

106TH CONGRESS
2D SESSION

H. R. 8

AN ACT

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

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; ETC.**

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

4 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
5 wise expressly provided, whenever in this Act an amend-
6 ment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference
8 shall be considered to be made to a section or other provi-
9 sion of the Internal Revenue Code of 1986.

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

14 **SEC. 101. REPEAL OF ESTATE, GIFT, AND GENERATION-**
15 **SKIPPING TAXES.**

16 (a) **IN GENERAL.**—Subtitle B is hereby repealed.

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

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

22 (a) **TERMINATION OF APPLICATION OF SECTION**
23 **1014.**—Section 1014 (relating to basis of property ac-
24 quired from a decedent) is amended by adding at the end
25 the following:

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

4 (b) CONFORMING AMENDMENT.—Subsection (a) of
5 section 1016 (relating to adjustments to basis) is amended
6 by striking “and” at the end of paragraph (26), by strik-
7 ing the period at the end of paragraph (27) and inserting
8 “, and”, and by adding at the end the following:

9 “(28) to the extent provided in section 1022
10 (relating to basis for certain property acquired from
11 a decedent dying after December 31, 2009).”.

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

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

17 **“SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY**
18 **ACQUIRED FROM A DECEDENT DYING AFTER**
19 **DECEMBER 31, 2009.**

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

24 “(b) CARRYOVER BASIS PROPERTY DEFINED.—

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

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

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

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

13 “(2) CERTAIN PROPERTY NOT CARRYOVER
14 BASIS PROPERTY.—The term ‘carryover basis prop-
15 erty’ does not include—

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

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

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

1 only if the value of such property would have
2 been deductible from the value of the taxable
3 estate of the decedent under section 2056, as in
4 effect on the day before the date of the enact-
5 ment of the Death Tax Elimination Act of
6 2000.

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

11 “(3) LIMITATION ON EXCEPTION FOR PROP-
12 PERTY ACQUIRED BY SURVIVING SPOUSE.—The ad-
13 justed fair market value of property which is not
14 carryover basis property by reason of paragraph
15 (2)(C) shall not exceed \$3,000,000.

16 “(4) ALLOCATION OF EXCEPTED AMOUNTS.—
17 The executor shall allocate the limitations under
18 paragraphs (2)(B) and (3).

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

24 “(A) such dollar amount, and

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for such calendar
3 year, determined by substituting ‘2009’ for
4 ‘1992’ in subparagraph (B) thereof.

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

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

11 (b) MISCELLANEOUS AMENDMENTS RELATED TO
12 CARRYOVER BASIS.—

13 (1) CAPITAL GAIN TREATMENT FOR INHERITED
14 ART WORK OR SIMILAR PROPERTY.—

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

19 (B) COORDINATION WITH SECTION 170.—
20 Paragraph (1) of section 170(e) (relating to
21 certain contributions of ordinary income and
22 capital gain property) is amended by adding at
23 the end the following: “For purposes of this
24 paragraph, the determination of whether prop-
25 erty is a capital asset shall be made without re-

1 gard to the exception contained in section
2 1221(a)(3)(C) for basis determined under sec-
3 tion 1022.”.

4 (2) DEFINITION OF EXECUTOR.—Section
5 7701(a) (relating to definitions) is amended by add-
6 ing at the end the following:

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

13 (3) CLERICAL AMENDMENT.—The table of sec-
14 tions for part II of subchapter O of chapter 1 is
15 amended by adding at the end the following new
16 item:

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

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to estates of decedents dying after
19 December 31, 2009.

1 **TITLE II—REDUCTIONS OF ES-**
 2 **TATE AND GIFT TAX RATES**
 3 **PRIOR TO REPEAL**

4 **SEC. 201. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT**
 5 **TAX RATES.**

6 (a) MAXIMUM RATE OF TAX REDUCED TO 50 PER-
 7 CENT.—

8 (1) IN GENERAL.—The table contained in sec-
 9 tion 2001(c)(1) is amended by striking the two high-
 10 est brackets and inserting the following:

“Over \$2,500,000 \$1,025,800, plus 50% of the excess
 over \$2,500,000.”.

