

PROVIDING FOR THE CONSIDERATION OF H.R. 8, THE
DEATH TAX ELIMINATION ACT OF 2000

JUNE 7, 2000.—Referred to the House Calendar and ordered to be printed

Mr. REYNOLDS, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 519]

The Committee on Rules, having had under consideration House Resolution 519, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration in the House of H.R. 8, the Death Tax Elimination Act of 2000, under a modified-closed rule. The rule provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted upon adoption of the resolution. The rule further provides for consideration of the amendment in the nature of a substitute printed in this report, if offered by Representative Rangel or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided between the proponent and an opponent.

Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report) because the report was not filed until Tuesday, June 6, and the bill may be considered by the House as early as Thursday, June 8.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 107

Date: June 7, 2000.

Measure: H.R. 8, The Death Tax Elimination Act of 2000.

Motion By: Mr. Moakley.

Summary of Motion: To make in order en bloc the amendments by Representative Sherman and Representative Stenholm which make implementation of the estate, gift, and the generation-skipping tax repeal contingent upon certification that Congress and the President have taken actions to ensure that we are on the path to eliminate the publicly held debt by 2013 and protect the integrity of the Social Security and Medicare trust funds.

Results: Defeated 1 to 8.

Vote by Member: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

Rules Committee Record Vote No. 108

Date: June 7, 2000.

Measure: H.R. 8, The Death Tax Elimination Act of 2000.

Motion By: Mr. Moakley.

Summary of Motion: To make in order the amendment by Representative Doggett which denies gift tax exclusion to organizations established under section 527 of the Internal Revenue Code if they fail to meet certain reporting and disclosure requirements.

Results: Defeated 1 to 8.

Vote by Member: Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings—Nay; Sessions—Nay; Reynolds—Nay; Moakley—Yea; Dreier—Nay.

SUMMARY OF THE AMENDMENT MADE IN ORDER UNDER THE RULE TO
ACCOMPANY H.R. 8, THE DEATH TAX ELIMINATION ACT OF 2000

Rangel: Amendment in the nature of a substitute. Provides a 20% across-the-board reduction to estate and gift tax rates; increases the limit on the small business exclusion from \$1.3 million to \$2 million; provides that a portion of the exclusion not used in the estate of the spouse first to die will be allowed to the estate of the other spouse; and increases immediately the exemption equivalent of the unified credit against estate and gift taxes to \$1.1 million with a further increase to \$1.2 million in 2006. Offsets include restoring the phaseout provisions of the unified credit repealed in the Taxpayer Relief Act of 1997; eliminating the valuation discounts except as they apply to active business assets; and repealing the state inheritance and estate tax deductions.

Text of the amendment made in order under the rule:

AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RANGEL OF
NEW YORK, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Estate Tax Relief Act of 2000”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. 20 PERCENT REDUCTION OF ESTATE TAX RATES.

(a) **IN GENERAL.**—Paragraph (1) of section 2001(c) is amended to read as follows:

“(1) **IN GENERAL.**—

“If the amount with respect to which the tentative tax is to be computed is:	The tentative tax is:
Not over \$10,000	14.4% of such amount.
Over \$10,000 but not over \$20,000	\$1,440, plus 16% of the excess of such amount over \$10,000
Over \$20,000 but not over \$40,000	\$3,040, plus 17.6% of the excess of such amount over \$20,000
Over \$40,000 but not over \$60,000	\$6,560, plus 19.2% of the excess of such amount over \$40,000
Over \$60,000 but not over \$80,000	\$10,400, plus 20.8% of the excess of such amount over \$60,000
Over \$80,000 but not over \$100,000	\$14,560, plus 22.4% of the excess of such amount over \$80,000
Over \$100,000 but not over \$150,000	\$19,040, plus 24% of the excess of such amount over \$100,000
Over \$150,000 but not over \$250,000	\$31,040, plus 25.6% of the excess of such amount over \$150,000
Over \$250,000 but not over \$500,000	\$56,640, plus 27.2% of the excess of such amount over \$250,000
Over \$500,000 but not over \$750,000	\$124,640, plus 29.6% of the excess of such amount over \$500,000
Over \$750,000 but not over \$1,000,000	\$198,640, plus 31.2% of the excess of such amount over \$750,000
Over \$1,000,000 but not over \$1,250,000	\$276,640, plus 32.8% of the excess of such amount over \$1,000,000
Over \$1,250,000 but not over \$1,500,000	\$358,640, plus 34.4% of the excess of such amount over \$1,250,000
Over \$1,500,000 but not over \$2,000,000	\$444,640, plus 36% of the excess of such amount over \$1,500,000
Over \$2,000,000 but not over \$2,500,000	\$624,640, plus 39.2% of the excess of such amount over \$2,000,000
Over \$2,500,000 but not over \$3,000,000	\$820,640, plus 42.4% of the excess of such amount over \$2,500,000
Over \$3,000,000	\$1,032,640, plus 44% of the excess of such amount over \$3,000,000”.

