

112TH CONGRESS
1ST SESSION

H. R. 3467

To amend the Internal Revenue Code of 1986 to reform the estate and gift tax.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2011

Mr. McDERMOTT (for himself and Mr. RANGEL) 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 reform
the estate and gift tax.

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 “Sensible Estate Tax
5 Act of 2011”.

6 **SEC. 2. AMOUNT OF ESTATE TAX EXCLUSION AND ESTATE**
7 **TAX RATES MADE PERMANENT.**

8 (a) EXCLUSION AMOUNT.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 2010(e)(3) of the Internal Revenue Code of 1986 is

1 amended by striking “\$5,000,000” and inserting
2 “\$1,000,000”.

3 (2) INFLATION ADJUSTMENT.—Subparagraph
4 (B) of section 2010(c)(3) of such Code is amend-
5 ed—

6 (A) by striking “2011” in the matter pre-
7 ceding clause (i) and inserting “2012”, and

8 (B) by striking “2010” in clause (ii) and
9 inserting “2000”.

10 (b) ESTATE TAX RATES.—

11 (1) IN GENERAL.—The table contained in sub-
12 section (c) of section 2001 of such Code is amended
13 by striking “Over \$500,000” and all that follows
14 and inserting the following:

“Over \$500,000 but not over \$750,000	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000.	\$345,800, plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$5,000,000.	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$5,000,000 but not over \$10,000,000.	\$2,130,800, plus 50 percent of the excess of such amount over \$5,000,000.
Over \$10,000,000	\$4,630,800, plus 55 percent of the excess of such amount over \$10,000,000.”.

15 (2) ADJUSTMENT FOR INFLATION.—Subsection
16 (c) of section 2001 of such Code is amended—

1 (A) by inserting the following before the
2 table contained therein:

3 “(1) IN GENERAL.—”, and

4 (B) by adding at the end the following new
5 paragraph:

6 “(2) INFLATION ADJUSTMENT.—In the case of
7 any decedent dying in a calendar year after 2012—

8 “(A) each minimum and maximum dollar
9 amount for each rate bracket in the table in
10 paragraph (1) shall be increased by an amount
11 equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the cost-of-living adjustment de-
14 termined under section 1(f)(3) for such
15 calendar year, determined by substituting
16 ‘2000’ for ‘1992’ in subparagraph (B)
17 thereof, and

18 “(B) each of the amounts setting forth the
19 tax under such table shall be adjusted to the
20 extent necessary to reflect the adjustments in
21 the rate brackets made by subparagraph (A).

22 If any increase determined under subparagraph
23 (A) is not a multiple of \$10,000, such increase
24 shall be rounded to the nearest multiple of
25 \$10,000.”.

1 (c) COORDINATION WITH GIFT TAX TO REFLECT
2 DECREASE IN APPLICABLE CREDIT AMOUNT.—Sub-
3 section (g) of section 2001 of such Code is amended to
4 read as follows:

5 “(g) MODIFICATIONS TO GIFT TAX CALCULATION.—
6 For purposes of applying subsection (b)(2) with respect
7 to 1 or more gifts—

8 “(1) MODIFICATIONS TO REFLECT DIFFERENT
9 TAX RATES.—The rates of tax under subsection (c)
10 in effect at the decedent’s death shall, in lieu of the
11 rates of tax in effect at the time of such gifts, be
12 used both to compute—

13 “(A) the tax imposed by chapter 12 with
14 respect to such gifts, and

15 “(B) the credit allowed against such tax
16 under section 2505, including in computing—

17 “(i) the amount determined under
18 section 2505(a)(1), and

19 “(ii) the sum of the amounts allowed
20 as a credit for all preceding periods under
21 section 2505(a)(2).

22 “(2) MODIFICATION TO REFLECT REDUCED AP-
23 PPLICABLE CREDIT AMOUNTS.—The amount deter-
24 mined under section 2505(a)(1) for each calendar

1 year shall not exceed the estate’s applicable credit
2 amount under section 2010(c).”.

