

105TH CONGRESS
1ST SESSION

S. 479

To amend the Internal Revenue Code of 1986 to provide estate tax relief,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. LOTT, Mr. BREAUX, Mr. NICKLES, Mr. MURKOWSKI, Mr. TORRICELLI, Ms. LANDRIEU, Mr. CRAIG, Mr. KERREY, Mr. HAGEL, and Mr. HUTCHINSON) 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 provide
estate tax relief, 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 “Estate Tax Relief for the American Family Act of 1997”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CRED-**

4 **IT.**

5 (a) ESTATE TAX CREDIT.—

6 (1) IN GENERAL.—Section 2010(a) (relating to
 7 unified credit against estate tax) is amended by
 8 striking “\$192,800” and inserting “the applicable
 9 credit amount”.

10 (2) APPLICABLE CREDIT AMOUNT.—Section
 11 2010 is amended by redesignating subsection (c) as
 12 subsection (d) and by inserting after subsection (b)
 13 the following new subsection:

14 “(c) APPLICABLE CREDIT AMOUNT.—For purposes
 15 of this section, the applicable credit amount is the amount
 16 of the tentative tax which would be determined under the
 17 rate schedule set forth in section 2001(c) if the amount
 18 with respect to which such tentative tax is to be computed
 19 were the applicable exclusion amount determined in ac-
 20 cordance with the following table:

| “In the case of estates of decedents dying, and gifts made, during: | The applicable exclusion amount is: |
|--------------------------------------------------------------------------------|------------------------------------------------|
| 1997 | \$700,000 |
| 1998 | \$800,000 |
| 1999 | \$850,000 |
| 2000 | \$900,000 |
| 2001 | \$950,000 |
| 2002 or thereafter | \$1,000,000.” |

21 (3) CONFORMING AMENDMENTS.—

1 (A) Section 6018(a)(1) is amended by
2 striking “\$600,000” and inserting “the applica-
3 ble exclusion amount in effect under section
4 2010(c) for the calendar year which includes
5 the date of death”.

6 (B) Section 2001(c)(2) is amended by
7 striking “\$21,040,000” and inserting “the
8 amount at which the average tax rate under
9 this section is 55 percent”.

10 (C) Section 2102(c)(3)(A) is amended by
11 striking “\$192,800” and inserting “the applica-
12 ble credit amount in effect under section
13 2010(c) for the calendar year which includes
14 the date of death”.

15 (b) UNIFIED GIFT TAX CREDIT.—Section
16 2505(a)(1) (relating to unified credit against gift tax) is
17 amended by striking “\$192,800” and inserting “the appli-
18 cable credit amount in effect under section 2010(c) for
19 such calendar year”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to the estates of decedents dying,
22 and gifts made, after the date of the enactment of this
23 Act.

1 **SEC. 3. FAMILY-OWNED BUSINESS EXCLUSION.**

2 (a) IN GENERAL.—Part III of subchapter A of chap-
 3 ter 11 (relating to gross estate) is amended by inserting
 4 after section 2033 the following new section:

5 **“SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

6 “(a) IN GENERAL.—In the case of an estate of a de-
 7 cedent to which this section applies, the value of the gross
 8 estate shall not include the lesser of—

9 “(1) the adjusted value of the qualified family-
 10 owned business interests of the decedent otherwise
 11 includible in the estate, or

12 “(2) the sum of—

13 “(A) \$1,500,000, plus

14 “(B) 50 percent of the excess (if any) of
 15 the adjusted value of such interests over
 16 \$1,500,000, but not over \$10,000,000.

