

105TH CONGRESS
1ST SESSION

H. R. 1841

To amend the Internal Revenue Code of 1986 to repeal the death tax for family farms and small businesses.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1997

Mr. COX of California (for himself and Mr. CAMPBELL) 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 repeal the death tax for family farms and small businesses.

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. SMALL BUSINESS EXCLUSION.**

4 (a) IN GENERAL.—Part III of subchapter A of chap-
5 ter 11 of the Internal Revenue Code of 1986 (relating to
6 gross estate) is amended by inserting after section 2033
7 the following new section:

1 **“SEC. 2033A. EXCLUSION FOR SMALL BUSINESSES AND**
2 **FAMILY FARMS.**

3 “(a) IN GENERAL.—The value of the gross estate
4 shall not include the value of the qualified small business
5 or family farm interests of the decedent otherwise includ-
6 ible in the estate.

7 “(b) QUALIFIED SMALL BUSINESS OR FAMILY FARM
8 INTEREST.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘qualified small business or family
11 farm interest’ means—

12 “(A) any interest in a closely held business
13 which is the business of farming, if the dece-
14 dent was actively engaged in such business, and

15 “(B) any interest in a small business, if
16 more than 40 percent of the adjusted value of
17 the gross estate consists of the value of inter-
18 ests in a closely held business.

19 “(2) LIMITATION.—Such term shall not include
20 any interest in a trade or business not described in
21 section 542(c)(2), if more than 35 percent of the ad-
22 justed ordinary gross income of such trade or busi-
23 ness for the taxable year which includes the date of
24 the decedent’s death would qualify as personal hold-
25 ing company income (as defined in section 543(a)).

26 “(3) RULES REGARDING OWNERSHIP.—

1 “(A) OWNERSHIP OF ENTITIES.—For pur-
2 poses of paragraph (1)—

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

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

14 “(B) OWNERSHIP OF TIERED ENTITIES.—
15 For purposes of this section, if by reason of
16 holding an interest in a trade or business, a de-
17 cedent or any member of the decedent’s family
18 is treated as holding an interest in any other
19 trade or business—

20 “(i) such ownership interest in the
21 other trade or business shall be dis-
22 regarded in determining if the ownership
23 interest in the first trade or business is a
24 qualified small business interest, and

1 “(ii) this section shall be applied sepa-
2 rately in determining if such interest in
3 any other trade or business is a qualified
4 small business interest.

5 “(C) INDIVIDUAL OWNERSHIP RULES.—
6 For purposes of this section, an interest owned,
7 directly or indirectly, by or for an entity de-
8 scribed in paragraph (1) shall be considered as
9 being owned proportionately by or for the enti-
10 ty’s shareholders, partners, or beneficiaries. A
11 person shall be treated as a beneficiary of any
12 trust only if such person has a present interest
13 in such trust.

14 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
15 poses of this section—

16 “(1) INTEREST IN CLOSELY HELD BUSINESS.—
17 The term ‘interest in a closely held business’ has the
18 meaning given such term by section 6166(b).

19 “(2) INTEREST IN A SMALL BUSINESS.—The
20 term ‘interest in a small business’ means an interest
21 in a closely held business, as defined in section
22 6166(b), provided such a business has 100 or fewer
23 employees. For purposes of the preceding sentence,
24 any persons whose relationship is described in sec-

1 tion 267(b) or section 707(b) shall be treated as one
2 business.

3 “(3) ADJUSTED GROSS ESTATE.—The term ‘ad-
4 justed value of the gross estate’ means the value of
5 the gross estate (determined without regard to this
6 section) reduced by any amount deductible under
7 paragraph (3) or (4) of section 2053(a).

8 “(4) APPLICABLE RULES.—Rules similar to the
9 following rules shall apply:

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

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

14 “(C) Section 2032A(e)(10) (relating to
15 community property).

16 “(D) Section 2032A(e)(14) (relating to
17 treatment of replacement property acquired in
18 section 1031 or 1033 transactions).

19 “(E) Section 6166(b)(3) (relating to farm-
20 houses and certain other structures taken into
21 account).

22 “(5) COORDINATION WITH OTHER ESTATE TAX
23 BENEFITS.—If there is a reduction in the value of
24 the gross estate under this section—

1 “(A) the dollar limitation applicable under
2 section 2032A(a)(2), and

3 “(B) the \$1,000,000 dollar amount under
4 section 6601(j)(2) (as adjusted),
5 shall each be reduced (but not below zero) by the
6 amount of such reduction.”

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

 “Sec. 2033A. Exclusion for small businesses and family farms.”

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to estates of decedents dying after
13 December 31, 2000.

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