

# Legislative History Sources for Tax Research



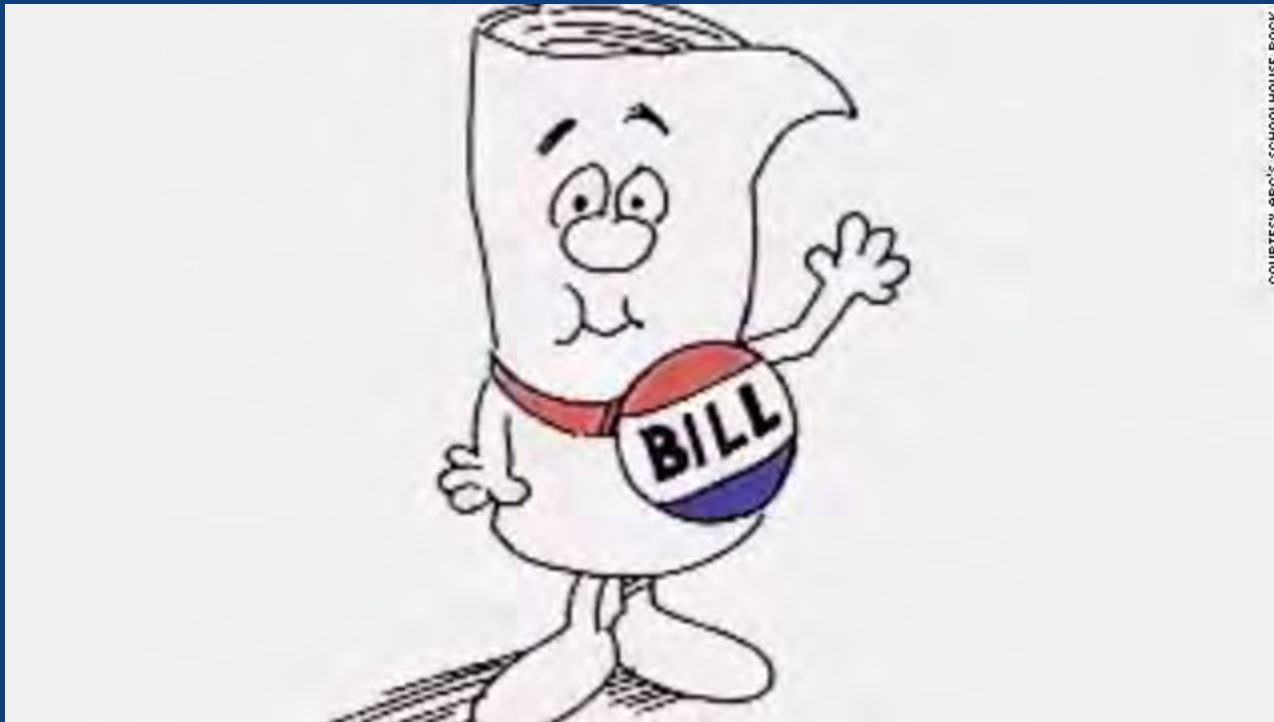
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# What is a legislative history?



Legislative history refers to the progress of a bill through the legislative process and to the documents & other media that are created during that process.

# I'm Just a Bill



COURTESY ABC'S SCHOOLHOUSE ROCK

## CONGRESSIONAL LAWSMAKING PROCESS

**1** Preliminary congressional hearings or

**2** Executive initiative in the form of a presidential message

**3** Bill introduced in House or Senate

**4** Bill referred to committee for consideration (some bills sent to subcommittee for further study)

**5** Committee holds public hearings, which may include presentation of testimony

**6** Committee votes to report bill out of committee



**7** Bill placed on legislative calendar and debated before the full House or Senate

**8** Bill approved by one chamber (engrossed) and sent to the other chamber for consideration

**9** If engrossed House bill differs from engrossed Senate bill, a conference committee reconciles the versions

**10** Once both House and Senate have approved identical bill, it becomes enrolled and is sent to the president

**11** The president signs the enrolled bill and it becomes law

**12** The law is codified if it has general and permanent applicability

# Key Fed. Abbreviations/Terms



- H.R. = bill that originated in House of Reps.
- S. = bill that originated in Senate
- “Mark up” = editing or amending
- “Table” **a bill = let a bill die**
- “Calendar” **bill = schedule it for debate by full chamber**
- Engrossed = passed version, edited with amendments
- Enrolled = passed by both chambers, ready for President
- (P.L. = Public Law) v. (Stat. = Statutes at Large) v. USC

# Key Fed. Legislative Terms



- Reconciliation = Congressional Budget Office determines whether bill complies with current budget
- Filibuster = Tactic available to opposing Senators to delay or block a vote on a bill
- Cloture = A supermajority vote to end a filibuster
- Conference Committee = group, comprised of Senators & Reps, which must reconcile differences between bill versions passed by House & Senate

# Understanding Bill & Public Law Citations



- The bill number is key to tracing legislative actions prior to enactment
  - S. 53, 105<sup>th</sup> congress = Senate bill 53 from the 105<sup>th</sup> congress (1997-98 session)
  - H.R. 1551, 115<sup>th</sup> Congress = House of Representatives bill number 1551 from the current Congress (2017-18 session)
  - Bills are assigned unique numbers sequentially as received for each Congress
- The public law number will help you trace enacted legislation
  - P.L. 103-17 = 17<sup>th</sup> law passed during the 103<sup>rd</sup> Congress (1993-94)

# What can you find?



- Bill drafts
- Committee Reports
  - Written by committee members and their staff to explain the legislation to other members of Congress
  - House Ways & Means Committee
  - Senate Committee on Finance
- Debate on the floor
  - Limited value because often just posturing
- Committee Prints
  - Reports used internally by the Committee
  - Not always evidence of intent, but can be evidence Committee members were aware of particular issues



# What can you find? (cont.)



- Joint Tax Committee (JTC) “Blue Books”
- Presidential Signing Statements on tax acts
  - Westlaw, Lexis, Bloomberg
- CRS Reports on tax changes and updates
  - Bloomberg, Hein, CCH
- GAO Reports
- Congressional Budget Office Reports

# What can you find?



- Hearings
  - Witness (stakeholder) testimony
    - Member of the public
    - Expert in the field
    - Government official from relevant agency
  - **“Inserted materials” or “Communications”** (handouts, reports, policy papers, etc. submitted by stakeholder to Committee members)



Where can I find this stuff?



# Online Legislative Resources

- Not an exhaustive list -

- Congressional Publications (ProQuest)
- Bloomberg Law
- CCH Intelliconnect
- RIA Checkpoint
- HeinOnline
- Westlaw & Lexis
- [Congress.gov](https://www.congress.gov)

***Access through LRC's Research Databases [link](#)***



# Print Legislative Resources

- Not an exhaustive list -



- Eldridge, **The United States Internal Revenue System** (1791 – 1894)
- **Seidman's Legislative History of Federal Income and Excess Profits Tax Laws** (1861-1946)
- **Barton's Federal Tax Laws Correlated** (1909-1952)
- **Internal Revenue Acts of the United States** (1909 – 1950)  
subsequent years covered by:
  - Reams (1950 – 1993)
- **BNA's Primary Sources Portfolios** (1954 – 1996)
- **Taxation and Economic Reform sets** (Manz, 1997, 2001)

\*Must visit the LRC

# Example: Legislative History of §1014(a)(1)




- What congressional discussion exists regarding the step-up in basis rule that aligns the income tax with the estate tax provisions in 26 USC §1014(a)(1)?

