

107TH CONGRESS  
1ST SESSION

# H. R. 8

To amend the Internal Revenue Code of 1986 to phaseout the estate and gift taxes over a 10-year period, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Ms. DUNN (for herself, Mr. TANNER, Mr. COX, Mr. ABERCROMBIE, Mr. BROWN of South Carolina, Mr. CULBERSON, Mr. EVERETT, Mr. GOODE, Mr. COOKSEY, Mr. BACHUS, Mr. PENCE, Mr. LAHOOD, Mr. SHADEGG, Mr. DUNCAN, Mr. WHITFIELD, Mr. SAXTON, Mr. BONILLA, Mrs. ROUKEMA, Mrs. BIGGERT, Mr. FERGUSON, Mr. GILCHREST, Mr. RADANOVICH, Mr. SHAW, Mr. MALONEY of Connecticut, Mr. SAM JOHNSON of Texas, Mr. TANCREDO, Mr. BOUCHER, Mr. TRAFICANT, Mr. KELLER, Mr. BURTON of Indiana, Mr. SHOWS, Mr. GARY MILLER of California, Mr. ROGERS of Michigan, Mr. CUNNINGHAM, Mr. ROYCE, Mr. GREENWOOD, Mr. SMITH of Texas, Mr. FOLEY, Mr. HAYWORTH, Mr. WELLER, Mr. KIRK, Mr. YOUNG of Alaska, Mr. BAIRD, Mr. WAMP, Mr. DOOLEY of California, Mr. EHLERS, Mr. CANTOR, Mr. POMBO, Mr. SIMMONS, Mr. CAMP, Mr. MCINTYRE, Mr. HAYES, Mr. NETHERCUTT, Ms. HART, Mr. BARTON of Texas, Mrs. WILSON, Mr. HALL of Texas, Mr. HYDE, Mr. WOLF, Mr. SUNUNU, Mr. GRUCCI, Mr. CALLAHAN, Mr. RYAN of Wisconsin, Mrs. KELLY, Mr. LARGENT, Mr. DEAL of Georgia, Mr. CANNON, Mr. ADERHOLT, Mr. CRANE, Ms. GRANGER, Mr. BLUNT, Mr. GREEN of Wisconsin, Mr. HERGER, Mr. ENGLISH, Mr. LOBIONDO, Mr. JENKINS, Mr. PITTS, Mr. LEWIS of California, Mr. OXLEY, Mr. RILEY, Mr. CHAMBLISS, Mr. WATTS of Oklahoma, Mrs. NORTHUP, Mr. OSE, Mr. SMITH of New Jersey, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, Mr. SIMPSON, Mr. PETERSON of Pennsylvania, Mr. MCCRERY, Mrs. BONO, Mr. CALVERT, Mr. NEY, Mr. DOOLITTLE, Mr. HUNTER, Mr. SKEEN, Mr. HOEKSTRA, Mr. LATOURETTE, Mr. SHIMKUS, Mr. FLETCHER, Mrs. CAPITO, Mr. EHRLICH, Mr. BISHOP, Mr. ROHRBACHER, Mr. BOEHLERT, Mr. RYUN of Kansas, Mr. CRAMER, Mrs. EMERSON, Mr. SCHAFFER, Mr. SESSIONS, Mr. ISAKSON, Ms. ROS-LEHTINEN, Mr. BURR of North Carolina, Mr. BARR of Georgia, Mr. HASTINGS of Washington, Mr. MILLER of Florida, Mr. HORN, Mr. RAMSTAD, Mr. MCHUGH, Mr. WALSH, Mr. CRENSHAW, Mr. NORWOOD, Mr. COBLE, Mr. NUSSLE, Mr. PLATTS, Mr. JONES of North Carolina, Mr. GEKAS, Mr. ROGERS of Kentucky, Mr. BASS, Mr. TERRY, Mr. SCHROCK, Mr. GOODLATTE, Mr. TOOMEY, Mr. WICKER, Mr. PORTMAN, Mr. TAUZIN, Mr. HANSEN, Mr.

