

105TH CONGRESS
2D SESSION

S. 1711

To amend the Internal Revenue Code of 1986 to eliminate the marriage penalty tax, to increase the income levels for the 15 and 28 percent tax brackets, to provide a 1-year holding period for long-term capital gains, to index capital assets for inflation, to reduce the highest estate tax rate to 28 percent, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1998

Mrs. HUTCHISON (for herself, Mr. GRAMS, and Mr. ASHCROFT) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to eliminate the marriage penalty tax, to increase the income levels for the 15 and 28 percent tax brackets, to provide a 1-year holding period for long-term capital gains, to index capital assets for inflation, to reduce the highest estate tax rate to 28 percent, 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; AMENDMENT OF 1986 CODE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Half and Half: Tax Relief and Debt Reduction Act of
6 1998”.

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

7 (c) SECTION 15 NOT TO APPLY.—No amendment
 8 made by section 3 shall be treated as a change in a rate
 9 of tax for purposes of section 15 of the Internal Revenue
 10 Code of 1986 .

11 **SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES**
 12 **APPLY.**

13 (a) IN GENERAL.—Subpart B of part II of sub-
 14 chapter A of chapter 61 (relating to income tax returns)
 15 is amended by inserting after section 6013 the following
 16 new section:

17 **“SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.**

18 “(a) GENERAL RULE.—A husband and wife may
 19 make a combined return of income taxes under subtitle
 20 A under which—

21 “(1) a separate taxable income is determined
 22 for each spouse by applying the rules provided in
 23 this section, and

24 “(2) the tax imposed by section 1 is the aggre-
 25 gate amount resulting from applying the separate

1 rates set forth in section 1(c) to each such taxable
2 income.

3 “(b) TREATMENT OF INCOME.—For purposes of this
4 section—

5 “(1) earned income (within the meaning of sec-
6 tion 911(d)), and any income received as a pension
7 or annuity which arises from an employer-employee
8 relationship, shall be treated as the income of the
9 spouse who rendered the services, and

10 “(2) income from property shall be divided be-
11 tween the spouses in accordance with their respec-
12 tive ownership rights in such property.

13 “(c) TREATMENT OF DEDUCTIONS.—For purposes of
14 this section—

15 “(1) except as otherwise provided in this sub-
16 section, the deductions allowed by section 62(a) shall
17 be allowed to the spouse treated as having the in-
18 come to which such deductions relate,

19 “(2) the deduction for retirement savings de-
20 scribed in paragraph (7) of section 62(a) shall be al-
21 lowed to the spouse for whose benefit the savings are
22 maintained,

23 “(3) the deduction for alimony described in
24 paragraph (10) of section 62(a) shall be allowed to
25 the spouse who has the liability to pay the alimony,

1 “(4) the deduction referred to in paragraph
2 (16) of section 62(a) (relating to contributions to
3 medical savings accounts) shall be allowed to the
4 spouse with respect to whose employment or self-em-
5 ployment such account relates,

6 “(5) the deductions allowable by section 151
7 (relating to personal exemptions) shall be deter-
8 mined by requiring each spouse to claim 1 personal
9 exemption,

10 “(6) section 63 shall be applied as if such
11 spouses were not married, and

12 “(7) each spouse’s share of all other deductions
13 (including the deduction for personal exemptions
14 under section 151(c)) shall be determined by mul-
15 tiplying the aggregate amount thereof by the frac-
16 tion—

17 “(A) the numerator of which is such
18 spouse’s adjusted gross income, and

19 “(B) the denominator of which is the com-
20 bined adjusted gross incomes of the 2 spouses.

21 Any fraction determined under paragraph (7) shall be
22 rounded to the nearest percentage point.

23 “(d) TREATMENT OF CREDITS.—Credits shall be de-
24 termined (and applied against the joint liability of the cou-
25 ple for tax) as if the spouses had filed a joint return.

1 “(e) TREATMENT AS JOINT RETURN.—Except as
 2 otherwise provided in this section or in the regulations
 3 prescribed hereunder, for purposes of this title (other than
 4 sections 1 and 63(c)) a combined return under this section
 5 shall be treated as a joint return.

