

105TH CONGRESS
1ST SESSION

H. R. 1299

To amend the Internal Revenue Code of 1986 to provide relief from estate and gift taxes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1997

Mr. McCRERY (for himself, Ms. DUNN, Mr. HERGER, Mr. CHRISTENSEN, and Mr. CONDIT) 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 provide relief from estate and gift taxes.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Family Business Protection Act of 1997”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **TITLE I—RELIEF FOR ALL**
4 **INDIVIDUALS**

5 **SEC. 101. UNIFIED CREDIT AGAINST ESTATE AND GIFT**
6 **TAXES REPLACED WITH UNIFIED EXEMPTION**
7 **AMOUNT.**

8 (a) IN GENERAL.—

9 (1) ESTATE TAX.—Part IV of subchapter A of
10 chapter 11 is amended by inserting after section
11 2051 the following new section:

12 **“SEC. 2052. EXEMPTION.**

13 “(a) IN GENERAL.—For purposes of the tax imposed
14 by section 2001, the value of the taxable estate shall be
15 determined by deducting from the value of the gross estate
16 an amount equal to the excess (if any) of—

17 “(1) the exemption amount for the calendar
18 year in which the decedent died, over

19 “(2) the sum of—

20 “(A) the aggregate amount allowed as an
21 exemption under section 2521 (or the cor-
22 responding provisions of prior law) with respect
23 to gifts made by the decedent after December
24 31, 1976, and

1 “(B) the aggregate amount of gifts made
 2 by the decedent for which credit was allowed by
 3 section 2505 (as in effect on the day before the
 4 date of the enactment of the Family Business
 5 Protection Act of 1997).

6 Gifts which are includible in the gross estate of the dece-
 7 dent shall not be taken into account in determining the
 8 amounts under paragraph (2).

9 “(b) EXEMPTION AMOUNT.—For purposes of sub-
 10 section (a), the term ‘exemption amount’ means the
 11 amount determined in accordance with the following table:

“In the case of calendar year:	The exemption amount is:
1998	\$680,000
1999	\$760,000
2000	\$840,000
2001	\$920,000
2002 or thereafter	\$1,000,000.

12 “(c) COST-OF-LIVING ADJUSTMENTS.—In the case of
 13 any decedent dying in a calendar year after 2002, the
 14 \$1,000,000 amount set forth in subsection (b) shall be in-
 15 creased by an amount equal to—

16 “(1) \$1,000,000, multiplied by

17 “(2) the cost-of-living adjustment determined
 18 under section 1(f)(3) for such calendar year by sub-
 19 stituting ‘calendar year 2001’ for ‘calendar year
 20 1992’ in subparagraph (B) thereof.

1 If any amount as adjusted under the preceding sentence
2 is not a multiple of \$10,000, such amount shall be round-
3 ed to the nearest multiple of \$10,000.”

4 (2) GIFT TAX.—Subchapter C of chapter 12
5 (relating to deductions) is amended by inserting be-
6 fore section 2522 the following new section:

7 **“SEC. 2521. EXEMPTION.**

8 “(a) IN GENERAL.—In computing taxable gifts for
9 any calendar year, there shall be allowed as a deduction
10 in the case of a citizen or resident of the United States
11 an amount equal to the excess of—

12 “(1) the exemption amount determined under
13 section 2052 for such calendar year, over

14 “(2) the sum of—

15 “(A) the aggregate amount allowed as an
16 exemption under this section (or the cor-
17 responding provisions of prior law) for all pre-
18 ceding calendar periods, and

19 “(B) the aggregate amount of gifts for
20 which credit was allowed by section 2505 (as in
21 effect on the day before the date of the enact-
22 ment of the Family Business Protection Act of
23 1997).”

24 (b) REPEAL OF UNIFIED CREDITS.—

1 (1) Section 2010 (relating to unified credit
2 against estate tax) is hereby repealed.

3 (2) Section 2505 (relating to unified credit
4 against gift tax) is hereby repealed.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Subsection (b) of section 2001 is amended
7 by adding at the end the following new sentence:
8 “For purposes of paragraph (2), the amount of the
9 tax payable under chapter 12 shall be determined
10 without regard to the credit provided by section
11 2505 (as in effect on the day before the date of the
12 enactment of the Family Business Protection Act of
13 1997).”

14 (2) Paragraph (2) of section 2001(c) is amend-
15 ed to read as follows:

16 “(2) PHASEOUT OF GRADUATED RATES.—The
17 amount of the tax determined under paragraph (1)
18 shall be increased by 5 percent of so much of the
19 taxable estate as exceeds \$10,000,000 but does not
20 exceed the amount at which the average tax rate
21 under this section is 55 percent.”

22 (3) Subsection (f) of section 2011 is amended
23 by striking “, reduced by the amount of the unified
24 credit provided by section 2010”.

1 (4) Subsection (a) of section 2012 is amended
2 by striking “and the unified credit provided by sec-
3 tion 2010”.

4 (5) Subsection (b) of section 2013 is amended
5 by inserting before the period at the end of the first
6 sentence “and increased by the exemption allowed
7 under section 2052 or 2106(a)(4) (or the cor-
8 responding provisions of prior law) in determining
9 the taxable estate of the transferor for purposes of
10 the estate tax”.

11 (6) Subparagraph (A) of section 2013(c)(1) is
12 amended by striking “2010,”.

13 (7) Paragraph (2) of section 2014(b) is amend-
14 ed by striking “2010,”.