# Tips



- Is there a legislative history already?
- Make a checklist of the places you **need to visit and where you've been!**

 **§ 1014. Basis of property acquired from a decedent**  
United States Code Annotated | Title 26. Internal Revenue Code | Effective: July 31, 2015 (Approx. 4 pages)

Document

Notes of Decisions (97)

History (785)

Citing References (5,564)

Context &amp; Analysis (219)

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Table of Contents





United States Code Annotated

Title 26. Internal Revenue Code (Refs &amp; Annos)

Subtitle A. Income Taxes (Refs &amp; Annos)

Chapter 1. Normal Taxes and Surtaxes (Refs &amp; Annos)

 Subchapter O. Gain or Loss on Disposition of Property Part II. Basis Rules of General Application (Refs & Annos) Proposed Legislation

Effective: July 31, 2015

26 U.S.C.A. § 1014, I.R.C. § 1014

**§ 1014. Basis of property acquired from a decedent**

Currentness

**(a) In general.**--Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be--

- (1) the fair market value of the property at the date of the decedent's death,
- (2) in the case of an election under [section 2032](#), its value at the applicable valuation date prescribed by such section,
- (3) in the case of an election under [section 2032A](#), its value determined under such section, or
- (4) to the extent of the applicability of the exclusion described in [section 2031\(c\)](#), the basis in the hands of the decedent.

**(b) Property acquired from the decedent.**--For purposes of subsection (a), the following property shall be considered to have been acquired from or to have passed from the decedent:

- (1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;





## CREDIT(S)

(Aug. 16, 1954, c. 736, 68A Stat. 296; Pub. L. 85-320, § 2, Feb. 11, 1958, 72 Stat. 5; Pub.L. 92-178, Title V, § 502(f), Dec. 10, 1971, 85 Stat. 550; Pub.L. 94-455, Title XIX, § 1901(c)(8), Title XX, § 2005(a)(1), Oct. 4, 1976, 90 Stat. 1803, 1872; Pub.L. 95-600, Title V, § 515(1), Title VII, § 702(c)(1)(A), Nov. 6, 1978, 92 Stat. 2884, 2926; Pub.L. 96-222, Title I, § 107(a)(2)(A), Apr. 1, 1980, 94 Stat. 222; Pub.L. 96-223, Title IV, § 401(a), Apr. 2, 1980, 94 Stat. 299; Pub.L. 97-34, Title IV, § 425(a), Aug. 13, 1981, 95 Stat. 318; Pub.L. 97-448, Title I, § 104(a)(1)(A), Jan. 12, 1983, 96 Stat. 2379; Pub.L. 105-34, Title V, § 508(b), Aug. 5, 1997, 111 Stat. 860; Pub.L. 107-16, Title V, § 541, June 7, 2001, 115 Stat. 76; Pub.L. 108-357, Title IV, § 413(c)(18), Oct. 22, 2004, 118 Stat. 1508; Pub.L. 111-312, Title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300; Pub.L. 113-295, Div. A, Title II, § 221(a)(74), Dec. 19, 2014, 128 Stat. 4049; Pub.L. 114-41, Title II, § 2004(a), July 31, 2015, 129 Stat. 454.)

## Notes of Decisions (97)

26 U.S.C.A. § 1014, 26 USCA § 1014

Current through P.L. 115-51. Also includes P.L. 115-53 through 115-60. Title 26 current through 115-60.

## ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

PL 107-16, June 7, 2001, 115 Stat 38 (Approx. 89 pages)

Document

Bill Drafts (0)

Legislative History Materials (145)

Statutes Affected (0)

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PL 107-16, June 7, 2001, 115 Stat 38

UNITED STATES PUBLIC LAWS  
107th Congress - First Session  
Convening January, 2001Additions and Deletions are not identified in this database.  
Vetoed provisions within tabular material are not displayedPL 107-16 (HR 1836)  
June 7, 2001

## ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

An Act To provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

&lt;&lt; 26 USCA § 1 NOTE &gt;&gt;

(a) SHORT TITLE.—This Act may be cited as the “Economic Growth and Tax Relief Reconciliation Act of 2001”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references; table of contents.

## TITLE I—INDIVIDUAL INCOME TAX RATE REDUCTIONS

Sec. 101. Reduction in income tax rates for individuals.

Sec. 102. Repeal of phaseout of personal exemptions.

Sec. 103. Phaseout of overall limitation on itemized deductions.



**ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001**

PL 107-16, June 7, 2001, 115 Stat 38 (Approx. 89 pages)

Document

Bill Drafts (0)

Legislative History Materials (145)

Statutes Affected (0)

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Sec. 511. Additional reductions of estate and gift tax rates.

Subtitle C—Increase in Exemption Amounts

Sec. 521. Increase in exemption equivalent of unified credit, lifetime gifts exemption, and GST exemption amounts.

Subtitle D—Credit for State Death Taxes

Sec. 531. Reduction of credit for State death taxes.

Sec. 532. Credit for State death taxes replaced with deduction for such taxes.

Subtitle E—Carryover Basis at Death; Other Changes Taking Effect With Repeal

Sec. 541. Termination of **step-up** in basis at death.

Sec. 542. Treatment of property acquired from a decedent dying after December 31, 2009.

Subtitle F—Conservation Easements

Sec. 551. Expansion of estate tax rule for conservation easements.

Subtitle G—Modifications of Generation-Skipping Transfer Tax

Sec. 561. Deemed allocation of GST exemption to lifetime transfers to trusts; retroactive allocations.

Sec. 562. Severing of trusts.

Sec. 563. Modification of certain valuation rules.

Sec. 564. Relief provisions.

Subtitle H—Extension of Time for Payment of Estate Tax

Sec. 571. Increase in number of allowable partners and shareholders in closely held businesses.

Sec. 572. Expansion of availability of installment payment for estates with interests qualifying lending and finance businesses.

Sec. 573. Clarification of availability of installment payment.

Subtitle I—Other Provisions

Sec. 581. Waiver of statute of limitation for taxes on certain farm valuations.

SEC. 541. TERMINATION OF STEP-UP IN BASIS AT DEATH.

Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end the following new subsection:

“(f) TERMINATION.—This section shall not apply with respect to decedents dying after December 31, 2009.”.

SEC. 542. TREATMENT OF PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2009.

(a) GENERAL RULE.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

<< 26 USCA § 1022 >>

“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2009.

“(a) IN GENERAL.—Except as otherwise provided in this section—

“(1) property acquired from a decedent dying after December 31, 2009, shall be treated for purposes of this subtitle as transferred by gift, and

“(2) the basis of the person acquiring property from such a decedent shall be the lesser of—

“(A) the adjusted basis of the decedent, or

“(B) the fair market value of the property at the date of the decedent's death.

“(b) BASIS INCREASE FOR CERTAIN PROPERTY.—

“(1) IN GENERAL.—In the case of property to which this subsection applies, the basis of such property under subsection (a) shall be increased by its basis increase under this subsection.

“(2) BASIS INCREASE.—For purposes of this subsection—

“(A) IN GENERAL.—The basis increase under this subsection for any property is the portion of the aggregate basis increase which is allocated to the property pursuant to this section.

“(B) AGGREGATE BASIS INCREASE.—In the case of any estate, the aggregate basis increase under this subsection is \$1,300,000.

“(C) LIMIT INCREASED BY UNUSED BUILT-IN LOSSES AND LOSS CARRYOVERS.—The limitation under subparagraph (B) shall be increased by—

“(i) the sum of the amount of any capital loss carryover under section 1212(b), and the amount of any net operating loss carryover under section 172, which would (but for the decedent's death) be carried from the decedent's last taxable year to a later taxable year of the decedent, plus

“(ii) the sum of the amount of any losses that would have been allowable under section 165 if the property acquired from the decedent had been sold at fair market value immediately before the decedent's death.

