

## *Abbreviated Legislative History of U.S. Transfer Taxes*

<b>Year</b>	<b>Type of Tax</b>	<b>Name of Act and Change</b>
1797	Inheritance	<b>Revolutionary War Tax.</b> Duty imposed on legatees, but not estates, in the form of a stamp tax. The duty ranged from 25 cents on legacies from \$50 to \$100 to a high of \$1 for every \$500 above legacies of \$500. Repealed in 1802.
1862	Inheritance	<b>Civil War Tax.</b> A legacy and probate stamp tax ranging from 50 cents to \$20 on estates from \$50,000 to \$100,000, and \$10 for each additional \$50,000 or fraction thereof. Repealed in 1870.
1898	Inheritance	<b>Spanish War Tax.</b> A tax on beneficiaries receiving personal property, applied only to estates valued at \$10,000 or more. Inter-spousal inheritances were exempt, and the Act was later amended to exempt charitable, religious and educational bequests. Based on relationship of beneficiary to decedent, and size of estate, the tax was repealed in 1902.
1913	Income	<b>Tariff Act.</b> Enacted following ratification of the Sixteenth Amendment, authorizing Congress to impose a tax on income. This arose from the Supreme Court's decision to declare an income tax unconstitutional in 1895. Following ratification, Congress nullified the rudimentary corporate tax imposed under the Revenue Act of 1909, in favor of developing a broader income tax base under the new Act.
1916	Estate	<b>Revenue Act.</b> Modern federal estate tax created. Maximum estate tax rate was 10%. Estate tax exemption set at \$50,000.
1917	Estate	<b>Amendment.</b> Estate tax maximum rate raised to 15%.
1917	Estate	<b>Revenue Act.</b> Estate tax maximum rate raised to 25%.
1924	Gift	<b>Revenue Act.</b> Gift tax first imposed and the maximum rate was 40%. Estate tax maximum rate raised to 40%.

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1926	Gift	<b>Revenue Act.</b> Gift tax repealed. Gift tax was in effect from June 2, 1924 to December 31, 1925. Repealed the 1924 estate tax maximum rate of 40% retroactively and substituted the 1918 Act rates for those years (maximum estate tax rate of 25%). Estate tax maximum rate was lowered to 20%. Increased the estate tax exemption to \$100,000.
1932	Estate/Gift	<b>Revenue Act.</b> Present gift tax created for transfers after June 6, 1932 and the maximum rate was 33 1/3%; \$5,000 annual exclusion. Estate tax maximum rate raised to 45%. Reduced the estate tax exemption to \$50,000.
1934	Estate	<b>Revenue Act.</b> Estate tax maximum rate raised to 60%.
1935	Estate	<b>Revenue Act.</b> Estate tax maximum rate raised to 70%. Reduced the estate tax exemption to \$40,000.
1939	Gift	<b>Revenue Act.</b> Annual gift tax exclusion reduced to \$4,000.
1940	Estate	<b>Revenue Act.</b> Estate tax maximum rate raised to 77%.
1941	Gift	<b>Revenue Act.</b> Gift tax rates were 75% of the estate tax rate. Maximum gift tax rate was 57 3/4%.
1942	Estate/Gift	<b>Revenue Act.</b> Tax treatment of powers of appointment and life insurance revised. Annual gift tax exclusion reduced to \$3,000. Increased the estate tax exemption to \$60,000.
1948	Estate/Gift	<b>Revenue Act.</b> Marital deduction introduced for both estate and gift taxes. The maximum marital deduction is equal to one-half of the value of property transferred between spouses.
1949	Estate	<b>Technical Changes Act.</b> Transfers taking effect at death and transfers with retained possession or enjoyment subject to estate tax.
1950	Estate	<b>Revenue Act.</b> Transfers made within 3 years of death subject to estate tax if gifts are made "in contemplation of death."