15 (8) Clause (ii) of section 2056A(b)(12)(C) is
16 amended to read as follows:

17 “(ii) to treat any reduction in the tax
18 imposed by paragraph (1)(A) by reason of
19 the credit allowable under section 2010 (as
20 in effect on the day before the date of the
21 enactment of the Family Business Protec-
22 tion Act of 1997) or the exemption allow-
23 able under section 2052 with respect to the
24 decedent as such a credit or exemption (as
25 the case may be) allowable to such surviv-

1 ing spouse for purposes of determining the
2 amount of the exemption allowable under
3 section 2521 with respect to taxable gifts
4 made by the surviving spouse during the
5 year in which the spouse becomes a citizen
6 or any subsequent year.”.

7 (9) Section 2102 is amended by striking sub-
8 section (c).

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

11 “(4) EXEMPTION.—

12 “(A) IN GENERAL.—An exemption of
13 \$60,000.

14 “(B) RESIDENTS OF POSSESSIONS OF THE
15 UNITED STATES.—In the case of a decedent
16 who is considered to be a nonresident not a citi-
17 zen of the United States under section 2209,
18 the exemption under this paragraph shall be the
19 greater of—

20 “(i) \$60,000, or

21 “(ii) that proportion of \$175,000
22 which the value of that part of the dece-
23 dent’s gross estate which at the time of his
24 death is situated in the United States

1 bears to the value of his entire gross estate
2 wherever situated.

3 “(C) SPECIAL RULES.—

4 “(i) COORDINATION WITH TREA-
5 TIES.—To the extent required under any
6 treaty obligation of the United States, the
7 exemption allowed under this paragraph
8 shall be equal to the amount which bears
9 the same ratio to the exemption amount
10 under section 2052 (for the calendar year
11 in which the decedent died) as the value of
12 the part of the decedent’s gross estate
13 which at the time of his death is situated
14 in the United States bears to the value of
15 his entire gross estate wherever situated.
16 For purposes of the preceding sentence,
17 property shall not be treated as situated in
18 the United States if such property is ex-
19 empt from the tax imposed by this sub-
20 chapter under any treaty obligation of the
21 United States.

22 “(ii) COORDINATION WITH GIFT TAX
23 EXEMPTION AND UNIFIED CREDIT.—If an
24 exemption has been allowed under section
25 2521 (or a credit has been allowed under

1 section 2505 as in effect on the day before
2 the date of the enactment of the Family
3 Business Protection Act of 1997) with re-
4 spect to any gift made by the decedent,
5 each dollar amount contained in subpara-
6 graph (A) or (B) or the exemption amount
7 applicable under clause (i) of this subpara-
8 graph (whichever applies) shall be reduced
9 by the exemption so allowed under 2521
10 (or, in the case of such a credit, by the
11 amount of the gift for which the credit was
12 so allowed).”

13 (11) Subsection (c) of section 2107 is amend-
14 ed—

15 (A) by striking paragraph (1) and by re-
16 designating paragraphs (2) and (3) as para-
17 graphs (1) and (2), respectively, and

18 (B) by striking the second sentence of
19 paragraph (2) (as so redesignated).

20 (12) Section 2206 is amended by striking “the
21 taxable estate” in the first sentence and inserting
22 “the sum of the taxable estate and the amount of
23 the exemption allowed under section 2052 or
24 2106(a)(4) in computing the taxable estate”.

1 (13) Section 2207 is amended by striking “the
2 taxable estate” in the first sentence and inserting
3 “the sum of the taxable estate and the amount of
4 the exemption allowed under section 2052 or
5 2106(a)(4) in computing the taxable estate”.

6 (14) Subparagraph (B) of section 2207B(a)(1)
7 is amended to read as follows:

8 “(B) the sum of the taxable estate and the
9 amount of the exemption allowed under section
10 2052 or 2106(a)(4) in computing the taxable
11 estate.”

12 (15) Paragraph (3) of section 2504(a) is
13 amended to read as follows:

14 “(3) the exemption (if any) allowable under sec-
15 tion 2521 (or the corresponding provisions of prior
16 law) shall be applied in all computations in respect
17 of preceding calendar periods ending before January
18 1, 1977, or after December 31, 1997, for purposes
19 of computing the tax for any calendar year.”

20 (16) Paragraph (1) of section 6018(a) is
21 amended by striking “\$600,000” and inserting “the
22 exemption amount under section 2052 for the cal-
23 endar year which includes the date of death”.

24 (17) Subparagraph (A) of section 6601(j)(2) is
25 amended to read as follows:

1 “(A) the amount of the tax which would be
2 imposed by chapter 11 on an amount of taxable
3 estate equal to the excess of \$1,000,000 over
4 the exemption amount allowable under section
5 2052, or”.

6 (18) The table of sections for part II of sub-
7 chapter A of chapter 11 is amended by striking the
8 item relating to section 2010.

9 (19) The table of sections for subchapter A of
10 chapter 12 is amended by striking the item relating
11 to section 2505.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section—

14 (1) insofar as they relate to the tax imposed by
15 chapter 11 of the Internal Revenue Code of 1986,
16 shall apply to estates of decedents dying after De-
17 cember 31, 1997, and

18 (2) insofar as they relate to the tax imposed by
19 chapter 12 of such Code, shall apply to gifts made
20 after December 31, 1997.

1 **TITLE II—ADDITIONAL RELIEF**
2 **FOR FAMILY-OWNED BUSI-**
3 **NESSES AND FARMS**

4 **SEC. 201. FAMILY-OWNED BUSINESS EXCLUSION.**

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

8 **“SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

9 “(a) IN GENERAL.—In the case of an estate of a de-
10 cedent to which this section applies, the value of the gross
11 estate shall not include the lesser of—

12 “(1) the adjusted value of the qualified family-
13 owned business interests of the decedent otherwise
14 includible in the estate, or

15 “(2) the sum of—

16 “(A) \$1,500,000, plus

17 “(B) 50 percent of the excess (if any) of
18 the adjusted value of such interests over
19 \$1,500,000.