6 “(f) REGULATIONS.—The Secretary shall prescribe
 7 such regulations as may be necessary or appropriate to
 8 carry out this section.”.

9 (b) UNMARRIED RATE MADE APPLICABLE.—So
 10 much of subsection (c) of section 1 as precedes the table
 11 is amended to read as follows:

12 “(c) SEPARATE OR UNMARRIED RETURN RATE.—
 13 There is hereby imposed on the taxable income of every
 14 individual (other than a married individual (as defined in
 15 section 7703) filing a joint return or a separate return,
 16 a surviving spouse as defined in section 2(a), or a head
 17 of household as defined in section 2(b)) a tax determined
 18 in accordance with the following table:”.

19 (c) BASIC STANDARD DEDUCTION FOR UNMARRIED
 20 INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of
 21 section 63(c)(2) is amended to read as follows:

22 “(C) \$3,000 in the case of an individual
 23 who is not—
 24 “(i) a married individual filing a joint
 25 return or a separate return,

1 “(ii) a surviving spouse, or

2 “(iii) a head of household, or”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart B of part II of subchapter A of chapter 61
5 is amended by inserting after the item relating to section
6 6013 the following:

“Sec. 6013A. Combined return with separate rates.”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1998.

10 **SEC. 3. INCOME TAXED AT LOWEST RATE INCREASED TO**
11 **\$35,000 FOR UNMARRIED INDIVIDUALS,**
12 **\$40,000 FOR HEADS OF HOUSEHOLDS, AND**
13 **\$50,000 FOR JOINT RETURNS AND SURVIVING**
14 **SPOUSES.**

15 (a) GENERAL RULE.—Section 1 (relating to tax im-
16 posed) is amended by striking subsections (a) through (e)
17 and inserting the following:

18 “(a) MARRIED INDIVIDUALS FILING JOINT RETURNS
19 AND SURVIVING SPOUSES.—There is hereby imposed on
20 the taxable income of—

21 “(1) every married individual (as defined in sec-
22 tion 7703) who makes a single return jointly with
23 his spouse under section 6013, and

24 “(2) every surviving spouse (as defined in sec-
25 tion 2(a)),

1 a tax determined in accordance with the following table:

“If taxable income is:	The tax is:
Not over \$50,000	15% of taxable income.
Over \$50,000 but not over \$109,950.	\$7,500, plus 28% of the excess over \$50,000.
Over \$109,950 but not over \$155,950.	\$24,286, plus 31% of the excess over \$109,950.
Over \$155,950 but not over \$278,450.	\$38,546, plus 36% of the excess over \$155,950.
Over \$278,450	\$82,646, plus 39.6% of the excess over \$278,450.

2 “(b) HEADS OF HOUSEHOLDS.—There is hereby im-
3 posed on the taxable income of every head of a household
4 (as defined in section 2(b)) a tax determined in accordance
5 with the following table:

“If taxable income is:	The tax is:
Not over \$40,000	15% of taxable income.
Over \$40,000 but not over \$93,750.	\$6,000, plus 28% of the excess over \$40,000.
Over \$93,750 but not over \$142,000.	\$21,050, plus 31% of the excess over \$93,750.
Over \$142,000 but not over \$278,450.	\$36,007, plus 36% of the excess over \$142,000.
Over \$278,450	\$85,129 plus 39.6% of the excess over \$278,450.

6 “(c) SEPARATE OR UNMARRIED RETURN RATE.—
7 There is hereby imposed on the taxable income of every
8 individual (other than a married individual (as defined in
9 section 7703) filing a joint return or a separate return,
10 a surviving spouse as defined in section 2(a), or a head
11 of household as defined in section 2(b)) a tax determined
12 in accordance with the following table:

“If taxable income is:	The tax is:
Not over \$35,000	15% of taxable income.
Over \$35,000 but not over \$71,050.	\$5,250, plus 28% of the excess over \$35,000.
Over \$71,050 but not over \$128,100.	\$15,344, plus 31% of the excess over \$71,050.

“If taxable income is:

Over \$128,100 but not over
\$278,450.
Over \$278,450

The tax is:

\$33,029, plus 36% of the excess over
\$128,100.
\$87,155, plus 39.6% of the excess
over \$278,450.