11 (2) PHASE-IN OF REDUCED RATE.—Subsection
 12 (c) of section 2001 is amended by adding at the end
 13 the following new paragraph:

14 “(3) PHASE-IN OF REDUCED RATE.—In the
 15 case of decedents dying, and gifts made, during
 16 2001, the last item in the table contained in para-
 17 graph (1) shall be applied by substituting ‘53%’ for
 18 ‘50%’.”.

19 (b) REPEAL OF PHASEOUT OF GRADUATED
 20 RATES.—Subsection (c) of section 2001 is amended by
 21 striking paragraph (2) and redesignating paragraph (3),
 22 as added by subsection (a), as paragraph (2).

1 (c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—
 2 Subsection (c) of section 2001, as so amended, is amended
 3 by adding at the end the following new paragraph:

4 “(3) PHASEDOWN OF TAX.—In the case of es-
 5 tates of decedents dying, and gifts made, during any
 6 calendar year after 2002 and before 2010—

7 “(A) IN GENERAL.—Except as provided in
 8 subparagraph (C), the tentative tax under this
 9 subsection shall be determined by using a table
 10 prescribed by the Secretary (in lieu of using the
 11 table contained in paragraph (1)) which is the
 12 same as such table; except that—

13 “(i) each of the rates of tax shall be
 14 reduced by the number of percentage
 15 points determined under subparagraph
 16 (B), and

17 “(ii) the amounts setting forth the tax
 18 shall be adjusted to the extent necessary to
 19 reflect the adjustments under clause (i).

20 “(B) PERCENTAGE POINTS OF REDUC-
 21 TION.—

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

1 “(C) COORDINATION WITH INCOME TAX
2 RATES.—The reductions under subparagraph
3 (A)—

4 “(i) shall not reduce any rate under
5 paragraph (1) below the lowest rate in sec-
6 tion 1(c), and

7 “(ii) shall not reduce the highest rate
8 under paragraph (1) below the highest rate
9 in section 1(c).

10 “(D) COORDINATION WITH CREDIT FOR
11 STATE DEATH TAXES.—Rules similar to the
12 rules of subparagraph (A) shall apply to the
13 table contained in section 2011(b) except that
14 the Secretary shall prescribe percentage point
15 reductions which maintain the proportionate re-
16 lationship (as in effect before any reduction
17 under this paragraph) between the credit under
18 section 2011 and the tax rates under subsection
19 (c).”.

20 (d) EFFECTIVE DATES.—

21 (1) SUBSECTIONS (a) AND (b).—The amend-
22 ments made by subsections (a) and (b) shall apply
23 to estates of decedents dying, and gifts made, after
24 December 31, 2000.

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

4 **TITLE III—UNIFIED CREDIT RE-**
 5 **PLACED WITH UNIFIED EX-**
 6 **EMPTION AMOUNT**

7 **SEC. 301. UNIFIED CREDIT AGAINST ESTATE AND GIFT**
 8 **TAXES REPLACED WITH UNIFIED EXEMPTION**
 9 **AMOUNT.**

10 (a) IN GENERAL.—

11 (1) ESTATE TAX.—Subsection (b) of section
 12 2001 (relating to computation of tax) is amended to
 13 read as follows:

14 “(b) COMPUTATION OF TAX.—

15 “(1) IN GENERAL.—The tax imposed by this
 16 section shall be the amount equal to the excess (if
 17 any) of—

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

20 “(B) the aggregate amount of tax which
 21 would have been payable under chapter 12 with
 22 respect to gifts made by the decedent after De-
 23 cember 31, 1976, if the provisions of subsection
 24 (c) (as in effect at the decedent’s death) had
 25 been applicable at the time of such gifts.

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

5 “(A) the sum of—

6 “(i) the amount of the taxable estate,
 7 and

8 “(ii) the amount of the adjusted tax-
 9 able gifts, over

10 “(B) the exemption amount for the cal-
 11 endar year in which the decedent died.