20 “(b) ESTATES TO WHICH SECTION APPLIES.—This
21 section shall apply to an estate if—

22 “(1) the decedent was (at the date of the dece-
23 dent’s death) a citizen or resident of the United
24 States,

25 “(2) the sum of—

1 “(A) the adjusted value of the qualified
2 family-owned business interests which—

3 “(i) are included in determining the
4 value of the gross estate (without regard to
5 this section), and

6 “(ii) are acquired by a qualified heir
7 from, or passed to a qualified heir from,
8 the decedent (within the meaning of sec-
9 tion 2032A(e)(9)), plus

10 “(B) the amount of the adjusted taxable
11 gifts of such interests from the decedent to
12 members of the decedent’s family taken into ac-
13 count under subsection 2001(b)(1)(B),

14 exceeds 50 percent of the adjusted gross estate, and

15 “(3) during the 8-year period ending on the
16 date of the decedent’s death there have been periods
17 aggregating 5 years or more during which—

18 “(A) such interests were owned by the de-
19 cedent or a member of the decedent’s family,
20 and

21 “(B) there was active management (within
22 the meaning of section 2032A(e)(12)) by the
23 decedent or a member of the decedent’s family
24 in the operation of the business to which such
25 interests relate.

1 “(c) ADJUSTED GROSS ESTATE.—For purposes of
2 this section, the term ‘adjusted gross estate’ means the
3 value of the gross estate (determined without regard to
4 this section)—

5 “(1) reduced by any amount deductible under
6 section 2053(a)(4), and

7 “(2) increased by the sum of—

8 “(A) the amount taken into account under
9 subsection (b)(2)(B), plus

10 “(B) the amount of other gifts from the
11 decedent to the decedent’s spouse (at the time
12 of the gift) within 10 years of the date of the
13 decedent’s death, plus

14 “(C) the amount of other gifts (not in-
15 cluded under subparagraph (A) or (B)) from
16 the decedent within 3 years of such date.

17 “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-
18 OWNED BUSINESS INTERESTS.—For purposes of this sec-
19 tion, the adjusted value of any qualified family-owned
20 business interest is the value of such interest for purposes
21 of this chapter (determined without regard to this sec-
22 tion), reduced by the excess of—

23 “(1) any amount deductible under section
24 2053(a)(4), over

25 “(2) the sum of—

1 “(A) any indebtedness on any qualified
2 residence of the decedent the interest on which
3 is deductible under section 163(h)(3), plus

4 “(B) any indebtedness to the extent the
5 taxpayer establishes that the proceeds of such
6 indebtedness were used for the payment of edu-
7 cational and medical expenses of the decedent,
8 the decedent’s spouse, or the decedent’s depend-
9 ents (within the meaning of section 152), plus

10 “(C) any indebtedness not described in
11 subparagraph (A) or (B), to the extent such in-
12 debtedness does not exceed \$10,000.

13 “(e) QUALIFIED FAMILY-OWNED BUSINESS INTER-
14 EST.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the term ‘qualified family-owned business inter-
17 est’ means—

18 “(A) an interest as a proprietor in a trade
19 or business carried on as a proprietorship, or

20 “(B) an interest as a partner in a partner-
21 ship, or stock in a corporation, carrying on a
22 trade or business, if—

23 “(i) at least—

24 “(I) 50 percent of such partner-
25 ship or corporation is owned (directly

1 or indirectly) by the decedent or mem-
2 bers of the decedent’s family,

3 “(II) 70 percent of such partner-
4 ship or corporation is so owned by 2
5 families (including the decedent’s fam-
6 ily), or

7 “(III) 90 percent of such part-
8 nership or corporation is so owned by
9 3 families (including the decedent’s
10 family), and

11 “(ii) at least 30 percent of such part-
12 nership or corporation is so owned by each
13 family described in subclause (II) or (III)
14 of clause (i).

15 “(2) LIMITATION.—Such term shall not in-
16 clude—

17 “(A) any interest in a trade or business
18 the principal place of business of which is not
19 located in the United States,

20 “(B) any interest in—

21 “(i) an entity which had, or

22 “(ii) an entity which is a member of
23 a controlled group (as defined in section
24 267(f)(1)) which had,

1 readily tradable stock or debt on an established
2 securities market or secondary market (as de-
3 fined by the Secretary) within 3 years of the
4 date of the decedent's death,

5 “(C) any interest in a trade or business
6 not described in section 542(c)(2), if more than
7 35 percent of the adjusted ordinary gross in-
8 come of such trade or business for the taxable
9 year which includes the date of the decedent's
10 death would qualify as personal holding com-
11 pany income (as defined in section 543(a)), and

12 “(D) that portion of an interest in a trade
13 or business that is attributable to cash or mar-
14 ketable securities, or both, in excess of the rea-
15 sonably expected day-to-day working capital
16 needs of such trade or business.

17 “(3) OWNERSHIP RULES.—

18 “(A) INDIRECT OWNERSHIP.—For pur-
19 poses of determining indirect ownership under
20 paragraph (1), rules similar to the rules of
21 paragraphs (2) and (3) of section 447(e) shall
22 apply.