ARMEY, Mr. HILLEARY, Mr. McINNIS, Mr. COMBEST, Mr. DELAY, Mrs. CUBIN, Mr. LINDER, Mr. MICA, Mrs. MCCARTHY of New York, Mr. FRELINGHUYSEN, Mr. BERRY, Mr. JOHN, Mr. CONDIT, Mr. SANDLIN, Mr. SWEENEY, Mr. KNOLLENBERG, Mr. PHELPS, Mr. CARSON of Oklahoma, Mr. GANSKE, Mr. THUNE, Mr. KERNS, Ms. PRYCE of Ohio, Mr. STUMP, Mr. SENSENBRENNER, Mr. OTTER, Mr. RAHALL, Mr. SISISKY, Mr. HULSHOF, Mr. LUCAS of Kentucky, Mr. WALDEN of Oregon, Mr. WYNN, Mr. FORD, Mr. REYNOLDS, Mr. BRADY of Texas, Mr. PAUL, Mr. GORDON, Mrs. JO ANN DAVIS of Virginia, Mr. COSTELLO, Mr. GILLMOR, Mr. WATKINS, Mr. PUTNAM, Mr. GIBBONS, Mr. AKIN, Mr. ISSA, Mr. FARR of California, Mr. BARCIA, Mrs. MYRICK, Mr. BARTLETT of Maryland, Mr. CHABOT, Mr. KINGSTON, Mr. HEFLEY, Mr. GALLEGLY, Mr. GILMAN, Mr. GOSS, Mr. WELDON of Florida, Mr. DEMINT, Mr. SOUDER, Mr. FOSSELLA, Mr. KOLBE, Mr. BILIRAKIS, Mr. LATHAM, Mr. TIAHRT, Mr. TAYLOR of North Carolina, Mr. SCARBOROUGH, Mr. VITTER, Mr. HOSTETTLER, Mr. GRAHAM, Mr. SPENCE, Mr. TOM DAVIS of Virginia, Mr. BOEHNER, Mr. OSBORNE, Mr. BRYANT, Mr. DREIER, Mr. PICKERING, Mr. THORNBERRY, Mr. WELDON of Pennsylvania, Mr. BAKER, Mr. KING, Mr. HUTCHINSON, Mr. McKEON, Mr. MANZULLO, Mr. SMITH of Washington, Mr. LAMPSON, and Mrs. CLAYTON) 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 phaseout the estate and gift taxes over a 10-year period, 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 “Death Tax Elimination  
 5        Act”.

1 **TITLE I—REPEAL OF ESTATE,**  
2 **GIFT, AND GENERATION-SKIP-**  
3 **PING TAXES.**

4 **SEC. 101. PHASEOUT OF ESTATE AND GIFT TAXES.**

5 (a) REPEAL OF ESTATE AND GIFT TAXES.—Subtitle  
6 B of the Internal Revenue Code of 1986 (relating to estate  
7 and gift taxes) is repealed effective with respect to estates  
8 of decedents dying, and gifts made, after December 31,  
9 2010.

10 (b) PHASEOUT OF TAX.—Subsection (c) of section  
11 2001 of such Code (relating to imposition and rate of tax)  
12 is amended by adding at the end the following new para-  
13 graph:

14 “(3) PHASEOUT OF TAX.—In the case of es-  
15 tates of decedents dying, and gifts made, during any  
16 calendar year after 2000 and before 2011—

17 “(A) IN GENERAL.—The tentative tax  
18 under this subsection shall be determined by  
19 using a table prescribed by the Secretary (in  
20 lieu of using the table contained in paragraph  
21 (1)) which is the same as such table; except  
22 that—

23 “(i) each of the rates of tax shall be  
24 reduced (but not below zero) by the num-

1                   ber of percentage points determined under  
 2                   subparagraph (B), and

3                   “(ii) the amounts setting forth the tax  
 4                   shall be adjusted to the extent necessary to  
 5                   reflect the adjustments under clause (i).

6                   “(B) PERCENTAGE POINTS OF REDUC-  
 7                   TION.—

<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2001 .....	5
2002 .....	10
2003 .....	15
2004 .....	20
2005 .....	25
2006 .....	30
2007 .....	35
2008 .....	40
2009 .....	45
2010 .....	50.

8                   “(C) COORDINATION WITH PARAGRAPH  
 9                   (2).—Paragraph (2) shall be applied by reduc-  
 10                  ing the 55 percent percentage contained therein  
 11                  by the number of percentage points determined  
 12                  for such calendar year under subparagraph (B).

13                  “(D) COORDINATION WITH CREDIT FOR  
 14                  STATE DEATH TAXES.—Rules similar to the  
 15                  rules of subparagraph (A) shall apply to the  
 16                  table contained in section 2011(b) except that  
 17                  the number of percentage points referred to in  
 18                  subparagraph (A)(i) shall be determined under  
 19                  the following table:

<b>“For calendar year:</b>	<b>The number of percentage points is:</b>
2001 .....	1½
2002 .....	3
2003 .....	4½
2004 .....	6
2005 .....	7½
2006 .....	9
2007 .....	10½
2008 .....	12
2009 .....	13½
2010 .....	15.”

