



The “Death Tax Repeal Act of 2015” (H.R. 1105)

Current law: Under current law, several different taxes may apply to transfers of wealth. First, the gift tax applies to transfers of wealth made during life. Second, the estate tax applies to transfers of wealth at death. Third, the generation skipping transfer (GST) tax applies to transfers to a skip person (generally a beneficiary two generations younger than the transferor – for example a gift from a grandfather to a grandchild). Taxpayers making gifts and bequests (through estates) are allowed a unified exemption, which is indexed for inflation, and which allows for the tax-free transfer of up to \$5.43 million in assets for 2015. Furthermore, under “portability” rules, a decedent may transfer any unused exemption to a surviving spouse, potentially doubling the amount of exemption for that year. For a married couple, therefore, the potential exemption for 2015 is \$10.86 million. In addition, the gift transfer rules provide for an annual exclusion, also indexed for inflation, of \$14,000 (for 2015) for gifts by a donor to a beneficiary. For any gifts in excess of the annual exemption or lifetime exemption, a 40 percent gift or estate tax applies. The GST tax is designed to capture transfers not subject to the gift or estate tax rules, and a separate \$5.43 million exemption (for 2015, also indexed for inflation) applies. GSTs in excess of \$5.43 million are subject to a 40 percent tax (the highest estate tax rate). Finally, property transferred by gift receives a carryover basis – that is the basis for the recipient is the same as the donor. Property transferred at death receives a step-up to fair market value as of the date of death.

Proposal: Under the legislation, the estate tax and the GST tax would be repealed for transfers made on or after the date of enactment. The gift tax would be retained with the current lifetime and annual exemption amounts, but the top rate would be lowered from 40 percent to 35 percent. In addition, the proposal would retain full step-up in basis for transfers at death. The year of enactment would be treated as two separate years for purposes of determining the unified estate and gift tax exemption and any increases in basis related to property acquired by gift.

Considerations:

- The estate tax is a double and potentially triple tax on transfers of accumulated wealth – penalizing savings and investment. That is fundamentally unfair.
- The estate tax is devastating to family businesses and farms. Recent testimony before the Select Revenues Subcommittee highlighted the planning costs and stress the estate tax places on family businesses and farms. Repealing the estate tax will provide critical relief to these businesses.
- Individuals and businesses spend too much time and money planning for the estate tax, rather than focusing on growing businesses and efficiently allocating capital within the economy.

JCT estimate: According to the Joint Committee on Taxation, the bill would reduce revenues by \$269 billion over 2015-2025.