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1951	Estate	<b>Revenue.</b> Revision of powers of appointment provision. Credit allowed for foreign death taxes paid.																		
1954	Various	<b>Internal Revenue Code.</b> Relaxation of rules on taxation of trusts, life insurance and joint tenancies. Limited taxation of death benefits payable from qualified plans. \$30,000 gift tax specific exemption, cumulative, lifetime. \$60,000 estate tax exemption. Lower gift tax rates and separate rate run-ups for gift tax and estate tax, creating opportunities for lifetime gifting.																		
1976	Estate/Gift	<p><b>Tax Reform Act.</b> Unification of gift and estate taxes and creation of only one channel of rates for both taxes. The \$60,000 exemption from estate tax and \$30,000 specific exemption for gift taxes were eliminated and replaced with the \$47,000 unified credit which was phased in from 1977 to 1981. The code sections which repealed those exemptions are applicable to estates of decedents dying after, and gifts made after, December 31, 1976.</p> <p>New Unified rates ranged from 18% to a maximum of 70%.</p> <table border="0" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;">Year of death</th> <th style="text-align: left;">Unified Credit</th> <th style="text-align: left;">Maximum Taxable Estate Without Tax Liability</th> </tr> </thead> <tbody> <tr> <td>1977</td> <td>\$30,000</td> <td>\$120,667</td> </tr> <tr> <td>1978</td> <td>\$34,000</td> <td>\$134,000</td> </tr> <tr> <td>1979</td> <td>\$38,000</td> <td>\$147,333</td> </tr> <tr> <td>1980</td> <td>\$42,500</td> <td>\$161,563</td> </tr> <tr> <td>1981</td> <td>\$47,000</td> <td>\$175,625</td> </tr> </tbody> </table>	Year of death	Unified Credit	Maximum Taxable Estate Without Tax Liability	1977	\$30,000	\$120,667	1978	\$34,000	\$134,000	1979	\$38,000	\$147,333	1980	\$42,500	\$161,563	1981	\$47,000	\$175,625
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	Generation Skipping	Enactment of generation skipping tax on transfers in trust to beneficiaries two or more generations younger than the transferor. Could be avoided by "layering" some gifts to children and some gifts to grandchildren.																		

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		<p>Estate tax marital deduction equal to the greater of one-half of adjusted gross estate or \$250,000. Special rules for community property.</p> <p>To qualify for the marital deductions, control over the ultimate distributions of the property had to shift to surviving spouse - often not beneficial to decedent's children</p> <p>Gift tax marital deduction - unlimited for first \$100,000 in gifts between spouses and 50% deduction of lifetime transfers in excess of \$200,000.</p> <p>Gifts made within 3 years of death, included in gross estate at date of death value regardless of whether the gifts were made "in contemplation of death." Prior rule was that a rebuttable presumption that "gifts were made in contemplation of death" applied to all gratuitous transfers made within the three year period ending with death.</p> <p>Carryover basis of most inherited property (no step-up in basis to date of death value). Effective for property acquired from a decedent after December 31, 1976 (IRC §1023 - actually repealed before it became effective).</p>
1978	Income	<b>Revenue Act.</b> Effective date of carryover basis rules deferred. Carryover basis rule to apply to property acquired from a decedent after December 31, 1979.
1979	Income	<b>Crude Oil Windfall Profit Act.</b> Repeal of carryover basis rule for property acquired from a decedent after December 31, 1979 (IRC §1023).
1980	Income	<b>Tax Reform Act.</b> Inherited property receives a stepped up basis.
1981	Estate/Gift	<b>Economic Recovery Act.</b> Adopted as part of President Reagan's "tax revolution". Increase in amount of gift tax annual exclusion from \$3,000 to \$10,000:

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		<p>Pursuant to IRC §2503(b), the \$10,000 exclusion is generally applicable to transfers made after December 31, 1981. (The limit was \$5,000 until 1938. From 1939 to 1942 the limit was \$4,000. The \$3,000 limit was in effect from 1942 until ERTA in 1981.)</p> <p>Unlimited gift tax exclusion for amount paid directly to a provider for an individual's medical expenses or school tuition. Effective for gifts made after 1981.</p> <p>The unlimited marital deduction is applicable to estates of decedents dying after December 31, 1981. IRC §2056. Unlimited gift tax marital deduction for gifts between spouses. IRC §2523. (The marital deduction originally became effective in 1948. Some states do not allow unlimited marital deduction).</p> <p>Qualifying life estates to a spouse qualify for the marital deduction (Qualified Terminable Interest Property - "QTIP"). IRC §§2056(b)(7) and 2519(b)(1). Very significant change allowed marital deduction under QTIP trusts while controlling ultimate disposition of the property after the death of the surviving spouse (e.g. to the children rather than to survivor's new spouse).</p> <p>Increase in the unified credit to \$192,800 which was phased in from 1982 to 1987.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Year of death</th> <th style="text-align: center;">Unified Credit</th> <th style="text-align: center;">Maximum Taxable Estate Without Tax Liability</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1982</td> <td style="text-align: center;">\$ 62,800</td> <td style="text-align: center;">\$225,000</td> </tr> <tr> <td style="text-align: center;">1983</td> <td style="text-align: center;">\$ 79,300</td> <td style="text-align: center;">\$275,000</td> </tr> <tr> <td style="text-align: center;">1984</td> <td style="text-align: center;">\$ 96,300</td> <td style="text-align: center;">\$325,000</td> </tr> <tr> <td style="text-align: center;">1985</td> <td style="text-align: center;">\$121,800</td> <td style="text-align: center;">\$400,000</td> </tr> <tr> <td style="text-align: center;">1986</td> <td style="text-align: center;">\$155,800</td> <td style="text-align: center;">\$500,000</td> </tr> <tr> <td style="text-align: center;">1987</td> <td style="text-align: center;">\$192,800</td> <td style="text-align: center;">\$600,000</td> </tr> </tbody> </table> <p>Reduction in top unified rate from 70% to 55% from 1982 to 1985.</p>	Year of death	Unified Credit	Maximum Taxable Estate Without Tax Liability	1982	\$ 62,800	\$225,000	1983	\$ 79,300	\$275,000	1984	\$ 96,300	\$325,000	1985	\$121,800	\$400,000	1986	\$155,800	\$500,000	1987	\$192,800	\$600,000
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		<p>Special use valuation allowed.</p> <p>Gifts within 3 years of death, not included in estate (Gift taxes paid on these gifts and gifts of life insurance and certain other unusual gifts remain includable.)</p>										
1982	Estate /Pension	<p><b>Tax Equity and Fiscal Responsibility Act of 1982.</b> \$100,000 limitation on estate tax exclusion of benefits under qualified plans and IRA's.</p> <p>Required minimum distribution rules for retirement plans enacted. Transition rule: December 31, 1983 deadline for TEFRA §242(b)(2) election which would allow the participant to defer distributions until a later age or when they actually retire even though the distribution does not comply with the post-TEFRA rules.</p>										
1983	Estate	<p><b>Amendment.</b> Change from 6% to 10% annuity tables:</p> <p>Treasury Regulation §20-2031-7(f) issued, setting revised rules for valuation of annuities, life estates, terms for years, remainders and reversions for estates of decedents dying after November 30, 1983.</p>										
1984	Pension	<p><b>Retirement Equity Act.</b> Effective date of Retirement Equity Act of 1984 (REACT), which gives spouse (including new spouse) a right to pension plan funds:</p> <p>Effective for deaths occurring after August 29, 1984 (the date of enactment), for employees who had at least one hour of service (or paid leave) under the plan on or after that date.</p>										