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

4 **TITLE II—INCREASE IN UNIFIED**  
5 **ESTATE AND GIFT TAX CREDIT.**

6 **SEC. 201. INCREASE IN UNIFIED ESTATE AND GIFT TAX**  
7 **CREDIT.**

8 (a) IN GENERAL.—The table in subsection (c) of sec-  
9 tion 2010 of the Internal Revenue Code of 1986 (relating  
10 to applicable credit amount) is amended to read as follows:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
2001 or thereafter .....	\$1,300,000

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

14 **SEC. 202. REPEAL OF ESTATE TAX BENEFIT FOR FAMILY-**  
15 **OWNED BUSINESS INTERESTS.**

16 (a) IN GENERAL.—Section 2057 of the Internal Rev-  
17 enue Code of 1986 (relating to family-owned business in-  
18 terests) is hereby repealed.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Paragraph (10) of section 2031(c) of such  
3 Code is amended by inserting “(as in effect on the  
4 day before the date of the enactment of the Death  
5 Tax Elimination Act)” before the period.

6 (2) The table of sections for part IV of sub-  
7 chapter A of chapter 11 of such Code is amended by  
8 striking the item relating to section 2057.

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

12 **TITLE III—MODIFICATIONS OF**  
13 **GENERATION-SKIPPING**  
14 **TRANSFER TAX**

15 **SEC. 301. DEEMED ALLOCATION OF GST EXEMPTION TO**  
16 **LIFETIME TRANSFERS TO TRUSTS; RETRO-**  
17 **ACTIVE ALLOCATIONS.**

18 (a) IN GENERAL.—Section 2632 of the Internal Rev-  
19 enue Code of 1986 (relating to special rules for allocation  
20 of GST exemption) is amended by redesignating sub-  
21 section (c) as subsection (e) and by inserting after sub-  
22 section (b) the following new subsections:

23 “(c) DEEMED ALLOCATION TO CERTAIN LIFETIME  
24 TRANSFERS TO GST TRUSTS.—

1           “(1) IN GENERAL.—If any individual makes an  
2 indirect skip during such individual’s lifetime, any  
3 unused portion of such individual’s GST exemption  
4 shall be allocated to the property transferred to the  
5 extent necessary to make the inclusion ratio for such  
6 property zero. If the amount of the indirect skip ex-  
7 ceeds such unused portion, the entire unused portion  
8 shall be allocated to the property transferred.

9           “(2) UNUSED PORTION.—For purposes of para-  
10 graph (1), the unused portion of an individual’s  
11 GST exemption is that portion of such exemption  
12 which has not previously been—

13                   “(A) allocated by such individual,

14                   “(B) treated as allocated under subsection  
15 (b) with respect to a direct skip occurring dur-  
16 ing or before the calendar year in which the in-  
17 direct skip is made, or

18                   “(C) treated as allocated under paragraph  
19 (1) with respect to a prior indirect skip.

20           “(3) DEFINITIONS.—

21                   “(A) INDIRECT SKIP.—For purposes of  
22 this subsection, the term ‘indirect skip’ means  
23 any transfer of property (other than a direct  
24 skip) subject to the tax imposed by chapter 12  
25 made to a GST trust.

1           “(B) GST TRUST.—The term ‘GST trust’  
2 means a trust that could have a generation-  
3 skipping transfer with respect to the transferor  
4 unless—

5           “(i) the trust instrument provides that  
6 more than 25 percent of the trust corpus  
7 must be distributed to or may be with-  
8 drawn by one or more individuals who are  
9 non-skip persons—

10           “(I) before the date that the indi-  
11 vidual attains age 46,

12           “(II) on or before one or more  
13 dates specified in the trust instrument  
14 that will occur before the date that  
15 such individual attains age 46, or

16           “(III) upon the occurrence of an  
17 event that, in accordance with regula-  
18 tions prescribed by the Secretary, may  
19 reasonably be expected to occur before  
20 the date that such individual attains  
21 age 46;

22           “(ii) the trust instrument provides  
23 that more than 25 percent of the trust cor-  
24 pus must be distributed to or may be with-  
25 drawn by one or more individuals who are

1 non-skip persons and who are living on the  
2 date of death of another person identified  
3 in the instrument (by name or by class)  
4 who is more than 10 years older than such  
5 individuals;