23 “(B) TIERED ENTITIES.—For purposes of
24 this section, if—

1 “(i) a qualified family-owned business
2 holds an interest in another trade or busi-
3 ness, and

4 “(ii) such interest would be a qualified
5 family-owned business interest if held di-
6 rectly by the family (or families) holding
7 interests in the qualified family-owned
8 business meeting the requirements of para-
9 graph (1)(B),

10 then the value of the qualified family-owned
11 business shall include the portion attributable
12 to the interest in the other trade or business.

13 “(f) TAX TREATMENT OF FAILURE TO ACTIVELY
14 MANAGE BUSINESS OR DISPOSITIONS OF INTERESTS.—

15 “(1) IN GENERAL.—There is imposed an addi-
16 tional estate tax if, within 10 years after the date
17 of the decedent’s death and before the date of the
18 qualified heir’s death—

19 “(A) the qualified heir ceases to use for
20 the qualified use (within the meaning of section
21 2032A(c)(6)(B), determined by substituting ‘ac-
22 tive management’ for ‘material participation’
23 each place it appears) the qualified family-
24 owned business interest which was acquired (or
25 passed) from the decedent, or

1 “(B) the qualified heir disposes of any por-
2 tion of a qualified family-owned business inter-
3 est (other than by a disposition to a member of
4 the qualified heir’s family or through a qualified
5 conservation contribution under section
6 170(h)).

7 “(2) ADDITIONAL ESTATE TAX.—The amount
8 of the additional estate tax imposed by paragraph
9 (1) shall be equal to—

10 “(A) the applicable percentage of adjusted
11 tax difference attributable to the qualified fam-
12 ily-owned business interest (as determined
13 under rules similar to the rules of section
14 2032A(c)(2)(B)), plus

15 “(B) interest on the amount determined
16 under subparagraph (A) at the annual rate of
17 4 percent for the period beginning on the date
18 the estate tax liability was due under this chap-
19 ter and ending on the date such additional es-
20 tate tax is due.

21 “(3) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (2), the term ‘applicable percentage’
23 means the percentage determined in accordance with
24 the following table for the year (in the 10-year pe-

1 riod referred to in paragraph (1)) in which the re-
 2 capture event occurs:

In the case of the:	The applicable percentage is:
First 5 such year	100 percent
6th such year	50 percent
7th such year	40 percent
8th such year	30 percent
9th such year	20 percent
10th such year	10 percent.

3 “(g) OTHER DEFINITIONS AND APPLICABLE
 4 RULES.—For purposes of this section—

5 “(1) QUALIFIED HEIR.—The term ‘qualified
 6 heir’—

7 “(A) has the meaning given to such term
 8 by section 2032A(e)(1), and

9 “(B) includes any active employee of the
 10 trade or business to which the qualified family-
 11 owned business interest relates if such employee
 12 has been employed by such trade or business
 13 for a period of at least 10 years before the date
 14 of the decedent’s death.

15 “(2) MEMBER OF THE FAMILY.—The term
 16 ‘member of the family’ has the meaning given to
 17 such term by section 447(e)(1).

18 “(3) INFLATION ADJUSTMENT.—In the case of
 19 estates of decedents dying in a calendar year after
 20 1997, the \$1,500,000 amount contained in sub-
 21 section (a) shall be increased each place it appears
 22 by an amount equal to—

1 “(A) \$1,500,000, multiplied by

2 “(B) the cost-of-living adjustment deter-
3 mined under section 1(f)(3) for such calendar
4 year by substituting ‘calendar year 1996’ for
5 ‘calendar year 1992’ in subparagraph (B)
6 thereof.

7 If any amount as adjusted under the preceding sen-
8 tence is not a multiple of \$10,000, such amount
9 shall be rounded to the nearest multiple of \$10,000.

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

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

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

16 “(C) Section 2032A(c)(2)(D) (relating to
17 partial dispositions).

18 “(D) Section 2032A(c)(3) (relating to only
19 1 additional tax imposed with respect to any 1
20 portion).

21 “(E) Section 2032A(c)(4) (relating to due
22 date).

23 “(F) Section 2032A(c)(5) (relating to li-
24 ability for tax; furnishing of bond).

1 “(G) Section 2032A(c)(7) (relating to no
2 tax if use begins within 2 years; active manage-
3 ment by eligible qualified heir treatment as ma-
4 terial participation).

5 “(H) Section 2032A(e)(10) (relating to
6 community property).

7 “(I) Section 2032A(e)(14) (relating to
8 treatment of replacement property acquired in
9 section 1031 or 1033 transactions).

10 “(J) Section 2032A(f) (relating to statute
11 of limitations).

12 “(K) Section 6166(b)(3) (relating to farm-
13 houses and certain other structures taken into
14 account).

15 “(L) Subparagraphs (B), (C), and (D) of
16 section 6166(g)(1) (relating to acceleration of
17 payment).”

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

 “Sec. 2033A. Family-owned business exclusion.”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to estates of decedents dying after
24 December 31, 1996.

1 **SEC. 202. INFLATION ADJUSTMENT OF MAXIMUM BENEFIT**
2 **UNDER SPECIAL ESTATE TAX VALUATION**
3 **RULES FOR CERTAIN FARM, ETC., REAL**
4 **PROPERTY.**

5 (a) IN GENERAL.—Paragraph (2) of section
6 2032A(a) (relating to limitation on aggregate reduction in
7 fair market value) is amended to read as follows:

8 “(2) LIMITATION ON AGGREGATE REDUCTION
9 IN FAIR MARKET VALUE.—

10 “(A) IN GENERAL.—The aggregate de-
11 crease in the value of qualified real property
12 taken into account for purposes of this chapter
13 which results from the application of paragraph
14 (1) with respect to any decedent shall not ex-
15 ceed \$750,000.