“(3) DECEDENT NONRESIDENTS WHO ARE NOT CITIZENS OF THE UNITED STATES.—In the case of a decedent nonresident not a



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- PL115-22, One of several laws enacted in the early days of the 115th Congress targeting specific Federal regulations promulgated by the previous (Obama) administration and opposed by the nascent Republican administration and Congressional majorities. PL115-22 nullifies the Federal Communications Commission (FCC) rule published at 81 FR 87274 (December 2, 2016) that applies the privacy

## CITATION CHECKER:

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Public Law Number

PL90-351

Statute at Large Citations

82 Stat. 197

66 Stat. 14, Chap: 82

Enacted Bill

90 H.R. 5037

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PL107-56, the USA PATRIOT ACT of 2001.





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Publication Type: Legislative History

DIGITAL-PDF ID: **PL107-16**

PUBLIC LAW PDF ID: PL107-16FT

DATE: June 7, 2001

ENACTED-BILL: 107 H.R. 1836

STATUTE AT LARGE: 115 Stat. 38

CONG-SESS: 107-1

USCS: 2 USCS § 932, 2 USCS § 936, 26 USCS § 1, more...

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Employee Retirement Income Security Act of 1974

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### BILLS:

SERIAL-SET-ID: 14720 H.rp.7

TITLE: Economic Growth and Tax Relief Act of 2001

DOCUMENT-DATE: Mar. 6, 2001

COMMITTEE: Committee on Ways and Means. House

DOC-NO: H. Rpt. 107-7

SERIAL-VOLUME: 14720

DIGITAL-PDF: [14720 H.rp.7](#)

LENGTH: 31 pp.

SUDOC: Y1.1/8:107-7

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SERIAL-SET-ID: 14720 H.rp.12

TITLE: Providing for Consideration of H.R. 3, Economic Growth and Tax Relief Act of 2001

DOCUMENT-DATE: Mar. 7, 2001

COMMITTEE: Committee on Rules. House

DOC-NO: H. Rpt. 107-12

SERIAL-VOLUME: 14720

DIGITAL-PDF: [14720 H.rp.12](#)

LENGTH: 8 pp.

SUDOC: Y1.1/8:107-12

NOTE: House rules and procedure

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SERIAL-SET-ID: 14720 H.rp.29

TITLE: Marriage Penalty and Family Tax Relief Act of 2001

DOCUMENT-DATE: Mar. 27, 2001

COMMITTEE: Committee on Ways and Means. House

DOC-NO: H. Rpt. 107-29

SERIAL-VOLUME: 14720

DIGITAL-PDF: [14720 H.rp.29](#)

LENGTH: 36 pp.

SUDOC: Y1.1/8:107-29

[Publication Detail](#)

107TH CONGRESS }  
*1st Session* }

HOUSE OF REPRESENTATIVES {

{ REPORT  
107-7

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## ECONOMIC GROWTH AND TAX RELIEF ACT OF 2001

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MARCH 6, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. THOMAS, from the Committee on Ways and Means,  
submitted the following

### R E P O R T

together with

### DISSENTING VIEWS

[To accompany H.R. 3]

[Including cost estimate of the Congressional Budget Office]

as amended do pass.

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**115 Bill Profile H.R. 1551 (2017-2018)**  
TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES

Sponsor: [Tom Rice \(R - SC\)](#)

Latest Action: [Reported in the House, as amended](#)

A bill to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities



[Full text](#) [Permalink](#)

**115 H.R. 1551 Engrossed in House**

Bill Text

Date: June 20, 2017

Citation: 2017 H.R. 1551; 115 H.R. 1551

Bill Status: Engrossed in House

Congress-Session: 115- 1

An Act To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

[Citation/Abstract](#) [Full text](#) [Permalink](#)

**115 H.R. 1551 Introduced in the House**

Bill Text

Date: March 15, 2017

Citation: 2017 H.R. 1551; 115 H.R. 1551

Bill Status: Introduced in the House

Congress-Session: 115- 1

To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

[Citation/Abstract](#) [Full text](#) [Permalink](#)

**115 H.R. 1551 Reported in House**

# 115 Bill Profile H.R. 1551 (2017-2018)

TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES

Sponsor: Representative [Tom Rice](#) (R - SC)  
Cosponsors: 32 Total Cosponsors: 9 Democrats / 23 Republicans  
Introduced: March 15, 2017  
Last Action: Reported in the House, as amended



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June 20, 2017	status	Considered in the House	<a href="#">163 Cong Rec H4958</a>
June 20, 2017	others	House considered under suspension of the rules	<a href="#">163 Cong Rec H4958</a>
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Session 1			
June 23, 2017	others	Supporting remarks by Rep. Sinema (D-AZ)	<a href="#">163 Cong Rec E891</a>
June 21, 2017	others	Supporting remarks by Rep. Marchant (R-TX)	<a href="#">163 Cong Rec E866</a>
June 20, 2017	status	Considered in the House	<a href="#">163 Cong Rec H4958</a>
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June 20, 2017	others	House agreed to suspend the rules and pass, as amended (by voice vote)	<a href="#">163 Cong Rec H4963</a>
June 20, 2017	status	Reported in the House, as amended	<a href="#">163 Cong Rec H4991</a>
June 20, 2017	others	 Report filed, as amended, by House Committee on Ways and Means ( <a href="#">H. Rpt. 115-183</a> )	<a href="#">163 Cong Rec H4991</a>
June 20, 2017	referral	Referred to the Committee of the Whole House on the state of the Union	<a href="#">163 Cong Rec H4991</a>
June 15, 2017	others	Markup held by House Committee on Ways and Means	<a href="#">163 Cong Rec D665</a>
June 15, 2017	others	Ordered reported, as amended, by House Committee on Ways and Means	<a href="#">163 Cong Rec D665</a>
March 15, 2017	status	Introduced in the House	<a href="#">163 Cong Rec H2082</a>
March 15, 2017	referral	Referred to the House Committee on Ways and Means	<a href="#">163 Cong Rec H2082</a>

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## House and Senate Reports

### Title Info

Title:	TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES
Congress-Session:	115-1
Citation:	<b>115 H. Rpt. 183</b>
Date:	June 20, 2017
Sponsor:	Mr. Brady of Texas, from the Committee on Ways and Means, submitted the following
Committee:	Committee on Ways and Means. House.
Bill Text:	H.R. 1551, 115th
Bill Profile:	H.R. 1551, 115th
Permalink:	<a href="https://0-congressional.proquest.com.sally.sandiego.edu/congressional/docview/t15.d16.115_hrpt_183?accountid=146947">https://0-congressional.proquest.com.sally.sandiego.edu/congressional/docview/t15.d16.115_hrpt_183?accountid=146947</a>

### Summary

The Committee on Ways and Means, to whom was referred the bill (H.R. 1551) to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

Contents:

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## Full Text

House Report 115-183 - TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUC

[House Report 115-183]

[From the U.S. Government Publishing Office]

115th Congress	}		{	Report
		HOUSE OF REPRESENTATIVES		
1st Session	}		{	115-183

=====

TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR  
PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES

\_\_\_\_\_

June 20, 2017.--Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

\_\_\_\_\_

Mr. Brady of Texas, from the Committee on Ways and Means, submitted the  
following

R E P O R T

[To accompany H.R. 1551]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the  
bill (H.R. 1551) to amend the Internal Revenue Code of 1986 to  
modify the credit for production from advanced nuclear power  
facilities, having considered the same, report favorably  
thereon with an amendment and recommend that the bill as  
amended do pass.



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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. MODIFICATIONS OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) Treatment of Unutilized Limitation Amounts.--Section 45J(b) of the Internal Revenue Code of 1986 is amended--

(1) in paragraph (4), by inserting ``or any amendment to\'\' after ``enactment of\'\', and

(2) by adding at the end the following new paragraph:

``(5) Allocation of unutilized limitation.--

    ``(A) In general.--Any unutilized national megawatt capacity limitation shall be allocated by the Secretary under paragraph (3) as rapidly as is practicable after

## Contents:

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### Summary

### Full Text

kilowatt-hour of electricity produced (calculated as described above) subject to an annual credit limitation of \$93.75 million in credits (three-quarters of \$125 million).

