

105TH CONGRESS  
1ST SESSION

# S. 693

To amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent.

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IN THE SENATE OF THE UNITED STATES

MAY 5, 1997

Mr. D'AMATO introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent.

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. EXCLUSION FROM ESTATE TAX FOR HISTORIC**  
4 **PROPERTY SUBJECT TO PRESERVATION**  
5 **EASEMENT.**

6 (a) IN GENERAL.—Part IV of subchapter A of chap-  
7 ter 11 of the Internal Revenue of 1986 (relating to taxable

1 estate) is amended by adding at the end the following new  
2 section:

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

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

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

10 “(1) QUALIFIED HISTORIC PROPERTY.—

11 “(A) IN GENERAL.—The term ‘qualified  
12 historic property’ means any historic property  
13 if—

14 “(i) on or before the date on which  
15 the return of the tax imposed by section  
16 2001 is filed, a qualified real property in-  
17 terest described in section 170(h)(2)(C) in  
18 such property is held by a qualified organi-  
19 zation for the purpose described in section  
20 170(h)(4)(A)(iv), and

21 “(ii) such property is covered by an  
22 agreement meeting the requirements of  
23 subsection (c) which is entered into on or  
24 before such date.

1           “(B) TREATMENT OF PERSONAL PROP-  
 2           ERTY.—Such term includes personal property  
 3           included within, or associated with, qualified  
 4           historic property (as defined in paragraph (1))  
 5           if such personal property—

6                   “(i) is held by the decedent holding  
 7                   such qualified historic property,

8                   “(ii) has been so included within, or  
 9                   associated with, such qualified historic  
 10                  property throughout the 10-year period  
 11                  ending on the date of the decedent’s death,  
 12                  and

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

16           “(2) HISTORIC PROPERTY.—The term ‘historic  
 17           property’ means—

18                   “(A) any building (and its structural com-  
 19                   ponents)—

20                   “(i) which is designated as a National  
 21                   Historic Landmark under section 101 of  
 22                   the National Historic Preservation Act  
 23                   throughout the 10-year period ending on  
 24                   the date of the decedent’s death,

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

5           “(iii) which was originally used for  
6           residential purposes, and

7           “(B) any other real property to the extent  
8           reasonably necessary for public view and visita-  
9           tion of the property described in subparagraph  
10          (A).

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

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

20                 “(A) stock in such corporation shall be  
21                 treated for purposes of this section as qualified  
22                 historic property to the extent that the value of  
23                 such stock is attributable to qualified historic  
24                 property held by such corporation, but

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

5           “(c) REQUIREMENTS FOR AGREEMENT.—

6           “(1) IN GENERAL.—For purposes of subsection  
7           (b)(1)(A)(ii), an agreement meets the requirements  
8           of this subsection if—

9           “(A) such agreement is a written agree-  
10          ment signed by each person in being who has  
11          an interest (whether or not in possession) in the  
12          historic property (other than the qualified orga-  
13          nization),

14          “(B) such agreement is entered into with  
15          a State historic preservation agency (or similar  
16          State agency) and filed with the Secretary with  
17          the return of the tax imposed by section 2001,

18          “(C) such agreement provides that the only  
19          activities carried on at the historic property are  
20          activities which are substantially related (aside  
21          from the need for income or funds or the use  
22          made of the profits derived) to—

23                  “(i) the public view and visitation of  
24                  such property and the property described

1 in the last sentence of subsection (b)(1)  
2 with respect to such property), and

3 “(ii) the maintenance and preserva-  
4 tion of such property and surrounding  
5 areas for such public view and visitation,

6 “(D) such agreement provides that the his-  
7 toric property will be open to the public for a  
8 period of at least 20 years beginning on the  
9 date on which the return of the tax imposed by  
10 section 2001 is filed, and

11 “(E) such agreement provides that any ad-  
12 mission fees (if any) shall bear a reasonable re-  
13 lationship to admission fees for other com-  
14 parable tourist sites and shall be approved by  
15 such State historic preservation agency (or  
16 similar State agency).