3 (d) TECHNICAL CORRECTION.—Clause (i) of section
4 2010(c)(4)(B) of such Code is amended by striking “basic
5 exclusion amount” and inserting “applicable exclusion
6 amount”.

7 (e) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided by in this subsection, the amendments made
10 by this section shall apply to estates of decedents
11 dying, generation-skipping transfers, and gifts made,
12 after December 31, 2011.

13 (2) TECHNICAL CORRECTION.—The amendment
14 made by subsection (d) shall take effect as if in-
15 cluded in the amendments made by section 303 of
16 the Tax Relief, Unemployment Insurance Reauthor-
17 ization, and Job Creation Act of 2010.

18 (f) SUNSET NOT TO APPLY.—

19 (1) Subsection (a) of section 901 of the Eco-
20 nomic Growth and Tax Relief Reconciliation Act of
21 2001 is amended by striking “this Act” and all that
22 follows and inserting “this Act (other than title V)
23 shall not apply to taxable, plan, or limitation years
24 beginning after December 31, 2012.”.

1 (2) Subsection (b) of such section 901 of such
2 Act is amended by striking “, estates, gifts, and
3 transfers”.

4 (3) Section 304 of the Tax Relief, Unemploy-
5 ment Insurance Reauthorization, and Job Creation
6 Act of 2010 is repealed.

7 **SEC. 3. RESTORATION OF CREDIT FOR STATE TRANSFER**
8 **TAX.**

9 (a) **IN GENERAL.**—Section 2011 of the Internal Rev-
10 enue Code of 1986 is amended by striking subsection (f).

11 (b) **REPEAL OF DEDUCTION FOR STATE TRANSFER**
12 **TAXES.**—

13 (1) **IN GENERAL.**—Section 2058 of such Code
14 is amended by adding at the end the following:

15 “(c) **TERMINATION.**—This section shall not apply to
16 the estates of decedents dying after December 31, 2011.”.

17 (2) **CONFORMING AMENDMENT.**—Section
18 2106(a)(4) of such Code is amended by adding at
19 the end the following new sentence: “This paragraph
20 shall not apply to the estates of decedents dying
21 after December 31, 2011.”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to estates of decedents dying, and
24 gifts made, after December 31, 2011.

1 **SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF**
2 **NONBUSINESS ASSETS; LIMITATION ON MI-**
3 **NORITY DISCOUNTS.**

4 (a) IN GENERAL.—Section 2031 of the Internal Rev-
5 enue Code of 1986 is amended by redesignating subsection
6 (d) as subsection (f) and by inserting after subsection (c)
7 the following new subsections:

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

11 “(1) IN GENERAL.—In the case of the transfer
12 of any interest in an entity other than an interest
13 which is actively traded (within the meaning of sec-
14 tion 1092)—

15 “(A) the value of any nonbusiness assets
16 held by the entity shall be determined as if the
17 transferor had transferred such assets directly
18 to the transferee (and no valuation discount
19 shall be allowed with respect to such nonbusi-
20 ness assets), and

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

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

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

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

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

14 “(ii) the asset is real property used in
15 the active conduct of 1 or more real prop-
16 erty trades or businesses (within the mean-
17 ing of section 469(c)(7)(C)) in which the
18 transferor materially participates and with
19 respect to which the transferor meets the
20 requirements of section 469(c)(7)(B)(ii).

21 For purposes of clause (ii), material participa-
22 tion shall be determined under the rules of sec-
23 tion 469(h), except that section 469(h)(3) shall
24 be applied without regard to the limitation to
25 farming activity.

1 “(C) EXCEPTION FOR WORKING CAP-
2 ITAL.—Any asset (including a passive asset)
3 which is held as a part of the reasonably re-
4 quired working capital needs of a trade or busi-
5 ness shall be treated as used in the active con-
6 duct of a trade or business.