16 “(B) INFLATION ADJUSTMENT.—In the
17 case of estates of decedents dying in a calendar
18 year after 1996, the \$750,000 amount set forth
19 in subparagraph (A) shall be increased by an
20 amount equal to—

21 “(i) \$750,000, multiplied by

22 “(ii) the cost-of-living adjustment de-
23 termined under section 1(f)(3) for such
24 calendar year by substituting ‘calendar
25 year 1995’ for ‘calendar year 1992’ in sub-
26 paragraph (B) thereof.

1 Any increase determined under the preceding
 2 sentence shall be rounded to the nearest mul-
 3 tiple of \$1,000.”

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall apply to estates of decedents dying
 6 after December 31, 1996.

7 **TITLE III—BENEFITS FOR** 8 **CONSERVATION EASEMENTS**

9 **SEC. 301. TREATMENT OF LAND SUBJECT TO A QUALIFIED** 10 **CONSERVATION EASEMENT.**

11 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT
 12 TO A QUALIFIED CONSERVATION EASEMENT.—Section
 13 2031 (relating to the definition of gross estate) is amend-
 14 ed by redesignating subsection (c) as subsection (d) and
 15 by inserting after subsection (b) the following new sub-
 16 section:

17 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-
 18 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

19 “(1) IN GENERAL.—If the executor makes the
 20 election described in paragraph (4), then, except as
 21 otherwise provided in this subsection, there shall be
 22 excluded from the gross estate the value of land sub-
 23 ject to a qualified conservation easement.

24 “(2) TREATMENT OF CERTAIN INDEBTED-
 25 NESS.—

1 “(A) IN GENERAL.—The exclusion pro-
2 vided in paragraph (1) shall not apply to the
3 extent that the land is debt-financed property.

4 “(B) DEFINITIONS.—For purposes of this
5 paragraph—

6 “(i) DEBT-FINANCED PROPERTY.—
7 The term ‘debt-financed property’ means
8 any property with respect to which there is
9 an acquisition indebtedness (as defined in
10 clause (ii)) on the date of the decedent’s
11 death.

12 “(ii) ACQUISITION INDEBTEDNESS.—
13 The term ‘acquisition indebtedness’ means,
14 with respect to debt-financed property, the
15 unpaid amount of—

16 “(I) the indebtedness incurred by
17 the donor in acquiring such property,

18 “(II) the indebtedness incurred
19 before the acquisition of such property
20 if such indebtedness would not have
21 been incurred but for such acquisition.

22 “(III) the indebtedness incurred
23 after the acquisition of such property
24 if such indebtedness would not have
25 been incurred but for such acquisition

1 and the incurrence of such indebted-
2 ness was reasonably foreseeable at the
3 time of such acquisition, except that
4 indebtedness incurred after the acqui-
5 sition of such property is not acquisi-
6 tion indebtedness if incurred to carry
7 on activities directly related to farm-
8 ing, ranching, forestry, horticulture,
9 or viticulture, and

10 “(IV) the extension, renewal, or
11 refinancing of an acquisition indebted-
12 ness.

13 “(3) TREATMENT OF RETAINED DEVELOPMENT
14 RIGHT.—

15 “(A) IN GENERAL.—Paragraph (1) shall
16 not apply to the value of any development right
17 retained by the donor in the conveyance of a
18 qualified conservation easement.

19 “(B) TERMINATION OF RETAINED DEVEL-
20 OPMENT RIGHT.—If every person in being who
21 has an interest (whether or not in possession)
22 in such land shall execute an agreement to ex-
23 tinguish permanently some or all of any devel-
24 opment rights (as defined in subparagraph (D))
25 retained by the donor on or before the date for

1 filing the return of the tax imposed by section
2 2001, then any tax imposed by section 2001
3 shall be reduced accordingly. Such agreement
4 shall be filed with the return of the tax imposed
5 by section 2001. The agreement shall be in
6 such form as the Secretary shall prescribe.

7 “(C) ADDITIONAL TAX.—Failure to imple-
8 ment the agreement described in subparagraph
9 (B) within 2 years of the decedent’s death shall
10 result in the imposition of an additional tax in
11 the amount of tax which would have been due
12 on the retained development rights subject to
13 such agreement. Such additional tax shall be
14 due and payable on the last day of the 6th
15 month following the end of the 2-year period.

16 “(D) DEVELOPMENT RIGHT DEFINED.—
17 For purposes of this paragraph, the term ‘de-
18 velopment right’ means the right to establish or
19 use any structure and the land immediately sur-
20 rounding it for sale (other than the sale of the
21 structure as part of a sale of the entire tract of
22 land subject to the qualified conservation ease-
23 ment), or other commercial purpose which is
24 not subordinate to and directly supportive of
25 the activity of farming, forestry, ranching, hor-

1 ticulture, or viticulture conducted on land sub-
2 ject to the qualified conservation easement in
3 which such right is retained.

4 “(4) ELECTION.—The election under this sub-
5 section shall be made on the return of the tax im-
6 posed by section 2001. Such an election, once made,
7 shall be irrevocable.

8 “(5) CALCULATION OF ESTATE TAX DUE.—An
9 executor making the election described in paragraph
10 (4) shall, for purposes of calculating the amount of
11 tax imposed by section 2001, include the value of
12 any development right (as defined in paragraph (3))
13 retained by the donor in the conveyance of such
14 qualified conservation easement. The computation of
15 tax on any retained development right prescribed in
16 this paragraph shall be done in such manner and on
17 such forms as the Secretary shall prescribe.

