9                     *the estate of such spouse), and*

10                    “(II) *if by reason of such passing such*  
11                    *person (or his heirs or assigns) may possess*  
12                    *or enjoy any part of such property after*  
13                    *such termination or failure of the interest so*  
14                    *passing to the surviving spouse, or*

15                    “(ii) *if such interest is to be acquired*  
16                    *for the surviving spouse, pursuant to direc-*  
17                    *tions of the decedent, by his executor or by*  
18                    *the trustee of a trust.*

19           *For purposes of this subparagraph, an interest*  
20           *shall not be considered as an interest which will*  
21           *terminate or fail merely because it is the owner-*  
22           *ship of a bond, note, or similar contractual obli-*  
23           *gation, the discharge of which would not have the*  
24           *effect of an annuity for life or for a term.*

1           “(C) *INTEREST OF SPOUSE CONDITIONAL ON*  
2           *SURVIVAL FOR LIMITED PERIOD.*—*For purposes*  
3           *of this paragraph, an interest passing to the sur-*  
4           *living spouse shall not be considered as an inter-*  
5           *est which will terminate or fail on the death of*  
6           *such spouse if—*

7                   “(i) *such death will cause a termi-*  
8                   *nation or failure of such interest only if it*  
9                   *occurs within a period not exceeding 6*  
10                  *months after the decedent’s death, or only if*  
11                  *it occurs as a result of a common disaster*  
12                  *resulting in the death of the decedent and*  
13                  *the surviving spouse, or only if it occurs in*  
14                  *the case of either such event; and*

15                  “(ii) *such termination or failure does*  
16                  *not in fact occur.*

17           “(5) *QUALIFIED TERMINABLE INTEREST PROP-*  
18           *ERTY.*—*For purposes of this subsection—*

19                   “(A) *IN GENERAL.*—*The term ‘qualified ter-*  
20                   *minable interest property’ means property—*

21                           “(i) *which passes from the decedent,*  
22                           *and*

23                           “(ii) *in which the surviving spouse has*  
24                           *a qualifying income interest for life.*

1           “(B) *QUALIFYING INCOME INTEREST FOR*  
2 *LIFE.*—*The surviving spouse has a qualifying in-*  
3 *come interest for life if—*

4                   “(i) *the surviving spouse is entitled to*  
5 *all the income from the property, payable*  
6 *annually or at more frequent intervals, or*  
7 *has a usufruct interest for life in the prop-*  
8 *erty, and*

9                   “(ii) *no person has a power to appoint*  
10 *any part of the property to any person*  
11 *other than the surviving spouse.*

12 *Clause (ii) shall not apply to a power exercisable*  
13 *only at or after the death of the surviving spouse.*  
14 *To the extent provided in regulations, an annu-*  
15 *ity shall be treated in a manner similar to an*  
16 *income interest in property (regardless of wheth-*  
17 *er the property from which the annuity is pay-*  
18 *able can be separately identified).*

19           “(C) *PROPERTY INCLUDES INTEREST*  
20 *THEREIN.*—*The term ‘property’ includes an in-*  
21 *terest in property.*

22           “(D) *SPECIFIC PORTION TREATED AS SEPA-*  
23 *RATE PROPERTY.*—*A specific portion of property*  
24 *shall be treated as separate property. For pur-*  
25 *poses of the preceding sentence, the term ‘specific*

1           *portion' only includes a portion determined on a*  
2           *fractional or percentage basis.*

3           “(d) *DEFINITIONS AND SPECIAL RULES FOR APPLICA-*  
4           *TION OF SUBSECTIONS (b) AND (c).—*

5           “(1) *PROPERTY TO WHICH SUBSECTIONS (b) AND*  
6           *(c) APPLY.—*

7           “(A) *IN GENERAL.—The basis of property*  
8           *acquired from a decedent may be increased*  
9           *under subsection (b) or (c) only if the property*  
10           *was owned by the decedent at the time of death.*

11           “(B) *RULES RELATING TO OWNERSHIP.—*

12           “(i) *JOINTLY HELD PROPERTY.—In the*  
13           *case of property which was owned by the*  
14           *decedent and another person as joint ten-*  
15           *ants with right of survivorship or tenants*  
16           *by the entirety—*

17           “(I) *if the only such other person*  
18           *is the surviving spouse, the decedent*  
19           *shall be treated as the owner of only 50*  
20           *percent of the property,*

21           “(II) *in any case (to which sub-*  
22           *clause (I) does not apply) in which the*  
23           *decedent furnished consideration for*  
24           *the acquisition of the property, the de-*  
25           *cedent shall be treated as the owner to*

1                   *the extent of the portion of the property*  
2                   *which is proportionate to such consid-*  
3                   *eration, and*

4                   “(III) *in any case (to which sub-*  
5                   *clause (I) does not apply) in which the*  
6                   *property has been acquired by gift, be-*  
7                   *quest, devise, or inheritance by the de-*  
8                   *cedent and any other person as joint*  
9                   *tenants with right of survivorship and*  
10                  *their interests are not otherwise speci-*  
11                  *fied or fixed by law, the decedent shall*  
12                  *be treated as the owner to the extent of*  
13                  *the value of a fractional part to be de-*  
14                  *termined by dividing the value of the*  
15                  *property by the number of joint ten-*  
16                  *ants with right of survivorship.*

17                  “(ii) *REVOCABLE TRUSTS.*—*The dece-*  
18                  *dent shall be treated as owning property*  
19                  *transferred by the decedent during life to a*  
20                  *revocable trust to pay all of the income dur-*  
21                  *ing the decedent’s life to the decedent or at*  
22                  *the direction of the decedent.*

23                  “(iii) *POWERS OF APPOINTMENT.*—*The*  
24                  *decedent shall not be treated as owning any*

1           *property by reason of holding a power of*  
2           *appointment with respect to such property.*