1 “(d) MARRIED INDIVIDUALS FILING SEPARATE RE-
2 TURNS.—There is hereby imposed on the taxable income
3 of every married individual (as defined in section 7703)
4 who does not make a single return jointly with his spouse
5 under section 6013, a tax determined in accordance with
6 the following table:

“If taxable income is:

Not over \$25,000
Over \$25,000 but not over
\$54,975.
Over \$54,975 but not over
\$77,975.
Over \$77,975 but not over
\$139,225.
Over \$139,225

The tax is:

15% of taxable income.
\$3,750, plus 28% of the excess over
\$25,000.
\$12,143, plus 31% of the excess over
\$54,975.
\$19,273, plus 36% of the excess over
\$77,975.
\$41,323, plus 39.6% of the excess
over \$139,225.

7 “(e) ESTATES AND TRUSTS.—There is hereby im-
8 posed on the taxable income of—

9 “(1) every estate, and

10 “(2) every trust,

11 taxable under this subsection a tax determined in accord-
12 ance with the following table:

“If taxable income is:

Not over \$1,700
Over \$1,700 but not over \$4,000 ..

Over \$4,000 but not over \$6,100 ..

Over \$6,100 but not over \$8,350 ..

Over \$8,350

The tax is:

15% of taxable income.
\$255, plus 28% of the excess over
\$1,700.
\$899, plus 31% of the excess over
\$4,000.
\$1,550, plus 36% of the excess over
\$6,100.
\$2,360, plus 39.6% of the excess over
\$8,350.”.

1 (b) INFLATION ADJUSTMENT TO APPLY IN DETER-
 2 MINING RATES FOR 1999.—Subsection (f) of section 1 is
 3 amended—

4 (1) by striking “1993” in paragraph (1) and in-
 5 serting “1998”,

6 (2) by striking “1992” in paragraph (3)(B) and
 7 inserting “1997”, and

8 (3) by striking paragraph (7).

9 (c) CONFORMING AMENDMENTS.—

10 (1) The following provisions are each amended
 11 by striking “1992” and inserting “1997” each place
 12 it appears:

13 (A) Section 25A(h).

14 (B) Section 32(j)(1)(B).

15 (C) Section 41(e)(5)(C).

16 (D) Section 42(h)(6)(G)(i)(II).

17 (E) Section 68(b)(2)(B).

18 (F) Section 135(b)(2)(B)(ii).

19 (G) Section 151(d)(4).

20 (H) Section 221(g)(1)(B).

21 (I) Section 512(d)(2)(B).

22 (J) Section 513(h)(2)(C)(ii).

23 (K) Section 877(a)(2).

24 (L) Section 911(b)(2)(D)(ii)(II).

25 (M) Section 4001(e)(1)(B).

1 (N) Section 4261(e)(4)(A)(ii).

2 (O) Section 6039F(d).

3 (P) Section 6334(g)(1)(B).

4 (Q) Section 7430(c)(1).

5 (2) Subparagraph (B) of section 59(j)(2) is
6 amended by striking “, determined by substituting
7 ‘1997’ for ‘1992’ in subparagraph (B) thereof”.

8 (3) Subparagraph (B) of section 63(c)(4) is
9 amended by striking “by substituting for” and all
10 that follows and inserting “by substituting for ‘cal-
11 endar year 1997’ in subparagraph (B) thereof ‘cal-
12 endar year 1987’ in the case of the dollar amounts
13 contained in paragraph (2) or (5)(A) or subsection
14 (f).”.

15 (4) Subparagraph (B) of section 132(f)(6) is
16 amended by inserting before the period “, deter-
17 mined by substituting ‘calendar year 1992’ for ‘cal-
18 endar year 1997’ in subparagraph (B) thereof”.

19 (5) Paragraph (2) of section 220(g) is amended
20 by striking “ by substituting ‘calendar year 1997’
21 for ‘calendar year 1992’ in subparagraph (B) there-
22 of”.

23 (6) Subparagraph (B) of section 685(c)(3) is
24 amended by striking “, by substituting ‘calendar

1 year 1997’ for ‘calendar year 1992’ in subparagraph
2 (B) thereof”.