The credit is part of the general business credit.

#### REASONS FOR CHANGE

The Committee is concerned about ambiguity in the event some advanced nuclear power credits that would otherwise be available to taxpayers may go unused. Specifically, the Committee wants to ensure the full utilization of all 6,000 megawatts of credit-eligible advanced nuclear power national capacity by requiring unutilized capacity to be reallocated. In addition, the Committee wants to ensure that tax-exempt entities receiving credit allocations may transfer those credits to other participants in an advanced nuclear power project. The Committee therefore believes that the modifications to the credit will provide necessary clarity in these areas.

#### EXPLANATION OF PROVISION

The provision modifies the allocation of the national megawatt capacity limitation for the advanced nuclear power production credit. To the extent any amount of the 6,000 megawatts of authorized capacity remains unutilized, the provision requires the Secretary to allocate such capacity first to facilities placed in service before the year 2021, to the extent such facilities did not receive an allocation equal to their full nameplate capacity, and then to facilities placed in service after such date in the order in which such facilities are placed in service. The provision provides that the present law placed-in-service sunset date of January 1, 2021, does not apply with respect to allocations of such unutilized national megawatt capacity.

The provision also allows qualified public entities to elect to forgo credits to which they otherwise would be entitled in favor of an eligible project partner. Qualified

# 115 Bill Profile H.R. 1551 (2017-2018)

TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES

Sponsor: Representative Tom Rice (R - SC)  
Cosponsors: 32 Total Cosponsors: 9 Democrats / 23 Republicans  
Introduced: March 15, 2017  
Last Action: Reported in the House, as amended



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## Committees Actions (2)

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Date ▼	Type	Committee
June 20, 2017	referral	Committee of the Whole House on the state of the Union
March 15, 2017	referral	House Committee on Ways and Means





## Hearings & Events

October 4

10:00 AM — HEARING OVERSIGHT

Hearing on the Internal Revenue Service's Information Technology Modernization Efforts

September 2017

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## Results for *1551*

### **House Approves Bipartisan Bill to Strengthen America's Energy Independence & National Security**

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WASHINGTON, D.C. – Today, the House passed bipartisan legislation – introduced by Ways and Means Committee Members Tom Rice (R-SC) and Earl Blumenauer (D-OR) – to help strengthen our nation's energy independence and national security by improving the operation of the Nuclear Production Tax Credit (

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### **W&M Takes Bipartisan Action to Help Americans Get Back to Work, Strengthen America's Energy Security**

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Today, the Ways and Means Committee approved two pieces of bipartisan legislation – one focused on helping Americans get back to work and another focused on strengthening our nation's energy security: The Accelerating Individuals into the Workforce Act (H.R. 2842), introduced by ...

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### **Chairman Brady Opening Statement at Markup of Bipartisan Bills**



# W&M Takes Bipartisan Action to Help Americans Get Back to Work, Strengthen America's Energy Security

© JUNE 15, 2017 — [BLOG](#)

---

Today, the Ways and Means Committee approved two pieces of bipartisan legislation – one focused on helping Americans get back to work and another focused on strengthening our nation's energy security:

- The *Accelerating Individuals into the Workforce Act* ([H.R. 2842](#)), introduced by Reps. Carlos Curbelo (R-FL) and Danny Davis (D-IL). Their legislation will help connect Americans looking for work with the employers looking to fill job openings, including through apprenticeships and other forms of on-the-job training. The legislation was approved with an amendment, offered by Reps. Suzan DelBene (D-WA) and Dave Reichert (R-WA), that requires at least one of the programs funded to be an apprenticeship program. As **Rep.**

**Curbelo** said about his legislation:

*"Instead of an inflexible, Washington-designed program, this legislation is reflective of the fact that every community has unique challenges that present barriers to finding a job ... Poverty is an issue that affects each our districts. **We need innovative solutions that can help get people on track to a brighter future.** This legislation is a step in the right direction."*

As **Rep. Davis** added:

*"Research is clear. Subsidized employment and career pathways successfully engage people in employment, especially those who have been unsuccessful in finding paid employment through their efforts ... I'm pleased to join with Representative Curbelo in this effort."*

- Legislation to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities ([H.R. 1551](#)), introduced by Reps. Tom Rice (R-SC) and Earl Blumenauer (D-OR). The bill clarifies existing law to help ensure the effective operation of the tax credit for nuclear energy







*“Research is clear. Subsidized employment and career pathways successfully engage people in employment, especially those who have been unsuccessful in finding paid employment through their efforts ... I’m pleased to join with Representative Curbelo in this effort.”*

- Legislation to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities ([H.R. 1551](#)), introduced by Reps. Tom Rice (R-SC) and Earl Blumenauer (D-OR). The bill clarifies existing law to help ensure the effective operation of the tax credit for nuclear energy production. As **Rep. Rice** said about the urgent need to pass this legislation:

*“Passing this legislation is more important now than ever. **If these facilities shut down tomorrow, it will immediately cost 12,000 jobs in South Carolina and Georgia.** It will cost the ratepayers hundreds if not thousands of dollars in increases to their utility bills. And, most alarming, our national security will be jeopardized as countries like China and Russia continue to make massive investments in nuclear.”*

As **Rep. Blumenauer** said:

*“I think being able to proceed with these elements helps in terms of the issue that my friend from South Carolina talked about. It will also promote the development of the smaller scale, very efficient technology which could have – I think – broad application and is worth our pursuing... I think this is an important tool to have, and I am happy to support it.”*

[CLICK HERE](#) to learn more about today’s markup

[CLICK HERE](#) to read Chairman Brady’s opening statement from today’s markup.

SUBCOMMITTEE: [HUMAN RESOURCES](#) SUBCOMMITTEE: [TAX POLICY](#)

## RELATED

# Hearing on the Internal Revenue Service’s Information Technology Modernization Efforts

# Markup of Legislation to Modify the Nuclear Production Tax Credit

© JUNE 15, 2017 — MARKUP

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## Meeting Information

Thursday, June 15, 2017, at 10:00 AM in Room 1100 of the Longworth House Office Building

## Markup of:

- [H.R. 1551, "To amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities"](#)

Members are also advised of possible continued consideration of any of the below bills if unfinished from the June 14, 2017 markup:

- [R. 2742, "Modernizing the Interstate Placement of Children in Foster Care Act"](#)
- [H.R. 2857, "Supporting Families in Substance Abuse Treatment Act"](#)
- [H.R. 2834, "Partnership Grants to Strengthen Families Affected by Parental Substance Abuse Act"](#)
- [H.R. 2866, "Reducing Barriers for Relative Foster Parents Act"](#)
- [H.R. 2847, "Improving Services for Older Youth in Foster Care Act"](#)
- [H.R. 2842, "Accelerating Individuals into the Workforce Act"](#)

## Additional Markup Materials

- [JCT Description of H.R. 1551](#)
- [Amendment in the Nature of a Substitute to H.R. 1551](#)
- [JCT Description of Amendment in the Nature of a Substitute to H.R. 1551 \(Green Sheet\)](#)



**DESCRIPTION OF H.R. 1551,  
A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986  
TO MODIFY THE CREDIT FOR PRODUCTION FROM  
ADVANCED NUCLEAR POWER FACILITIES**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
on June 15, 2017

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



## **A. Advanced Nuclear Power Production Credit**

### **Present Law**

Taxpayers producing electricity at a qualifying advanced nuclear power facility may claim a credit equal to 1.8 cents per kilowatt-hour of electricity produced for the eight-year period starting when the facility is placed in service.<sup>2</sup> The aggregate amount of credit that a taxpayer may claim in any year during the eight-year period is subject to limitation based on allocated capacity and an annual limitation as described below.

An advanced nuclear facility is any nuclear facility for the production of electricity, the reactor design for which was approved after 1993 by the Nuclear Regulatory Commission. For this purpose, a qualifying advanced nuclear facility does not include any facility for which a substantially similar design for a facility of comparable capacity was approved before 1994.