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

9 “(A) cash or cash equivalents,

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

13 “(C) evidence of indebtedness, option, for-
14 ward or futures contract, notional principal con-
15 tract, or derivative,

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

18 “(E) annuity,

19 “(F) real property used in 1 or more real
20 property trades or businesses (as defined in sec-
21 tion 469(e)(7)(C)),

22 “(G) asset (other than a patent, trade-
23 mark, or copyright) which produces royalty in-
24 come,

25 “(H) commodity,

1 “(I) collectible (within the meaning of sec-
2 tion 401(m)), or

3 “(J) any other asset specified in regula-
4 tions prescribed by the Secretary.

5 “(4) LOOK-THRU RULES.—

6 “(A) IN GENERAL.—If a nonbusiness asset
7 of an entity consists of a 10-percent interest in
8 any other entity, this subsection shall be ap-
9 plied by disregarding the 10-percent interest
10 and by treating the entity as holding directly its
11 ratable share of the assets of the other entity.
12 This subparagraph shall be applied successively
13 to any 10-percent interest of such other entity
14 in any other entity.

15 “(B) 10-PERCENT INTEREST.—The term
16 ‘10-percent interest’ means—

17 “(i) in the case of an interest in a cor-
18 poration, ownership of at least 10 percent
19 (by vote or value) of the stock in such cor-
20 poration,

21 “(ii) in the case of an interest in a
22 partnership, ownership of at least 10 per-
23 cent of the capital or profits interest in the
24 partnership, and

1 “(iii) in any other case, ownership of
2 at least 10 percent of the beneficial inter-
3 ests in the entity.

4 “(C) EXCEPTION FOR ACTIVELY TRADED
5 INTERESTS.—Subparagraph (A) shall not apply
6 to any nonbusiness asset which consists of an
7 interest which is actively traded (within the
8 meaning of section 1092).

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

12 “(e) LIMITATION ON MINORITY DISCOUNTS.—For
13 purposes of this chapter and chapter 12, in the case of
14 the transfer of any interest in an entity other than an in-
15 terest which is actively traded (within the meaning of sec-
16 tion 1092), no discount shall be allowed by reason of the
17 fact that the transferee does not have control of such enti-
18 ty if the transferee and members of the family (as defined
19 in section 2032A(e)(2)) of the transferee have control of
20 such entity (determined immediately after such trans-
21 fer).”.

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

1 **SEC. 5. CONSISTENT BASIS REPORTING BETWEEN ESTATE**
2 **AND PERSON ACQUIRING PROPERTY FROM**
3 **DECEDENT.**

4 (a) CONSISTENT USE OF BASIS.—

5 (1) PROPERTY ACQUIRED FROM A DECE-
6 DENT.—Section 1014 of the Internal Revenue Code
7 of 1986 is amended by adding at the end the fol-
8 lowing new subsection:

9 “(f) BASIS MUST BE CONSISTENT WITH ESTATE
10 TAX RETURN.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the value used to determine the basis of any in-
13 terest in property in the hands of the person acquir-
14 ing such property shall not exceed the value of such
15 interest as finally determined for purposes of chap-
16 ter 11.

17 “(2) SPECIAL RULE WHERE NO FINAL DETER-
18 MINATION.—In any case in which the final value of
19 property has not been determined under chapter 11
20 and there has been a statement furnished under sec-
21 tion 6035(a), the value used to determine the basis
22 of any interest in property in the hands of the per-
23 son acquiring such property shall not exceed the
24 amount reported on any statement furnished under
25 section 6035(a).

1 “(3) REGULATIONS.—The Secretary may by
2 regulations provide exceptions to the application of
3 this subsection.”.

4 (2) PROPERTY ACQUIRED BY GIFTS AND
5 TRANSFERS IN TRUST.—Section 1015 of the Inter-
6 nal Revenue Code of 1986 is amended by adding at
7 the end the following new subsection:

8 “(f) BASIS MUST BE CONSISTENT GIFT TAX RE-
9 TURN.—

10 “(1) IN GENERAL.—For purposes of this sec-
11 tion, the value used to determine the basis of any in-
12 terest in property in the hands of the person acquir-
13 ing such property shall not exceed the value of such
14 interest as finally determined for purposes of chap-
15 ter 12.