3 (7) Subparagraph (B) of section 2032A(a)(3) is
4 amended by striking “by substituting ‘calendar year
5 1997’ for ‘calendar year 1992’ in subparagraph (B)
6 thereof”.

7 (8) Subparagraph (B) of section 2503(b)(2) is
8 amended by striking “by substituting ‘calendar year
9 1997’ for ‘calendar year 1992’ in subparagraph (B)
10 thereof”.

11 (9) Paragraph (2) of section 2631(c) is amend-
12 ed by striking “by substituting ‘calendar year 1997’
13 for ‘calendar year 1992’ in subparagraph (B) there-
14 of”.

15 (10) Subparagraph (B) of 6601(j)(3) is amend-
16 ed by striking “by substituting ‘calendar year 1997’
17 for ‘calendar year 1992’ in subparagraph (B) there-
18 of”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1998.

22 **SEC. 4. 1-YEAR HOLDING PERIOD FOR ANY LONG-TERM**
23 **CAPITAL GAIN.**

24 (a) IN GENERAL.—Section 1(h)(4) (defining adjusted
25 net capital gain) is amended by adding “and” at the end

1 of subparagraph (B), by striking “, and” at the end of
 2 subparagraph (C) and inserting a period, and by striking
 3 subparagraph (D).

4 (b) CONFORMING AMENDMENTS.—Section 1(h) is
 5 amended—

6 (1) in paragraph (6), by striking subparagraph
 7 (A) and inserting the following:

8 “(A) IN GENERAL.—The term
 9 ‘unrecaptured section 1250 gain’ means the
 10 amount of long-term capital gain which would
 11 be treated as ordinary income if section
 12 1250(b)(1) included all depreciation and the ap-
 13 plicable percentage under section 1250(a) were
 14 100 percent.”,

15 (2) by striking paragraphs (8), (10), and (11),

16 (3) in paragraph (9), by striking “section 1202
 17 gain, or mid-term gain” and inserting “or section
 18 1202 gain”,

19 (4) by redesignating paragraph (9) as para-
 20 graph (8), and

21 (5) by adding at the end the following:

22 “(8) TREATMENT OF PASS-THRU ENTITIES.—

23 “(A) IN GENERAL.—The Secretary may
 24 prescribe such regulations as are appropriate
 25 (including regulations requiring reporting) to

1 apply this subsection in the case of sales and
 2 exchanges by pass-thru entities and of interests
 3 in such entities.

4 “(B) PASS-THRU ENTITY DEFINED.—For
 5 purposes of subparagraph (A), the term ‘pass-
 6 thru entity’ means—

7 “(i) a regulated investment company,

8 “(ii) a real estate investment trust,

9 “(iii) an S corporation,

10 “(iv) a partnership,

11 “(v) an estate or trust, and

12 “(vi) a common trust fund.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 1998.

16 **SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF**
 17 **DETERMINING GAIN OR LOSS.**

18 (a) IN GENERAL.—Part II of subchapter O of chap-
 19 ter 1 (relating to basis rules of general application) is
 20 amended by inserting after section 1021 the following new
 21 section:

22 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
 23 **OF DETERMINING GAIN OR LOSS.**

24 “(a) GENERAL RULE.—

1 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
 2 JUSTED BASIS.—Except as provided in paragraph
 3 (2), if an indexed asset which has been held for
 4 more than 1 year is sold or otherwise disposed of,
 5 then, for purposes of this title, the indexed basis of
 6 the asset shall be substituted for its adjusted basis.

7 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
 8 The deduction for depreciation, depletion, and amor-
 9 tization shall be determined without regard to the
 10 application of paragraph (1) to the taxpayer or any
 11 other person.

12 “(b) INDEXED ASSET.—

13 “(1) IN GENERAL.—For purposes of this sec-
 14 tion, the term ‘indexed asset’ means—

15 “(A) stock in a corporation, and

16 “(B) tangible property (or any interest
 17 therein), which is a capital asset or property
 18 used in the trade or business (as defined in sec-
 19 tion 1231(b)).

20 “(2) CERTAIN PROPERTY EXCLUDED.—For
 21 purposes of this section, the term ‘indexed asset’
 22 does not include—

23 “(A) CREDITOR’S INTEREST.—Any interest
 24 in property which is in the nature of a credi-
 25 tor’s interest.