A qualifying advanced nuclear facility is an advanced nuclear facility for which the taxpayer has received an allocation of megawatt capacity from the Secretary of the Treasury (“the Secretary”) and is placed in service before January 1, 2021. The taxpayer may only claim credit for production of electricity equal to the ratio of the allocated capacity that the taxpayer receives from the Secretary to the rated nameplate capacity of the taxpayer’s facility. For example, if the taxpayer receives an allocation of 750 megawatts of capacity from the Secretary and the taxpayer’s facility has a rated nameplate capacity of 1,000 megawatts, then the taxpayer may claim three-quarters of the otherwise allowable credit, or 1.35 cents per kilowatt-hour, for each kilowatt-hour of electricity produced at the facility (subject to the annual limitation described below). The credit is restricted to 6,000 megawatts of national capacity. Once that limitation has been reached, the Secretary may make no additional allocations. Treasury guidance required allocation applications to be filed before February 1, 2014.<sup>3</sup>

## **Description of Proposal**

The proposal modifies the national megawatt capacity limitation for the advanced nuclear power production credit. To the extent any amount of the 6,000 megawatts of authorized capacity remains unutilized, the proposal requires the Secretary to allocate such capacity first to facilities placed in service before the year 2021, to the extent such facilities did not receive an allocation equal to their full nameplate capacity, and then to facilities placed in service after such date in the order in which such facilities are placed in service. The proposal provides that the present law placed-in-service sunset date of January 1, 2021, does not apply with respect to allocations of such unutilized national megawatt capacity.

The proposal also allows qualified public entities to elect to forgo credits to which they otherwise would be entitled in favor of an eligible project partner. Qualified public entities are defined as (1) a Federal, State, or local government of any political subdivision, agency, or instrumentality thereof; (2) a mutual or cooperative electric company; or (3) a not-for-profit electric utility which has or had received a loan or loan guarantee under the Rural Electrification Act of 1936.<sup>4</sup> An eligible project partner under the proposal generally includes any person who designed or constructed the nuclear power plant, participates in the provision of nuclear steam or nuclear fuel to the power plant, or has an ownership interest in the facility. In the case of a facility owned by a partnership, where the credit is determined at the partnership level, any electing qualified public entity is treated as the taxpayer with respect to such entity's distributive share of such credits, and any other partner is an eligible project partner.

## **Effective Date**

The proposal requiring the allocation of unutilized national megawatt capacity limitation is effective on the date of enactment. The proposal allowing an election by qualified public entities to forgo credits in favor of an eligible project partner is effective for taxable years beginning after December 31, 2017.

## B. Estimated Revenue Effect

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### Fiscal Years [Millions of Dollars]

---

<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2018-22</u>	<u>2018-27</u>
--	[1]	-1	-2	-2	-2	-2	-2	-2	-2	-5	-16

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**NOTE:** Details do not add to totals due to rounding.

[1] Loss of less than \$500,000.





*“Research is clear. Subsidized employment and career pathways successfully engage people in employment, especially those who have been unsuccessful in finding paid employment through their efforts ... I’m pleased to join with Representative Curbelo in this effort.”*

- Legislation to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities ([H.R. 1551](#)), introduced by Reps. Tom Rice (R-SC) and Earl Blumenauer (D-OR). The bill clarifies existing law to help ensure the effective operation of the tax credit for nuclear energy production. As **Rep. Rice** said about the urgent need to pass this legislation:

*“Passing this legislation is more important now than ever. **If these facilities shut down tomorrow, it will immediately cost 12,000 jobs in South Carolina and Georgia.** It will cost the ratepayers hundreds if not thousands of dollars in increases to their utility bills. And, most alarming, our national security will be jeopardized as countries like China and Russia continue to make massive investments in nuclear.”*

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# Hearing on the Internal Revenue Service’s Information Technology Modernization Efforts

# Chairman Brady Opening Statement at Markup of Bipartisan Bills to Help Americans Get Back to Work and to Strengthen America's Energy Security

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**WASHINGTON, D.C.** – House Ways and Means Committee Chairman Kevin Brady (R-TX) today delivered the following opening statement at a [markup](#) of bipartisan bills to help more Americans get back to work and to strengthen America's energy security.

[CLICK HERE](#) to watch today's markup.

## **Remarks as delivered:**

*"Good morning. Before we start today, I want to take a moment to speak about the shooting that occurred yesterday morning at our practice for today's Congressional Baseball Game.*

*"Our prayers continue to be with everyone who was injured – members, staff, friends, and first responders. That includes Majority Whip Steve Scalise, a roommate of mine and Erik Paulsen's, and a widely-respected leader in Congress.*

*"And we're deeply grateful – all of us – for the actions taken yesterday by Capitol Police officers to protect our friends, colleagues, and the surrounding community.*

*"Again, to those who were injured, we're all praying for your swift and successful recovery.*

*"Now, let's begin*



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Current Legislative Activities

115th Congress (2017-2018)

House of Representatives



Today: Sep. 28, 2017  
The House convened at 9:00 a.m.

On the Floor Today

- [H.R.2792](#)
- [H.R.3823](#)
- [S.1866](#)

Previous Meeting: Sep. 27, 2017

House Links

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Senate



Today: Sep. 28, 2017  
The Senate convened at 9:30 a.m.

On the Floor Today

- [PN586](#)
- [PN89](#)

Previous Meeting: Sep. 27, 2017

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Members Remarks

Brady, Kevin [R-TX]

By Any Senator



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1. DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2018 ([September 07, 2017 - House \(Vol. 163, No. 144\)](#))
2. MEDICARE PART B IMPROVEMENT ACT OF 2017 ([July 25, 2017 - House \(Vol. 163, No. 125\)](#))
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7. PROTECTING ACCESS TO CARE ACT OF 2017 ([June 28, 2017 - House \(Vol. 163, No. 111\)](#))
8. MODIFICATIONS OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES ([June 20, 2017 - House \(Vol. 163, No. 105\)](#))



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115th Congress, 1st Session  
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## MODIFICATIONS OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES (House of Representatives - June 20, 2017)

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[Pages H4958-H4963]

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MODIFICATIONS OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER  
FACILITIES

Mr. RICE of South Carolina. Mr. Speaker, I move to suspend the rules and pass the bill ([H.R. 1551](#)) to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

[H.R. 1551](#)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATIONS OF CREDIT FOR PRODUCTION FROM  
ADVANCED NUCLEAR POWER FACILITIES.

(a) Treatment of Unutilized Limitation Amounts.--Section 45J(b) of the Internal Revenue Code of 1986 is amended--

(1) in paragraph (4), by inserting ``or any amendment to'' after ``enactment of'', and

(2) by adding at the end the following new paragraph:

``(5) Allocation of unutilized limitation.--

``(A) In general.--Any unutilized national megawatt capacity limitation shall be allocated by the Secretary under paragraph (3) as rapidly as is practicable after December 31, 2020--

``(i) first to facilities placed in service on or before such date to the extent that such facilities did not receive an allocation equal to their full nameplate capacity, and

``(ii) then to facilities placed in service after such date in the order in which such facilities are placed in service.