6 “(iii) the trust instrument provides  
7 that, if one or more individuals who are  
8 non-skip persons die on or before a date or  
9 event described in clause (i) or (ii), more  
10 than 25 percent of the trust corpus either  
11 must be distributed to the estate or estates  
12 of one or more of such individuals or is  
13 subject to a general power of appointment  
14 exercisable by one or more of such individ-  
15 uals;

16 “(iv) the trust is a trust any portion  
17 of which would be included in the gross es-  
18 tate of a non-skip person (other than the  
19 transferor) if such person died immediately  
20 after the transfer;

21 “(v) the trust is a charitable lead an-  
22 nuity trust (within the meaning of section  
23 2642(e)(3)(A)) or a charitable remainder  
24 annuity trust or a charitable remainder

1 unitrust (within the meaning of section  
2 664(d)); or

3 “(vi) the trust is a trust with respect  
4 to which a deduction was allowed under  
5 section 2522 for the amount of an interest  
6 in the form of the right to receive annual  
7 payments of a fixed percentage of the net  
8 fair market value of the trust property (de-  
9 termined yearly) and which is required to  
10 pay principal to a non-skip person if such  
11 person is alive when the yearly payments  
12 for which the deduction was allowed termi-  
13 nate.

14 For purposes of this subparagraph, the value of  
15 transferred property shall not be considered to  
16 be includible in the gross estate of a non-skip  
17 person or subject to a right of withdrawal by  
18 reason of such person holding a right to with-  
19 draw so much of such property as does not ex-  
20 ceed the amount referred to in section 2503(b)  
21 with respect to any transferor, and it shall be  
22 assumed that powers of appointment held by  
23 non-skip persons will not be exercised.

24 “(4) AUTOMATIC ALLOCATIONS TO CERTAIN  
25 GST TRUSTS.—For purposes of this subsection, an

1 indirect skip to which section 2642(f) applies shall  
2 be deemed to have been made only at the close of  
3 the estate tax inclusion period. The fair market  
4 value of such transfer shall be the fair market value  
5 of the trust property at the close of the estate tax  
6 inclusion period.

7 “(5) APPLICABILITY AND EFFECT.—

8 “(A) IN GENERAL.—An individual—

9 “(i) may elect to have this subsection  
10 not apply to—

11 “(I) an indirect skip, or

12 “(II) any or all transfers made  
13 by such individual to a particular  
14 trust, and

15 “(ii) may elect to treat any trust as a  
16 GST trust for purposes of this subsection  
17 with respect to any or all transfers made  
18 by such individual to such trust.

19 “(B) ELECTIONS.—

20 “(i) ELECTIONS WITH RESPECT TO  
21 INDIRECT SKIPS.—An election under sub-  
22 paragraph (A)(i)(I) shall be deemed to be  
23 timely if filed on a timely filed gift tax re-  
24 turn for the calendar year in which the  
25 transfer was made or deemed to have been

1           made pursuant to paragraph (4) or on  
2           such later date or dates as may be pre-  
3           scribed by the Secretary.

4           “(ii) OTHER ELECTIONS.—An election  
5           under clause (i)(II) or (ii) of subparagraph  
6           (A) may be made on a timely filed gift tax  
7           return for the calendar year for which the  
8           election is to become effective.

9           “(d) RETROACTIVE ALLOCATIONS.—

10           “(1) IN GENERAL.—If—

11           “(A) a non-skip person has an interest or  
12           a future interest in a trust to which any trans-  
13           fer has been made,

14           “(B) such person—

15           “(i) is a lineal descendant of a grand-  
16           parent of the transferor or of a grand-  
17           parent of the transferor’s spouse or former  
18           spouse, and

19           “(ii) is assigned to a generation below  
20           the generation assignment of the trans-  
21           feror, and

22           “(C) such person predeceases the trans-  
23           feror,

24           then the transferor may make an allocation of any  
25           of such transferor’s unused GST exemption to any

1 previous transfer or transfers to the trust on a  
2 chronological basis.

3 “(2) SPECIAL RULES.—If the allocation under  
4 paragraph (1) by the transferor is made on a gift  
5 tax return filed on or before the date prescribed by  
6 section 6075(b) for gifts made within the calendar  
7 year within which the non-skip person’s death oc-  
8 curred—

9 “(A) the value of such transfer or trans-  
10 fers for purposes of section 2642(a) shall be de-  
11 termined as if such allocation had been made  
12 on a timely filed gift tax return for each cal-  
13 endar year within which each transfer was  
14 made,

15 “(B) such allocation shall be effective im-  
16 mediately before such death, and

17 “(C) the amount of the transferor’s unused  
18 GST exemption available to be allocated shall  
19 be determined immediately before such death.