12 “(3) EXEMPTION AMOUNT.—For purposes of
 13 paragraph (2), the term ‘exemption amount’ means
 14 the amount determined in accordance with the fol-
 15 lowing table:

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

16 “(4) ADJUSTED TAXABLE GIFTS.—For pur-
 17 poses of paragraph (2), the term ‘adjusted taxable
 18 gifts’ means the total amount of the taxable gifts
 19 (within the meaning of section 2503) made by the
 20 decedent after December 31, 1976, other than gifts
 21 which are includible in the gross estate of the dece-
 22 dent.”.

1 (2) GIFT TAX.—Subsection (a) of section 2502
2 (relating to computation of tax) is amended to read
3 as follows:

4 “(a) COMPUTATION OF TAX.—

5 “(1) IN GENERAL.—The tax imposed by section
6 2501 for each calendar year shall be the amount
7 equal to the excess (if any) of—

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

10 “(B) the tax paid under this section for all
11 prior calendar periods.

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

16 “(A) the aggregate sum of the taxable gifts
17 for such calendar year and for each of the pre-
18 ceding calendar periods, over

19 “(B) the exemption amount under section
20 2001(b)(3) for such calendar year.”.

21 (b) REPEAL OF UNIFIED CREDITS.—

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

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

1 (c) CONFORMING AMENDMENTS.—

2 (1)(A) Subsection (b) of section 2011 is
3 amended—

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

5 (ii) by striking the last sentence.

6 (B) Subsection (f) of section 2011 is amended
7 by striking “, reduced by the amount of the unified
8 credit provided by section 2010”.

9 (2) Subsection (a) of section 2012 is amended
10 by striking “and the unified credit provided by sec-
11 tion 2010”.

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

14 (4) Paragraph (2) of section 2014(b) is amend-
15 ed by striking “2010, 2011,” and inserting “2011”.

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

18 “(ii) to treat any reduction in the tax
19 imposed by paragraph (1)(A) by reason of
20 the credit allowable under section 2010 (as
21 in effect on the day before the date of the
22 enactment of the Death Tax Elimination
23 Act of 2000) or the exemption amount al-
24 lowable under section 2001(b) with respect
25 to the decedent as a credit under section

1 2505 (as so in effect) or exemption under
2 section 2521 (as the case may be) allow-
3 able to such surviving spouse for purposes
4 of determining the amount of the exemp-
5 tion allowable under section 2521 with re-
6 spect to taxable gifts made by the sur-
7 viving spouse during the year in which the
8 spouse becomes a citizen or any subse-
9 quent year.”.

10 (6) Subsection (a) of section 2057 is amended
11 by striking paragraphs (2) and (3) and inserting the
12 following new paragraph:

13 “(2) MAXIMUM DEDUCTION.—The deduction al-
14 lowed by this section shall not exceed the excess of
15 \$1,300,000 over the exemption amount (as defined
16 in section 2001(b)(3)).”.

17 (7)(A) Subsection (b) of section 2101 is amend-
18 ed to read as follows:

19 “(b) COMPUTATION OF TAX.—

20 “(1) IN GENERAL.—The tax imposed by this
21 section shall be the amount equal to the excess (if
22 any) of—

23 “(A) the tentative tax determined under
24 paragraph (2), over

1 “(B) a tentative tax computed under sec-
2 tion 2001(c) on the amount of the adjusted tax-
3 able gifts.

4 “(2) TENTATIVE TAX.—For purposes of para-
5 graph (1), the tentative tax determined under this
6 paragraph is a tax computed under section 2001(c)
7 on the excess of—

8 “(A) the sum of—

9 “(i) the amount of the taxable estate,
10 and

11 “(ii) the amount of the adjusted tax-
12 able gifts, over

13 “(B) the exemption amount for the cal-
14 endar year in which the decedent died.

15 “(3) EXEMPTION AMOUNT.—

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

18 “(B) RESIDENTS OF POSSESSIONS OF THE
19 UNITED STATES.—In the case of a decedent
20 who is considered to be a nonresident not a cit-
21 izen of the United States under section 2209,
22 the exemption amount under this paragraph
23 shall be the greater of—

24 “(i) \$60,000, or

1 “(ii) that proportion of \$175,000
2 which the value of that part of the dece-
3 dent’s gross estate which at the time of his
4 death is situated in the United States
5 bears to the value of his entire gross estate
6 wherever situated.