16 “(2) SPECIAL RULE WHERE NO FINAL DETER-
17 MINATION.—In any case in which the final value of
18 property has not been determined under chapter 12
19 and there has been a statement furnished under sec-
20 tion 6035(b), the value used to determine the basis
21 of any interest in property in the hands of the per-
22 son acquiring such property shall not exceed the
23 amount reported on any statement furnished under
24 section 6035(b).

1 “(3) REGULATIONS.—The Secretary may by
2 regulations provide exceptions to the application of
3 this subsection.”.

4 (b) INFORMATION REPORTING.—

5 (1) IN GENERAL.—Subpart A of part III of
6 subchapter A of chapter 61 of the Internal Revenue
7 Code of 1986 is amended by inserting after section
8 6034A the following new section:

9 **“SEC. 6035. BASIS INFORMATION TO PERSONS ACQUIRING**
10 **PROPERTY FROM DECEDENT OR BY GIFT.**

11 “(a) INFORMATION WITH RESPECT TO PROPERTY
12 ACQUIRED FROM DECEDENTS.—

13 “(1) IN GENERAL.—The executor of any estate
14 required to file a return under section 6018(a) shall
15 furnish to the Secretary and to each person acquir-
16 ing any interest in property included in the dece-
17 dent’s gross estate for Federal estate tax purposes
18 a statement identifying the value of each interest in
19 such property as reported on such return and such
20 other information with respect to such interest as
21 the Secretary may prescribe.

22 “(2) STATEMENTS BY BENEFICIARIES.—Each
23 person required to file a return under section
24 6018(b) shall furnish to the Secretary and to each
25 other person who holds a legal or beneficial interest

1 in the property to which such return relates a state-
2 ment identifying the information described in para-
3 graph (1).

4 “(3) TIME FOR FURNISHING STATEMENT.—

5 “(A) IN GENERAL.—Each statement re-
6 quired to be furnished under paragraph (1) or
7 (2) shall be furnished at such time as the Sec-
8 retary may prescribe, but in no case at a time
9 later than the earlier of—

10 “(i) the date which is 30 days after
11 the date on which the return under section
12 6018 was required to be filed (including
13 extensions, if any), or

14 “(ii) the date which is 30 days after
15 the date such return is filed.

16 “(B) ADJUSTMENTS.—In any case in
17 which there is an adjustment to the information
18 required to be included on a statement filed
19 under paragraph (1) or (2) after such state-
20 ment has been filed, a supplemental statement
21 under such paragraph shall be filed not later
22 than the date which is 30 days after such ad-
23 justment is made.

24 “(b) INFORMATION WITH RESPECT TO PROPERTY
25 ACQUIRED BY GIFT.—

1 “(1) IN GENERAL.—Each person making a
2 transfer by gift who is required to file a return
3 under section 6019 with respect to such transfer
4 shall furnish to the Secretary and to each person ac-
5 quiring any interest in property by reason of such
6 transfer a statement identifying the value of each in-
7 terest in such property as reported on such return
8 and such other information with respect to such in-
9 terest as the Secretary may prescribe.

10 “(2) TIME FOR FURNISHING STATEMENT.—

11 “(A) IN GENERAL.—Each statement re-
12 quired to be furnished under paragraph (1)
13 shall be furnished at such time as the Secretary
14 may prescribe, but in no case at a time later
15 than the earlier of—

16 “(i) the date which is 30 days after
17 the date on which the return under section
18 6019 was required to be filed (including
19 extensions, if any), or

20 “(ii) the date which is 30 days after
21 the date such return is filed.

