

PROVIDING FOR CONSIDERATION OF H.R. 8, DEATH TAX  
ELIMINATION ACT OF 2001

---

APRIL 3, 2001.—Referred to the House Calendar and ordered to be printed

---

Mr. REYNOLDS, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 111]

The Committee on Rules, having had under consideration House Resolution 111, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration in the House of H.R. 8, the Death Tax Elimination Act of 2001, under a modified closed rule. The rule provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. The rule further provides for consideration of the amendment in the nature of a substitute, printed in this report, if offered by Representative Rangel or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment in the nature of a substitute. Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report) and a waiver of section 303 of the Congressional Budget Act of 1974 (prohibiting consideration of legislation, as reported, providing new budget authority, changes in revenues, or changes in the public debt for a fiscal year until the budget resolution for that year has been agreed to).

The waiver of clause 4(a) of rule XIII is needed because the report was not filed until Tuesday, April 3 and the bill may be considered by the House as early as Wednesday, April 4. The waiver of section 303 is necessary because Congress has not yet completed consideration of a budget resolution for FY 2002 and, according to the Joint Committee on Taxation, the bill would decrease revenues and increase direct spending in FY 2002.

The waiver of all points of order against consideration of the minority substitute is necessary for the same general reason as are necessary for the bill.

SUMMARY OF AMENDMENT MADE IN ORDER

Rangel—Democratic Substitute. increases the current estate tax exclusion in 2002 from \$675,000 to \$2 million and doubles that amount for couples; phases in increases in the exclusion to \$2.5 million (\$5 million for married couples) by 2010; preserves the current law “step up in basis” provisions; repeals the mileage limitations of current law for tax-benefitted conservation easements so that all land would be eligible for the exclusion; repeals the current credit for inheritance and estate taxes paid to State; and limits the use of minority discounts to estate tax.

TEXT OF AMENDMENT MADE IN ORDER UNDER THE RULE

AM AMENDMENT TO BE OFFERED BY REPRESENTATIVE RANGEL OF NEW YORK, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike all after the enacting clause and insert the following:

**SECTION 1. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. INCREASE IN EXEMPTION EQUIVALENT OF UNIFIED CREDIT.**

(a) IN GENERAL.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking the table and inserting the following new table:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
2002 .....	\$2,000,000
2003 and 2004 .....	\$2,100,000
2005 and 2006 .....	\$2,200,000
2007 and 2008 .....	\$2,300,000
2009 .....	\$2,400,000
2010 or thereafter .....	\$2,500,000.”

(b) REPEAL OF SPECIAL BENEFIT FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) Section 2057 is hereby repealed.

(2) Paragraph (10) of section 2031(c) is amended by inserting “(as in effect on the day before the date of the enactment of this parenthetical)” before the period.

(3) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(c) CORRECTION OF TECHNICAL ERROR AFFECTING LARGEST ESTATES.—Paragraph (2) of section 2001(c) is amended by striking

“\$10,000,000” and all that follows and inserting “\$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of the applicable credit amount under section 2010(c) and \$359,200.”

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

**SEC. 3. CREDIT FOR STATE DEATH TAXES REPLACED WITH DEDUCTION FOR SUCH TAXES.**

(a) REPEAL OF CREDIT.—Section 2011 (relating to credit for State death taxes) is hereby repealed.

(b) DEDUCTION FOR STATE DEATH TAXES.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

**“SEC. 2058. STATE DEATH TAXES.**

“(a) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent).

“(b) PERIOD OF LIMITATIONS.—The deduction allowed by this section shall include only such taxes as were actually paid and deduction therefor claimed within 4 years after the filing of the return required by section 6018, except that—

“(1) If a petition for redetermination of a deficiency has been filed with the Tax Court within the time prescribed in section 6213(a), then within such 4-year period or before the expiration of 60 days after the decision of the Tax Court becomes final.

“(2) If, under section 6161 or 6166, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such 4-year period or before the date of the expiration of the period of the extension.

“(3) If a claim for refund or credit of an overpayment of tax imposed by this chapter has been filed within the time prescribed in section 6511, then within such 4-year period or before the expiration of 60 days from the date of mailing by certified mail or registered mail by the Secretary to the taxpayer of a notice of the disallowance of any part of such claim, or before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon such claim, whichever is later.

Refund based on the deduction may (despite the provisions of sections 6511 and 6512) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest.”

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 2012 is amended by striking “the credit for State death taxes provided by section 2011 and”.

(2) Subparagraph (A) of section 2013(c)(1) is amended by striking “2011,”.

(3) Paragraph (2) of section 2014(b) is amended by striking “, 2011,”.

(4) Sections 2015 and 2016 are each amended by striking “2011 or”.