20 “(3) FUTURE INTEREST.—For purposes of this  
21 subsection, a person has a future interest in a trust  
22 if the trust may permit income or corpus to be paid  
23 to such person on a date or dates in the future.”.

24 (b) CONFORMING AMENDMENT.—Paragraph (2) of  
25 section 2632(b) of such Code is amended by striking “with

1 respect to a direct skip” and inserting “or subsection  
2 (c)(1)”.

3 (c) EFFECTIVE DATES.—

4 (1) DEEMED ALLOCATION.—Section 2632(c) of  
5 the Internal Revenue Code of 1986 (as added by  
6 subsection (a)), and the amendment made by sub-  
7 section (b), shall apply to transfers subject to chap-  
8 ter 11 or 12 made after December 31, 1999, and to  
9 estate tax inclusion periods ending after December  
10 31, 1999.

11 (2) RETROACTIVE ALLOCATIONS.—Section  
12 2632(d) of the Internal Revenue Code of 1986 (as  
13 added by subsection (a)) shall apply to deaths of  
14 non-skip persons occurring after December 31,  
15 1999.

16 **SEC. 302. SEVERING OF TRUSTS.**

17 (a) IN GENERAL.—Subsection (a) of section 2642 of  
18 the Internal Revenue Code of 1986 (relating to inclusion  
19 ratio) is amended by adding at the end the following new  
20 paragraph:

21 “(3) SEVERING OF TRUSTS.—

22 “(A) IN GENERAL.—If a trust is severed in  
23 a qualified severance, the trusts resulting from  
24 such severance shall be treated as separate  
25 trusts thereafter for purposes of this chapter.

1           “(B) QUALIFIED SEVERANCE.—For pur-  
2           poses of subparagraph (A)—

3           “(i) IN GENERAL.—The term ‘quali-  
4           fied severance’ means the division of a sin-  
5           gle trust and the creation (by any means  
6           available under the governing instrument  
7           or under local law) of two or more trusts  
8           if—

9           “(I) the single trust was divided  
10           on a fractional basis, and

11           “(II) the terms of the new trusts,  
12           in the aggregate, provide for the same  
13           succession of interests of beneficiaries  
14           as are provided in the original trust.

15           “(ii) TRUSTS WITH INCLUSION RATIO  
16           GREATER THAN ZERO.—If a trust has an  
17           inclusion ratio of greater than zero and  
18           less than 1, a severance is a qualified sev-  
19           erance only if the single trust is divided  
20           into two trusts, one of which receives a  
21           fractional share of the total value of all  
22           trust assets equal to the applicable fraction  
23           of the single trust immediately before the  
24           severance. In such case, the trust receiving  
25           such fractional share shall have an inclu-

1                   sion ratio of zero and the other trust shall  
2                   have an inclusion ratio of 1.

3                   “(iii) REGULATIONS.—The term  
4                   ‘qualified severance’ includes any other  
5                   severance permitted under regulations pre-  
6                   scribed by the Secretary.

7                   “(C) TIMING AND MANNER OF  
8                   SEVERANCES.—A severance pursuant to this  
9                   paragraph may be made at any time. The Sec-  
10                  retary shall prescribe by forms or regulations  
11                  the manner in which the qualified severance  
12                  shall be reported to the Secretary.”.

13                  (b) EFFECTIVE DATE.—The amendment made by  
14                  this section shall apply to severances after December 31,  
15                  1999.

16 **SEC. 303. MODIFICATION OF CERTAIN VALUATION RULES.**

17                  (a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR  
18                  DEEMED ALLOCATION MADE.—Paragraph (1) of section  
19                  2642(b) of such Code (relating to valuation rules, etc.)  
20                  is amended to read as follows:

21                         “(1) GIFTS FOR WHICH GIFT TAX RETURN  
22                         FILED OR DEEMED ALLOCATION MADE.—If the allo-  
23                         cation of the GST exemption to any transfers of  
24                         property is made on a gift tax return filed on or be-  
25                         fore the date prescribed by section 6075(b) for such

1 transfer or is deemed to be made under section 2632  
2 (b)(1) or (c)(1)—

3 “(A) the value of such property for pur-  
4 poses of subsection (a) shall be its value as fi-  
5 nally determined for purposes of chapter 12  
6 (within the meaning of section 2001(f)(2)), or,  
7 in the case of an allocation deemed to have been  
8 made at the close of an estate tax inclusion pe-  
9 riod, its value at the time of the close of the es-  
10 tate tax inclusion period, and

11 “(B) such allocation shall be effective on  
12 and after the date of such transfer, or, in the  
13 case of an allocation deemed to have been made  
14 at the close of an estate tax inclusion period, on  
15 and after the close of such estate tax inclusion  
16 period.”.