3           “(iv) *COMMUNITY PROPERTY.—Prop-*  
4           *erty which represents the surviving spouse’s*  
5           *one-half share of community property held*  
6           *by the decedent and the surviving spouse*  
7           *under the community property laws of any*  
8           *State or possession of the United States or*  
9           *any foreign country shall be treated for pur-*  
10           *poses of this section as owned by, and ac-*  
11           *quired from, the decedent if at least one-half*  
12           *of the whole of the community interest in*  
13           *such property is treated as owned by, and*  
14           *acquired from, the decedent without regard*  
15           *to this clause.*

16           “(C) *PROPERTY ACQUIRED BY DECEDENT*  
17           *BY GIFT WITHIN 3 YEARS OF DEATH.—*

18           “(i) *IN GENERAL.—Subsections (b) and*  
19           *(c) shall not apply to property acquired by*  
20           *the decedent by gift or by inter vivos trans-*  
21           *fer for less than adequate and full consider-*  
22           *ation in money or money’s worth during*  
23           *the 3-year period ending on the date of the*  
24           *decedent’s death.*

1           “(ii) *EXCEPTION FOR CERTAIN GIFTS*  
2           *FROM SPOUSE.*—Clause (i) shall not apply  
3           to property acquired by the decedent from  
4           the decedent’s spouse unless, during such 3-  
5           year period, such spouse acquired the prop-  
6           erty in whole or in part by gift or by inter  
7           vivos transfer for less than adequate and  
8           full consideration in money or money’s  
9           worth.

10          “(D) *STOCK OF CERTAIN ENTITIES.*—Sub-  
11          sections (b) and (c) shall not apply to—

12                 “(i) stock or securities a foreign per-  
13                 sonal holding company,

14                 “(ii) stock of a DISC or former DISC,

15                 “(iii) stock of a foreign investment  
16                 company, or

17                 “(iv) stock of a passive foreign invest-  
18                 ment company unless such company is a  
19                 qualified electing fund (as defined in section  
20                 1295) with respect to the decedent.

21          “(2) *FAIR MARKET VALUE LIMITATION.*—The ad-  
22          justments under subsection (b) and (c) shall not in-  
23          crease the basis of any interest in property acquired  
24          from the decedent above its fair market value in the

1       *hands of the decedent as of the date of the decedent's*  
2       *death.*

3               “(3) *ALLOCATION RULES.—*

4                       “(A) *IN GENERAL.—The executor shall allo-*  
5                       *cate the adjustments under subsections (b) and*  
6                       *(c) on the return required by section 6018.*

7                       “(B) *CHANGES IN ALLOCATION.—Any allo-*  
8                       *cation made pursuant to subparagraph (A) may*  
9                       *be changed only as provided by the Secretary.*

10               “(4) *INFLATION ADJUSTMENT OF BASIS ADJUST-*  
11       *MENT AMOUNTS.—*

12                       “(A) *IN GENERAL.—In the case of decedents*  
13                       *dying in a calendar year after 2011, the*  
14                       *\$1,300,000, \$60,000, and \$3,000,000 dollar*  
15                       *amounts in subsections (b) and (c)(2)(B) shall*  
16                       *each be increased by an amount equal to the*  
17                       *product of—*

18                               “(i) *such dollar amount, and*

19                               “(ii) *the cost-of-living adjustment de-*  
20                               *termined under section 1(f)(3) for such cal-*  
21                               *endar year, determined by substituting*  
22                               *‘2010’ for ‘1992’ in subparagraph (B) there-*  
23                               *of.*

1           “(B) *ROUNDING.*—If any increase deter-  
2           mined under subparagraph (A) is not a multiple  
3           of—

4                     “(i) \$100,000 in the case of the  
5                     \$1,300,000 amount,

6                     “(ii) \$5,000 in the case of the \$60,000  
7                     amount, and

8                     “(iii) \$250,000 in the case of the  
9                     \$3,000,000 amount,

10           such increase shall be rounded to the next lowest  
11           multiple thereof.

12           “(e) *PROPERTY ACQUIRED FROM THE DECEDENT.*—  
13           For purposes of this section, the following property shall  
14           be considered to have been acquired from the decedent:

15                     “(1) Property acquired by bequest, devise, or in-  
16                     heritance, or by the decedent’s estate from the dece-  
17                     dent.

18                     “(2) Property transferred by the decedent during  
19                     his lifetime in trust to pay the income for life to or  
20                     on the order or direction of the decedent, with the  
21                     right reserved to the decedent at all times before his  
22                     death—

23                     “(A) to revoke the trust, or

1           “(B) to make any change in the enjoyment  
2           thereof through the exercise of a power to alter,  
3           amend, or terminate the trust.

4           “(3) Any other property passing from the dece-  
5           dent by reason of death to the extent that such prop-  
6           erty passed without consideration.

7           “(f) COORDINATION WITH SECTION 691.—This section  
8           shall not apply to property which constitutes a right to re-  
9           ceive an item of income in respect of a decedent under sec-  
10          tion 691.

11          “(g) CERTAIN LIABILITIES DISREGARDED.—In deter-  
12          mining whether gain is recognized on the acquisition of  
13          property—

14                 “(1) from a decedent by a decedent’s estate or  
15                 any beneficiary, and

16                 “(2) from the decedent’s estate by any bene-  
17                 ficiary,

18          and in determining the adjusted basis of such property, li-  
19          abilities in excess of basis shall be disregarded.

20          “(h) REGULATIONS.—The Secretary shall prescribe  
21          such regulations as may be necessary to carry out the pur-  
22          poses of this section.”.

