

106TH CONGRESS
1ST SESSION

H. R. 159

To amend the Internal Revenue Code of 1986 to lower the maximum capital gains rate to 15 percent with respect to assets held for more than 3 years, to replace the estate and gift tax rate schedules, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. HILL of Montana (for himself, Mr. TALENT, Mrs. CHENOWETH, and Mr. SCHAFER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to lower the maximum capital gains rate to 15 percent with respect to assets held for more than 3 years, to replace the estate and gift tax rate schedules, 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.**

4 This Act may be cited as the “American Dream Tax
5 Fairness Equity Act of 1997”.

1 **SEC. 2. REDUCTION OF MAXIMUM CAPITAL GAINS RATE**
 2 **FOR INDIVIDUALS TO 15 PERCENT WITH RE-**
 3 **SPECT TO ASSETS HELD FOR MORE THAN 3**
 4 **YEARS.**

5 (a) IN GENERAL.—Subsection (h) of section 1 of the
 6 Internal Revenue Code of 1986 (relating to tax imposed)
 7 is amended to read as follows:

8 “(h) MAXIMUM CAPITAL GAINS RATE.—

9 “(1) IN GENERAL.—If a taxpayer has a net
 10 capital gain for any taxable year, then the tax im-
 11 posed by this section shall not exceed the sum of—

12 “(A) a tax computed at the rates and in
 13 the same manner as if this subsection had not
 14 been enacted on the greater of—

15 “(i) taxable income reduced by the
 16 amount of the net capital gain, or

17 “(ii) the amount of taxable income
 18 taxed at a rate below 28 percent,

19 “(B) 15 percent of qualified 3-year capital
 20 gain (to the extent not taken into account
 21 under subparagraph (A)), and

22 “(C) 28 percent of the excess (if any) of
 23 taxable income over the amounts taken into ac-
 24 count under subparagraphs (A) and (B).

1 “(2) QUALIFIED 3-YEAR CAPITAL GAIN.—For
 2 purposes of this subsection, the term ‘qualified 3-
 3 year capital gain’ means the lesser of—

4 “(A) net long-term capital gain for the tax-
 5 able year, determined by substituting ‘held for
 6 more than 3 years’ for ‘held for more than 1
 7 year’ in paragraphs (3) and (4) of section 1222,
 8 or

9 “(B) net capital gain for such taxable year.

10 “(3) COORDINATION WITH INVESTMENT IN-
 11 COME ELECTION.—For purposes of this subsection,
 12 the net capital gain for any taxable year shall be re-
 13 duced (but not below zero) by the amount which the
 14 taxpayer elects to take into account as investment
 15 income for the taxable year under section
 16 163(d)(4)(B)(iii).”

17 (b) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 1997.

20 **SEC. 2. REPLACEMENT OF ESTATE AND GIFT TAX RATE**
 21 **SCHEDULES.**

22 (a) ESTATE TAX RATE SCHEDULE REPLACED BY 15
 23 AND 28 PERCENT TAX RATES.—

24 (1) IN GENERAL.—Subsection (b) of section
 25 2001 of the Internal Revenue Code of 1986 (relating

1 to imposition and rate of tax) is amended to read as
2 follows:

3 “(b) COMPUTATION OF TAX.—The amount imposed
4 by this section shall be—

5 “(1) 15 percent of all qualified 3-year capital
6 gain (within the meaning of section 1(h)) included in
7 the taxable estate, and

8 “(2) 28 percent of all capital gain (other than
9 such qualified 3-year capital gain) included in the
10 taxable estate,

11 determined as if all property included in the taxable estate
12 had been sold for its fair market value on the date of the
13 decedent’s death (or the date applicable with respect to
14 the valuation of such property under section 2032, if
15 any).”

16 (2) REPEAL OF RATE SCHEDULE.—Section
17 2001 of such Code is amended by striking sub-
18 section (c).

19 (3) CONFORMING AMENDMENTS.—Section 2001
20 of such Code is amended by striking subsections (d)
21 and (e).

22 (b) REDUCTION OF GIFT TAX.—Subsection (a) of
23 section 2502 of such Code is amended to read as follows:

24 “(a) COMPUTATION OF TAX.—The tax imposed by
25 section 2501 for each calendar year shall be—

1 “(1) 15 percent of all qualified 3-year capital
2 gain (as defined in section 1(h)) contained in the
3 taxable gifts made during such year, and

4 “(2) 28 percent of all capital gain (other than
5 such qualified 3-year capital gain) contained in such
6 taxable gifts,

7 determined, with respect to each such gift, as if all prop-
8 erty contained in such gift had been sold by the grantor
9 for its fair market value on the date of such gift.”