7 “(C) SPECIAL RULES.—

8 “(i) COORDINATION WITH TREA-
9 TIES.—To the extent required under any
10 treaty obligation of the United States, the
11 exemption amount allowed under this para-
12 graph shall be equal to the amount which
13 bears the same ratio to the exemption
14 amount under section 2001(b)(3) (for the
15 calendar year in which the decedent died)
16 as the value of the part of the decedent’s
17 gross estate which at the time of his death
18 is situated in the United States bears to
19 the value of his entire gross estate wher-
20 ever situated. For purposes of the pre-
21 ceding sentence, property shall not be
22 treated as situated in the United States if
23 such property is exempt from the tax im-
24 posed by this subchapter under any treaty
25 obligation of the United States.

1 “(ii) COORDINATION WITH GIFT TAX
2 EXEMPTION AND UNIFIED CREDIT.—If an
3 exemption has been allowed under section
4 2521 (or a credit has been allowed under
5 section 2505 as in effect on the day before
6 the date of the enactment of the Death
7 Tax Elimination Act of 2000) with respect
8 to any gift made by the decedent, each dol-
9 lar amount contained in subparagraph (A)
10 or (B) or the exemption amount applicable
11 under clause (i) of this subparagraph
12 (whichever applies) shall be reduced by the
13 exemption so allowed under section 2521
14 (or, in the case of such a credit, by the
15 amount of the gift for which the credit was
16 so allowed).”.

17 (8) Section 2102 is amended by striking sub-
18 section (c).

19 (9)(A) Subsection (a) of section 2107 is amend-
20 ed by adding at the end the following new para-
21 graph:

22 “(3) LIMITATION ON EXEMPTION AMOUNT.—
23 Subparagraphs (B) and (C) of section 2101(b)(3)
24 shall not apply in applying section 2101 for purposes
25 of this section.”.

1 (B) Subsection (c) of section 2107 is
2 amended—

3 (i) by striking paragraph (1) and by redesi-
4 gnating paragraphs (2) and (3) as paragraphs
5 (1) and (2), respectively; and

6 (ii) by striking the second sentence of
7 paragraph (2) (as so redesignated).

8 (10) Paragraph (1) of section 6018(a) is
9 amended by striking “the applicable exclusion
10 amount in effect under section 2010(c)” and insert-
11 ing “the exemption amount under section
12 2001(b)(3)”.

13 (11) Subparagraph (A) of section 6601(j)(2) is
14 amended to read as follows:

15 “(A) the amount of the tentative tax which
16 would be determined under the rate schedule
17 set forth in section 2001(c) if the amount with
18 respect to which such tentative tax is to be
19 computed were \$1,000,000, or”.

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

23 (13) The table of sections for subchapter A of
24 chapter 12 is amended by striking the item relating
25 to section 2505.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section—

3 (1) insofar as they relate to the tax imposed by
4 chapter 11 of the Internal Revenue Code of 1986,
5 shall apply to estates of decedents dying after De-
6 cember 31, 2000; and

7 (2) insofar as they relate to the tax imposed by
8 chapter 12 of such Code, shall apply to gifts made
9 after December 31, 2000.

10 **TITLE IV—MODIFICATIONS OF**
11 **GENERATION-SKIPPING**
12 **TRANSFER TAX**

13 **SEC. 401. DEEMED ALLOCATION OF GST EXEMPTION TO**
14 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**
15 **ACTIVE ALLOCATIONS.**

16 (a) IN GENERAL.—Section 2632 (relating to special
17 rules for allocation of GST exemption) is amended by re-
18 designating subsection (c) as subsection (e) and by insert-
19 ing after subsection (b) the following new subsections:

20 “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME
21 TRANSFERS TO GST TRUSTS.—

22 “(1) IN GENERAL.—If any individual makes an
23 indirect skip during such individual’s lifetime, any
24 unused portion of such individual’s GST exemption
25 shall be allocated to the property transferred to the

1 extent necessary to make the inclusion ratio for such
2 property zero. If the amount of the indirect skip ex-
3 ceeds such unused portion, the entire unused portion
4 shall be allocated to the property transferred.