``(B) Unutilized national megawatt capacity limitation.--

The term `unutilized national megawatt capacity limitation' means the excess (if any) of--

``(i) 6,000 megawatts, over

``(ii) the aggregate amount of national megawatt capacity



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## Committee Report for HR115-183, HR1551

### TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MODIFY THE CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES [H. Rept. 115-183 6/20/2017]

115TH CONGRESS *1st Session*

HOUSE OF REPRESENTATIVES

REPORT 115-183

JUNE 20, 2017.-Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany [H.R. 1551](#)]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill ([H.R. 1551](#)) to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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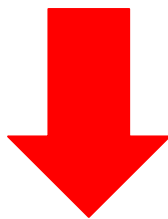
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1.  [Proposed Legislation: CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 110th Congress, March 23, 2009, \(Apr. 2, 2009\)](#)  
- ...As a consequence of the **step-up-in-basis** rule, the loss in value during the decedent's period of ownership cannot be claimed as a capital loss when an inherited asset is sold. Assets transferred by gift, during the donor's life, still have a carryover basis under **EGTRRA**, as under prior law... These bills would thereby also have preserved the other changes to the taxation of gifts and bequests made by **EGTRRA**. Among those changes are the modified gift tax and the modified carryover basis (instead of a **step-up in basis**) for assets transferred at death. H.R. 411 (Mario Diaz-Balart), H.R. 2380 (Hulshof), and S... 14 (Kyl) would have removed the sunset provision of **EGTRRA**. If instead **EGTRRA** is permitted to sunset, then the tax law would revert to the **step-up in basis** rules found in Subtitle A, sec. 1012 of the Internal Revenue Code...
2.  [Proposed Legislation: CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 111th Congress, July 16, 2010, \(Jul. 21, 2010\)](#)  
- ...Assets transferred by gift during the donor's life still have a carryover basis (typically the decedent's original purchase price) under **EGTRRA**, as under prior law... The estate tax is sometimes defended as a substitute for the capital gains tax forgone because of the **step-up in basis** treatment of assets transferred at death. For a discussion of this tradeoff, written prior to the enactment of **EGTRRA**, see CRS Report RL30875, Step-Up vs... First, **EGTRRA** permits an aggregate **step-up in basis** of \$1.3 million per decedent This limit may be increased by the amount of unused built-in losses and loss carryovers that the decedent may have had. in the original adjusted basis of assets transferred at death (\$60,000 for nonresident aliens)...
3.  [Proposed Legislation: CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 111th Congress, April 2, 2010, \(Apr. 20, 2010\)](#)  
- ...In effect, this continues to provide **step-up in basis** treatment for the heirs of small estates, thereby protecting them from potential tax liability on the capital gains that accrued during the decedent's period of ownership. The estate tax provisions of **EGTRRA** are scheduled to sunset at the end of 2010... The estate tax is sometimes defended as a substitute for the capital gains tax forgone because of the **step-up in basis** treatment of assets transferred at death. For a discussion of this tradeoff, written prior to the enactment of **EGTRRA**, see CRS Report RL30875, Step-Up vs... First, **EGTRRA** permits an aggregate **step-up in basis** of \$1.3 million per decedent This limit may be increased by the amount of unused built-in losses and loss carryovers that the decedent may have had. in the original adjusted basis of assets transferred at death (\$60,000 for nonresident aliens)...
4.  [Proposed Legislation: CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation, Updated July 2, 2008, \(Jul. 9, 2008\)](#)  
- ...In addition, when the estate tax is repealed in 2010, there is scheduled to be a significant change in the method to determine the "basis" of all capital assets transferred at death — from "**step-up in basis**" to "modified carryover basis." The estate tax provisions of **EGTRRA** are scheduled to sunset at the end of 2010... These bills would thereby also preserve the other changes to the taxation of gifts and bequests made by **EGTRRA**. Among these changes are the modified gift tax and the modified carryover basis (instead of a **step-up in basis**) for assets transferred at death. H.R. 411 (Mario Diaz-Balart) and H.R. 2380 (Hulshof) would remove the sunset provision of **EGTRRA**... H.R. 411 (Mario Diaz-Balart) and H.R. 2380 (Hulshof) would remove the sunset provision of **EGTRRA**. If **EGTRRA** is permitted to sunset, then the tax law would revert to the **step-up in basis** rules found in Subtitle A, section 1012 of the Internal Revenue Code...
5.  [Proposed Legislation: CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 110th Congress, Updated February 14, 2008, \(Feb. 19, 2008\)](#)  
- ...These bills would thereby also preserve the other changes to the taxation of gifts and bequests made by **EGTRRA**. Among these changes are the modified gift tax and the modified carryover basis (instead of a **step-up in basis**) for assets transferred at death. H.R. 411(Mario Diaz-Balart) and H.R. 2380 (Hulshof)




6.  **Proposed Legislation:** [CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 111th Congress, January 5, 2010, \(Jan. 13, 2010\)](#)  
- ...As a consequence of the **step-up-in-basis** rule, a loss in value during the decedent's period of ownership cannot be claimed as a capital loss when an inherited asset is sold. Assets transferred by gift during the donor's life still have a carryover basis under EGTRRA, as under prior law... First, EGTRRA permits an aggregate **step-up in basis** of \$1.3 million per decedent This limit may be increased by the amount of unused built-in losses and loss carryovers that the decedent may have had. in the original adjusted basis of assets transferred at death (\$60,000 for nonresident aliens)... If the choice is to repeal the estate tax, questions still remain as to whether assets transferred at death should have a carryover basis or **step-up in basis** See the earlier section on Current Law: The Economic Growth and **Tax Relief Reconciliation Act of 2001** for an explanation of step-up and carryover basis...
7.  **Proposed Legislation:** [CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 111th Congress, December 2, 2009, \(Dec. 10, 2009\)](#)  
- ...If the choice is to repeal the estate tax, questions still remain as to whether assets transferred at death should have a carryover basis or **step-up in basis** See pages 4-5 in the next section on Current Law: The Economic Growth and **Tax Relief Reconciliation Act of 2001** for an explanation of step-up and carryover basis... As a consequence of the **step-up-in-basis** rule, a loss in value during the decedent's period of ownership cannot be claimed as a capital loss when an inherited asset is sold. Assets transferred by gift during the donor's life still have a carryover basis under EGTRRA, as under prior law... EGTRRA permits an aggregate **step-up in basis** of \$1.3 million per decedent This limit may be increased by the amount of unused built-in losses and loss carryovers that the decedent may have had. in the original adjusted basis of assets transferred at death (\$60,000 for nonresident aliens)...
8.  **Proposed Legislation:** [CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 109th Congress, Updated July 31, 2006, \(Aug. 4, 2006\)](#)  
- ...In short, the practical effect of these two exceptions to carryover basis is to maintain a **step-up in basis** for smaller estates. If the sunset provision were repealed with respect to Title V of EGTRRA, then the modified carryover basis rules introduced by EGTRRA would continue in effect after 2010 when the estate tax is permanently repealed... However, if EGTRRA is permitted to sunset, then the tax law would revert to the **step-up in basis** rules found in Subtitle A, Section 1012 of the Internal Revenue Code... They would also repeal the modified carryover basis introduced by EGTRRA for determining the cost basis of assets transferred at

# CRS Reports and Other Studies, Congressional Research Service Report for Congress—Estate Tax Legislation in the 111th Congress, January 5, 2010

2010ARD 008-102

111th Congress

## Estate Tax Legislation in the 111<sup>th</sup> Congress

**Nonna A. Noto** 

Specialist in Public Finance

January 5, 2010

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

R40964

### Summary

The federal government levies an estate tax on the net value of assets transferred to individuals (other than the surviving spouse) upon a person's death. Under provisions of the Economic Growth and **Tax Relief Reconciliation Act of 2001** » (**EGTRRA**; P.L. **107-16**), for people who died in 2009, the applicable exclusion amount (exemption) under the estate tax was \$3.5 million per decedent, and the maximum estate tax rate was 45%. For people who die in 2010, there is no estate tax. However, the gift tax, associated with the estate tax, is scheduled to remain in place in 2010, with a cumulative lifetime exclusion of \$1 million (above and beyond the annual gift exclusion of \$13,000 per donor per recipient) and a maximum tax rate of 35%. In addition, when the estate tax is repealed in 2010, there is scheduled to be a significant change in the method used to determine the "basis" of all capital assets transferred at death—from "**step-up in basis**" to "modified carryover basis."