17 “(b) ESTATES TO WHICH SECTION APPLIES.—

18 “(1) IN GENERAL.—This section shall apply to
 19 an estate if—

20 “(A) the decedent was (at the date of the
 21 decedent’s death) a citizen or resident of the
 22 United States,

23 “(B) the executor elects the application of
 24 this section and files the agreement referred to
 25 in subsection (h),

26 “(C) the sum of—

1 “(i) the adjusted value of the qualified
2 family-owned business interests described
3 in paragraph (2), plus

4 “(ii) the amount of the gifts of such
5 interests determined under paragraph (3),
6 exceeds 50 percent of the adjusted gross estate,
7 and

8 “(D) during the 8-year period ending on
9 the date of the decedent’s death there have
10 been periods aggregating 5 years or more dur-
11 ing which—

12 “(i) such interests were owned by the
13 decedent or a member of the decedent’s
14 family, and

15 “(ii) there was material participation
16 (within the meaning of section
17 2032A(e)(6)) by the decedent or a member
18 of the decedent’s family in the operation of
19 the business to which such interests relate.

20 “(2) INCLUDIBLE QUALIFIED FAMILY-OWNED
21 BUSINESS INTERESTS.—The qualified family-owned
22 business interests described in this paragraph are
23 the interests which—

1 “(A) are included in determining the value
2 of the gross estate (without regard to this sec-
3 tion), and

4 “(B) are acquired by any qualified heir
5 from, or passed to any qualified heir from, the
6 decedent (within the meaning of section
7 2032A(e)(9)).

8 “(3) INCLUDIBLE GIFTS OF INTERESTS.—The
9 amount of the gifts of qualified family-owned busi-
10 ness interests determined under this paragraph is
11 the excess of—

12 “(A) the sum of—

13 “(i) the amount of such gifts from the
14 decedent to members of the decedent’s
15 family taken into account under subsection
16 2001(b)(1)(B), plus

17 “(ii) the amount of such gifts other-
18 wise excluded under section 2503(b),
19 to the extent such interests are continuously
20 held by members of such family (other than the
21 decedent’s spouse) between the date of the gift
22 and the date of the decedent’s death, over

23 “(B) the amount of such gifts from the de-
24 cedent to members of the decedent’s family oth-
25 erwise included in the gross estate.

1 “(c) ADJUSTED GROSS ESTATE.—For purposes of
 2 this section, the term ‘adjusted gross estate’ means the
 3 value of the gross estate (determined without regard to
 4 this section)—

5 “(1) reduced by any amount deductible under
 6 paragraph (3) or (4) of section 2053(a), and

7 “(2) increased by the excess of—

8 “(A) the sum of—

9 “(i) the amount of gifts determined
 10 under subsection (b)(3), plus

11 “(ii) the amount (if more than de
 12 minimis) of other transfers from the dece
 13 dent to the decedent’s spouse (at the time
 14 of the transfer) within 10 years of the date
 15 of the decedent’s death, plus

16 “(iii) the amount of other gifts (not
 17 included under clause (i) or (ii)) from the
 18 decedent within 3 years of such date, other
 19 than gifts to members of the decedent’s
 20 family otherwise excluded under section
 21 2503(b), over

22 “(B) the sum of the amounts described in
 23 clauses (i), (ii), and (iii) of subparagraph (A)
 24 which are otherwise includible in the gross es
 25 tate.

1 For purposes of the preceding sentence, the Secretary may
 2 provide that de minimis gifts to persons other than mem-
 3 bers of the decedent's family shall not be taken into ac-
 4 count.

5 “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-
 6 OWNED BUSINESS INTERESTS.—For purposes of this sec-
 7 tion, the adjusted value of any qualified family-owned
 8 business interest is the value of such interest for purposes
 9 of this chapter (determined without regard to this sec-
 10 tion), reduced by the excess of—

11 “(1) any amount deductible under paragraph
 12 (3) or (4) of section 2053(a), over

13 “(2) the sum of—

14 “(A) any indebtedness on any qualified
 15 residence of the decedent the interest on which
 16 is deductible under section 163(h)(3), plus

17 “(B) any indebtedness to the extent the
 18 taxpayer establishes that the proceeds of such
 19 indebtedness were used for the payment of edu-
 20 cational and medical expenses of the decedent,
 21 the decedent's spouse, or the decedent's depend-
 22 ents (within the meaning of section 152), plus

23 “(C) any indebtedness not described in
 24 subparagraph (A) or (B), to the extent such in-
 25 debtedness does not exceed \$10,000.

