

H.R. 4853 (Middle Class Tax Relief Act of 2010) - Estate Tax Details:

- A 35% estate, gift and generation-skipping tax rate, effective January 1, 2011 (down 10% from 2009 and 20% from scheduled 2011 levels) – securing the lowest estate tax rate applied in more than 80 years
- A \$5 million reunified inflation-adjusted exemption for estate, gift and generation-skipping taxes, effective January 1, 2011 (up \$1.5 million from 2009 and \$4 million from scheduled 2011 levels for estate and GST, up \$4 million from 2009 and scheduled 2011 levels for gifts) – enhancing families' ability to plan through reunification
- An executor election for decedents dying between January 1 and December 31, 2010 – protecting families who have lost loved ones this year
- An effective date of January 1, 2011 for generation-skipping transfers – providing families with clarity to make certain end-of-year transfers free from GST
- Spousal portability – enabling families to more easily take advantage of their exemptions
- No harmful offsets – preserving valuation discounts, grantor-retained annuity trusts (GRATs) and state estate tax deductibility

Temporary estate, gift and generation skipping transfer tax relief:

The EGTRRA phased-out the estate and generation-skipping transfer taxes so that they were fully repealed in 2010, and lowered the gift tax rate to 35 percent and increased the gift tax exemption to \$1 million for 2010. The proposal sets the exemption at \$5 million per person and \$10 million per couple and a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount is indexed beginning in 2012.

The proposal is effective January 1, 2010, but allows an election to choose no estate tax and modified carryover basis for estates arising on or after January 1, 2010 and before January 1, 2011. The proposal sets a \$5 million generation-skipping transfer tax exemption and zero percent rate for the 2010 year.

Portability of unused exemption - Under current law, couples have to do complicated estate planning to claim their entire exemption (currently \$7 million for a couple). The proposal allows the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse without such planning. The proposal is effective for estates of decedents dying after December 31, 2010.

Reunification - Prior to the EGTRRA, the estate and gift taxes were unified, creating a single graduated rate schedule for both. That single lifetime exemption could be used for gifts and/or bequests. The EGTRRA decoupled these systems. The proposal reunifies the estate and gift taxes. The proposal is effective for gifts made after December 31, 2010.