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		December 31, 1984 was the effective date of decision that waiver of REACT spousal rights in pension proceeds is not considered a gift (reestablishing, to some degree, the law repealed by the Tax Reform Act of 1986, below).
1984	Estate/Gift	<p><b>Tax Reform Act.</b> Postponed effective date of reduction of maximum estate and gift tax rate to 50% until 1988.</p> <p>Repeal of the \$100,000 estate tax exclusion for qualified plan benefits with respect to decedents dying after 1984.</p> <p>IRC §7872 treats certain below-market rate loans as taxable gifts.</p> <p>Effective date of provision which wholly or partially excluded qualified plan proceeds from estate tax if the individual was in pay status as of certain dates and his or her direction regarding the pension plan was not changed:</p> <p>Former IRC §2039(c) (which should be distinguished from the later version of §2039(c) referenced in the Tax Reform Act of 1986, below) was effective for the estates of decedents dying before January 1, 1985. This section was later repealed by the Tax Reform Act of 1986.</p>
1986	Estate/ Generation Skipping	<p><b>Tax Reform Act.</b> September 25, 1985 effective date of new post-TRA 1986 Generation Skipping Transfer tax.</p> <p>The pre-TRA 1986 GSTT was repealed retroactive to its initial effective date, June 11, 1976. The new TRA 1986 GSTT applies to generation-skipping transfers occurring after the date of enactment (October 22, 1986), except intervivos generation-skipping transfers occurring after September 25, 1985 and on or before the date of enactment (October 22, 1986) are treated as if made after the date of enactment and are subject to the new GSTT. (Certain exceptions apply pursuant to TRA '86, §1433(b)(2)). Generation-skipping transfers from trusts that were irrevocable on September 25, 1985 are exempt to the extent that the transfers are not attributable to</p>

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		<p>additions to trust principal after that date.</p> <p>Unlike the 1976 GSTT rules, gifts to grandchildren (or younger generations) either directly or in a trust just benefitting their parents are subject to the tax.</p> <p>All property subject to the new GSTT taxed at 55% and not offset by the Unified Transfer Credit.</p> <p>Grantor trust rules substantially revised. New law abolishes income shifting by using Clifford Trusts. Under the new law, income from 10 year and other grantor trusts is taxed to the grantor, not the beneficiary if the trust property will revert to the grantor or the grantor's spouse. Applies to transfers in trusts after March 1, 1986.</p>
	Excess Distributions/ Excess Accumulations	<p>The Tax Reform Act of 1986 imposed a 15% excise tax on excess distributions from retirement plans and a 15% additional estate tax on excess retirement plan accumulations, both under IRC § 4980A.</p> <p>For tax years prior to 1989, an individual could elect a "grandfather" rule to compute excess distributions regardless of any distributions attributable to the individuals accrued benefit as of August 1, 1986. In order to make this election, the present value of the individual's accrued benefits must have exceeded \$562,500 on that date.</p> <p>IRC §2517 and IRC §2039(c) special community property rules for interests in pension and profit sharing plans were repealed.</p>
1987	Estate/Gift	<p><b>Omnibus Budget Reconciliation Act of 1987 (OBRA).</b> Postponed effective date of reduction of maximum estate and gift tax rate to 50% until 1993.</p> <p>Estate freezes effectively abolished. Added IRC §2036(c) with respect to transfers that (1) occur after December 17, 1987, and (2) are not "corrected" within a correction period ending no later than December 31, 1989.</p>

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1987	Estate/Gift	<b>Revenue Act.</b> Phase out of estate and gift tax benefits of unified credit and graduated rates for large estates by increasing estate and gift tax rates between \$10,000,000 and \$21,040,000 to 60%.
1988	Estate/ Generation Skipping	<p><b>Technical &amp; Miscellaneous Revenue Act of 1988 (TAMRA).</b> Estate freezes further restricted.</p> <p>Disallowance of marital deductions for non-citizen spouse unless property passes to a Qualified Domestic Trust (“QDOT”). IRC §2056A. Applicable for decedents dying after November 10, 1988. The annual exclusion for certain transfers to non-citizen spouses is increased to \$100,000. IRC §2523(i).</p> <p>The value of any annuity, interest for life or a term of years or any remainder or reversionary interest must be determined in accordance with tables under IRC §7520 based on an interest rates equal to 120% of the federal mid-term rate under IRC§1274(d)(1). Made effective an interest rate for actuarial calculations changeable monthly. Effective for transfers after May 1, 1989.</p> <p>Minor modification of to the generation skipping transfer tax.</p>
1989	Gift	<p><b>Omnibus Budget Reconciliation Act of 1989.</b> IRC §2523(i) was amended to provide that the annual exclusion is available only for gifts that would qualify for the martial deduction if the donee spouse were a U.S. citizen for gifts after June 29, 1989 (must not be a §2523(b) terminable interest).</p> <p>Increased penalties for gift and estate valuation understatements ranging from 20% to 40%.</p>