1 “(e) QUALIFIED FAMILY-OWNED BUSINESS INTER-
2 EST.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion, the term ‘qualified family-owned business inter-
5 est’ means—

6 “(A) an interest as a proprietor in a trade
7 or business carried on as a proprietorship, or

8 “(B) an interest in an entity carrying on
9 a trade or business, if—

10 “(i) at least—

11 “(I) 50 percent of such entity is
12 owned (directly or indirectly) by the
13 decedent and members of the dece-
14 dent’s family,

15 “(II) 70 percent of such entity is
16 so owned by members of 2 families, or

17 “(III) 90 percent of such entity
18 is so owned by members of 3 families,
19 and

20 “(ii) for purposes of subclause (II) or
21 (III) of clause (i), at least 30 percent of
22 such entity is so owned by the decedent
23 and members of the decedent’s family.

24 “(2) LIMITATION.—Such term shall not in-
25 clude—

1 “(A) any interest in a trade or business
2 the principal place of business of which is not
3 located in the United States,

4 “(B) any interest in an entity, if the stock
5 or debt of such entity or a controlled group (as
6 defined in section 267(f)(1)) of which such en-
7 tity was a member was readily tradable on an
8 established securities market or secondary mar-
9 ket (as defined by the Secretary) at any time
10 within 3 years of the date of the decedent’s
11 death,

12 “(C) any interest in a trade or business
13 not described in section 542(c)(2), if more than
14 35 percent of the adjusted ordinary gross in-
15 come of such trade or business for the taxable
16 year which includes the date of the decedent’s
17 death would qualify as personal holding com-
18 pany income (as defined in section 543(a)),

19 “(D) that portion of an interest in a trade
20 or business that is attributable to—

21 “(i) cash or marketable securities, or
22 both, in excess of the reasonably expected
23 day-to-day working capital needs of such
24 trade or business, and

“(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting ‘trade or business’ for ‘controlled foreign corporation’).

“(3) RULES REGARDING OWNERSHIP.—

“(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

“(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

“(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

“(B) OWNERSHIP OF TIERED ENTITIES.—

For purposes of this section, if by reason of

1 holding an interest in a trade or business, a de-
 2 cedent, any member of the decedent's family,
 3 any qualified heir, or any member of any quali-
 4 fied heir's family is treated as holding an inter-
 5 est in any other trade or business—

6 “(i) such ownership interest in the
 7 other trade or business shall be dis-
 8 regarded in determining if the ownership
 9 interest in the first trade or business is a
 10 qualified family-owned business interest,
 11 and

12 “(ii) this section shall be applied sepa-
 13 rately in determining if such interest in
 14 any other trade or business is a qualified
 15 family-owned business interest.

16 “(C) INDIVIDUAL OWNERSHIP RULES.—

17 For purposes of this section, an interest owned,
 18 directly or indirectly, by or for an entity de-
 19 scribed in paragraph (1)(B) shall be considered
 20 as being owned proportionately by or for the en-
 21 tity's shareholders, partners, or beneficiaries. A
 22 person shall be treated as a beneficiary of any
 23 trust only if such person has a present interest
 24 in such trust.

1 “(f) TAX TREATMENT OF FAILURE TO MATERIALLY
 2 PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-
 3 ESTS.—

4 “(1) IN GENERAL.—There is imposed an addi-
 5 tional estate tax if, within 10 years after the date
 6 of the decedent’s death and before the date of the
 7 qualified heir’s death—

8 “(A) the material participation require-
 9 ments described in section 2032A(c)(6)(B) are
 10 not met with respect to the qualified family-
 11 owned business interest which was acquired (or
 12 passed) from the decedent,

13 “(B) the qualified heir disposes of any por-
 14 tion of a qualified family-owned business inter-
 15 est (other than by a disposition to a member of
 16 the qualified heir’s family or through a qualified
 17 conservation contribution under section
 18 170(h)),