17 (b) TRANSFERS AT DEATH.—Subparagraph (A) of  
18 section 2642(b)(2) of such Code is amended to read as  
19 follows:

20 “(A) TRANSFERS AT DEATH.—If property  
21 is transferred as a result of the death of the  
22 transferor, the value of such property for pur-  
23 poses of subsection (a) shall be its value as fi-  
24 nally determined for purposes of chapter 11; ex-  
25 cept that, if the requirements prescribed by the

1 Secretary respecting allocation of post-death  
2 changes in value are not met, the value of such  
3 property shall be determined as of the time of  
4 the distribution concerned.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to transfers subject to chapter 11  
7 or 12 of the Internal Revenue Code of 1986 made after  
8 December 31, 1999.

9 **SEC. 304. RELIEF PROVISIONS.**

10 (a) IN GENERAL.—Section 2642 of such Code is  
11 amended by adding at the end the following new sub-  
12 section:

13 “(g) RELIEF PROVISIONS.—

14 “(1) RELIEF FROM LATE ELECTIONS.—

15 “(A) IN GENERAL.—The Secretary shall by  
16 regulation prescribe such circumstances and  
17 procedures under which extensions of time will  
18 be granted to make—

19 “(i) an allocation of GST exemption  
20 described in paragraph (1) or (2) of sub-  
21 section (b), and

22 “(ii) an election under subsection  
23 (b)(3) or (c)(5) of section 2632.

24 Such regulations shall include procedures for  
25 requesting comparable relief with respect to

1 transfers made before the date of the enactment  
2 of this paragraph.

3 “(B) BASIS FOR DETERMINATIONS.—In  
4 determining whether to grant relief under this  
5 paragraph, the Secretary shall take into ac-  
6 count all relevant circumstances, including evi-  
7 dence of intent contained in the trust instru-  
8 ment or instrument of transfer and such other  
9 factors as the Secretary deems relevant. For  
10 purposes of determining whether to grant relief  
11 under this paragraph, the time for making the  
12 allocation (or election) shall be treated as if not  
13 expressly prescribed by statute.

14 “(2) SUBSTANTIAL COMPLIANCE.—An alloca-  
15 tion of GST exemption under section 2632 that  
16 demonstrates an intent to have the lowest possible  
17 inclusion ratio with respect to a transfer or a trust  
18 shall be deemed to be an allocation of so much of  
19 the transferor’s unused GST exemption as produces  
20 the lowest possible inclusion ratio. In determining  
21 whether there has been substantial compliance, all  
22 relevant circumstances shall be taken into account,  
23 including evidence of intent contained in the trust  
24 instrument or instrument of transfer and such other  
25 factors as the Secretary deems relevant.”.

1 (b) EFFECTIVE DATES.—

2 (1) RELIEF FROM LATE ELECTIONS.—Section  
3 2642(g)(1) of the Internal Revenue Code of 1986  
4 (as added by subsection (a)) shall apply to requests  
5 pending on, or filed after, December 31, 1999.

6 (2) SUBSTANTIAL COMPLIANCE.—Section  
7 2642(g)(2) of such Code (as so added) shall apply  
8 to transfers subject to chapter 11 or 12 of the Inter-  
9 nal Revenue Code of 1986 made after December 31,  
10 1999. No implication is intended with respect to the  
11 availability of relief from late elections or the appli-  
12 cation of a rule of substantial compliance on or be-  
13 fore such date.

14 **TITLE IV—EXTENSION OF TIME**  
15 **FOR PAYMENT OF ESTATE TAX**

16 **SEC. 401. INCREASE IN NUMBER OF ALLOWABLE PARTNERS**  
17 **AND SHAREHOLDERS IN CLOSELY HELD**  
18 **BUSINESSES.**

19 (a) IN GENERAL.—Paragraphs (1)(B)(ii), (1)(C)(ii),  
20 and (9)(B)(iii)(I) of section 6166(b) of the Internal Rev-  
21 enue Code of 1986 (relating to definitions and special  
22 rules) are each amended by striking “15” and inserting  
23 “75”.

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

○