23          (b) INFORMATION RETURNS, ETC.—

24                 (1) IN GENERAL.—Subpart C of part II of sub-  
25          chapter A of chapter 61 is amended to read as follows:

1    **“Subpart C—Returns Relating to Transfers During**  
2                                    **Life or at Death**

*“Sec. 6018. Returns relating to large transfers at death.*

*“Sec. 6019. Returns relating to large lifetime gifts.*

3    **“SEC. 6018. RETURNS RELATING TO LARGE TRANSFERS AT**  
4                                    **DEATH.**

5            *“(a) IN GENERAL.—If this section applies to property*  
6 *acquired from a decedent, the executor of the estate of such*  
7 *decedent shall make a return containing the information*  
8 *specified in subsection (c) with respect to such property.*

9            *“(b) PROPERTY TO WHICH SECTION APPLIES.—*

10            *“(1) LARGE TRANSFERS.—This section shall*  
11 *apply to all property (other than cash) acquired from*  
12 *a decedent if the fair market value of such property*  
13 *acquired from the decedent exceeds the dollar amount*  
14 *applicable under section 1022(b)(2)(B) (without re-*  
15 *gard to section 1022(b)(2)(C)).*

16            *“(2) TRANSFERS OF CERTAIN GIFTS RECEIVED*  
17 *BY DECEDENT WITHIN 3 YEARS OF DEATH.—This sec-*  
18 *tion shall apply to any appreciated property acquired*  
19 *from the decedent if—*

20            *“(A) subsections (b) and (c) of section 1022*  
21 *do not apply to such property by reason of sec-*  
22 *tion 1022(d)(1)(C), and*

1           “(B) such property was required to be in-  
2           cluded on a return required to be filed under sec-  
3           tion 6019.

4           “(3) *NONRESIDENTS NOT CITIZENS OF THE*  
5           *UNITED STATES.—In the case of a decedent who is a*  
6           *nonresident not a citizen of the United States, para-*  
7           *graphs (1) and (2) shall be applied—*

8           “(A) by taking into account only—

9           “(i) tangible property situated in the  
10           United States, and

11           “(ii) other property acquired from the  
12           decedent by a United States person, and

13           “(B) by substituting the dollar amount ap-  
14           plicable under section 1022(b)(3) for the dollar  
15           amount referred to in paragraph (1).

16           “(4) *RETURNS BY TRUSTEES OR BENE-*  
17           *FICIARIES.—If the executor is unable to make a com-*  
18           *plete return as to any property acquired from or*  
19           *passing from the decedent, the executor shall include*  
20           *in the return a description of such property and the*  
21           *name of every person holding a legal or beneficial in-*  
22           *terest therein. Upon notice from the Secretary such*  
23           *person shall in like manner make a return as to such*  
24           *property.*

1       “(c) *INFORMATION REQUIRED TO BE FURNISHED.*—  
2 *The information specified in this subsection with respect*  
3 *to any property acquired from the decedent is—*

4               “(1) *the name and TIN of the recipient of such*  
5 *property,*

6               “(2) *an accurate description of such property,*

7               “(3) *the adjusted basis of such property in the*  
8 *hands of the decedent and its fair market value at the*  
9 *time of death,*

10              “(4) *the decedent’s holding period for such prop-*  
11 *erty,*

12              “(5) *sufficient information to determine whether*  
13 *any gain on the sale of the property would be treated*  
14 *as ordinary income,*

15              “(6) *the amount of basis increase allocated to the*  
16 *property under subsection (b) or (c) of section 1022,*  
17 *and*

18              “(7) *such other information as the Secretary*  
19 *may by regulations prescribe.*

20       “(d) *PROPERTY ACQUIRED FROM DECEDENT.*—*For*  
21 *purposes of this section, section 1022 shall apply for pur-*  
22 *poses of determining the property acquired from a decedent.*

23       “(e) *STATEMENTS TO BE FURNISHED TO CERTAIN*  
24 *PERSONS.*—*Every person required to make a return under*  
25 *subsection (a) shall furnish to each person whose name is*

1 *required to be set forth in such return (other than the person*  
2 *required to make such return) a written statement*  
3 *showing—*

4           “(1) *the name, address, and phone number of the*  
5 *person required to make such return, and*

6           “(2) *the information specified in subsection (c)*  
7 *with respect to property acquired from, or passing*  
8 *from, the decedent to the person required to receive*  
9 *such statement.*

10 *The written statement required under the preceding sen-*  
11 *tence shall be furnished not later than 30 days after the*  
12 *date that the return required by subsection (a) is filed.*

13 **“SEC. 6019. RETURNS RELATING TO LARGE LIFETIME GIFTS.**

14           “(a) *IN GENERAL.—If the value of the aggregate gifts*  
15 *of property made by an individual to any United States*  
16 *person during a calendar year exceeds \$25,000, such indi-*  
17 *vidual shall make a return for such year setting forth—*

18           “(1) *the name and TIN of the donee,*

19           “(2) *an accurate description of such property,*

20           “(3) *the adjusted basis of such property in the*  
21 *hands of the donor at the time of the gift,*

22           “(4) *the donor’s holding period for such prop-*  
23 *erty,*

1           “(5) *sufficient information to determine whether*  
2           *any gain on the sale of the property would be treated*  
3           *as ordinary income, and*

4           “(6) *such other information as the Secretary*  
5           *may by regulations prescribe.*

6           “(b) *EXCEPTIONS.—Subsection (a) shall not apply*  
7           *to—*

8           “(1) *CASH.—Any gift of cash.*

9           “(2) *GIFTS TO CHARITY.—Any gift to an organi-*  
10           *zation described in section 501(c) and exempt from*  
11           *tax under section 501(a) but only if no interest in the*  
12           *property is held for the benefit of any person other*  
13           *than such an organization.*

14           “(3) *WAIVER OF CERTAIN PENSION RIGHTS indi-*  
15           *vidual waives, before the death of a participant, any*  
16           *survivor benefit, or right to such benefit, under section*  
17           *401(a)(11) or 417, subsection (a) shall not apply to*  
18           *such waiver.*

19           “(4) *REPORTING ELSEWHERE.—Any gift re-*  
20           *quired to be reported to the Secretary under any other*  
21           *provision of this title.*

22           “(c) *STATEMENTS TO BE FURNISHED TO CERTAIN*  
23           *PERSONS.—Every person required to make a return under*  
24           *subsection (a) shall furnish to each person whose name is*