19 “(C) the qualified heir loses United States
 20 citizenship (within the meaning of section 877)
 21 or with respect to whom an event described in
 22 subparagraph (A) or (B) of section 877(e)(1)
 23 occurs, and such heir does not comply with the
 24 requirements of subsection (g), or

“(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

“(2) ADDITIONAL ESTATE TAX.—

“(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

“(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

“(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

“(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

| “If the event described in paragraph (1) occurs in the following year of material participation: | The applicable percentage is: |
|---------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 1 through 6 | 100 |
| 7 | 80 |
| 8 | 60 |
| 9 | 40 |
| 10 | 20. |

1 “(g) SECURITY REQUIREMENTS FOR NONCITIZEN
2 QUALIFIED HEIRS.—

3 “(1) IN GENERAL.—Except upon the applica-
4 tion of subparagraph (F) or (M) of subsection
5 (h)(3), if a qualified heir is not a citizen of the Unit-
6 ed States, any interest under this section passing to
7 or acquired by such heir (including any interest held
8 by such heir at a time described in subsection
9 (f)(1)(C)) shall be treated as a qualified family-
10 owned business interest only if the interest passes or
11 is acquired (or is held) in a qualified trust.

12 “(2) QUALIFIED TRUST.—The term ‘qualified
13 trust’ means a trust—

14 “(A) which is organized under, and gov-
15 erned by, the laws of the United States or a
16 State, and

17 “(B) except as otherwise provided in regu-
18 lations, with respect to which the trust instru-
19 ment requires that at least 1 trustee of the
20 trust be an individual citizen of the United
21 States or a domestic corporation.

1 “(h) AGREEMENT.—The agreement referred to in
 2 this subsection is a written agreement signed by each per-
 3 son in being who has an interest (whether or not in posses-
 4 sion) in any property designated in such agreement con-
 5 senting to the application of subsection (f) with respect
 6 to such property.

7 “(i) OTHER DEFINITIONS AND APPLICABLE
 8 RULES.—For purposes of this section—

9 “(1) QUALIFIED HEIR.—The term ‘qualified
 10 heir’—

11 “(A) has the meaning given to such term
 12 by section 2032A(e)(1), and

13 “(B) includes any active employee of the
 14 trade or business to which the qualified family-
 15 owned business interest relates if such employee
 16 has been employed by such trade or business
 17 for a period of at least 10 years before the date
 18 of the decedent’s death.

19 “(2) MEMBER OF THE FAMILY.—The term
 20 ‘member of the family’ has the meaning given to
 21 such term by section 2032A(e)(2).

22 “(3) APPLICABLE RULES.—Rules similar to the
 23 following rules shall apply:

24 “(A) Section 2032A(b)(4) (relating to de-
 25 cedents who are retired or disabled).

1 “(B) Section 2032A(b)(5) (relating to spe-
2 cial rules for surviving spouses).

3 “(C) Section 2032A(c)(2)(D) (relating to
4 partial dispositions).

5 “(D) Section 2032A(c)(3) (relating to only
6 1 additional tax imposed with respect to any 1
7 portion).

8 “(E) Section 2032A(c)(4) (relating to due
9 date).

10 “(F) Section 2032A(c)(5) (relating to li-
11 ability for tax; furnishing of bond).

12 “(G) Section 2032A(c)(7) (relating to no
13 tax if use begins within 2 years; active manage-
14 ment by eligible qualified heir treated as mate-
15 rial participation).

16 “(H) Paragraphs (1) and (3) of section
17 2032A(d) (relating to election; agreement).

18 “(I) Section 2032A(e)(10) (relating to
19 community property).

20 “(J) Section 2032A(e)(14) (relating to
21 treatment of replacement property acquired in
22 section 1031 or 1033 transactions).

23 “(K) Section 2032A(f) (relating to statute
24 of limitations).

1 “(L) Section 6166(b)(3) (relating to farm-
 2 houses and certain other structures taken into
 3 account).

4 “(M) Subparagraphs (B), (C), and (D) of
 5 section 6166(g)(1) (relating to acceleration of
 6 payment).