(5) Subsection (d) of section 2053 is amended to read as follows:

“(d) CERTAIN FOREIGN DEATH TAXES.—

“(1) IN GENERAL.—Notwithstanding the provisions of subsection (c)(1)(B) of this section, for purposes of the tax imposed by section 2001, the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501, by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary) of any estate, succession, legacy, or inheritance tax imposed by and actually paid to any foreign country, in respect of any property situated within such foreign country and included in the gross estate of a citizen or resident of the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country within which property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2101 and following) in determining whether property is situated within or without the United States. Any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

“(2) CONDITION FOR ALLOWANCE OF DEDUCTION.—No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by section 2001 which results from the deduction provided in paragraph (1) will inure solely for the benefit of the public, charitable, or religious transferees described in section 2055 or section 2106(a)(2). In any case where the tax imposed by section 2001 is equitably apportioned among all the transferees of property included in the gross estate, including those described in sections 2055 and 2106(a)(2) (taking into account any exemptions, credits, or deductions allowed by this chapter), in determining such decrease, there shall be disregarded any decrease in the Federal estate tax which any transferees other than those described in sections 2055 and 2106(a)(2) are required to pay.

“(3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES OF DEDUCTION UNDER THIS SUBSECTION.—

“(A) ELECTION.—An election under this subsection shall be deemed a waiver of the right to claim a credit, against the Federal estate tax, under a death tax convention with any foreign country for any tax or portion thereof in respect of which a deduction is taken under this subsection.

“(B) CROSS REFERENCE.—

“**See section 2014(f) for the effect of a deduction taken under this paragraph on the credit for foreign death taxes.**”

(6) Subparagraph (A) of section 2056A(b)(10) is amended—  
 (A) by striking “2011,”, and  
 (B) by inserting “2058,” after “2056.”

(7)(A) Subsection (a) of section 2102 is amended to read as follows:

“(a) **IN GENERAL.**—The tax imposed by section 2101 shall be credited with the amounts determined in accordance with sections 2012 and 2013 (relating to gift tax and tax on prior transfers).”

(B) Section 2102 is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(C) Section 2102(b)(5) (as redesignated by subparagraph (B)) and section 2107(c)(3) are each amended by striking “2011 to 2013, inclusive,” and inserting “2012 and 2013”.

(8) Subsection (a) of section 2106 is amended by adding at the end the following new paragraph:

“(4) **STATE DEATH TAXES.**—The amount which bears the same ratio to the State death taxes as the value of the property, as determined for purposes of this chapter, upon which State death taxes were paid and which is included in the gross estate under section 2103 bears to the value of the total gross estate under section 2103. For purposes of this paragraph, the term ‘State death taxes’ means the taxes described in section 2011(a).”

(9) Section 2201 is amended—

(A) by striking “as defined in section 2011(d)”, and

(B) by adding at the end the following new flush sentence:

“For purposes of this section, the additional estate tax is the difference between the tax imposed by section 2001 or 2101 and the amount equal to 125 percent of the maximum credit provided by section 2011(b), as in effect before its repeal by the Tax Reduction Act of 2001.”

(10) Paragraph (2) of section 6511(i) is amended by striking “2011(c), 2014(b),” and inserting “2014(b)”.

(11) Subsection (c) of section 6612 is amended by striking “section 2011(c) (relating to refunds due to credit for State taxes),”.

(12) The table of sections for part II of subchapter A of chapter 11 is amended by striking the item relating to section 2011.

(13) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

“Sec. 2058. State death taxes.”

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

**SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.**

(a) **IN GENERAL.**—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) **VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.**—For purposes of this chapter and chapter 12—

“(1) **IN GENERAL.**—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

“(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valu-

ation discount shall be allowed with respect to such non-business assets), and

“(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

“(2) NONBUSINESS ASSETS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘nonbusiness asset’ means any asset which is not used in the active conduct of 1 or more trades or businesses.

“(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

“(i) the asset is property described in paragraph (1) or (4) of section 1221(a) or is a hedge with respect to such property, or

“(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

“(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

“(3) PASSIVE ASSET.—For purposes of this subsection, the term ‘passive asset’ means any—

“(A) cash or cash equivalents,

“(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

“(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

“(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

“(E) annuity,

“(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

“(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

“(H) commodity,

“(I) collectible (within the meaning of section 401(m)), or

“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) LOOK-THRU RULES.—

“(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its

ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

“(B) 10-PERCENT INTEREST.—The term ‘10-percent interest’ means—

“(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

“(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.

“(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this chapter and chapter 12, in the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092), no discount shall be allowed by reason of the fact that the transferee does not have control of such entity if the transferee and members of the family (as defined in section 2032A(e)(2)) of the transferee have control of such entity.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

**SEC. 5. EXPANSION OF ESTATE TAX RULE FOR CONSERVATION EASEMENTS.**

(a) REPEAL OF LOCATION REQUIREMENT.—Subparagraph (A) of section 2031(c)(8) (defining land subject to a conservation easement) is amended by striking clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) CLARIFICATION OF DATE FOR DETERMINING VALUE OF LAND AND EASEMENT.—Section 2031(c)(2) (defining applicable percentage) is amended by adding at the end the following new sentence: “The values taken into account under the preceding sentence shall be such values as of the date of the contribution referred to in paragraph (8)(B).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2000.

Amend the title so as to read: “A bill to amend the Internal Revenue Code of 1986 to provide estate tax relief.”