(b) **RESTORATION OF PHASEOUT OF UNIFIED CREDIT.**—Paragraph (2) of section 2001(c) is amended by striking “\$10,000,000” and all that follows and inserting “\$10,000,000. The amount of the increase under the preceding sentence shall not exceed the sum of—

“(A) the applicable credit amount under section 2010(c), and

“(B) the excess of the amount equal to 44 percent of \$3,000,000 over the amount of the tentative tax under paragraph (1) on \$3,000,000.”

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

SEC. 3. INCREASE IN EXEMPTION EQUIVALENT OF UNIFIED CREDIT.

(a) **IN GENERAL.**—The table contained in section 2010(c) (relating to applicable credit amount) is amended to read as follows:

“In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
2000	\$ 675,000
2001, 2002, 2003, 2004, and 2005	\$1,100,000
2006 or thereafter	\$1,200,000.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2000.

SEC. 4. INCREASE IN ESTATE TAX BENEFIT FOR FAMILY-OWNED BUSINESS INTERESTS.

(a) **TRANSFER TO CREDIT PROVISIONS.**—Section 2057 (relating to family-owned business interests) is hereby moved to part II of subchapter A of chapter 11 of such Code, inserted after section 2010, and redesignated as section 2010A.

(b) **INCREASE IN CREDIT; SURVIVING SPOUSE ALLOWED UNUSED CREDIT OF DECEDENT.**—Subsection (a) of section 2010A, as redesignated by subsection (a) of this section, is amended to read as follows:

“(a) **INCREASE IN UNITED CREDIT.**—For purposes of determining the unified credit under section 2010 in the case of an estate of a decedent to which this section applies—

“(1) **IN GENERAL.**—The applicable exclusion amount under section 2010(c) shall be increased (but not in excess of \$2,000,000) by the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2) and for which no deduction is allowed under section 2056.

“(2) **TREATMENT OF UNUSED LIMITATION OF PREDECEASED SPOUSE.**—In the case of a decedent—

“(A) having no surviving spouse, but

“(B) who was the surviving spouse of a decedent—

“(i) who died after December 31, 2000, and

“(ii) whose estate met the requirements of subsection (b)(1) other than subparagraph (B) thereof,

there shall be substituted for “\$2,000,000” in paragraph (1) an amount equal to the excess of \$4,000,000 over the exclusion equivalent of the credit allowed under section 2010 (as increased by this section) to the estate of the decedent referred to in subparagraph (B). For purposes of the preceding sentence, the exclusion equivalent of the credit is the amount on which a tentative tax under section 2001(c) equal to such credit would be imposed.”

(c) **CONFORMING AMENDMENTS.**—

(1) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2057.

(2) Paragraph (10) of section 2031(c) of such Code is amended by striking “section 2057(e)(3)” and inserting “section 2010A(e)(3)”.

(3) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by inserting after the item relating to section 2010 the following new item:

“Sec. 2010A. Family-owned business interests.”.

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

SEC. 5. CREDIT FOR STATE DEATH TAXES REPLACED WITH DEDUCTION FOR SUCH TAXES.

(a) **REPEAL OF CREDIT.**—Section 2011 (relating to credit for State death taxes) is hereby repealed.

(b) **DEDUCTION FOR STATE DEATH TAXES.**—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

“SEC. 2058. STATE DEATH TAXES.