10 (c) UNIFIED CREDIT AGAINST ESTATE AND GIFT
11 TAXES.—

12 (1) UNIFIED CREDIT AGAINST ESTATE TAX.—

13 Subsection (a) of section 2010 of such Code (relat-
14 ing to unified credit against estate tax) is amended
15 to read as follows:

16 “(a) ALLOWANCE OF CREDIT.—

17 “(1) GENERAL RULE.—A credit of the amount
18 determined under paragraph (2) shall be allowed to
19 the estate of every decedent against the tax imposed
20 by section 2001.

21 “(2) AMOUNT OF CREDIT.—The amount deter-
22 mined under this paragraph is the amount equal to
23 the sum of—

24 “(A) the tax imposed under section
25 2001(b)(2) (to the extent that such tax is im-

1 posed on so much of the imputed capital gains
 2 amount as does not exceed \$600,000), and

3 “(B) the tax imposed under section
 4 2001(b)(1) on the excess (if any) of—

5 “(i) so much of the imputed capital
 6 gains amount as does not exceed \$600,000,
 7 over

8 “(ii) the portion of the imputed cap-
 9 ital gains amount taken into account under
 10 subparagraph (A).

11 “(3) IMPUTED CAPITAL GAINS AMOUNT.—For
 12 purposes of this subsection, the term ‘imputed cap-
 13 ital gains amount’ means the aggregate amount to
 14 which the rates of section 2001(b) apply.

15 “(4) COORDINATION WITH UNIFIED CREDIT
 16 USED TO REDUCE GIFT TAX.—

17 “(A) IN GENERAL.—The \$600,000
 18 amounts referred to in subparagraphs (A) and
 19 (B)(i) of paragraph (2) shall each be reduced
 20 by the cumulative gift tax credit amount.

21 “(B) CUMULATIVE GIFT TAX CREDIT
 22 AMOUNT.—For purposes of this paragraph, the
 23 term ‘cumulative gift tax credit amount’ means
 24 the sum of the capital gains gift amounts (as
 25 defined in section 2505(a)(3)) with respect to

1 which a credit was allowed under section 2505
 2 (relating to unified credit against gift tax), de-
 3 termined by not taking into account any gift in-
 4 cluded in the taxable estate.”

5 (2) UNIFIED CREDIT AGAINST GIFT TAX.—Sub-
 6 section (a) of section 2505 of such Code (relating to
 7 unified credit against gift tax) is amended to read
 8 as follows:—

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) GENERAL RULE.—In the case of a citizen
 11 or resident of the United States, there shall be al-
 12 lowed as a credit against the tax imposed by section
 13 2501 for each calendar year an amount equal to—

14 “(A) the amount determined under para-
 15 graph (2), reduced by—

16 “(B) the sum of the amounts allowable as
 17 a credit to the individual under this section for
 18 all preceding calendar periods with respect to
 19 gifts made before the gift tax change date, as
 20 determined under paragraph (4).

21 “(2) AMOUNT.—The amount determined under
 22 this paragraph is the amount equal to the sum of—

23 “(A) the tax imposed under section
 24 2502(a)(2) for the year on the capital gains gift
 25 amount, and

1 “(B) the tax imposed under section
2 2502(a)(1) for the year on the excess (if any)
3 of—

4 “(i) the capital gains gift amount for
5 the year, over

6 “(ii) the portion of such capital gains
7 gift amount taken into account under sub-
8 paragraph (A).

9 “(3) CAPITAL GAINS GIFT AMOUNT.—For pur-
10 poses of this subsection, the term ‘capital gains gift
11 amount’ means, for any year, the amount to which
12 the rates of section 2502(b) apply with respect to
13 such year, but not more than the excess (if any)
14 of—

15 “(A) \$600,000, over

16 “(B) the sum of the capital gains gift
17 amounts for all preceding years (determined
18 without taking into account any gift made be-
19 fore the date of the enactment of this para-
20 graph).

21 “(4) GIFTS MADE BEFORE GIFT TAX CHANGE
22 DATE.—

23 “(A) IN GENERAL.—For purposes of para-
24 graph (1)(B), the amount allowable as a credit
25 to an individual under this section for a preced-

ing calendar period with respect to any gift made before the gift tax change date shall be the amount which would have been allowable to the individual as a credit under this section with respect to such gift—

“(i) if this section and section 2001(b), as in effect on the day after the date of the enactment of this paragraph, had been in effect for the year of such gift and all preceding calendar periods, and

“(ii) without regard to the parenthetical contained in paragraph (3)(B).