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

9 “(A) allocated by such individual,

10 “(B) treated as allocated under subsection
11 (b) with respect to a direct skip occurring dur-
12 ing or before the calendar year in which the in-
13 direct skip is made, or

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

16 “(3) DEFINITIONS.—

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

22 “(B) GST TRUST.—The term ‘GST trust’
23 means a trust that could have a generation-
24 skipping transfer with respect to the transferor
25 unless—

1 “(i) the trust instrument provides that
2 more than 25 percent of the trust corpus
3 must be distributed to or may be with-
4 drawn by one or more individuals who are
5 non-skip persons—

6 “(I) before the date that the indi-
7 vidual attains age 46,

8 “(II) on or before one or more
9 dates specified in the trust instrument
10 that will occur before the date that
11 such individual attains age 46, or

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

18 “(ii) the trust instrument provides
19 that more than 25 percent of the trust cor-
20 pus must be distributed to or may be with-
21 drawn by one or more individuals who are
22 non-skip persons and who are living on the
23 date of death of another person identified
24 in the instrument (by name or by class)

1 who is more than 10 years older than such
2 individuals;

3 “(iii) the trust instrument provides
4 that, if one or more individuals who are
5 non-skip persons die on or before a date or
6 event described in clause (i) or (ii), more
7 than 25 percent of the trust corpus either
8 must be distributed to the estate or estates
9 of one or more of such individuals or is
10 subject to a general power of appointment
11 exercisable by one or more of such individ-
12 uals;

13 “(iv) the trust is a trust any portion
14 of which would be included in the gross es-
15 tate of a non-skip person (other than the
16 transferor) if such person died immediately
17 after the transfer;

18 “(v) the trust is a charitable lead an-
19 nuity trust (within the meaning of section
20 2642(e)(3)(A)) or a charitable remainder
21 annuity trust or a charitable remainder
22 unitrust (within the meaning of section
23 664(d)); or

24 “(vi) the trust is a trust with respect
25 to which a deduction was allowed under

1 section 2522 for the amount of an interest
2 in the form of the right to receive annual
3 payments of a fixed percentage of the net
4 fair market value of the trust property (de-
5 termined yearly) and which is required to
6 pay principal to a non-skip person if such
7 person is alive when the yearly payments
8 for which the deduction was allowed termi-
9 nate.

10 For purposes of this subparagraph, the value of
11 transferred property shall not be considered to
12 be includible in the gross estate of a non-skip
13 person or subject to a right of withdrawal by
14 reason of such person holding a right to with-
15 draw so much of such property as does not ex-
16 ceed the amount referred to in section 2503(b)
17 with respect to any transferor, and it shall be
18 assumed that powers of appointment held by
19 non-skip persons will not be exercised.

20 “(4) AUTOMATIC ALLOCATIONS TO CERTAIN
21 GST TRUSTS.—For purposes of this subsection, an
22 indirect skip to which section 2642(f) applies shall
23 be deemed to have been made only at the close of
24 the estate tax inclusion period. The fair market
25 value of such transfer shall be the fair market value

1 of the trust property at the close of the estate tax
2 inclusion period.

3 “(5) APPLICABILITY AND EFFECT.—

4 “(A) IN GENERAL.—An individual—

5 “(i) may elect to have this subsection
6 not apply to—

7 “(I) an indirect skip, or

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

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

15 “(B) ELECTIONS.—

16 “(i) ELECTIONS WITH RESPECT TO
17 INDIRECT SKIPS.—An election under sub-
18 paragraph (A)(i)(I) shall be deemed to be
19 timely if filed on a timely filed gift tax re-
20 turn for the calendar year in which the
21 transfer was made or deemed to have been
22 made pursuant to paragraph (4) or on
23 such later date or dates as may be pre-
24 scribed by the Secretary.