1 *required to be set forth in such return a written statement*  
2 *showing—*

3           “(1) *the name, address, and phone number of the*  
4 *person required to make such return, and*

5           “(2) *the information specified in subsection (a)*  
6 *with respect to property received by the person re-*  
7 *quired to receive such statement.*

8 *The written statement required under the preceding sen-*  
9 *tence shall be furnished on or before January 31 of the year*  
10 *following the calendar year for which the return under sub-*  
11 *section (a) was required to be made.”*

12           (2) *TIME FOR FILING SECTION 6018 RETURNS.—*

13           (A) *RETURNS RELATING TO LARGE TRANS-*  
14 *FERS AT DEATH.—Subsection (a) of section 6075*  
15 *is amended to read as follows:*

16           “(a) *RETURNS RELATING TO LARGE TRANSFERS AT*  
17 *DEATH.—The return required by section 6018 with respect*  
18 *to a decedent shall be filed with the return of the tax im-*  
19 *posed by chapter 1 for the decedent’s last taxable year or*  
20 *such later date specified in regulations prescribed by the*  
21 *Secretary.”*

22           (B) *RETURNS RELATING TO LARGE LIFE-*  
23 *TIME GIFTS.—*

24           (i) *The heading for section 6075(b) is*  
25 *amended to read as follows:*

1       “(b) *RETURNS RELATING TO LARGE LIFETIME*  
2 *GIFTS.—*”.

3                   (ii) *Paragraph (1) of section 6075(b) is*  
4 *amended by striking “(relating to gift*  
5 *taxes)” and inserting “(relating to returns*  
6 *relating to large lifetime gifts)”.*

7                   (iii) *Paragraph (3) of section 6075(b)*  
8 *is amended—*

9                           (I) *by striking “ESTATE TAX RE-*  
10 *TURN” and inserting “SECTION 6018*  
11 *RETURN”, and*

12                           (II) *by striking “(relating to es-*  
13 *tate tax returns)” and inserting “(re-*  
14 *lating to returns relating to large*  
15 *transfers at death)”.*

16                   (3) *PENALTIES.—Part I of subchapter B of*  
17 *chapter 68 (relating to assessable penalties) is amend-*  
18 *ed by adding at the end the following new section:*

19 **“SEC. 6716. FAILURE TO FILE INFORMATION WITH RESPECT**  
20 **TO CERTAIN TRANSFERS AT DEATH AND**  
21 **GIFTS.**

22                   “(a) *INFORMATION REQUIRED TO BE FURNISHED TO*  
23 *THE SECRETARY.—Any person required to furnish any in-*  
24 *formation under section 6018 or 6019 who fails to furnish*  
25 *such information on the date prescribed therefor (deter-*

1 mined with regard to any extension of time for filing) shall  
2 pay a penalty of \$10,000 (\$500 in the case of information  
3 required to be furnished under section 6018(b)(2) or 6019)  
4 for each such failure.

5       “(b) *INFORMATION REQUIRED TO BE FURNISHED TO*  
6 *BENEFICIARIES.*—Any person required to furnish in writ-  
7 ing to each person described in section 6018(e) or 6019(c)  
8 the information required under such section who fails to  
9 furnish such information shall pay a penalty of \$50 for  
10 each such failure.

11       “(c) *REASONABLE CAUSE EXCEPTION.*—No penalty  
12 shall be imposed under subsection (a) or (b) with respect  
13 to any failure if it is shown that such failure is due to  
14 reasonable cause.

15       “(d) *INTENTIONAL DISREGARD.*—If any failure under  
16 subsection (a) or (b) is due to intentional disregard of the  
17 requirements under sections 6018 and 6019, the penalty  
18 under such subsection shall be 5 percent of the fair market  
19 value (as of the date of death or, in the case of section 6019,  
20 the date of the gift) of the property with respect to which  
21 the information is required.

22       “(e) *DEFICIENCY PROCEDURES NOT TO APPLY.*—Sub-  
23 chapter B of chapter 63 (relating to deficiency procedures  
24 for income, estate, gift, and certain excise taxes) shall not

1 *apply in respect of the assessment or collection of any pen-*  
 2 *alty imposed by this section.”*

3 (4) *CLERICAL AMENDMENTS.—*

4 (A) *The table of sections for part I of sub-*  
 5 *chapter B of chapter 68 is amended by adding*  
 6 *at the end the following new item:*

*“Sec. 6716. Failure to file information with respect to certain transfers at death and gifts.”*

7 (B) *The item relating to subpart C in the*  
 8 *table of subparts for part II of subchapter A of*  
 9 *chapter 61 is amended to read as follows:*

*“Subpart C. Returns relating to transfers during life or at death.”*

10 (c) *EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESI-*  
 11 *DENCE MADE AVAILABLE TO HEIR OF DECEDENT IN CER-*  
 12 *TAIN CASES.—Subsection (d) of section 121 (relating to ex-*  
 13 *clusion of gain from sale of principal residence) is amended*  
 14 *by adding at the end the following new paragraph:*

15 (9) *PROPERTY ACQUIRED FROM A DECEDENT.—*  
 16 *The exclusion under this section shall apply to prop-*  
 17 *erty sold by—*

18 (A) *the estate of a decedent, and*

19 (B) *any individual who acquired such*  
 20 *property from the decedent (within the meaning*  
 21 *of section 1022),*

22 *determined by taking into account the ownership and*  
 23 *use by the decedent.”*

1           (d) *TRANSFERS OF APPRECIATED CARRYOVER BASIS*  
2 *PROPERTY TO SATISFY PECUNIARY BEQUEST.*—

3           (1) *IN GENERAL.*—Section 1040 (relating to  
4 transfer of certain farm, etc., real property) is  
5 amended to read as follows:

6 **“SEC. 1040. USE OF APPRECIATED CARRYOVER BASIS PROP-**  
7 **ERTY TO SATISFY PECUNIARY BEQUEST.**

8           “(a) *IN GENERAL.*—If the executor of the estate of any  
9 decedent satisfies the right of any person to receive a pecu-  
10 niary bequest with appreciated property, then gain on such  
11 exchange shall be recognized to the estate only to the extent  
12 that, on the date of such exchange, the fair market value  
13 of such property exceeds such value on the date of death.