“(a) **ALLOWANCE OF DEDUCTION.**—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent).

“(b) **PERIOD OF LIMITATIONS.**—The deduction allowed by this section shall include only such taxes as were actually paid and deduction therefor claimed within 4 years after the filing of the return required by section 6018, except that—

“(1) If a petition for redetermination of a deficiency has been filed with the Tax Court within the time prescribed in section 6213(a), then within such 4-year period or before the expiration of 60 days after the decision of the Tax Court becomes final.

“(2) If, under section 6161 or 6166, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such 4-year period or before the date of the expiration of the period of the extension.

“(3) If a claim for refund or credit of an overpayment of tax imposed by this chapter has been filed within the time prescribed in section 6511, then within such 4-year period or before the expiration of 60 days from the date of mailing by certified mail or registered mail by the Secretary to the taxpayer of a notice of the disallowance of any part of such claim, or before the expiration of 60 days after a decision by any court of competent jurisdiction becomes final with respect to a timely suit instituted upon such claim, whichever is later.

Refund based on the deduction may (despite the provisions of sections 6511 and 6512) be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest.”

(c) **CONFORMING AMENDMENTS.**—

(1) Subsection (a) of section 2012 is amended by striking “the credit for State death taxes provided by section 2011 and”.

(2) Subparagraph (A) of section 2013(c)(1) is amended by striking “2011,”.

(3) Paragraph (2) of section 2014(b) is amended by striking “, 2011,”.

(4) Sections 2015 and 2016 are each amended by striking “2011 or”.

(5) Subsection (d) of section 2053 is amended to read as follows:

“(d) CERTAIN FOREIGN DEATH TAXES.—

“(1) IN GENERAL.—Notwithstanding the provisions of subsection (c)(1)(B) of this section, for purposes of the tax imposed by section 2001, the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501, by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary) of any estate, succession, legacy, or inheritance tax imposed by and actually paid to any foreign country, in respect of any property situated within such foreign country and included in the gross estate of a citizen or resident of the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph of the country within which property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2101 and following) in determining whether property is situated within or without the United States. Any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

“(2) CONDITION FOR ALLOWANCE OF DEDUCTION.—No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by section 2001 which results from the deduction provided in paragraph (1) will inure solely for the benefit of the public, charitable, or religious transferees described in section 2055 or section 2106(a)(2). In any case where the tax imposed by section 2001 is equitably apportioned among all the transferees of property included in the gross estate, including those described in sections 2055 and 2106(a)(2) (taking into account any exemptions, credits, or deductions allowed by this chapter), in determining such decrease, there shall be disregarded any decrease in the Federal estate tax which any transferees other than those described in sections 2055 and 2106(a)(2) are required to pay.

“(3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES OF DEDUCTION UNDER THIS SUBSECTION.—

“(A) ELECTION.—An election under this subsection shall be deemed a waiver of the right to claim a credit, against the Federal estate tax, under a death tax convention with any foreign country for any tax or portion thereof in respect of which a deduction is taken under this subsection.

“(B) CROSS REFERENCE.—

“**See section 2014(f) for the effect of a deduction taken under this paragraph on the credit for foreign death taxes.**”

(6) Subparagraph (A) of section 2056A(b)(10) is amended—

(A) by striking “2011,” and

(B) by inserting “2058,” after “2056.”

(7)(A) Subsection (a) of section 2102 is amended to read as follows:

“(a) IN GENERAL.—The tax imposed by section 2101 shall be credited with the amounts determined in accordance with sections 2012 and 2013 (relating to gift tax and tax on prior transfers).”

(B) Section 2102 is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(C) Section 2102(b)(5) (as redesignated by subparagraph (B)) and section 2107(c)(3) are each amended by striking “2011 to 2013, inclusive,” and inserting “2012 and 2013”.

(8) Subsection (a) of section 2106 is amended by adding at the end the following new paragraph:

“(4) STATE DEATH TAXES.—The amount which bears the same ratio to the State death taxes as the value of the property, as determined for purposes of this chapter, upon which State death taxes were paid and which is included in the gross estate under section 2103 bears to the value of the total gross estate under section 2103. For purposes of this paragraph, the term ‘State death taxes’ means the taxes described in section 2011(a).”