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

6 “(d) RETROACTIVE ALLOCATIONS.—

7 “(1) IN GENERAL.—If—

8 “(A) a non-skip person has an interest or
9 a future interest in a trust to which any trans-
10 fer has been made,

11 “(B) such person—

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

16 “(ii) is assigned to a generation below
17 the generation assignment of the trans-
18 feror, and

19 “(C) such person predeceases the trans-
20 feror,

21 then the transferor may make an allocation of any
22 of such transferor’s unused GST exemption to any
23 previous transfer or transfers to the trust on a
24 chronological basis.

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

7 “(A) the value of such transfer or trans-
8 fers for purposes of section 2642(a) shall be de-
9 termined as if such allocation had been made
10 on a timely filed gift tax return for each cal-
11 endar year within which each transfer was
12 made,

13 “(B) such allocation shall be effective im-
14 mediately before such death, and

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

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

22 (b) CONFORMING AMENDMENT.—Paragraph (2) of
23 section 2632(b) is amended by striking “with respect to
24 a direct skip” and inserting “or subsection (c)(1)”.

25 (c) EFFECTIVE DATES.—

1 (1) DEEMED ALLOCATION.—Section 2632(c) of
2 the Internal Revenue Code of 1986 (as added by
3 subsection (a)), and the amendment made by sub-
4 section (b), shall apply to transfers subject to chap-
5 ter 11 or 12 made after December 31, 1999, and to
6 estate tax inclusion periods ending after December
7 31, 1999.

8 (2) RETROACTIVE ALLOCATIONS.—Section
9 2632(d) of the Internal Revenue Code of 1986 (as
10 added by subsection (a)) shall apply to deaths of
11 non-skip persons occurring after December 31,
12 1999.

13 **SEC. 402. SEVERING OF TRUSTS.**

14 (a) IN GENERAL.—Subsection (a) of section 2642
15 (relating to inclusion ratio) is amended by adding at the
16 end the following new paragraph:

17 “(3) SEVERING OF TRUSTS.—

18 “(A) IN GENERAL.—If a trust is severed in
19 a qualified severance, the trusts resulting from
20 such severance shall be treated as separate
21 trusts thereafter for purposes of this chapter.

22 “(B) QUALIFIED SEVERANCE.—For pur-
23 poses of subparagraph (A)—

24 “(i) IN GENERAL.—The term ‘quali-
25 fied severance’ means the division of a sin-

1 gle trust and the creation (by any means
2 available under the governing instrument
3 or under local law) of two or more trusts
4 if—

5 “(I) the single trust was divided
6 on a fractional basis, and

7 “(II) the terms of the new trusts,
8 in the aggregate, provide for the same
9 succession of interests of beneficiaries
10 as are provided in the original trust.

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

24 “(iii) REGULATIONS.—The term
25 ‘qualified severance’ includes any other

1 severance permitted under regulations pre-
2 scribed by the Secretary.

3 “(C) TIMING AND MANNER OF
4 SEVERANCES.—A severance pursuant to this
5 paragraph may be made at any time. The Sec-
6 retary shall prescribe by forms or regulations
7 the manner in which the qualified severance
8 shall be reported to the Secretary.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to severances after December 31,
11 1999.

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

13 (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR
14 DEEMED ALLOCATION MADE.—Paragraph (1) of section
15 2642(b) (relating to valuation rules, etc.) is amended to
16 read as follows:

17 “(1) GIFTS FOR WHICH GIFT TAX RETURN
18 FILED OR DEEMED ALLOCATION MADE.—If the allo-
19 cation of the GST exemption to any transfers of
20 property is made on a gift tax return filed on or be-
21 fore the date prescribed by section 6075(b) for such
22 transfer or is deemed to be made under section 2632
23 (b)(1) or (c)(1)—

24 “(A) the value of such property for pur-
25 poses of subsection (a) shall be its value as fi-

1 nally determined for purposes of chapter 12
2 (within the meaning of section 2001(f)(2)), or,
3 in the case of an allocation deemed to have been
4 made at the close of an estate tax inclusion pe-
5 riod, its value at the time of the close of the es-
6 tate tax inclusion period, and

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

13 (b) TRANSFERS AT DEATH.—Subparagraph (A) of
14 section 2642(b)(2) is amended to read as follows:

15 “(A) TRANSFERS AT DEATH.—If property
16 is transferred as a result of the death of the
17 transferor, the value of such property for pur-
18 poses of subsection (a) shall be its value as fi-
19 nally determined for purposes of chapter 11; ex-
20 cept that, if the requirements prescribed by the
21 Secretary respecting allocation of post-death
22 changes in value are not met, the value of such
23 property shall be determined as of the time of
24 the distribution concerned.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transfers subject to chapter 11
3 or 12 of the Internal Revenue Code of 1986 made after
4 December 31, 1999.