18 “(6) DEFINITIONS.—For purposes of this sub-
19 section—

20 “(A) LAND SUBJECT TO A QUALIFIED
21 CONSERVATION EASEMENT.—The term ‘land
22 subject to a qualified conservation easement’
23 means land—

1 “(i) which is located in or within 50
2 miles of an area which, on the date of the
3 decedent’s death, is—

4 “(I) a metropolitan area (as de-
5 fined by the Office of Management
6 and Budget), or

7 “(II) a National Park or wilder-
8 ness area designated as part of the
9 National Wilderness Preservation Sys-
10 tem (unless it is determined by the
11 Secretary that land in or within 50
12 miles of such a park or wilderness
13 area is not under significant develop-
14 ment pressure),

15 “(ii) which was owned by the decedent
16 or a member of the decedent’s family at all
17 times during the 3-year period ending on
18 the date of the decedent’s death, and

19 “(iii) with respect to which a qualified
20 conservation easement is or has been made
21 by the decedent or a member of the dece-
22 dent’s family.

23 “(B) QUALIFIED CONSERVATION EASE-
24 MENT.—The term ‘qualified conservation ease-
25 ment’ means a qualified conservation contribu-

1 tion (as defined in section 170(h)(1)) of a quali-
2 fied real property interest (as defined in section
3 170(h)(2)(C)), except that for this purpose the
4 term ‘qualified real property interest’ shall not
5 include any structure or building constituting ‘a
6 certified historic structure’ as defined in section
7 170(h)(4)(B), and the restriction on the use of
8 such interest described in section 170(h)(2)(C)
9 shall include a prohibition on commercial rec-
10 reational activity, except that the leasing of
11 fishing and hunting rights shall not be consid-
12 ered commercial recreational activity when such
13 leasing is subordinate to the activities of farm-
14 ing, ranching, forestry, horticulture or viticul-
15 ture.

16 “(C) MEMBER OF FAMILY.—The term
17 ‘member of the decedent’s family’ means any
18 member of the family (as defined in section
19 2032A(e)(2)) of the decedent.

20 “(7) APPLICATION OF THIS SECTION TO INTER-
21 ESTS IN PARTNERSHIPS, CORPORATIONS, AND
22 TRUSTS.—The Secretary shall prescribe regulations
23 applying this section to an interest in a partnership,
24 corporation, or trust which, with respect to the dece-

1 dent, is an interest in a closely held business (within
2 the meaning of paragraph (1) of section 6166(b)).”

3 (b) CARRYOVER BASIS.—Section 1014(a) (relating to
4 basis of property acquired from a decedent) is amended
5 by striking the period at the end of paragraph (3) and
6 inserting “, or” and by adding after paragraph (3) the
7 following new paragraph:

8 “(4) to the extent of the applicability of the ex-
9 clusion described in section 2031(c), the basis in the
10 hands of the decedent.”

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to estates of decedents dying after
13 December 31, 1996.

14 **SEC. 302. GIFT TAX ON LAND SUBJECT TO A QUALIFIED**
15 **CONSERVATION EASEMENT.**

16 (a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO
17 A QUALIFIED CONSERVATION EASEMENT.—Section 2503
18 (relating to taxable gifts) is amended by adding at the end
19 the following new subsection:

20 “(h) GIFT TAX WITH RESPECT TO LAND SUBJECT
21 TO A QUALIFIED CONSERVATION EASEMENT.—The trans-
22 fer by gift of land subject to a qualified conservation ease-
23 ment shall not be treated as a transfer of property by gift
24 for purposes of this chapter. For purposes of this sub-
25 section, the term ‘land subject to a qualified conservation

1 easement' has the meaning given to such term by section
 2 2031(c); except that references to the decedent shall be
 3 treated as references to the donor and references to the
 4 date of the decedent's death shall be treated as references
 5 to the date of the transfer by the donor."

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to gifts made after December 31,
 8 1996.

9 **SEC. 303. QUALIFIED CONSERVATION CONTRIBUTION IS**
 10 **NOT A DISPOSITION.**

11 (a) QUALIFIED CONSERVATION CONTRIBUTION IS
 12 NOT A DISPOSITION.—Subsection (c) of section 2032A
 13 (relating to alternative valuation method) is amended by
 14 adding at the end the following new paragraphs:

15 “(8) QUALIFIED CONSERVATION CONTRIBUTION
 16 IS NOT A DISPOSITION.—A qualified conservation
 17 contribution (as defined in section 170(h)) by gift or
 18 otherwise shall not be deemed a disposition under
 19 subsection (c)(1)(A).

20 “(9) EXCEPTION FOR REAL PROPERTY IS LAND
 21 SUBJECT TO A QUALIFIED CONSERVATION EASE-
 22 MENT.—If qualified real property is land subject to
 23 a qualified conservation easement (as defined in sec-
 24 tion 2031(c)), the preceding paragraphs of this sub-
 25 section shall not apply.”

1 (b) LAND SUBJECT TO A QUALIFIED CONSERVATION
2 EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of
3 section 2032A (relating to alternative valuation method)
4 is amended by adding at the end the following paragraph:

5 “(E) If property is otherwise qualified real
6 property, the fact that it is land subject to a
7 qualified conservation easement (as defined in
8 section 2031(c)) shall not disqualify it under
9 this section.”

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to contributions made,
12 and easements granted, after December 31, 1996.