(9) Section 2201 is amended—

(A) by striking “as defined in section 2011(d)”, and

(B) by adding at the end the following new flush sentence:

“For purposes of this section, the additional estate tax is the difference between the tax imposed by section 2001 or 2101 and the amount equal to 125 percent of the maximum credit provided by section 2011(b), as in effect before its repeal by the Estate Tax Relief Act of 2000.”

(10) Paragraph (2) of section 6511(i) is amended by striking “2011(c), 2014(b),” and inserting “2014(b)”.

(11) Subsection (c) of section 6612 is amended by striking “section 2011(c) (relating to refunds due to credit for State taxes),”.

(12) The table of sections for part II of subchapter A of chapter 11 is amended by striking the item relating to section 2011.

(13) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

“Sec. 2058. State death taxes.”.

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

SEC. 6. VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS; LIMITATION ON MINORITY DISCOUNTS.

(a) IN GENERAL.—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this subtitle—

“(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

“(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

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

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

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

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

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

“(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

“(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

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

“(A) cash or cash equivalents,

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

“(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

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

“(E) annuity,

“(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

“(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

“(H) commodity,

“(I) collectible (within the meaning of section 401(m)), or

“(J) any other asset specified in regulations prescribed by the Secretary.

“(4) LOOK-THRU RULES.—

“(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This sub-

paragraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

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

“(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

“(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

“(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

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

“(e) LIMITATION ON MINORITY DISCOUNTS.—For purposes of this subtitle, in the case of the transfer of an interest in an entity, no reduction in the amount which would otherwise be determined to be the value of such interest shall be allowed by reason of the fact that the interest does not represent control of such entity if the transferor and members of the family (as defined in section 2032A(e)(2)) of the transferor have control of such entity.”

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

SEC. 7. TAX ON GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.

(a) IN GENERAL.—Subtitle B (relating to estate and gift taxes) is amended by inserting after chapter 13 the following new chapter:

“CHAPTER 13A—GIFTS AND BEQUESTS FROM EXPATRIATES

“Sec. 2681. Imposition of tax.

“SEC. 2681. IMPOSITION OF TAX.

“(a) IN GENERAL.—If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

“(1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt, and

“(2) the value of such covered gift or bequest.

“(b) TAX TO BE PAID BY RECIPIENT.—The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

“(c) EXCEPTION FOR CERTAIN GIFTS.—Subsection (a) shall apply only to the extent that the covered gifts and bequests received during the calendar year exceed \$10,000.

“(d) TAX REDUCED BY FOREIGN GIFT OR ESTATE TAX.—The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

“(e) COVERED GIFT OR BEQUEST.—

“(1) IN GENERAL.—For purposes of this chapter, the term ‘covered gift or bequest’ means—

“(A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, was an expatriate, and

- “(B) any property acquired by bequest, devise, or inheritance directly or indirectly from an individual who, at the time of death, was an expatriate.
- “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Such term shall not include—
- “(A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the expatriate, and
- “(B) any property shown on a timely filed return of tax imposed by chapter 11 of the estate of the expatriate.
- “(3) TRANSFERS IN TRUST.—
- “(A) IN GENERAL.—Any covered gift or bequest which is made in trust shall be treated as made to the beneficiaries of such trust in proportion to their respective interests in such trust.
- “(B) DETERMINATION OF BENEFICIARIES’ INTEREST IN TRUST.—For purposes of subparagraph (A), a beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.
- “(f) EXPATRIATE.—For purposes of this section, the term ‘expatriate’ means—
- “(1) any United States citizen who relinquishes his citizenship, and
- “(2) any long-term resident of the United States who—
- “(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or
- “(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.”
- (b) CLERICAL AMENDMENT.—The table of chapters for subtitle B of such Code is amended by inserting after the item relating to chapter 13 the following new item:
- “Chapter 13A. Gifts and bequests from expatriates.”.
- (c) EFFECTIVE DATE.—The amendments made by this section shall apply to covered gifts and bequests (as defined in section 2681 of such Code, as added by this section) received on or after May 25, 2000.