14           “(b) *SIMILAR RULE FOR CERTAIN TRUSTS.*—To the  
15 extent provided in regulations prescribed by the Secretary,  
16 a rule similar to the rule provided in subsection (a) shall  
17 apply where—

18           “(1) by reason of the death of the decedent, a  
19 person has a right to receive from a trust a specific  
20 dollar amount which is the equivalent of a pecuniary  
21 bequest, and

22           “(2) the trustee of a trust satisfies such right  
23 with property.

24           “(c) *BASIS OF PROPERTY ACQUIRED IN EXCHANGE*  
25 *DESCRIBED IN SUBSECTION (a) OR (b).*—The basis of prop-

1 erty acquired in an exchange with respect to which gain  
 2 realized is not recognized by reason of subsection (a) or (b)  
 3 shall be the basis of such property immediately before the  
 4 exchange increased by the amount of the gain recognized  
 5 to the estate or trust on the exchange.”

6 (2) The item relating to section 1040 in the table  
 7 of sections for part III of subchapter O of chapter 1  
 8 is amended to read as follows:

“Sec. 1040. Use of appreciated carryover basis property to satisfy  
 pecuniary bequest.”

9 (e) ANTI-ABUSE RULES.—Section 7701 is amended by  
 10 redesignating subsection (n) as subsection (o) and by insert-  
 11 ing after subsection (m) the following new subsection:

12 “(n) PURPORTED GIFTS MAY BE DISREGARDED.—For  
 13 purposes of subtitle A, the Secretary may treat a transfer  
 14 which purports to be a gift as having never been transferred  
 15 if, in connection with such transfer—

16 “(1)(A) the transferor (or any person related to  
 17 or designated by the transferor or such person) has re-  
 18 ceived anything of value in connection with such  
 19 transfer from the transferee directly or indirectly, or

20 “(B) there is an understanding or expectation  
 21 that the transferor (or such person) will receive any-  
 22 thing of value in connection with such transfer from  
 23 the transferee directly or indirectly, and

1           “(2) *the Secretary determines that such treat-*  
2           *ment is appropriate to prevent avoidance of tax im-*  
3           *posed by subtitle A.*”

4           (f) *MISCELLANEOUS AMENDMENTS RELATED TO CAR-*  
5           *RYOVER BASIS.—*

6           (1) *RECOGNITION OF GAIN ON TRANSFERS TO*  
7           *NONRESIDENTS.—*

8                   (A) *Subsection (a) of section 684 is amend-*  
9                   *ed by inserting “or to a nonresident not a citizen*  
10                   *of the United States” after “or trust”.*

11                   (B) *Subsection (b) of section 684 is*  
12                   *amended by striking “any person” and inserting*  
13                   *“any United States person”.*

14                   (C) *The section heading for section 684 is*  
15                   *amended by inserting “**AND NONRESIDENT***  
16                   ***ALIENS**” after “**ESTATES**”.*

17                   (D) *The item relating to section 684 in the*  
18                   *table of sections for subpart F of part I of sub-*  
19                   *chapter J of chapter 1 is amended by inserting*  
20                   *“and nonresident aliens” after “estates”.*

21           (2) *CAPITAL GAIN TREATMENT FOR INHERITED*  
22           *ART WORK OR SIMILAR PROPERTY.—*

23                   (A) *IN GENERAL.—Subparagraph (C) of*  
24                   *section 1221(a)(3) (defining capital asset) is*

1           amended by inserting “(other than by reason of  
2           section 1022)” after “is determined”.

3           (B) *COORDINATION WITH SECTION 170.*—  
4           Paragraph (1) of section 170(e) (relating to cer-  
5           tain contributions of ordinary income and cap-  
6           ital gain property) is amended by adding at the  
7           end the following: “For purposes of this para-  
8           graph, the determination of whether property is  
9           a capital asset shall be made without regard to  
10          the exception contained in section 1221(a)(3)(C)  
11          for basis determined under section 1022.”.

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

15                 “(47) *EXECUTOR.*—The term ‘executor’ means  
16                 the executor or administrator of the decedent, or, if  
17                 there is no executor or administrator appointed,  
18                 qualified, and acting within the United States, then  
19                 any person in actual or constructive possession of any  
20                 property of the decedent.”.

21          (4) *CERTAIN TRUSTS.*—Subparagraph (A) of sec-  
22          tion 4947(a)(2) is amended by inserting “642(c),”  
23          after “170(f)(2)(B),”.

24          (5) *OTHER AMENDMENTS.*—

1           (A) *Section 1246 is amended by striking*  
2           *subsection (e).*

3           (B) *Subsection (e) of section 1291 is*  
4           *amended—*

5                     *(i) by striking “(e),” and*

6                     *(ii) by striking “; except that” and all*  
7                     *that follows and inserting a period.*

8           (C) *Section 1296 is amended by striking*  
9           *subsection (i).*

10           (6) *CLERICAL AMENDMENT.—The table of sec-*  
11           *tions for part II of subchapter O of chapter 1 is*  
12           *amended by inserting after the item relating to sec-*  
13           *tion 1021 the following new item:*

*“Sec. 1022. Treatment of property acquired from a decedent dying  
after December 31, 2010.”.*

14           (g) *EFFECTIVE DATE.—*

15                     (1) *IN GENERAL.—Except as provided in para-*  
16                     *graph (2), the amendments made by this section shall*  
17                     *apply to estates of decedents dying after December 31,*  
18                     *2010.*

19                     (2) *PURPORTED GIFTS, ETC.—The amendments*  
20                     *made by subsections (e) and (f)(1) shall apply to*  
21                     *transfers after December 31, 2010.*