7 “(N) Section 6324B (relating to special
 8 lien for additional estate tax).”

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 for part III of subchapter A of chapter 11 is amended
 11 by inserting after the item relating to section 2033 the
 12 following new item:

 “Sec. 2033A. Family-owned business exclusion.”

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to estates of decedents dying after
 15 December 31, 1997.

16 **SEC. 4. EXTENSION OF TREATMENT OF CERTAIN RENTS**
 17 **UNDER SECTION 2032A TO LINEAL DESCEND-**
 18 **ANTS.**

19 (a) GENERAL RULE.—Paragraph (7) of section
 20 2032A(c) (relating to special rules for tax treatment of
 21 dispositions and failures to use for qualified use) is
 22 amended by adding at the end the following new subpara-
 23 graph:

24 “(E) CERTAIN RENTS TREATED AS QUALI-
 25 FIED USE.—For purposes of this subsection, a

1 surviving spouse or lineal descendant of the de-
 2 cedent shall not be treated as failing to use
 3 qualified real property in a qualified use solely
 4 because such spouse or descendant rents such
 5 property to a member of the family of such
 6 spouse or descendant on a net cash basis. For
 7 purposes of the preceding sentence, a legally
 8 adopted child of an individual shall be treated
 9 as the child of such individual by blood.”

10 (b) CONFORMING AMENDMENT.—Section
 11 2032A(b)(5)(A) is amended by striking out the last sen-
 12 tence.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall take effect as if included in the amend-
 15 ment made by section 6151 of the Technical and Mis-
 16 cellaneous Revenue Act of 1988.

17 **SEC. 5. INCREASE IN MAXIMUM REDUCTION IN VALUE FOR**
 18 **SPECIAL USE VALUATION.**

19 (a) IN GENERAL.—Section 2032A(a)(2) (relating to
 20 limitation on aggregate reduction in fair market value) is
 21 amended by striking “\$750,000” and inserting
 22 “\$1,000,000”.

23 (b) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to estates of decedents dying after
 25 December 31, 1996.

1 **SEC. 6. OPPORTUNITY TO CORRECT CERTAIN FAILURES**
 2 **UNDER SECTION 2032A.**

3 (a) **GENERAL RULE.**—Paragraph (3) of section
 4 2032A(d) (relating to modification of election and agree-
 5 ment to be permitted) is amended to read as follows:

6 “(3) **MODIFICATION OF ELECTION AND AGREE-**
 7 **MENT TO BE PERMITTED.**—The Secretary shall pre-
 8 scribe procedures which provide that in any case in
 9 which the executor makes an election under para-
 10 graph (1) (and submits the agreement referred to in
 11 paragraph (2)) within the time prescribed therefor,
 12 but—

13 “(A) the notice of election, as filed, does
 14 not contain all required information, or

15 “(B) signatures of 1 or more persons re-
 16 quired to enter into the agreement described in
 17 paragraph (2) are not included on the agree-
 18 ment as filed, or the agreement does not con-
 19 tain all required information,

20 the executor will have a reasonable period of time
 21 (not exceeding 90 days) after notification of such
 22 failures to provide such information or signatures.”

23 (b) **EFFECTIVE DATE.**—The amendment made by
 24 this section shall apply to the estates of decedents dying
 25 after the date of the enactment of this Act.

1 **SEC. 7. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE**
 2 **CONSISTS LARGELY OF INTEREST IN CLOSE-**
 3 **LY HELD BUSINESS.**

4 (a) IN GENERAL.—Section 6166(a) (relating to ex-
 5 tension of time for payment of estate tax where estate con-
 6 sists largely of interest in closely held business) is amend-
 7 ed by striking “10” in paragraph (1) and the heading
 8 thereof and inserting “20”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to estates of decedents dying after
 11 December 31, 1996.