22 “(B) ADJUSTMENTS.—In any case in
23 which there is an adjustment to the information
24 required to be included on a statement filed
25 under paragraph (1) after such statement has

1 been filed, a supplemental statement under
2 such paragraph shall be filed not later than the
3 date which is 30 days after such adjustment is
4 made.

5 “(c) REGULATIONS.—The Secretary shall prescribe
6 such regulations as necessary to carry out this section, in-
7 cluding regulations relating to—

8 “(1) the application of this section to property
9 with regard to which no estate or gift tax return is
10 required to be filed, and

11 “(2) situations in which the surviving joint ten-
12 ant or other recipient may have better information
13 than the executor regarding the basis or fair market
14 value of the property.”.

15 (2) PENALTY FOR FAILURE TO FILE.—

16 (A) RETURN.—Section 6724(d)(1) of the
17 Internal Revenue Code of 1986 is amended by
18 striking “and” at the end of subparagraph (B),
19 by striking the period at the end of subpara-
20 graph (C) and inserting “, and”, and by adding
21 at the end the following new subparagraph:

22 “(D) any statement required to be filed
23 with the Secretary under section 6035.”.

24 (B) STATEMENT.—Section 6724(d)(2) of
25 such Code is amended by striking “or” at the

1 end of subparagraph (GG), by striking the pe-
 2 riod at the end of subparagraph (HH) and in-
 3 serting “, or”, and by adding at the end the fol-
 4 lowing new subparagraph:

5 “(II) section 6035 (other than a statement
 6 described in paragraph (1)(D)).”.

7 (3) CLERICAL AMENDMENT.—The table of sec-
 8 tions for subpart A of part III of subchapter A of
 9 chapter 61 of the Internal Revenue Code of 1986 is
 10 amended by inserting after the item relating to sec-
 11 tion 6034A the following new item:

“Sec. 6035. Basis information to persons acquiring property from decedent or
 by gift.”.

12 (c) PENALTY FOR INCONSISTENT REPORTING.—

13 (1) IN GENERAL.—Subsection (b) of section
 14 6662 of the Internal Revenue Code of 1986 is
 15 amended by inserting after paragraph (7) the fol-
 16 lowing new paragraph:

17 “(8) Any inconsistent estate or gift basis.”.

18 (2) INCONSISTENT BASIS REPORTING.—Section
 19 6662 of such Code is amended by adding at the end
 20 the following new subsection:

21 “(k) INCONSISTENT ESTATE OR GIFT BASIS RE-
 22 PORTING.—For purposes of this section, the term ‘incon-
 23 sistent estate or gift basis’ means the portion of the under-
 24 statement which is attributable to—

1 “(1) in the case of property acquired from a de-
2 cedent, a basis determination with respect to such
3 property which is not consistent with the value of
4 such property as determined under section 1014(f),
5 and

6 “(2) in the case of property acquired by gift, a
7 basis determination with respect to such property
8 which is not consistent with the value of such prop-
9 erty as determined under section 1015(f).”.

10 (d) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to transfers for which returns are
12 filed after the date of the enactment of this Act.

13 **SEC. 6. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
14 **GRANTOR RETAINED ANNUITY TRUSTS.**

15 (a) **IN GENERAL.**—Subsection (b) of section 2702 of
16 the Internal Revenue Code of 1986 is amended—

17 (1) by redesignating paragraphs (1), (2) and
18 (3) as subparagraphs (A), (B), and (C), respectively,
19 and by moving such subparagraphs (as so redesign-
20 ated) 2 ems to the right;

21 (2) by striking “For purposes of” and inserting
22 the following:

23 “(1) **IN GENERAL.**—For purposes of”;

1 (3) by striking “paragraph (1) or (2)” in para-
2 graph (1)(C) (as so redesignated) and inserting
3 “subparagraph (A) or (B)”; and

4 (4) by adding at the end the following new
5 paragraph:

6 “(2) **ADDITIONAL REQUIREMENTS WITH RE-**
7 **SPECT TO GRANTOR RETAINED ANNUITIES.**—For
8 purposes of subsection (a), in the case of an interest
9 described in paragraph (1)(A) (determined without
10 regard to this paragraph) which is retained by the
11 transferor, such interest shall be treated as de-
12 scribed in such paragraph only if—

13 “(A) the right to receive the fixed amounts
14 referred to in such paragraph is for a term of
15 not less than 10 years,

16 “(B) such fixed amounts, when determined
17 on an annual basis, do not decrease relative to
18 any prior year during the first 10 years of the
19 term referred to in subparagraph (A), and

20 “(C) the remainder interest has a value
21 greater than zero determined as of the time of
22 the transfer.”.

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

1 **SEC. 7. LIMITATION ON GST EXEMPTION OF PERPETUAL**
2 **DYNASTY TRUSTS.**

3 (a) IN GENERAL.—Section 2642 of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new subsection:

6 “(h) EXPIRATION OF GST EXEMPTION 90 YEARS
7 AFTER ESTABLISHMENT OF TRUST.—

8 “(1) IN GENERAL.—In the case of any genera-
9 tion-skipping transfer made from a trust after the
10 date which is 90 years after the date on which such
11 trust is created, the inclusion ratio with respect to
12 any property transferred in such transfer shall be 1.

13 “(2) SPECIAL RULES.—For purposes of this
14 subsection—

15 “(A) DATE OF CREATION OF CERTAIN
16 DEEMED SEPARATE TRUSTS.—In the case of
17 any portion of a trust which is treated as a sep-
18 arate trust under section 2654(b)(1), such sep-
19 arate trust shall be treated as created on the
20 date of the first transfer described in such sec-
21 tion with respect to such separate trust.

22 “(B) DATE OF CREATION OF POUR-OVER
23 TRUSTS.—In the case of any generation-skip-
24 ping transfer of property which involves the
25 transfer of property from 1 trust to another

1 trust, the date of the creation of the transferee
2 trust shall be treated as being the earlier of—

3 “(i) the date of the creation of such
4 transferee trust, or

5 “(ii) the date of the creation of the
6 transferor trust.

7 In the case of multiple transfers to which the
8 preceding sentence applies, the date of the cre-
9 ation of the transferor trust shall be determined
10 under the preceding sentence before the appli-
11 cation of the preceding sentence to determine
12 the date of the creation of the transferee trust.

13 “(C) EXCEPTION FOR CERTAIN TRANS-
14 FERS FOR EDUCATION AND MEDICAL EX-
15 PENSES.—Subparagraph (B) shall not apply to
16 the transfer of property from 1 trust to another
17 trust if—

18 “(i) such transfer is described in sec-
19 tion 2642(c)(2), and

20 “(ii) the individual referred to in such
21 section with respect to the transferee trust
22 was also a beneficiary of the transferor
23 trust.

24 “(3) REGULATIONS.—The Secretary may pre-
25 scribe such regulations or other guidance as may be

1 necessary or appropriate to carry out this sub-
2 section.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made this
5 section shall apply to—

6 (A) trusts created after the date of the en-
7 actment of this Act, and

8 (B) generation-skipping transfers made
9 from trusts created on or before such date, but
10 only to the extent such transfer is made out of
11 corpus added to the trust after such date (or
12 out of income attributable to corpus so added).

13 (2) DETERMINATION OF DATE OF CREATION.—

14 For purposes of this subsection, the rules of sections
15 2642(h)(2) (as added by this section) and 2654(b)
16 of the Internal Revenue Code of 1986 shall apply for
17 purposes of determining the date of the creation of
18 any trust.

19 (3) EXCEPTIONS.—The Secretary of the Treas-
20 ury, or his designee, shall issue regulations or other
21 guidance which provide exceptions to the application
22 of the amendments made by this section which are
23 substantially similar to the relevant exceptions under

1 paragraph (2) of section 1433(b) of the Tax Reform
2 Act of 1986.

○