The estate tax provisions of «**EGTRRA**» are scheduled to sunset at the end of 2010. If Congress does not change the law beforehand, on January 1, 2011, estate and gift tax law will return to what it would have been had **EGTRRA** never been enacted. The unified estate and gift tax would be reinstated with a unified (combined) exclusion of \$1 million. The maximum tax rate would rise back to 55%, plus a 5% surtax on taxable estate value from \$10.0 million to \$17.184 million.

lifetime limit for gifts (from an individual to any other individual) remains in effect. The dollar amount of the annual exclusion was set at \$10,000 as of 1998, and indexed for inflation thereafter. The value of the annual gift exclusion was \$12,000 for 2007 and 2008, and is \$13,000 for 2009 and 2010.

In addition, when the estate tax is repealed in 2010, there is scheduled to be a significant change in the method used to determine the tax "basis" of capital assets transferred at death—from "stepup in basis" to "modified carryover basis." The basis is the "cost" of a capital asset that is subtracted from the sales proceeds in order to calculate the "capital gain" that is subject to income tax after an inherited asset is sold by the heir. <sup>8</sup>

Under the law in place through 2009, and which is scheduled to resume in 2011, a «**step-up in basis**» rule applies to capital assets transferred at death. <sup>9</sup> Under the step-up rule, the cost basis of an asset is set at the value of the asset on the decedent's date of death. <sup>10</sup> If the heir sells the asset, his or her capital gain is calculated as the difference between the sales price and the **stepped-up basis**, not the decedent's original purchase price (which is called the *carryover basis*). The practical effect of the **step-up in basis** is to permanently forgive the income tax liability on the increase in value of the asset (the capital gain) during the decedent's period of ownership. <sup>11</sup>

Assets transferred by gift during the donor's life still have a carryover basis under «**EGTRRA**», as under prior law.

The estate tax is sometimes defended as a substitute for the forgone capital gains tax. <sup>12</sup> Consistent with this argument, an important tradeoff that «**EGTRRA**» made for the repeal of the estate tax in 2010 was the return to a carryover basis for assets transferred at death. <sup>13</sup> However, two important exceptions were made in what is called a *modified carryover basis*. First, **EGTRRA** permits an aggregate **step-up in basis** of \$1.3 million per decedent <sup>14</sup> in the original adjusted basis of assets transferred at death (\$60,000 for nonresident aliens). Second, an additional step-up of up to \$3 million is permitted for assets transferred to a surviving spouse. (These dollar amounts are indexed for inflation. <sup>15</sup>) The executor of the estate is left with the task of allocating the step-up allowance among specific assets.

The basis offsets apply to the *net* increase in value of the assets, not the *gross* value of the assets. Thus, the \$1.3 million step-up allowance might cover all of the capital gains in a gross estate valued at \$2 million or \$3 million or more. The spousal step-up allowance of \$3 million itself could cover the gains in an estate with a gross value of \$4 million or \$5 million or more. The practical effect of the individual and spousal step-up allowances is to maintain a «**step-up in basis**» for smaller estates.

Whatever basis-valuation rule is in effect for the year of death applies to all capital assets transferred after any person's death, whether or not their estate is large enough to be liable for the estate tax. It determines the cost basis that all heirs must use to calculate the capital gain if they sell an inherited capital asset.

The estate tax repeal, and all other provisions of «**EGTRRA**», are scheduled to sunset at the end of 2010. <sup>16</sup> If Congress does not change the law beforehand, on January 1, 2011, estate and gift tax law will return to what it would have been had **EGTRRA** never been enacted. The unified estate and gift tax would be reinstated, with a combined exclusion of \$1 million. <sup>17</sup> The special deduction for qualified family-owned business interests (QFOBI) would be restored, with a maximum value of \$1.3 million in combination with the applicable exclusion amount. The maximum tax rate would revert (from 45% in 2007 through 2009) to 55%, with a 5% surtax on taxable estate values over \$10.0 million and up to \$17.184 million. **Step-up in basis** would again be the rule for assets transferred at death. The credit for state death taxes would be reinstated; the deduction for state death taxes would be dropped.



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- NEED HELP?**: A banner encouraging users to visit the 'Help Center' for updates, research tips, and more.
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# Tax Legislation

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- + 111th Congress (2009-2010)
- + 110th Congress (2007-2008)
- + 109th Congress (2005-2006)
- + 108th Congress (2003-2004)
- 107th Congress (2001-2002)
  - + Enacted
  - + JCT General Explanation (Blue Book)
- + 106th Congress (1999-2000)
- + 105th Congress (1997-1998)
- + 104th Congress (1995-1996)
- + 103rd Congress (1993-1994)
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SPECIALIZATIONS



DAILY TAX REPORT



ADVANCED SEARCH

Tax Legislation

"step-up basis" OR "stepped-up basis" OR (decedent S/ basis) OR "income tax

Advanced



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- 1. 107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16), Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), House Committee Report (H.R. 8)

Property passing from a decedent's estate generally takes a stepped-up basis. "Stepped-up basis" for estate tax purposes means that the basis of property passing from a decedent's estate generally is the fair market value on the date of the decedent's death (or, if the alternate valuation date is elected, the earlier of six months or the date the property is sold or distributed by the estate).

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- 2. 107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16), Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), TITLE V—ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX PROVISIONS

Termination of Step-Up Basis at Death The Act provides that the present rules relating to the basis of property acquired from a decedent, which provide for a stepped-up basis for such property, will not apply to decedents dying after 2009. The House Bill and Senate Amendment would have provided that the present rules would not apply to decedents dying after 2010. [Act 5541; Code 51014]

BNA PICKS

Basis of Property Acquired from Decedent (I.R.C. 51014)

Generally, a recipient's basis of property acquired from a decedent is the fair market value of the property at the date of the decedent's death.

More >>

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Estate Planning (800 T.M., IV.B.3.)

Income Tax Basis: Overview and Conceptual Aspects (560 T.M., III.B.3.c.)

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3. **107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16), Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), Senate Committee Report (S. 896)**

Property passing from a **decedent's** estate generally takes a **stepped-up basis**. **"Stepped-up basis"** for estate tax purposes means that the **basis** of property passing from a **decedent's** estate generally is the fair market value on the date of the **decedent's** death (or, if the alternate valuation date is elected, the earlier of six months after the **decedent's** death or the date the property is sold or distributed by the estate).

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4. **107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16), Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), House Bill Language (H.R. 8)**

"(2) the **basis** of the person acquiring property from the **decedent** shall be the lesser of— "(A) the adjusted **basis** of the **decedent**, or "(B) the fair market value of the property at the date of the decedent's death. "(b) BASIS INCREASE FOR CERTAIN PROPERTY.— "(1) IN GENERAL.—In the case of property to which this subsection applies, the basis of such property under subsection (a) shall be increased by its basis increase under this subsection.

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5. **107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16), Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16), Conference Report**

Property passing from a **decedent's** estate generally takes a **stepped-up basis**. **"Stepped-up basis"** for estate tax purposes means that the **basis** of property passing from a **decedent's** estate generally is the fair market value on the date of the **decedent's** death (or, if the alternate valuation date is elected, the earlier of six months after the **decedent's** death or the date the property is sold or distributed by the estate).

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# Legislative Materials

107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of...



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## Senate Committee Report (S. 896)

**RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2001**

**RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2001, TECHNICAL EXPLANATION OF PROVISIONS APPROVED BY THE COMMITTEE ON MAY 15, 2001, COMMITTEE ON FINANCE, UNITED STATES SENATE**

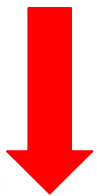
### I. MARGINAL TAX RATE REDUCTION

#### A. INDIVIDUAL INCOME TAX RATE STRUCTURE (SEC. 101 OF THE BILL AND SEC. 1 OF THE CODE) —

##### Present Law

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.