12 **SEC. 8. NO INTEREST ON CERTAIN PORTION OF ESTATE**
 13 **TAX EXTENDED UNDER 6166.**

14 (a) IN GENERAL.—Section 6601(j) (relating to 4-per-
 15 cent rate on certain portion of estate tax extended under
 16 section 6166) is amended—

17 (1) by striking the first sentence of paragraph
 18 (1) and inserting the following new sentence: “If the
 19 time for payment of an amount of tax imposed by
 20 chapter 11 is extended as provided in section 6166,
 21 no interest on the no-interest portion of such
 22 amount shall (in lieu of the annual rate provided by
 23 subsection (a)) be paid.”,

24 (2) by striking “4-percent” each place it ap-
 25 pears in paragraphs (2) and (3) and inserting “no-
 26 interest”,

1 (3) by striking subparagraph (A) of paragraph
2 (2) and inserting the following new subparagraph:

3 “(A) \$153,000, or”,

4 (4) by striking “4-PERCENT” in the heading of
5 paragraph (2) and inserting “NO INTEREST”, and

6 (5) by striking “4-PERCENT RATE” in the
7 heading thereof and inserting “NO INTEREST”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 6166(b)(7)(A)(iii) is amended by
10 striking “4-percent rate of interest” and inserting
11 “no-interest portion”.

12 (2) Section 6166(b)(8)(A)(iii) is amended to
13 read as follows:

14 “(iii) NO-INTEREST PORTION NOT TO
15 APPLY.—Section 6601(j) (relating to no-in-
16 terest portion) shall not apply.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to estates of decedents dying after
19 December 31, 1996.

20 **SEC. 9. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX**
21 **PURPOSES AFTER EXPIRATION OF STATUTE**
22 **OF LIMITATIONS.**

23 (a) IN GENERAL.—Section 2001 (relating to imposi-
24 tion and rate of estate tax) is amended by adding at the
25 end the following new subsection:

1 “(f) VALUATION OF GIFTS.—If—

2 “(1) the time has expired within which a tax
3 may be assessed under chapter 12 (or under cor-
4 responding provisions of prior laws) on the transfer
5 of property by gift made during a preceding cal-
6 endar period (as defined in section 2502(b)), and

7 “(2) the value of such gift is shown on the re-
8 turn for such preceding calendar period or is dis-
9 closed in such return, or in a statement attached to
10 the return, in a manner adequate to apprise the Sec-
11 retary of the nature of such gift,

12 the value of such gift shall, for purposes of computing the
13 tax under this chapter, be the value of such gift as finally
14 determined for purposes of chapter 12.”

15 (b) MODIFICATION OF APPLICATION OF STATUTE OF
16 LIMITATIONS.—Paragraph (9) of section 6501(c) is
17 amended to read as follows:

18 “(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN
19 ON RETURN.—If any gift of property the value of
20 which (or any increase in taxable gifts required
21 under section 2701(d)) is required to be shown on
22 a return of tax imposed by chapter 12 (without re-
23 gard to section 2503(b)), and is not shown on such
24 return, any tax imposed by chapter 12 on such gift
25 may be assessed, or a proceeding in court for the

1 collection of such tax may be begun without assess-
 2 ment, at any time. The preceding sentence shall not
 3 apply to any item which is disclosed in such return,
 4 or in a statement attached to the return, in a man-
 5 ner adequate to apprise the Secretary of the nature
 6 of such item. The value of any item which is so dis-
 7 closed may not be redetermined by the Secretary
 8 after the expiration of the period under subsection
 9 (a).”

10 (c) DECLARATORY JUDGMENT PROCEDURE FOR DE-
 11 TERMINING VALUE OF GIFT.—

12 (1) IN GENERAL.—Part IV of subchapter C of
 13 chapter 76 is amended by inserting after section
 14 7476 the following new section:

15 **“SEC. 7477. DECLARATORY JUDGMENTS RELATING TO**
 16 **VALUE OF CERTAIN GIFTS.**

17 “(a) CREATION OF REMEDY.—In a case of an actual
 18 controversy involving a determination by the Secretary of
 19 the value of any gift shown on the return of tax imposed
 20 by chapter 12 or disclosed on such return or in any state-
 21 ment attached to such return, upon the filing of an appro-
 22 priate pleading, the Tax Court may make a declaration
 23 of the value of such gift. Any such declaration shall have
 24 the force and effect of a decision of the Tax Court and
 25 shall be reviewable as such.