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

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

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

1           “(i) such food is only provided to indi-  
 2           viduals who pay the generally applicable  
 3           admission fees (if any) for admission to  
 4           the property by individuals to whom no  
 5           food is provided, and

6           “(ii) only an insubstantial portion of  
 7           the structures on the historic property is  
 8           devoted to the provision of such food, and

9           “(C) a trade or business of providing facili-  
 10          ties for meetings or events shall be treated as  
 11          not substantially related for purposes of para-  
 12          graph (1)(C) unless all of the net proceeds from  
 13          such trade or business are used for mainte-  
 14          nance or preservation of the historic property.

15          “(3) OPEN TO THE PUBLIC.—For the purposes  
 16          of paragraph (1)(D), the 20-year period referred to  
 17          in such paragraph shall be suspended during reason-  
 18          able periods of renovation.

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

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

24                 “(A) any person signing the written agree-  
 25          ment referred to in subsection (c) disposes of

1 any interest in the qualified historic property,  
2 or

3 “(B) there is a violation of any provision  
4 of such agreement (as determined under regula-  
5 tions prescribed by the Secretary),

6 then there is hereby imposed an additional estate  
7 tax.

8 “(2) EXCEPTION FOR CERTAIN TRANSFEREES  
9 WHO AGREE TO BE BOUND BY AGREEMENT.—No tax  
10 shall be imposed under paragraph (1) by reason of  
11 any disposition if the person acquiring the prop-  
12 erty—

13 “(A) is a qualified organization or is a  
14 member of the family (as defined in section  
15 2032A(e)(2)) of the person disposing of such  
16 property, and

17 “(B) agrees to be bound by the agreement  
18 referred to in subsection (b)(4) and to be liable  
19 for any tax under this subsection in the same  
20 manner as the person disposing of such prop-  
21 erty.

22 “(3) AMOUNT OF ADDITIONAL TAX.—

23 “(A) IN GENERAL.—The amount of the  
24 additional tax imposed by paragraph (1) with  
25 respect to any property shall be an amount

1 equal to the applicable percentage of the excess  
2 of—

3 “(i) what would (but for subsection  
4 (a)) have been the tax imposed by section  
5 2001 (reduced by the credits allowable),  
6 over

7 “(ii) the tax imposed by section 2001  
8 (as so reduced).

9 “(B) APPLICABLE PERCENTAGE.—For  
10 purposes of subparagraph (A), the applicable  
11 percentage is the percentage determined in ac-  
12 cordance with the following table for the year  
13 (of 20-year period referred to in subsection  
14 (c)(1)(D)) in which the event described in para-  
15 graph (1) occurs:

<b>“If the event occurs during:</b>	<b>The applicable percentage is:</b>
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.

16 “(4) DUE DATE.—The additional tax imposed  
17 by this subsection shall be due and payable on the  
18 day which is 6 months after the date of the disposi-  
19 tion or violation referred to in paragraph (1).

20 “(5) LIABILITY FOR TAX.—Any person signing  
21 the agreement referred to in subsection (c) (other  
22 than the executor) shall be personally liable for the

1 additional tax imposed by this subsection. If more  
2 than 1 person is liable under this subsection, all  
3 such persons shall be jointly and severally liable.

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

7 “(e) OTHER SPECIAL RULES.—

8 “(1) COORDINATION WITH DEDUCTION FOR  
9 TRANSFER OF EASEMENT.—Section 2055(f) shall  
10 not apply to any interest referred to therein with re-  
11 spect to property for which a deduction is allowed  
12 under subsection (a).

13 “(2) DENIAL OF DEDUCTION OF INDEBTED-  
14 NESS ON EXCLUDED PROPERTY.—No deduction  
15 shall be allowed under section 2053 for indebtedness  
16 in respect of property the value of which is deducted  
17 under subsection (a).

18 “(3) SUBMISSION OF ANNUAL INVENTORIES OF  
19 PERSONAL PROPERTY.—The Secretary shall require  
20 the submission to the Secretary of such inventories  
21 of personal property which is qualified historic prop-  
22 erty as the Secretary determines are necessary for  
23 purposes of this section.”

24 (b) TECHNICAL AMENDMENTS.—

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

5           “(4) in the case of property the value of which  
6 was deducted under section 2057(a), the adjusted  
7 basis of such property in the hands of the decedent  
8 immediately before the death of the decedent.”

9           (2) Subparagraph (A) of section 2056A(b)(10)  
10 of such Code is amended by inserting “2057,” after  
11 “2056,”.

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

“Sec. 2057. Qualified historic property.”

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

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