1 “(B) OPTIONS.—Any option or other right
2 to acquire an interest in property.

3 “(C) NET LEASE PROPERTY.—In the case
4 of a lessor, net lease property (within the mean-
5 ing of subsection (h)(1)).

6 “(D) CERTAIN PREFERRED STOCK.—Stock
7 which is preferred as to dividends and does not
8 participate in corporate growth to any signifi-
9 cant extent.

10 “(E) STOCK IN CERTAIN CORPORATIONS.—
11 Stock in—

12 “(i) an S corporation (within the
13 meaning of section 1361),

14 “(ii) a personal holding company (as
15 defined in section 542), and

16 “(iii) a foreign corporation.

17 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
18 PORATION WHICH IS REGULARLY TRADED ON NA-
19 TIONAL OR REGIONAL EXCHANGE.—Clause (iii) of
20 paragraph (2)(E) shall not apply to stock in a for-
21 eign corporation the stock of which is listed on the
22 New York Stock Exchange, the American Stock Ex-
23 change, or any domestic regional exchange for which
24 quotations are published on a regular basis other
25 than—

1 “(A) stock of a foreign investment com-
 2 pany (within the meaning of section 1246(b)),
 3 and

4 “(B) stock in a foreign corporation held by
 5 a United States person who meets the require-
 6 ments of section 1248(a)(2).

7 “(c) INDEXED BASIS.—For purposes of this sec-
 8 tion—

9 “(1) GENERAL RULE.—The indexed basis for
 10 any asset is—

11 “(A) the adjusted basis of the asset, in-
 12 creased by

13 “(B) the applicable inflation adjustment.

14 “(2) APPLICABLE INFLATION ADJUSTMENT.—
 15 The applicable inflation adjustment for any asset is
 16 an amount equal to—

17 “(A) the adjusted basis of the asset, multi-
 18 plied by

19 “(B) the percentage (if any) by which—

20 “(i) the chain-type price index for
 21 GDP for the last calendar quarter ending
 22 before the asset is disposed of, exceeds

23 “(ii) the chain-type price index for
 24 GDP for the last calendar quarter ending

1 before the asset was acquired by the tax-
 2 payer.

3 The percentage under subparagraph (B) shall be
 4 rounded to the nearest $\frac{1}{10}$ of 1 percentage point.

5 “(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The
 6 chain-type price index for GDP for any calendar
 7 quarter is such index for such quarter (as shown in
 8 the last revision thereof released by the Secretary of
 9 Commerce before the close of the following calendar
 10 quarter).

11 “(d) SPECIAL RULES.—For purposes of this sec-
 12 tion—

13 “(1) TREATMENT AS SEPARATE ASSET.—In the
 14 case of any asset, the following shall be treated as
 15 a separate asset:

16 “(A) a substantial improvement to prop-
 17 erty,

18 “(B) in the case of stock of a corporation,
 19 a substantial contribution to capital, and

20 “(C) any other portion of an asset to the
 21 extent that separate treatment of such portion
 22 is appropriate to carry out the purposes of this
 23 section.

24 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
 25 THROUGHOUT HOLDING PERIOD.—

1 “(A) IN GENERAL.—The applicable infla-
2 tion ratio shall be appropriately reduced for cal-
3 endar months at any time during which the
4 asset was not an indexed asset.

5 “(B) CERTAIN SHORT SALES.—For pur-
6 poses of applying subparagraph (A), an asset
7 shall be treated as not an indexed asset for any
8 short sale period during which the taxpayer or
9 the taxpayer’s spouse sells short property sub-
10 stantially identical to the asset. For purposes of
11 the preceding sentence, the short sale period be-
12 gins on the day after the substantially identical
13 property is sold and ends on the closing date
14 for the sale.

15 “(3) TREATMENT OF CERTAIN DISTRIBU-
16 TIONS.—A distribution with respect to stock in a
17 corporation which is not a dividend shall be treated
18 as a disposition.