1 “(b) LIMITATIONS.—

2 “(1) PETITIONER.—A pleading may be filed
3 under this section only by the donor.

4 “(2) EXHAUSTION OF ADMINISTRATIVE REM-
5 EDIES.—The court shall not issue a declaratory
6 judgment or decree under this section in any pro-
7 ceeding unless it determines that the petitioner has
8 exhausted all available administrative remedies with-
9 in the Internal Revenue Service.

10 “(3) TIME FOR BRINGING ACTION.—If the Sec-
11 retary sends by certified or registered mail notice of
12 his determination as described in subsection (a) to
13 the petitioner, no proceeding may be initiated under
14 this section unless the pleading is filed before the
15 91st day after the date of such mailing.”

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions for such part IV is amended by inserting after
18 the item relating to section 7476 the following new
19 item:

“Sec. 7477. Declaratory judgments relating to value of certain
gifts.”

20 (d) CONFORMING AMENDMENT.—Subsection (c) of
21 section 2504 is amended by striking “, and if a tax under
22 this chapter or under corresponding provisions of prior
23 laws has been assessed or paid for such preceding calendar
24 period”.

1 (e) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 subsections (a) and (c) shall apply to gifts made
4 after the date of the enactment of this Act.

5 (2) SUBSECTION (b).—The amendment made
6 by subsection (b) shall apply to gifts made in cal-
7 endar years ending after the date of the enactment
8 of this Act.

9 **SEC. 10. EXPANSION OF EXCEPTION FROM GENERATION-**
10 **SKIPPING TRANSFER TAX FOR TRANSFERS**
11 **TO INDIVIDUALS WITH DECEASED PARENTS.**

12 (a) IN GENERAL.—Section 2651 (relating to genera-
13 tion assignment) is amended by redesignating subsection
14 (e) as subsection (f), and by inserting after subsection (d)
15 the following new subsection:

16 “(e) SPECIAL RULE FOR PERSONS WITH A DE-
17 CEASED PARENT.—

18 “(1) IN GENERAL.—For purposes of determin-
19 ing whether any transfer is a generation-skipping
20 transfer, if—

21 “(A) an individual is a descendant of a
22 parent of the transferor (or the transferor’s
23 spouse or former spouse), and

24 “(B) such individual’s parent who is a lin-
25 eal descendant of the parent of the transferor

1 (or the transferor's spouse or former spouse) is
 2 dead at the time the transfer (from which an
 3 interest of such individual is established or de-
 4 rived) is subject to a tax imposed by chapter 11
 5 or 12 upon the transferor (and if there shall be
 6 more than 1 such time, then at the earliest
 7 such time),

8 such individual shall be treated as if such individual
 9 were a member of the generation which is 1 genera-
 10 tion below the lower of the transferor's generation or
 11 the generation assignment of the youngest living an-
 12 cestor of such individual who is also a descendant of
 13 the parent of the transferor (or the transferor's
 14 spouse or former spouse), and the generation assign-
 15 ment of any descendant of such individual shall be
 16 adjusted accordingly.

17 “(2) LIMITED APPLICATION OF SUBSECTION TO
 18 COLLATERAL HEIRS.—This subsection shall not
 19 apply with respect to a transfer to any individual
 20 who is not a lineal descendant of the transferor (or
 21 the transferor's spouse or former spouse) if, at the
 22 time of the transfer, such transferor has any living
 23 lineal descendant.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 2612(c) (defining direct skip) is
2 amended by striking paragraph (2) and by redesign-
3 nating paragraph (3) as paragraph (2).

4 (2) Section 2612(c)(2) (as so redesignated) is
5 amended by striking “section 2651(e)(2)” and in-
6 serting “section 2651(f)(2)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to terminations, distributions, and
9 transfers occurring after December 31, 1997.

○