22                     (3) *SECTION 4947.—The amendment made by*  
23                     *subsection (f)(4) shall apply to deductions for taxable*  
24                     *years beginning after December 31, 2010.*

1           (h) *STUDY.*—*The Secretary of the Treasury or the Sec-*  
2 *retary’s delegate shall conduct a study of—*

3                   (1) *opportunities for avoidance of the income*  
4 *tax, if any, and*

5                   (2) *potential increases in income tax revenues,*  
6 *by reason of the enactment of this Act. The study shall be*  
7 *submitted to the Committee on Ways and Means of the*  
8 *House of Representatives and the Committee on Finance*  
9 *of the Senate not later than December 31, 2002.*

10                   ***TITLE V—CONSERVATION***  
11                                   ***EASEMENTS***

12           ***SEC. 501. EXPANSION OF ESTATE TAX RULE FOR CON-***  
13                                   ***SERVATION EASEMENTS.***

14           (a) *WHERE LAND IS LOCATED.*—*Clause (i) of section*  
15 *2031(c)(8)(A) (defining land subject to a conservation ease-*  
16 *ment) is amended—*

17                   (1) *by striking “25 miles” each place it appears*  
18 *and inserting “50 miles”; and*

19                   (2) *striking “10 miles” and inserting “25 miles”.*

20           (b) *CLARIFICATION OF DATE FOR DETERMINING*  
21 *VALUE OF LAND AND EASEMENT.*—*Section 2031(c)(2) (de-*  
22 *fining applicable percentage) is amended by adding at the*  
23 *end the following new sentence: “The values taken into ac-*  
24 *count under the preceding sentence shall be such values as*

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

3 (c) *EFFECTIVE DATE.*—The amendments made by this  
4 section shall apply to estates of decedents dying after De-  
5 cember 31, 2000.

6 **TITLE VI—MODIFICATIONS OF**  
7 **GENERATION-SKIPPING**  
8 **TRANSFER TAX**

9 **SEC. 601. DEEMED ALLOCATION OF GST EXEMPTION TO**  
10 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**  
11 **ACTIVE ALLOCATIONS.**

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

16 “(c) *DEEMED ALLOCATION TO CERTAIN LIFETIME*  
17 *TRANSFERS TO GST TRUSTS.*—

18 “(1) *IN GENERAL.*—If any individual makes an  
19 indirect skip during such individual’s lifetime, any  
20 unused portion of such individual’s GST exemption  
21 shall be allocated to the property transferred to the ex-  
22 tent necessary to make the inclusion ratio for such  
23 property zero. If the amount of the indirect skip ex-  
24 ceeds such unused portion, the entire unused portion  
25 shall be allocated to the property transferred.

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

5                     “(A) allocated by such individual,

6                     “(B) treated as allocated under subsection  
7                     (b) with respect to a direct skip occurring during  
8                     or before the calendar year in which the indirect  
9                     skip is made, or

10                    “(C) treated as allocated under paragraph  
11                    (1) with respect to a prior indirect skip.

12           “(3) *DEFINITIONS.*—

13                    “(A) *INDIRECT SKIP.*—For purposes of this  
14                    subsection, the term ‘indirect skip’ means any  
15                    transfer of property (other than a direct skip)  
16                    subject to the tax imposed by chapter 12 made  
17                    to a GST trust.

18                    “(B) *GST TRUST.*—The term ‘GST trust’  
19                    means a trust that could have a generation-skip-  
20                    ping transfer with respect to the transferor  
21                    unless—

22                             “(i) the trust instrument provides that  
23                             more than 25 percent of the trust corpus  
24                             must be distributed to or may be withdrawn

1           *by one or more individuals who are non-*  
2           *skip persons—*

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

5                   “(II) *on or before one or more*  
6                   *dates specified in the trust instrument*  
7                   *that will occur before the date that*  
8                   *such individual attains age 46, or*

9                   “(III) *upon the occurrence of an*  
10                   *event that, in accordance with regula-*  
11                   *tions prescribed by the Secretary, may*  
12                   *reasonably be expected to occur before*  
13                   *the date that such individual attains*  
14                   *age 46;*

15                   “(ii) *the trust instrument provides that*  
16                   *more than 25 percent of the trust corpus*  
17                   *must be distributed to or may be withdrawn*  
18                   *by one or more individuals who are non-*  
19                   *skip persons and who are living on the date*  
20                   *of death of another person identified in the*  
21                   *instrument (by name or by class) who is*  
22                   *more than 10 years older than such individ-*  
23                   *uals;*

24                   “(iii) *the trust instrument provides*  
25                   *that, if one or more individuals who are*

1           *non-skip persons die on or before a date or*  
2           *event described in clause (i) or (ii), more*  
3           *than 25 percent of the trust corpus either*  
4           *must be distributed to the estate or estates*  
5           *of one or more of such individuals or is sub-*  
6           *ject to a general power of appointment exer-*  
7           *cisable by one or more of such individuals;*

8           *“(iv) the trust is a trust any portion*  
9           *of which would be included in the gross es-*  
10          *tate of a non-skip person (other than the*  
11          *transferor) if such person died immediately*  
12          *after the transfer;*

13          *“(v) the trust is a charitable lead an-*  
14          *nuity trust (within the meaning of section*  
15          *2642(e)(3)(A)) or a charitable remainder*  
16          *annuity trust or a charitable remainder*  
17          *unitrust (within the meaning of section*  
18          *664(d)); or*

19          *“(vi) the trust is a trust with respect*  
20          *to which a deduction was allowed under sec-*  
21          *tion 2522 for the amount of an interest in*  
22          *the form of the right to receive annual pay-*  
23          *ments of a fixed percentage of the net fair*  
24          *market value of the trust property (deter-*  
25          *mined yearly) and which is required to pay*

1           *principal to a non-skip person if such per-*  
2           *son is alive when the yearly payments for*  
3           *which the deduction was allowed terminate.*