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1990	Estate/Gift Generation Skipping	<b>Omnibus Reconciliation Act of 1990.</b> New Chapter 14 of the Code is enacted which provides that special valuation rules must be applied in computing the value of transfers to family members. Applies to transfers made after October 8, 1990.
1993	Estate/Gift	<b>Revenue Reconciliation Act.</b> President Clinton permanently restored the 55% maximum estate and gift tax rate. The maximum rate was to drop to 50% as of January 1, 1993 under the law introduced by President Reagan.
1995	Generation Skipping	Final Generation Skipping Transfer Tax regulations issued December 27. Where the governing instrument is drafted properly, the final regulations allow a grace period of 90 days for purposes of determining whether or not a direct transfer is a direct skip for the predeceased child rule. Reg. §26.2612-1. Many other matters affected by these regulations.
1996	Estate/ Gift/ Generation Skipping/ Excess Distributions	<p><b>The Small Business Job Protection Act.</b> This act, together with the Health Insurance and Welfare Reform Acts of 1996 resulted in over 650 changes to the code.</p> <p>15% excise tax under §4980A does not apply in 1997, 1998 and 1999 to excess distributions from qualified plans, tax sheltered annuities and IRAs. Moratorium does not apply to the 15% extra estate tax on excess retirement accumulations at death.</p> <p>After 1996, a non-working spouse can contribute up to \$2,000 to an IRA.</p> <p>After 1996, employees who work beyond age 70 ½ will be able to defer distributions until April 1st of the year following retirement (change not applicable to 5% owners of employer).</p>

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		Several provisions enacted loosening the rules relating to the creation and maintenance of Subchapter S corporations, including easier rules for trusts to hold such corporations.
		Estate freeze rules on incomplete transfers and on inclusion in transfer tax base clarified.
		Estates and trusts subjected to objective testing to determine foreign or U.S. residency.
		Foreign non-grantor trust rules amended.
		New rules for expatriates giving up U.S. citizenship or residency. Expatriates subject to new gift and estate tax rules.
		U.S. persons subject to new gift and estate tax rules.
		Foreign trust rules modified. U.S. trust becoming a foreign trust subject to 35% excise tax.
		Outbound foreign grantor trust rules amended.
		New rules for UTC applying to estates of nonresident aliens.
		Many excise tax changes, including tax on luxury autos, change in taxation of life insurance company reserves for “variable contracts” (redefined to include group term life, accident and health insurance on retired lives).

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1997	Estate/Gift/ Generation Skipping/ Excess Dis- tributions and Accumulations Taxes/Income Tax	<p><b>Taxpayer Relief Act.</b> This Act contained significant changes in the Unified Credit and Credit Equivalent. Instead of a \$192,800 credit, sheltering \$600,000 of estate or gift, the credits and equivalent increased to the following:</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Year of Death or Gift</th> <th style="text-align: left;">Exempt Amt</th> <th style="text-align: left;">Unified Credit</th> </tr> </thead> <tbody> <tr> <td>1998</td> <td>\$ 625,000</td> <td>\$202,050</td> </tr> <tr> <td>1999</td> <td>\$ 650,000</td> <td>\$211,300</td> </tr> <tr> <td>2000-2001</td> <td>\$ 675,000</td> <td>\$220,550</td> </tr> <tr> <td>2002-2003</td> <td>\$ 700,000</td> <td>\$229,800</td> </tr> <tr> <td>2004</td> <td>\$ 850,000</td> <td>\$287,300</td> </tr> <tr> <td>2005</td> <td>\$ 950,000</td> <td>\$326,300</td> </tr> <tr> <td>2006 on</td> <td>\$1,000,000</td> <td>\$345,800</td> </tr> </tbody> </table>			Year of Death or Gift	Exempt Amt	Unified Credit	1998	\$ 625,000	\$202,050	1999	\$ 650,000	\$211,300	2000-2001	\$ 675,000	\$220,550	2002-2003	\$ 700,000	\$229,800	2004	\$ 850,000	\$287,300	2005	\$ 950,000	\$326,300	2006 on	\$1,000,000	\$345,800
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Indexing of the \$10,000 annual exclusion from gift tax for inflation after 1998. The \$10,000 amount will be increased by the cost of living increase, rounded to the lowest \$1,000. The cost of living adjustment (COLA) is based on the last Consumer Price Index for all-urban consumers published by the Department of Labor for the year prior to the transfer, over the same CPI for 1997.