19 “(4) SECTION CANNOT INCREASE ORDINARY
20 LOSS.—To the extent that (but for this paragraph)
21 this section would create or increase a net ordinary
22 loss to which section 1231(a)(2) applies or an ordi-
23 nary loss to which any other provision of this title
24 applies, such provision shall not apply. The taxpayer
25 shall be treated as having a long-term capital loss in

1 an amount equal to the amount of the ordinary loss
 2 to which the preceding sentence applies.

3 “(5) ACQUISITION DATE WHERE THERE HAS
 4 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
 5 WITH RESPECT TO THE TAXPAYER.—If there has
 6 been a prior application of subsection (a)(1) to an
 7 asset while such asset was held by the taxpayer, the
 8 date of acquisition of such asset by the taxpayer
 9 shall be treated as not earlier than the date of the
 10 most recent such prior application.

11 “(6) COLLAPSIBLE CORPORATIONS.—The appli-
 12 cation of section 341(a) (relating to collapsible cor-
 13 porations) shall be determined without regard to this
 14 section.

15 “(e) CERTAIN CONDUIT ENTITIES.—

16 “(1) REGULATED INVESTMENT COMPANIES;
 17 REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST
 18 FUNDS.—

19 “(A) IN GENERAL.—Stock in a qualified
 20 investment entity shall be an indexed asset for
 21 any calendar month in the same ratio as the
 22 fair market value of the assets held by such en-
 23 tity at the close of such month which are in-
 24 dexed assets bears to the fair market value of

1 all assets of such entity at the close of such
2 month.

3 “(B) RATIO OF 90 PERCENT OR MORE.—If
4 the ratio for any calendar month determined
5 under subparagraph (A) would (but for this
6 subparagraph) be 90 percent or more, such
7 ratio for such month shall be 100 percent.

8 “(C) RATIO OF 10 PERCENT OR LESS.—If
9 the ratio for any calendar month determined
10 under subparagraph (A) would (but for this
11 subparagraph) be 10 percent or less, such ratio
12 for such month shall be zero.

13 “(D) VALUATION OF ASSETS IN CASE OF
14 REAL ESTATE INVESTMENT TRUSTS.—Nothing
15 in this paragraph shall require a real estate in-
16 vestment trust to value its assets more fre-
17 quently than once each 36 months (except
18 where such trust ceases to exist). The ratio
19 under subparagraph (A) for any calendar
20 month for which there is no valuation shall be
21 the trustee’s good faith judgment as to such
22 valuation.

23 “(E) QUALIFIED INVESTMENT ENTITY.—
24 For purposes of this paragraph, the term
25 ‘qualified investment entity’ means—

1 “(i) a regulated investment company
2 (within the meaning of section 851),

3 “(ii) a real estate investment trust
4 (within the meaning of section 856), and

5 “(iii) a common trust fund (within the
6 meaning of section 584).

7 “(2) PARTNERSHIPS.—In the case of a partner-
8 ship, the adjustment made under subsection (a) at
9 the partnership level shall be passed through to the
10 partners.

11 “(3) SUBCHAPTER S CORPORATIONS.—In the
12 case of an electing small business corporation, the
13 adjustment under subsection (a) at the corporate
14 level shall be passed through to the shareholders.

15 “(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

16 “(1) IN GENERAL.—This section shall not apply
17 to any sale or other disposition of property between
18 related persons except to the extent that the basis
19 of such property in the hands of the transferee is a
20 substituted basis.

21 “(2) RELATED PERSONS DEFINED.—For pur-
22 poses of this section, the term ‘related persons’
23 means—

24 “(A) persons bearing a relationship set
25 forth in section 267(b), and

1 “(B) persons treated as single employer
2 under subsection (b) or (c) of section 414.

3 “(g) TRANSFERS TO INCREASE INDEXING ADJUST-
4 MENT OR DEPRECIATION ALLOWANCE.—If any person
5 transfers cash, debt, or any other property to another per-
6 son and the principal purpose of such transfer is—

7 “(1) to secure or increase an adjustment under
8 subsection (a), or

9 “(2) to increase (by reason of an adjustment
10 under subsection (a)) a deduction for depreciation,
11 depletion, or amortization,

12 the Secretary may disallow part or all of such adjustment
13 or increase.