13 **SEC. 304. QUALIFIED CONSERVATION CONTRIBUTION**
14 **WHERE SURFACE AND MINERAL RIGHTS ARE**
15 **SEPARATED.**

16 (a) IN GENERAL.—Section 170(h)(5)(B)(ii) (relating
17 to special rule) is amended to read as follows:

18 “(ii) SPECIAL RULE.—With respect to any con-
19 tribution of property in which the ownership of the
20 surface estate and mineral interests has been and re-
21 mains separated, subparagraph (A) shall be treated
22 as met if the probability of surface mining occurring
23 on such property is so remote as to be negligible.”

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply with respect to contributions made

1 after December 31, 1992, in taxable years ending after
2 such date.

3 **TITLE IV—BENEFITS FOR**
4 **HISTORIC PRESERVATION**

5 **SEC. 401. EXCLUSION FROM ESTATE TAX FOR HISTORIC**
6 **PROPERTY SUBJECT TO PRESERVATION**
7 **EASEMENT.**

8 (a) IN GENERAL.—Part IV of subchapter A of chap-
9 ter 11 (relating to taxable estate) is amended by adding
10 at the end the following new section:

11 **“SEC. 2057. QUALIFIED HISTORIC PROPERTY.**

12 “(a) GENERAL RULE.—For purposes of the tax im-
13 posed by section 2001, the value of the taxable estate shall
14 be determined by deducting from the value of the gross
15 estate an amount equal to the value of any qualified his-
16 toric property included in the gross estate.

17 “(b) DEFINITIONS.—For purposes of this section—

18 “(1) QUALIFIED HISTORIC PROPERTY.—

19 “(A) IN GENERAL.—The term ‘qualified
20 historic property’ means any historic property
21 if—

22 “(i) on or before the date on which
23 the return of the tax imposed by section
24 2001 is filed, a qualified real property in-
25 terest described in section 170(h)(2)(C) in

1 such property is held by a qualified organi-
2 zation for the purpose described in section
3 170(h)(4)(A)(iv), and

4 “(ii) such property is covered by an
5 agreement meeting the requirements of
6 subsection (c) which is entered into on or
7 before such date.

8 Clause (i) shall not be construed to require that
9 the property be held for the purpose described
10 therein for longer than the 20-year period re-
11 ferred to in subsection (c)(1)(D).

12 “(B) TREATMENT OF PERSONAL PROP-
13 ERTY.—Such term includes personal property
14 included within, or associated with, qualified
15 historic property (as defined in paragraph (1))
16 if such personal property—

17 “(i) is held by the decedent holding
18 such qualified historic property,

19 “(ii) has been so included within, or
20 associated with, such qualified historic
21 property throughout the 10-year period
22 ending on the date of the decedent’s death,
23 and

1 “(iii) is covered by the agreement re-
2 ferred to in subparagraph (A)(ii) which
3 covers such qualified historic property.

4 “(2) HISTORIC PROPERTY.—The term ‘historic
5 property’ means—

6 “(A) any building (and its structural com-
7 ponents)—

8 “(i) which is designated as a National
9 Historic Landmark under section 101 of
10 the National Historic Preservation Act
11 throughout the 10-year period ending on
12 the date of the decedent’s death,

13 “(ii) which was owned by the decedent
14 or a member of the decedent’s family (as
15 defined in section 2032A(e)(2)) throughout
16 such 10-year period, and

17 “(iii) which was originally used for
18 residential purposes, and

19 “(B) any other real property to the extent
20 reasonably necessary for public view and visita-
21 tion of the property described in subparagraph
22 (A).

23 “(3) QUALIFIED ORGANIZATION.—The term
24 ‘qualified organization’ has the meaning given to
25 such term by section 170(h)(3).

1 “(4) TREATMENT OF QUALIFIED HISTORIC
2 PROPERTY HELD BY A CORPORATION.—In the case
3 of a corporation all of the stock in which was held
4 on the date of the decedent’s death by the decedent
5 or members of the decedent’s family (as defined in
6 section 2032A(e)(2))—

7 “(A) stock in such corporation shall be
8 treated for purposes of this section as qualified
9 historic property to the extent that the value of
10 such stock is attributable to qualified historic
11 property held by such corporation, but

12 “(B) the requirements of subsection (c)
13 shall be met only if each member of the dece-
14 dent’s family holding such stock on such date
15 sign the agreement referred to in subsection (c).

16 “(c) REQUIREMENTS FOR AGREEMENT.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (b)(1)(A)(ii), an agreement meets the requirements
19 of this subsection if—

20 “(A) such agreement is a written agree-
21 ment signed by each person in being who has
22 an interest (whether or not in possession) in the
23 historic property (other than the qualified orga-
24 nization),

1 “(B) such agreement is entered into with
2 a State historic preservation agency (or similar
3 State agency) and filed with the Secretary with
4 the return of the tax imposed by section 2001,

5 “(C) such agreement provides that the only
6 activities carried on at the historic property are
7 activities which are substantially related (aside
8 from the need for income or funds or the use
9 made of the profits derived) to—

10 “(i) the public view and visitation of
11 such property and the property described
12 in the last sentence of subsection (b)(1)
13 with respect to such property), and

14 “(ii) the maintenance and preserva-
15 tion of such property and surrounding
16 areas for such public view and visitation,

17 “(D) such agreement provides that the his-
18 toric property will be open to the public on a
19 substantial and regular basis for a period of at
20 least 20 years beginning on the date on which
21 the return of the tax imposed by section 2001
22 is filed, and

23 “(E) such agreement provides that any ad-
24 mission fees (if any) shall bear a reasonable re-
25 lationship to admission fees for other com-

1 parable tourist sites and shall be approved by
2 such State historic preservation agency (or
3 similar State agency).