4           *For purposes of this subparagraph, the value of*  
5           *transferred property shall not be considered to be*  
6           *includible in the gross estate of a non-skip per-*  
7           *son or subject to a right of withdrawal by reason*  
8           *of such person holding a right to withdraw so*  
9           *much of such property as does not exceed the*  
10          *amount referred to in section 2503(b) with re-*  
11          *spect to any transferor, and it shall be assumed*  
12          *that powers of appointment held by non-skip*  
13          *persons will not be exercised.*

14          “(4) *AUTOMATIC ALLOCATIONS TO CERTAIN GST*  
15          *TRUSTS.—For purposes of this subsection, an indirect*  
16          *skip to which section 2642(f) applies shall be deemed*  
17          *to have been made only at the close of the estate tax*  
18          *inclusion period. The fair market value of such trans-*  
19          *fer shall be the fair market value of the trust property*  
20          *at the close of the estate tax inclusion period.*

21          “(5) *APPLICABILITY AND EFFECT.—*

22                  “(A) *IN GENERAL.—An individual—*

23                          “(i) *may elect to have this subsection*  
24                          *not apply to—*

25                                  “(I) *an indirect skip, or*

1                   “(II) any or all transfers made by  
2                   such individual to a particular trust,  
3                   and

4                   “(ii) may elect to treat any trust as a  
5                   GST trust for purposes of this subsection  
6                   with respect to any or all transfers made by  
7                   such individual to such trust.

8                   “(B) ELECTIONS.—

9                   “(i) ELECTIONS WITH RESPECT TO IN-  
10                  DIRECT SKIPS.—An election under subpara-  
11                  graph (A)(i)(I) shall be deemed to be timely  
12                  if filed on a timely filed gift tax return for  
13                  the calendar year in which the transfer was  
14                  made or deemed to have been made pursu-  
15                  ant to paragraph (4) or on such later date  
16                  or dates as may be prescribed by the Sec-  
17                  retary.

18                  “(ii) OTHER ELECTIONS.—An election  
19                  under clause (i)(II) or (ii) of subparagraph  
20                  (A) may be made on a timely filed gift tax  
21                  return for the calendar year for which the  
22                  election is to become effective.

23                  “(d) RETROACTIVE ALLOCATIONS.—

24                         “(1) IN GENERAL.—If—

1           “(A) a non-skip person has an interest or a  
2           future interest in a trust to which any transfer  
3           has been made,

4           “(B) such person—

5                 “(i) is a lineal descendant of a grand-  
6                 parent of the transferor or of a grandparent  
7                 of the transferor’s spouse or former spouse,  
8                 and

9                 “(ii) is assigned to a generation below  
10                the generation assignment of the transferor,  
11                and

12           “(C) such person predeceases the transferor,  
13           then the transferor may make an allocation of any of  
14           such transferor’s unused GST exemption to any pre-  
15           vious transfer or transfers to the trust on a chrono-  
16           logical basis.

17           “(2) SPECIAL RULES.—If the allocation under  
18           paragraph (1) by the transferor is made on a gift tax  
19           return filed on or before the date prescribed by section  
20           6075(b) for gifts made within the calendar year with-  
21           in which the non-skip person’s death occurred—

22                 “(A) the value of such transfer or transfers  
23                 for purposes of section 2642(a) shall be deter-  
24                 mined as if such allocation had been made on a

1           *timely filed gift tax return for each calendar*  
2           *year within which each transfer was made,*

3           “(B) *such allocation shall be effective imme-*  
4           *diately before such death, and*

5           “(C) *the amount of the transferor’s unused*  
6           *GST exemption available to be allocated shall be*  
7           *determined immediately before such death.*

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

12          “(b) *CONFORMING AMENDMENT.—Paragraph (2) of sec-*  
13          *tion 2632(b) is amended by striking “with respect to a prior*  
14          *direct skip” and inserting “or subsection (c)(1)”.*

15          “(c) *EFFECTIVE DATES.—*

16                 “(1) *DEEMED ALLOCATION.—Section 2632(c) of*  
17                 *the Internal Revenue Code of 1986 (as added by sub-*  
18                 *section (a)), and the amendment made by subsection*  
19                 *(b), shall apply to transfers subject to chapter 11 or*  
20                 *12 made after December 31, 2000, and to estate tax*  
21                 *inclusion periods ending after December 31, 2000.*

22                 “(2) *RETROACTIVE ALLOCATIONS.—Section*  
23                 *2632(d) of the Internal Revenue Code of 1986 (as*  
24                 *added by subsection (a)) shall apply to deaths of non-*  
25                 *skip persons occurring after December 31, 2000.*

1 **SEC. 602. SEVERING OF TRUSTS.**

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

5               “(3) *SEVERING OF TRUSTS.*—

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

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

12                               “(i) *IN GENERAL.*—The term ‘qualified  
13 *severance*’ means the division of a single  
14 *trust and the creation (by any means avail-*  
15 *able under the governing instrument or*  
16 *under local law) of two or more trusts if—*

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

19                                       “(II) *the terms of the new trusts,*  
20 *in the aggregate, provide for the same*  
21 *succession of interests of beneficiaries*  
22 *as are provided in the original trust.*

23                               “(ii) *TRUSTS WITH INCLUSION RATIO*  
24 *GREATER THAN ZERO.*—If a trust has an  
25 *inclusion ratio of greater than zero and less*  
26 *than 1, a severance is a qualified severance*

1           *only if the single trust is divided into two*  
2           *trusts, one of which receives a fractional*  
3           *share of the total value of all trust assets*  
4           *equal to the applicable fraction of the single*  
5           *trust immediately before the severance. In*  
6           *such case, the trust receiving such fractional*  
7           *share shall have an inclusion ratio of zero*  
8           *and the other trust shall have an inclusion*  
9           *ratio of 1.*

10           “(iii) *REGULATIONS.*—*The term*  
11           *‘qualified severance’ includes any other sev-*  
12           *erance permitted under regulations pre-*  
13           *scribed by the Secretary.*

