

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 8, AS REPORTED  
OFFERED BY MR. RANGEL OF NEW YORK**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. AMENDMENT OF 1986 CODE.**

2 Except as otherwise expressly provided, whenever in  
3 this Act an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to a  
6 section or other provision of the Internal Revenue Code  
7 of 1986.

**8 SEC. 2. INCREASE IN EXEMPTION EQUIVALENT OF UNIFIED  
9 CREDIT.**

10 (a) IN GENERAL.—Subsection (c) of section 2010  
11 (relating to applicable credit amount) is amended by strik-  
12 ing the table and inserting the following new table:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
2002 .....	\$2,000,000
2003 and 2004 .....	\$2,100,000
2005 and 2006 .....	\$2,200,000
2007 and 2008 .....	\$2,300,000
2009 .....	\$2,400,000
2010 or thereafter .....	\$2,500,000.”

13 (b) REPEAL OF SPECIAL BENEFIT FOR FAMILY-  
14 OWNED BUSINESS INTERESTS.—

15 (1) Section 2057 is hereby repealed.



1 **“SEC. 2058. STATE DEATH TAXES.**

2 “(a) ALLOWANCE OF DEDUCTION.—For purposes of  
3 the tax imposed by section 2001, the value of the taxable  
4 estate shall be determined by deducting from the value  
5 of the gross estate the amount of any estate, inheritance,  
6 legacy, or succession taxes actually paid to any State or  
7 the District of Columbia, in respect of any property in-  
8 cluded in the gross estate (not including any such taxes  
9 paid with respect to the estate of a person other than the  
10 decedent).

11 “(b) PERIOD OF LIMITATIONS.—The deduction al-  
12 lowed by this section shall include only such taxes as were  
13 actually paid and deduction therefor claimed within 4  
14 years after the filing of the return required by section  
15 6018, except that—

16 “(1) If a petition for redetermination of a defi-  
17 ciency has been filed with the Tax Court within the  
18 time prescribed in section 6213(a), then within such  
19 4-year period or before the expiration of 60 days  
20 after the decision of the Tax Court becomes final.

21 “(2) If, under section 6161 or 6166, an exten-  
22 sion of time has been granted for payment of the tax  
23 shown on the return, or of a deficiency, then within  
24 such 4-year period or before the date of the expira-  
25 tion of the period of the extension.

1           “(3) If a claim for refund or credit of an over-  
2           payment of tax imposed by this chapter has been  
3           filed within the time prescribed in section 6511, then  
4           within such 4-year period or before the expiration of  
5           60 days from the date of mailing by certified mail  
6           or registered mail by the Secretary to the taxpayer  
7           of a notice of the disallowance of any part of such  
8           claim, or before the expiration of 60 days after a de-  
9           cision by any court of competent jurisdiction be-  
10          comes final with respect to a timely suit instituted  
11          upon such claim, whichever is later.

12          Refund based on the deduction may (despite the provisions  
13          of sections 6511 and 6512) be made if claim therefor is  
14          filed within the period above provided. Any such refund  
15          shall be made without interest.”

16          (c) CONFORMING AMENDMENTS.—

17                 (1) Subsection (a) of section 2012 is amended  
18                 by striking “the credit for State death taxes pro-  
19                 vided by section 2011 and”.

20                 (2) Subparagraph (A) of section 2013(c)(1) is  
21                 amended by striking “2011,”.

22                 (3) Paragraph (2) of section 2014(b) is amend-  
23                 ed by striking “, 2011,”.

24                 (4) Sections 2015 and 2016 are each amended  
25                 by striking “2011 or”.

1           (5) Subsection (d) of section 2053 is amended  
2 to read as follows:

3           “(d) CERTAIN FOREIGN DEATH TAXES.—

4           “(1) IN GENERAL.—Notwithstanding the provi-  
5 sions of subsection (c)(1)(B) of this section, for pur-  
6 poses of the tax imposed by section 2001, the value  
7 of the taxable estate may be determined, if the ex-  
8 ecutor so elects before the expiration of the period  
9 of limitation for assessment provided in section  
10 6501, by deducting from the value of the gross es-  
11 tate the amount (as determined in accordance with  
12 regulations prescribed by the Secretary) of any es-  
13 tate, succession, legacy, or inheritance tax imposed  
14 by and actually paid to any foreign country, in re-  
15 spect of any property situated within such foreign  
16 country and included in the gross estate of a citizen  
17 or resident of the United States, upon a transfer by  
18 the decedent for public, charitable, or religious uses  
19 described in section 2055. The determination under  
20 this paragraph of the country within which property  
21 is situated shall be made in accordance with the  
22 rules applicable under subchapter B (sec. 2101 and  
23 following) in determining whether property is situ-  
24 ated within or without the United States. Any elec-  
25 tion under this paragraph shall be exercised in ac-

1 cordance with regulations prescribed by the Sec-  
2 retary.