4 “(2) TREATMENT OF FOOD, LODGING, AND
5 MEETING FACILITIES PROVIDED TO GENERAL PUB-
6 LIC.—The regular carrying on—

7 “(A) a trade or business of providing lodg-
8 ing shall be treated as not substantially related
9 for purposes of paragraph (1)(C),

10 “(B) a trade or business of providing food
11 shall be treated as not substantially related for
12 purposes of paragraph (1)(C) unless—

13 “(i) such food is only provided to indi-
14 viduals who pay the generally applicable
15 admission fees (if any) for admission to
16 the property by individuals to whom no
17 food is provided, and

18 “(ii) only an insubstantial portion of
19 the structures on the historic property is
20 devoted to the provision of such food, and

21 “(C) a trade or business of providing facili-
22 ties for meetings or events shall be treated as
23 not substantially related for purposes of para-
24 graph (1)(C) unless all of the net proceeds from

1 such trade or business are used for mainte-
2 nance or preservation of the historic property.

3 “(d) TAX TREATMENT OF DISPOSITIONS AND FAIL-
4 URE TO COMPLY WITH AGREEMENT.—

5 “(1) IMPOSITION OF ADDITIONAL ESTATE
6 TAX.—If, during the 20-year period referred to in
7 subsection (c)(1)(D)—

8 “(A) any person signing the written agree-
9 ment referred to in subsection (c) disposes of
10 any interest in the qualified historic property,
11 or

12 “(B) there is a violation of any provision
13 of such agreement (as determined under regula-
14 tions prescribed by the Secretary),
15 then there is hereby imposed an additional estate
16 tax.

17 “(2) EXCEPTION FOR CERTAIN TRANSFEREES
18 WHO AGREE TO BE BOUND BY AGREEMENT.—No tax
19 shall be imposed under paragraph (1) by reason of
20 any disposition if the person acquiring the prop-
21 erty—

22 “(A) is a qualified organization or is a
23 member of the family (as defined in section
24 2032A(e)(2)) of the person disposing of such
25 property, and

1 “(B) agrees to be bound by the agreement
 2 referred to in subsection (b)(4) and to be liable
 3 for any tax under this subsection in the same
 4 manner as the person disposing of such prop-
 5 erty.

6 “(3) AMOUNT OF ADDITIONAL TAX.—

7 “(A) IN GENERAL.—The amount of the
 8 additional tax imposed by paragraph (1) with
 9 respect to any property shall be an amount
 10 equal to the applicable percentage of the excess
 11 of—

12 “(i) what would (but for subsection
 13 (a)) have been the tax imposed by section
 14 2001 (reduced by the credits allowable),
 15 over

16 “(ii) the tax imposed by section 2001
 17 (as so reduced).

18 “(B) APPLICABLE PERCENTAGE.—For
 19 purposes of subparagraph (A), the applicable
 20 percentage is the percentage determined in ac-
 21 cordance with the following table for the year
 22 (of 20-year period referred to in subsection
 23 (c)(1)(D)) in which the event described in para-
 24 graph (1) occurs:

“If the event occurs during:	The applicable percentage is:
The 1st 12 years of such 20-year period	100 percent

The 13th or 14th year of such period	80 percent
The 15th or 16th year of such period	60 percent
The 17th or 18th year of such period	40 percent
The 19th or 20th year of such period	20 percent.

1 “(4) DUE DATE.—The additional tax imposed
2 by this subsection shall be due and payable on the
3 day which is 6 months after the date of the dispo-
4 sition or violation referred to in paragraph (1).

5 “(5) LIABILITY FOR TAX.—Any person signing
6 the agreement referred to in subsection (c) (other
7 than the executor) shall be personally liable for the
8 additional tax imposed by this subsection. If more
9 than 1 person is liable under this subsection, all
10 such persons shall be jointly and severally liable.

11 “(6) CERTAIN OTHER RULES TO APPLY.—Rules
12 similar to the rules of sections 1016(c), 2013(f), and
13 2032A(f) shall apply for purposes of this subsection.

14 “(e) OTHER SPECIAL RULES.—

15 “(1) COORDINATION WITH DEDUCTION FOR
16 TRANSFER OF EASEMENT.—Section 2055(f) shall
17 not apply to any interest referred to therein with re-
18 spect to property for which a deduction is allowed
19 under subsection (a).

20 “(2) DENIAL OF DEDUCTION OF INDEBTED-
21 NESS ON EXCLUDED PROPERTY.—No deduction
22 shall be allowed under section 2053 for indebtedness

1 in respect of property the value of which is deducted
2 under subsection (a).

3 “(3) SUBMISSION OF ANNUAL INVENTORIES OF
4 PERSONAL PROPERTY.—The Secretary shall require
5 the submission to the Secretary of such inventories
6 of personal property which is qualified historic prop-
7 erty as the Secretary determines are necessary for
8 purposes of this section.”

9 (b) TECHNICAL AMENDMENTS.—

10 (1) Subsection (a) of section 1014 of such Code
11 is amended by striking the period at the end of
12 paragraph (3) and inserting “, or” and by adding
13 after paragraph (3) the following new paragraph:

14 “(4) in the case of property the value of which
15 was deducted under section 2057(a), the adjusted
16 basis of such property in the hands of the decedent
17 immediately before the death of the decedent.”

18 (2) Subparagraph (A) of section 2056A(b)(10)
19 of such Code is amended by inserting “2057,” after
20 “2056,”.

21 (3) The table of sections for part IV of sub-
22 chapter A of chapter 11 of such Code is amended by
23 adding at the end the following new item:

“Sec. 2057. Qualified historic property.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to the estates of dece-
3 dents dying after the date of the enactment of this Act.

○