5 **SEC. 404. RELIEF PROVISIONS.**

6 (a) IN GENERAL.—Section 2642 is amended by add-
7 ing at the end the following new subsection:

8 “(g) RELIEF PROVISIONS.—

9 “(1) RELIEF FROM LATE ELECTIONS.—

10 “(A) IN GENERAL.—The Secretary shall by
11 regulation prescribe such circumstances and
12 procedures under which extensions of time will
13 be granted to make—

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

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

19 Such regulations shall include procedures for
20 requesting comparable relief with respect to
21 transfers made before the date of the enactment
22 of this paragraph.

23 “(B) BASIS FOR DETERMINATIONS.—In
24 determining whether to grant relief under this
25 paragraph, the Secretary shall take into ac-

1 count all relevant circumstances, including evi-
2 dence of intent contained in the trust instru-
3 ment or instrument of transfer and such other
4 factors as the Secretary deems relevant. For
5 purposes of determining whether to grant relief
6 under this paragraph, the time for making the
7 allocation (or election) shall be treated as if not
8 expressly prescribed by statute.

9 “(2) SUBSTANTIAL COMPLIANCE.—An alloca-
10 tion of GST exemption under section 2632 that
11 demonstrates an intent to have the lowest possible
12 inclusion ratio with respect to a transfer or a trust
13 shall be deemed to be an allocation of so much of
14 the transferor’s unused GST exemption as produces
15 the lowest possible inclusion ratio. In determining
16 whether there has been substantial compliance, all
17 relevant circumstances shall be taken into account,
18 including evidence of intent contained in the trust
19 instrument or instrument of transfer and such other
20 factors as the Secretary deems relevant.”.

21 (b) EFFECTIVE DATES.—

22 (1) RELIEF FROM LATE ELECTIONS.—Section
23 2642(g)(1) of the Internal Revenue Code of 1986
24 (as added by subsection (a)) shall apply to requests
25 pending on, or filed after, December 31, 1999.

1 (2) SUBSTANTIAL COMPLIANCE.—Section
 2 2642(g)(2) of such Code (as so added) shall apply
 3 to transfers subject to chapter 11 or 12 of the Inter-
 4 nal Revenue Code of 1986 made after December 31,
 5 1999. No implication is intended with respect to the
 6 availability of relief from late elections or the appli-
 7 cation of a rule of substantial compliance on or be-
 8 fore such date.

9 **TITLE V—CONSERVATION**
 10 **EASEMENTS**

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

13 (a) WHERE LAND IS LOCATED.—

14 (1) IN GENERAL.—Clause (i) of section
 15 2031(c)(8)(A) (defining land subject to a conserva-
 16 tion easement) is amended—

17 (A) by striking “25 miles” both places it
 18 appears and inserting “50 miles”; and

19 (B) striking “10 miles” and inserting “25
 20 miles”.

21 (2) EFFECTIVE DATE.—The amendments made
 22 by this subsection shall apply to estates of decedents
 23 dying after December 31, 1999.

24 (b) CLARIFICATION OF DATE FOR DETERMINING
 25 VALUE OF LAND AND EASEMENT.—

1 (1) IN GENERAL.—Section 2031(c)(2) (defining
2 applicable percentage) is amended by adding at the
3 end the following new sentence: “The values taken
4 into account under the preceding sentence shall be
5 such values as of the date of the contribution re-
6 ferred to in paragraph (8)(B).”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by this subsection shall apply to estates of decedents
9 dying after December 31, 1997.

Passed the House of Representatives June 9, 2000.

Attest:

Clerk.