COLA increase of the \$1,000,000 generation skipping exemption, in minimums of \$10,000.

**Family Owned Business Exclusion:** Effective as of 1998, a decedent could exclude from his or her taxable estate the lesser of the value of “qualified family-owned business interests” (subject to some adjustments) or the amount by which \$1,300,000 exceeds the Unified Credit exclusion for the year of death, if the business plus all prior gifts of the business exceeds 50% of the decedent’s adjusted gross estate. There are also ownership requirements which are: 50% of the business owned by 1 family, or 70% by 2 families, or 90% by 3 families with at least 30% owned by decedent’s family in all cases.

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		<p>Section 6166 modification to (a) apply the low interest rate (reduced from 4% to 2%) to the tax on the first \$1,000,000 (now also indexed for inflation) <u>over</u> the Unified Credit exempt amount. The balance of the tax bears interest at 45% of the “underpayment rate” which is the Federal short-term rate for the first month in each calendar quarter, plus 3 percentage points.</p> <p>Excess distributions and accumulations taxes repealed.</p> <p>Charitable remainder trusts: Maximum payout percentage set at 50% for gifts after June 18, 1997, and no charitable deduction allowed if the charitable remainder is less than 10% of the fair market value of the gift (for transfers after 7/28/97).</p> <p>Capital gains rates: Multiple “tiers” of rates were enacted for capital gains, depending on the type of property and how long it had been held; the most important change was reduction of the basic rate for capital gains to 20% (from 28%).</p> <p>Conservation Easements: New deduction for certain real property set aside for charitable use.</p>
1998	Estate tax/Gift tax/Generation Skipping tax/Income tax	<p><b>IRS Revenue and Restructuring Act:</b> The most important item in this Act was modifying the Family Owned Business Exclusion to a Family Owned Business <u>Deduction</u>, up to a maximum of \$675,000. However, if deduction is claimed, the “applicable exclusion amount” is then fixed at \$625,000 (with adjustments if the full \$675,000 deduction isn’t used). The total benefit of the combined Family Owned Business Deduction and the Unified Credit exempt amount remained at \$1,300,000. Some clarifications were made in relation to recapture of the tax.</p> <p>Valuation of prior gifts on which the statute of limitations</p>

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		<p>has run is confirmed as fixed, whether or not a tax was actually paid.</p> <p>Technical changes to generation skipping rules, Roth IRAs and capital gains rates, Section 6166, sale of a principal residence and Conservation Easements.</p>
2001	Estate tax/Gift tax/Generation Skipping tax/Income Tax	<p><b>Economic Growth and Tax Relief Reconciliation Act:</b> This Act was touted as “repeal” of estate taxes as of 2010 - but in actuality, the taxes are reinstated under the pre-Act rules as of 2011 if Congress does not take action before 2011. The Act includes some significant interim increases in the Applicable Credit (formerly the Unified Credit), and reduction of rates in increments to a low of 45% as of 2007. It also takes away the Qualified Family Owned Business Deduction as of 2004, and phases out the credit for death taxes paid to the state (substituting a deduction instead).</p> <p>Gift taxes remain in place, with an Applicable Credit of \$1,000,000 throughout the life of the Act.</p> <p>The new law provides for automatic allocation of generation skipping exemption to generation skipping trusts, and allows taxpayers to split a trust that is partially taxable into two trusts -- one that is totally exempt from tax, and one that is entirely subject to tax.</p> <p>For the year 2010 (and perhaps after if Congress votes to retain the “repeal”), taxpayers will no longer receive a new income tax basis in assets at death. Instead, basis can be “stepped up” by certain specified dollar levels, depending on the recipient of the assets.</p>



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