

104TH CONGRESS
1ST SESSION

H. R. 1212

To amend the Internal Revenue Code of 1986 to revise the estate and gift taxes in order to preserve American family enterprise, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1995

Mrs. SMITH of Washington (for herself, Ms. DUNN of Washington, Mr. HERGER, and Mr. COLLINS of Georgia) 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 revise the estate and gift taxes in order to preserve American family enterprise, 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 “National Family En-
5 terprise Preservation Act of 1995”.

6 **SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CRED-**
7 **ITS FOR FAMILY ENTERPRISES.**

8 (a) ESTATE TAX.—Section 2010 of the Internal Rev-
9 enue Code of 1986 (relating to unified credit against es-

1 tate tax) is amended by redesignating subsections (b) and
2 (c) as subsections (c) and (d), respectively, by inserting
3 after subsection (a) the following new subsection:

4 “(b) ADDITIONAL CREDIT FOR FAMILY ENTER-
5 PRISES.—The amount of the credit allowable under sub-
6 section (a) shall be increased by an amount equal to the
7 value of any family enterprise property (as defined in sec-
8 tion 2032B(b)) included in the decedent’s gross estate, to
9 the extent the additional credit does not exceed
10 \$121,800.”

11 (b) GIFT TAX.—Section 2505 of such Code (relating
12 to unified credit against gift tax) is amended by redesi-
13 gnating subsections (b) and (c) as subsections (c) and (d),
14 respectively, and by inserting after subsection (a) the fol-
15 lowing new subsection:

16 “(b) ADDITIONAL CREDIT FOR FAMILY ENTER-
17 PRISES.—The amount of the credit allowable under sub-
18 section (a) for each calendar year shall be increased by
19 an amount equal to—

20 “(1) the value of taxable gifts of family enter-
21 prise property (as defined in section 2032B(b)), to
22 the extent the additional credit does not exceed
23 \$121,800, reduced by

1 “(2) the sum of the amounts allowable as a
2 credit to the individual under this subsection for all
3 preceding calendar periods.”

4 (c) EFFECTIVE DATES.—

5 (1) ESTATE TAX CREDIT.—The amendments
6 made by subsection (a) shall apply to the estates of
7 decedents dying after December 31, 1995.

8 (2) GIFT TAX CREDIT.—The amendments made
9 by subsection (b) shall apply to gifts made after De-
10 cember 31, 1995.

11 **SEC. 3. INCREASE IN ANNUAL GIFT TAX EXCLUSION.**

12 (a) IN GENERAL.—Section 2503 of the Internal Rev-
13 enue Code of 1986 (relating to taxable gifts) is amended
14 by redesignating subsection (c) as subsection (d) and by
15 inserting after subsection (b) the following new subsection:

16 “(c) ADDITIONAL EXCLUSION FROM GIFTS.—The
17 amount of the exclusion allowable under subsection (b)
18 during a calendar year shall be increased by an amount
19 equal to the value of gifts of family enterprise property
20 (as defined in section 2032B(b)) made during such year,
21 to the extent such value does not exceed \$10,000.”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to gifts made after December 31,
24 1995.

1 **SEC. 4. FAMILY ENTERPRISE INTERESTS.**

2 (a) IN GENERAL.—Part III of subchapter A of chap-
3 ter 11 of the Internal Revenue Code of 1986 (relating to
4 gross estate) is amended by inserting after section 2032A
5 the following new section:

6 **“SEC. 2032B. FAMILY ENTERPRISE PROPERTY.**

7 “(a) GENERAL RULE.—The value of family enter-
8 prise property included in the gross estate of a decedent
9 who is a citizen or resident of the United States shall be—

10 “(1) the value of such property, reduced by

11 “(2) the lesser of—

12 “(A) 50 percent of the value of such prop-
13 erty, or

14 “(B) \$1,000,000.

15 “(b) FAMILY ENTERPRISE PROPERTY.—

16 “(1) IN GENERAL.—For purposes of this sec-
17 tion, the term ‘family enterprise property’ means
18 any interest in real or personal property which is de-
19 voted to use as a farm or used for farming purposes
20 (within the meaning of paragraphs (4) and (5) of
21 section 2032A(e)) or is used in any other trade or
22 business, if at least 80 percent of the ownership in-
23 terests in such farm or other trade or business is
24 held—

25 “(A) by 5 or fewer individuals, or

1 “(B) by individuals who are members of
2 the same family within the meaning of section
3 2032A(e)(2)).

4 “(2) LIMITED PARTNERSHIP INTEREST EX-
5 CLUDED.—An interest in a limited partnership,
6 other than a family limited partnership, shall in no
7 event be treated as family enterprise property.

8 “(c) TAX TREATMENT OF DISPOSITIONS AND FAIL-
9 URE TO USE FOR QUALIFYING USE.—

10 “(1) IMPOSITION OF ADDITIONAL ESTATE
11 TAX.—With respect to family enterprise property ac-
12 quired from or passed from the decedent to an indi-
13 vidual, if within 10 years after the decedent’s death
14 and before the death of such individual—

15 “(A) such individual disposes of any inter-
16 est in such property (other than by a disposi-
17 tion to a member of the individual’s family), or

18 “(B) such individual or a member of the
19 individual’s family ceases to participate in the
20 active management of such property,

21 then there is hereby imposed an additional estate
22 tax.

23 “(2) AMOUNT OF ADDITIONAL TAX.—The
24 amount of the additional tax imposed by paragraph

1 (1) with respect to any interest in family enterprise
2 property shall be—

3 “(A) the amount determined under section
4 2032A(c)(2) with respect to such interest, re-
5 duced by

6 “(B) 5 percent of the amount described in
7 subparagraph (A) for each year following the
8 date of the decedent’s death in which the indi-
9 vidual described in paragraph (1) or a member
10 of the individual’s family participated in the ac-
11 tive management of such family enterprise
12 property.

13 Rules similar to the rules of paragraphs (3), (4),
14 and (5) of section 2032A(c) shall apply to such tax.

15 “(3) ACTIVE MANAGEMENT.—For purposes of
16 this subsection, the term ‘active management’ means
17 the making of the management decisions of a busi-
18 ness other than the daily operating decisions.”

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for part III of subchapter A of chapter 11 of such Code
21 is amended by inserting after the item relating to section
22 2032A the following new item:

“Sec. 2032B. Family enterprise property.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to the estates of decedents dying
25 after December 31, 1995.

1 **SEC. 5. VALUATION OF CERTAIN FARM, ETC., REAL PROP-**
2 **ERTY.**

3 (a) **IN GENERAL.**—Section 2032A(a)(2) of the Inter-
4 nal Revenue Code of 1986 (relating to limitation on aggre-
5 gate reduction in fair market value) is amended by strik-
6 ing “\$750,000” and inserting “\$1,000,000”.

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to the estates of decedents dying
9 after December 31, 1995.

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