14 “(h) DEFINITIONS.—For purposes of this section—

15 “(1) NET LEASE PROPERTY DEFINED.—The
16 term ‘net lease property’ means leased real property
17 where—

18 “(A) the term of the lease (taking into ac-
19 count options to renew) was 50 percent or more
20 of the useful life of the property, and

21 “(B) for the period of the lease, the sum
22 of the deductions with respect to such property
23 which are allowable to the lessor solely by rea-
24 son of section 162 (other than rents and reim-
25 bursed amounts with respect to such property)

1 is 15 percent or less of the rental income pro-
 2 duced by such property.

3 “(2) STOCK INCLUDES INTEREST IN COMMON
 4 TRUST FUND.—The term ‘stock in a corporation’ in-
 5 cludes any interest in a common trust fund (as de-
 6 fined in section 584(a)).

7 “(i) REGULATIONS.—The Secretary shall prescribe
 8 such regulations as may be necessary or appropriate to
 9 carry out the purposes of this section.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
 11 for part II of subchapter O of chapter 1 is amended by
 12 inserting after the item relating to section 1021 the follow-
 13 ing new item:

“Sec. 1022. Indexing of certain assets for purposes of determining
 gain or loss.”.

14 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
 15 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
 16 section 312 (relating to effect on earnings and profits of
 17 gain or loss and of receipt of tax-free distributions) is
 18 amended by adding at the end thereof the following new
 19 paragraph:

20 “(3) EFFECT ON EARNINGS AND PROFITS OF
 21 INDEXED BASIS.—

**For substitution of indexed basis for adjusted
 basis in the case of the disposition of certain assets
 after December 31, 1998, see section 1022(a)(1).”.**

22 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section shall apply to the disposition of any
 3 property the holding period of which begins after
 4 December 31, 1998.

5 (2) CERTAIN TRANSACTIONS BETWEEN RELAT-
 6 ED PERSONS.—The amendments made by this sec-
 7 tion shall not apply to the disposition of any prop-
 8 erty acquired after December 31, 1998, from a re-
 9 lated person (as defined in section 1022(f)(2) of the
 10 Internal Revenue Code of 1986, as added by this
 11 section) if—

12 (A) such property was so acquired for a
 13 price less than the property's fair market value,
 14 and

15 (B) the amendments made by this section
 16 did not apply to such property in the hands of
 17 such related person.

18 **SEC. 6. REDUCTION OF TOP ESTATE TAX RATE FROM 55 TO**
 19 **28 PERCENT.**

20 (a) IN GENERAL.—Section 2001(c) (relating to impo-
 21 sition and rate of tax) is amended to read as follows:

22 “(c) RATE SCHEDULE.—

**“If the amount with respect to which the tentative tax
 to be computed is:**

Not over \$10,000	18 percent of such amount.
Over \$10,000 but not over \$20,000.	\$1,800 plus 20 percent of the excess of such amount over \$10,000.

“If the amount with respect to which the tentative tax to be computed is: The tentative tax is:

Over \$20,000 but not over \$40,000.	\$3,800 plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000.	\$8,200 plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000.	\$13,000 plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000	\$18,200 plus 28 percent of the excess of such amount over \$80,000.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to the estates of decedents dying,
3 and gifts made, after December 31, 1998.

4 **SEC. 7. REVENUE EFFECT OF ACT NOT TO EXCEED 50 PER-**
5 **CENT OF FEDERAL BUDGET SURPLUS.**

6 Not later than 90 days after the date of enactment
7 of this Act, if the Secretary of the Treasury determines
8 that in any of the 4 succeeding fiscal years the amend-
9 ments made by this Act will result in a reduction of the
10 estimated revenues received in the Treasury for such fiscal
11 year in an amount in excess of 50 percent of the estimated
12 Federal unified budget surplus (if any) for such year (de-
13 termined without regard to such amendments), the Sec-
14 retary shall submit to the Committee on Ways and Means
15 of the House of Representatives and the Committee on
16 Finance of the Senate a legislative proposal to appro-
17 priately modify the provisions of the Internal Revenue
18 Code of 1986 affected by such amendments to eliminate
19 such excess amount. Any legislation enacted for the pur-
20 pose of achieving the revenue effect of such legislative pro-

- 1 posal submitted pursuant to this subsection shall appro-
- 2 priately identify such purpose.