“(B) GIFT MADE BEFORE GIFT TAX CHANGE DATE.—For purposes of this section, the term ‘gift made before gift tax change date’ means a gift made before the date of the enactment of this paragraph (other than a gift taken into account under subsection (b)).”

(3) CONFORMING AMENDMENT.—Subsection (b) of section 2502 of such Code is amended by adding at the end the following new flush sentence:

“In connection with the gift tax imposed by this chapter for the calendar year in which this sentence is enacted with respect to gifts made on or after the date of such enactment, the term ‘preceding calendar period’ shall in-

1 clude the portion of such calendar year which precedes
2 such date of enactment.”

3 (d) ESTATES OF NONRESIDENT ALIENS.—

4 (1) RATE CHANGE.—

5 (A) IN GENERAL.—Subsection (b) of sec-
6 tion 2101 of such Code (relating to tax imposed
7 on estates of nonresident aliens) is amended to
8 read as follows:

9 “(b) COMPUTATION OF TAX.—The tax imposed by
10 this section shall be the amount equal to the tax computed
11 under section 2001(b) (determined as if section 2001 ap-
12 plied to the decedent).”

13 (B) CONFORMING AMENDMENT.—Section
14 2101 of such Code is amended by striking sub-
15 section (c).

16 (2) CREDITS AGAINST TAX.—Section 2102 of
17 such Code (relating to credits against estate tax for
18 nonresidents not citizens) is amended by adding at
19 the end the following new subsection:

20 “(d) ADJUSTMENT OF AMOUNTS TO REFLECT UNI-
21 FIED CREDIT CHANGES.—The Secretary shall by regula-
22 tion adjust the dollar amounts provided in this section to
23 reflect, in a proportionate manner, the changes made to
24 sections 2010 and 2505 on the date of the enactment of
25 this subsection.”

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to estates of decedents dying on
 3 or after, and gifts made on or after, the date of the enact-
 4 ment of this Act.

5 **SEC. 3. TAX ON TRUSTS WHEN GRANTOR DIES.**

6 (a) IN GENERAL.—Subpart A of part I of subchapter
 7 J of chapter 1 of the Internal Revenue Code of 1986 is
 8 amended by adding at the end the following new section:

9 **“SEC. 646. ASSETS MARKED TO MARKET WHEN GRANTOR**
 10 **DIES.**

11 “(a) IN GENERAL.—For purposes of this title, on the
 12 death of any individual who has contributed property to
 13 a trust—

14 “(1) the trust shall recognize gain or loss as if
 15 all property so contributed by the decedent which is
 16 contained in the trust were sold for its fair market
 17 value on the date of such death,

18 “(2) such gain or loss shall be taken into ac-
 19 count for the taxable year of the trust in which such
 20 death occurs, and

21 “(3) proper adjustment shall be made in the
 22 amount of any gain or loss subsequently realized for
 23 gain or loss taken into account under paragraph (2).

24 “(b) PROPERTY CONTRIBUTED BY PARTNERSHIP OR
 25 CORPORATION.—For purposes of this section, the Sec-

1 retary may by regulations provide that property contrib-
 2 uted to a trust by a partnership or corporation shall be
 3 treated as contributed by the individual having a greater
 4 than 50 percent interest in such partnership or owning
 5 more than 50 percent of the stock of such corporation.
 6 For purposes of this subsection, rules similar to the rules
 7 of section 318 (relating to constructive ownership of stock)
 8 shall apply.

9 “(c) PROPORTIONATE APPLICATION.—If any prop-
 10 erty was contributed to a trust partially by the decedent
 11 and partially by another person, the portion of such prop-
 12 erty so contributed by the decedent shall be treated as a
 13 separate asset for purposes of this title and subsection (a)
 14 shall apply to such portion.

15 “(d) COORDINATION WITH INCLUSION IN TAXABLE
 16 ESTATE.—This section shall not apply to the portion of
 17 any trust which is included in the taxable estate of any
 18 individual.”

19 (b) CLERICAL AMENDMENT.—The table of sections
 20 for subpart A of part I of subchapter J of chapter 1 of
 21 such Code is amended by adding at the end the following
 22 new item:

“Sec. 646. Assets marked to market when grantor dies.”

23 (c) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
 25 graph (2), the amendments made by this section

1 shall apply with respect to decedents dying on or
2 after the date of the enactment of this Act.

3 (2) TRUSTS CONTAINING PROPERTY CONTRIB-
4 UTED BY DECEDENTS DYING BEFORE DATE OF EN-
5 ACTMENT.—For purposes of section 646 of the In-
6 ternal Revenue Code of 1986 (as added by sub-
7 section (b)), any individual dying before the date of
8 the enactment of this Act shall be treated as dying
9 on the date of the enactment of this Act.

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