3 “(2) CONDITION FOR ALLOWANCE OF DEDUC-  
4 TION.—No deduction shall be allowed under para-  
5 graph (1) for a foreign death tax specified therein  
6 unless the decrease in the tax imposed by section  
7 2001 which results from the deduction provided in  
8 paragraph (1) will inure solely for the benefit of the  
9 public, charitable, or religious transferees described  
10 in section 2055 or section 2106(a)(2). In any case  
11 where the tax imposed by section 2001 is equitably  
12 apportioned among all the transferees of property  
13 included in the gross estate, including those de-  
14 scribed in sections 2055 and 2106(a)(2) (taking into  
15 account any exemptions, credits, or deductions al-  
16 lowed by this chapter), in determining such decrease,  
17 there shall be disregarded any decrease in the Fed-  
18 eral estate tax which any transferees other than  
19 those described in sections 2055 and 2106(a)(2) are  
20 required to pay.

21 “(3) EFFECT ON CREDIT FOR FOREIGN DEATH  
22 TAXES OF DEDUCTION UNDER THIS SUBSECTION.—

23 “(A) ELECTION.—An election under this  
24 subsection shall be deemed a waiver of the right  
25 to claim a credit, against the Federal estate

1 tax, under a death tax convention with any for-  
2 eign country for any tax or portion thereof in  
3 respect of which a deduction is taken under this  
4 subsection.

5 “(B) CROSS REFERENCE.—

“See section 2014(f) for the effect of a deduction  
taken under this paragraph on the credit for foreign  
death taxes.”

6 (6) Subparagraph (A) of section 2056A(b)(10)  
7 is amended—

8 (A) by striking “2011,” and

9 (B) by inserting “2058,” after “2056.”

10 (7)(A) Subsection (a) of section 2102 is amend-  
11 ed to read as follows:

12 “(a) IN GENERAL.—The tax imposed by section 2101  
13 shall be credited with the amounts determined in accord-  
14 ance with sections 2012 and 2013 (relating to gift tax and  
15 tax on prior transfers).”

16 (B) Section 2102 is amended by striking sub-  
17 section (b) and by redesignating subsection (c) as  
18 subsection (b).

19 (C) Section 2102(b)(5) (as redesignated by sub-  
20 paragraph (B)) and section 2107(c)(3) are each  
21 amended by striking “2011 to 2013, inclusive,” and  
22 inserting “2012 and 2013”.

23 (8) Subsection (a) of section 2106 is amended  
24 by adding at the end the following new paragraph:

1           “(4) STATE DEATH TAXES.—The amount which  
2           bears the same ratio to the State death taxes as the  
3           value of the property, as determined for purposes of  
4           this chapter, upon which State death taxes were paid  
5           and which is included in the gross estate under sec-  
6           tion 2103 bears to the value of the total gross estate  
7           under section 2103. For purposes of this paragraph,  
8           the term ‘State death taxes’ means the taxes de-  
9           scribed in section 2011(a).”

10           (9) Section 2201 is amended—

11           (A) by striking “as defined in section  
12           2011(d)”, and

13           (B) by adding at the end the following new  
14           flush sentence:

15           “For purposes of this section, the additional estate tax  
16           is the difference between the tax imposed by section 2001  
17           or 2101 and the amount equal to 125 percent of the max-  
18           imum credit provided by section 2011(b), as in effect be-  
19           fore its repeal by the Tax Reduction Act of 2001.”

20           (10) Paragraph (2) of section 6511(i) is amend-  
21           ed by striking “2011(c), 2014(b),” and inserting  
22           “2014(b)”.

23           (11) Subsection (e) of section 6612 is amended  
24           by striking “section 2011(c) (relating to refunds due  
25           to credit for State taxes),”.



1           (12) The table of sections for part II of sub-  
2           chapter A of chapter 11 is amended by striking the  
3           item relating to section 2011.

4           (13) The table of sections for part IV of sub-  
5           chapter A of chapter 11 is amended by adding at  
6           the end the following new item:

          “Sec. 2058. State death taxes.”

7           (d) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to estates of decedents dying after  
9           December 31, 2001.

10 **SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF**  
11                           **NONBUSINESS ASSETS; LIMITATION ON MI-**  
12                           **NORITY DISCOUNTS.**

13           (a) IN GENERAL.—Section 2031 (relating to defini-  
14           tion of gross estate) is amended by redesignating sub-  
15           section (d) as subsection (f) and by inserting after sub-  
16           section (c) the following new subsections:

17           “(d) VALUATION RULES FOR CERTAIN TRANSFERS  
18           OF NONBUSINESS ASSETS.—For purposes of this chapter  
19           and chapter 12—

20                   “(1) IN GENERAL.—In the case of the transfer  
21                   of any interest in an entity other than an interest  
22                   which is actively traded (within the meaning of sec-  
23                   tion 1092)—

24                           “(A) the value of any nonbusiness assets  
25                           held by the entity shall be determined as if the

1 transferor had transferred such assets directly  
2 to the transferee (and no valuation discount  
3 shall be allowed with respect to such nonbusi-  
4 ness assets), and

5 “(B) the nonbusiness assets shall not be  
6 taken into account in determining the value of  
7 the interest in the entity.

8 “(2) NONBUSINESS ASSETS.—For purposes of  
9 this subsection—

10 “(A) IN GENERAL.—The term ‘nonbusi-  
11 ness asset’ means any asset which is not used  
12 in the active conduct of 1 or more trades or  
13 businesses.