14           “(C) *TIMING AND MANNER OF*  
15           *SEVERANCES.*—*A severance pursuant to this*  
16           *paragraph may be made at any time. The Sec-*  
17           *retary shall prescribe by forms or regulations the*  
18           *manner in which the qualified severance shall be*  
19           *reported to the Secretary.”.*

20           “(b) *EFFECTIVE DATE.*—*The amendment made by this*  
21           *section shall apply to severances after December 31, 2000.*

22           **SEC. 603. MODIFICATION OF CERTAIN VALUATION RULES.**

23           “(a) *GIFTS FOR WHICH GIFT TAX RETURN FILED OR*  
24           *DEEMED ALLOCATION MADE.*—*Paragraph (1) of section*

1 2642(b) (relating to valuation rules, etc.) is amended to  
2 read as follows:

3           “(1) *GIFTS FOR WHICH GIFT TAX RETURN FILED*  
4           *OR DEEMED ALLOCATION MADE.*—If the allocation of  
5           the GST exemption to any transfers of property is  
6           made on a gift tax return filed on or before the date  
7           prescribed by section 6075(b) for such transfer or is  
8           deemed to be made under section 2632 (b)(1) or  
9           (c)(1)—

10                   “(A) the value of such property for purposes  
11                   of subsection (a) shall be its value as finally de-  
12                   termined for purposes of chapter 12 (within the  
13                   meaning of section 2001(f)(2)), or, in the case of  
14                   an allocation deemed to have been made at the  
15                   close of an estate tax inclusion period, its value  
16                   at the time of the close of the estate tax inclusion  
17                   period, and

18                   “(B) such allocation shall be effective on  
19                   and after the date of such transfer, or, in the  
20                   case of an allocation deemed to have been made  
21                   at the close of an estate tax inclusion period, on  
22                   and after the close of such estate tax inclusion  
23                   period.”.

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

1           “(A) *TRANSFERS AT DEATH.*—If property is  
 2           *transferred as a result of the death of the trans-*  
 3           *feror, the value of such property for purposes of*  
 4           *subsection (a) shall be its value as finally deter-*  
 5           *mined for purposes of chapter 11; except that, if*  
 6           *the requirements prescribed by the Secretary re-*  
 7           *specting allocation of post-death changes in value*  
 8           *are not met, the value of such property shall be*  
 9           *determined as of the time of the distribution con-*  
 10           *cerned.”.*

11           (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 12           *section shall apply to transfers subject to chapter 11 or 12*  
 13           *of the Internal Revenue Code of 1986 made after December*  
 14           *31, 2000.*

15   **SEC. 604. RELIEF PROVISIONS.**

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

18           “(g) *RELIEF PROVISIONS.*—

19                   “(1) *RELIEF FROM LATE ELECTIONS.*—

20                           “(A) *IN GENERAL.*—*The Secretary shall by*  
 21                           *regulation prescribe such circumstances and pro-*  
 22                           *cedures under which extensions of time will be*  
 23                           *granted to make—*

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

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

6           Such regulations shall include procedures for re-  
7           questing comparable relief with respect to trans-  
8           fers made before the date of the enactment of this  
9           paragraph.

10           “(B) BASIS FOR DETERMINATIONS.—In de-  
11           termining whether to grant relief under this  
12           paragraph, the Secretary shall take into account  
13           all relevant circumstances, including evidence of  
14           intent contained in the trust instrument or in-  
15           strument of transfer and such other factors as the  
16           Secretary deems relevant. For purposes of deter-  
17           mining whether to grant relief under this para-  
18           graph, the time for making the allocation (or  
19           election) shall be treated as if not expressly pre-  
20           scribed by statute.

21           “(2) SUBSTANTIAL COMPLIANCE.—An allocation  
22           of GST exemption under section 2632 that dem-  
23           onstrates an intent to have the lowest possible inclu-  
24           sion ratio with respect to a transfer or a trust shall  
25           be deemed to be an allocation of so much of the trans-

1        *feror's unused GST exemption as produces the lowest*  
2        *possible inclusion ratio. In determining whether there*  
3        *has been substantial compliance, all relevant cir-*  
4        *cumstances shall be taken into account, including evi-*  
5        *dence of intent contained in the trust instrument or*  
6        *instrument of transfer and such other factors as the*  
7        *Secretary deems relevant."*

8        *(b) EFFECTIVE DATES.—*

9                *(1) RELIEF FROM LATE ELECTIONS.—Section*  
10                *2642(g)(1) of the Internal Revenue Code of 1986 (as*  
11                *added by subsection (a)) shall apply to requests pend-*  
12                *ing on, or filed after, December 31, 2000.*

13                *(2) SUBSTANTIAL COMPLIANCE.—Section*  
14                *2642(g)(2) of such Code (as so added) shall apply to*  
15                *transfers subject to chapter 11 or 12 of the Internal*  
16                *Revenue Code of 1986 made after December 31, 2000.*  
17                *No implication is intended with respect to the avail-*  
18                *ability of relief from late elections or the application*  
19                *of a rule of substantial compliance on or before such*  
20                *date.*

1 **TITLE VII—EXTENSION OF TIME**  
2 **FOR PAYMENT OF ESTATE TAX**

3 **SEC. 701. INCREASE IN NUMBER OF ALLOWABLE PARTNERS**  
4 **AND SHAREHOLDERS IN CLOSELY HELD BUSI-**  
5 **NESSES.**

6 (a) *IN GENERAL.*—Paragraphs (1)(B)(ii), (1)(C)(ii),  
7 and (9)(B)(iii)(I) of section 6166(b) (relating to definitions  
8 and special rules) are each amended by striking “15” and  
9 inserting “45”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this  
11 section shall apply to estates of decedents dying after De-  
12 cember 31, 2001.



**Union Calendar No. 26**

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 8**

**[Report No. 107-37]**

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**A BILL**

To amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period, and for other purposes.

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APRIL 3, 2001

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