14 “(B) EXCEPTION FOR CERTAIN PASSIVE  
15 ASSETS.—Except as provided in subparagraph  
16 (C), a passive asset shall not be treated for pur-  
17 poses of subparagraph (A) as used in the active  
18 conduct of a trade or business unless—

19 “(i) the asset is property described in  
20 paragraph (1) or (4) of section 1221(a) or  
21 is a hedge with respect to such property,  
22 or

23 “(ii) the asset is real property used in  
24 the active conduct of 1 or more real prop-  
25 erty trades or businesses (within the mean-

1           ing of section 469(c)(7)(C)) in which the  
2           transferor materially participates and with  
3           respect to which the transferor meets the  
4           requirements of section 469(c)(7)(B)(ii).

5           For purposes of clause (ii), material participa-  
6           tion shall be determined under the rules of sec-  
7           tion 469(h), except that section 469(h)(3) shall  
8           be applied without regard to the limitation to  
9           farming activity.

10           “(C) EXCEPTION FOR WORKING CAP-  
11           ITAL.—Any asset (including a passive asset)  
12           which is held as a part of the reasonably re-  
13           quired working capital needs of a trade or busi-  
14           ness shall be treated as used in the active con-  
15           duct of a trade or business.

16           “(3) PASSIVE ASSET.—For purposes of this  
17           subsection, the term ‘passive asset’ means any—

18           “(A) cash or cash equivalents,

19           “(B) except to the extent provided by the  
20           Secretary, stock in a corporation or any other  
21           equity, profits, or capital interest in any entity,

22           “(C) evidence of indebtedness, option, for-  
23           ward or futures contract, notional principal con-  
24           tract, or derivative,

1           “(D) asset described in clause (iii), (iv), or  
2           (v) of section 351(e)(1)(B),

3           “(E) annuity,

4           “(F) real property used in 1 or more real  
5           property trades or businesses (as defined in sec-  
6           tion 469(e)(7)(C)),

7           “(G) asset (other than a patent, trade-  
8           mark, or copyright) which produces royalty in-  
9           come,

10          “(H) commodity,

11          “(I) collectible (within the meaning of sec-  
12          tion 401(m)), or

13          “(J) any other asset specified in regula-  
14          tions prescribed by the Secretary.

15          “(4) LOOK-THRU RULES.—

16                 “(A) IN GENERAL.—If a nonbusiness asset  
17                 of an entity consists of a 10-percent interest in  
18                 any other entity, this subsection shall be ap-  
19                 plied by disregarding the 10-percent interest  
20                 and by treating the entity as holding directly its  
21                 ratable share of the assets of the other entity.  
22                 This subparagraph shall be applied successively  
23                 to any 10-percent interest of such other entity  
24                 in any other entity.

1           “(B) 10-PERCENT INTEREST.—The term  
2           ‘10-percent interest’ means—

3                   “(i) in the case of an interest in a cor-  
4                   poration, ownership of at least 10 percent  
5                   (by vote or value) of the stock in such cor-  
6                   poration,

7                   “(ii) in the case of an interest in a  
8                   partnership, ownership of at least 10 per-  
9                   cent of the capital or profits interest in the  
10                  partnership, and

11                  “(iii) in any other case, ownership of  
12                  at least 10 percent of the beneficial inter-  
13                  ests in the entity.

14           “(5) COORDINATION WITH SUBSECTION (b).—  
15           Subsection (b) shall apply after the application of  
16           this subsection.

17           “(e) LIMITATION ON MINORITY DISCOUNTS.—For  
18           purposes of this chapter and chapter 12, in the case of  
19           the transfer of any interest in an entity other than an in-  
20           terest which is actively traded (within the meaning of sec-  
21           tion 1092), no discount shall be allowed by reason of the  
22           fact that the transferee does not have control of such enti-  
23           ty if the transferee and members of the family (as defined  
24           in section 2032A(e)(2)) of the transferee have control of  
25           such entity.”

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transfers after the date of the  
3 enactment of this Act.

4 **SEC. 5. EXPANSION OF ESTATE TAX RULE FOR CONSERVA-**  
5 **TION EASEMENTS.**

6 (a) REPEAL OF LOCATION REQUIREMENT.—Sub-  
7 paragraph (A) of section 2031(c)(8) (defining land subject  
8 to a conservation easement) is amended by striking clause  
9 (i) and redesignating clauses (ii) and (iii) as clauses (i)  
10 and (ii), respectively.

11 (b) CLARIFICATION OF DATE FOR DETERMINING  
12 VALUE OF LAND AND EASEMENT.—Section 2031(c)(2)  
13 (defining applicable percentage) is amended by adding at  
14 the end the following new sentence: “The values taken into  
15 account under the preceding sentence shall be such values  
16 as of the date of the contribution referred to in paragraph  
17 (8)(B).”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to estates of decedents dying after  
20 December 31, 2000.

Amend the title so as to read: “A bill to amend the  
Internal Revenue Code of 1986 to provide estate tax re-  
lief.”.