## 107th Congress (2001-2002), Enacted, Economic Growth and Tax Relief Reconciliation Act of...

**Basis** of property acquired from a **decedent**

In general

Beginning in 2011, after the estate and generation-skipping transfer taxes have been repealed, the present-law rules providing for a fair market value **basis** for property acquired from a **decedent** are repealed. Instead, a modified carryover basis regime generally takes effect. Recipients of property transferred at the **decedent's** death will receive a **basis** equal to the lesser of the adjusted **basis** of the **decedent** or the fair market value of the property on the date of the **decedent's** death.

The modified carryover **basis** rules apply to: (1) property acquired from bequest, devise, or inheritance, or by the **decedent's** estate from the **decedent**; (2) property passing from the **decedent** to the extent such property passed without consideration; and (3) certain other property to which the present law rules apply.<sup>42</sup>

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<sup>42</sup> Sec. 1014(b)(2) and (3).

Property acquired from a decedent is treated as if the property had been acquired by gift. Thus, the character of gain on the sale of property received from a decedent's estate is carried over to the heir. For example, real estate that has been depreciated and would be subject to recapture if sold by the decedent will be subject to recapture if sold by the heir.

Property to which the modified carryover basis rules apply

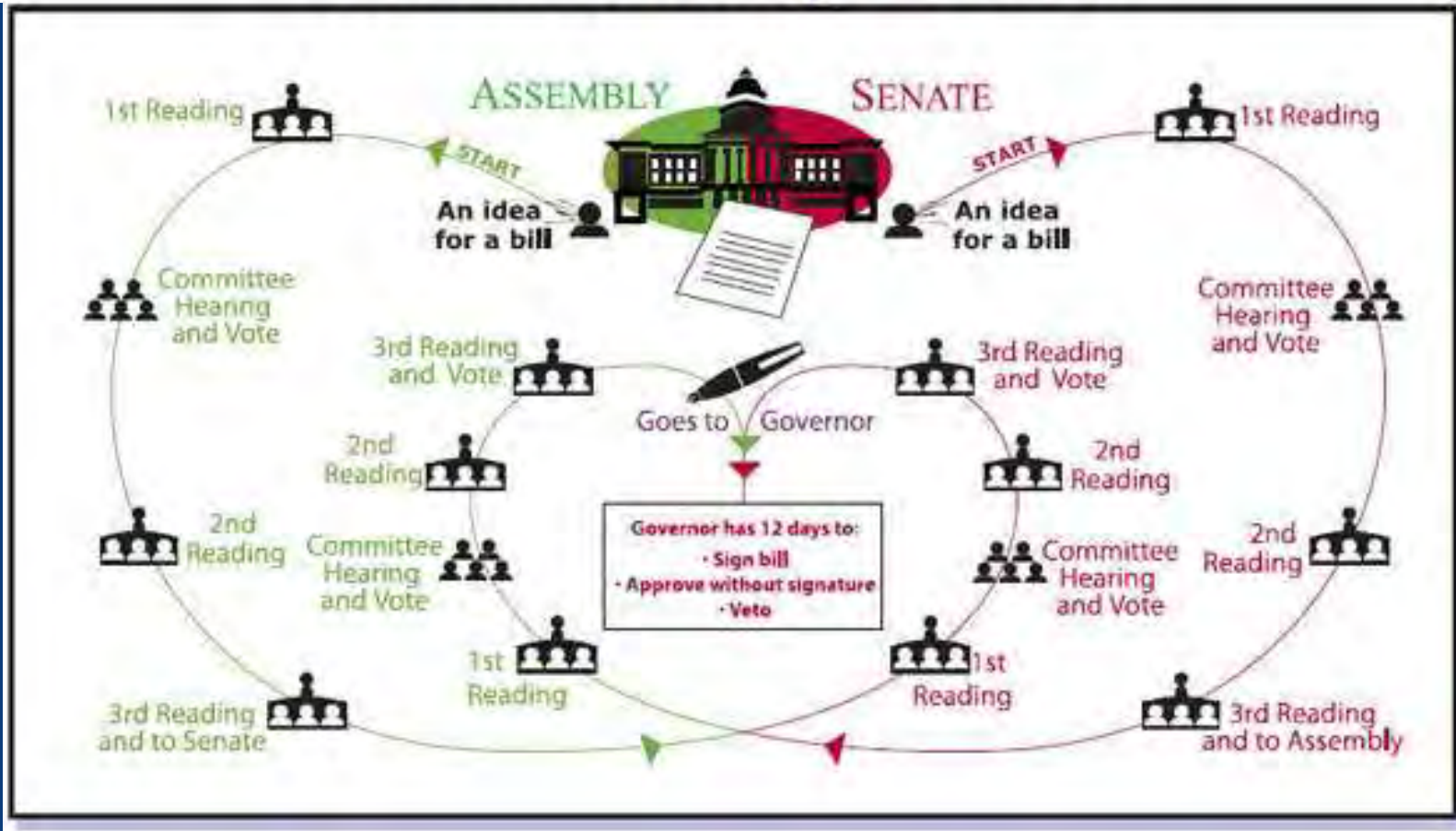
The modified carryover **basis** rules apply to property acquired from the **decedent**. Property acquired from the decedent is (1) property acquired by bequest, devise, or inheritance, (2) property acquired by the decedent's estate from the decedent, (3) property transferred by the decedent to a qualified revocable trust (as defined in section 645), (4) property transferred by the decedent during his lifetime in trust with the right reserved to the decedent at all times before his death to make any change to the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust,<sup>43</sup> (5) property passing from the decedent by reason of the decedent's death to the





**CALIFORNIA REPUBLIC**

# The Lawmaking Process



# Key Cal. Legislative Abbreviations



- A.B. = Assembly Bill
- S.B. = Senate Bill
- **“Chapter” a bill = after Governor signs, a bill is assigned a Chapter number**

# California Legislative Websites



- California Legislative Information  
<http://leginfo.legislature.ca.gov/>
  - Official site for CA laws and bills
- Cal. State Assembly <http://clerk.assembly.ca.gov/>
- Cal. State Senate  
<http://senate.ca.gov/>
- California State Board of Equalization  
<http://www.boe.ca.gov/legdiv/legcont.htm>
- California Franchise Tax Board  
<https://www.ftb.ca.gov/law/legis/index.shtml>
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Wed, Sep 27, 2017

## WELCOME

Welcome to the website for California Legislative Information! This site has been updated to include legislative publications starting with the 2017 session and forward.

A "Daily Updates" report feature has been added. The report displays, by house, measures for which there was activity the previous day such as new analyses, hearings, placement on the Daily File, amendments, History actions, or votes. Measures prior to 1999 can still be found at <http://leginfo.ca.gov> which will remain as an archive for legislative information.

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## § 62. Change in ownership; exclusions

West's Annotated California Codes | Revenue and Taxation Code | Effective: January 1, 2015 (Approx. 4 pages)

Document

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History (289)

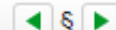
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Revenue and Taxation Code (Refs & Annos)

Division 1. Property Taxation (Refs & Annos)

Part 0.5. Implementation of Article XIII a of the California Constitution (Refs & Annos)

Chapter 2. Change in Ownership and Purchase (Refs & Annos)

Effective: January 1, 2015

West's Ann.Cal.Rev. & T.Code § 62

## § 62. Change in ownership; exclusions

Currentness

Change in ownership shall not include:

(a)(1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of [subdivision \(b\) of Section 64](#).

shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (E) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

## Credits

(Added by Stats.1979, c. 242, p. 506, § 4, eff. July 10, 1979. Amended by Stats.1979, c. 1161, p. 4364, § 3, eff. Sept. 29, 1979; Stats.1980, c. 285, p. 575, § 2.6, eff. June 30, 1980, operative July 1, 1980; Stats.1980, c. 1081, p. 3444, § 2, eff. Sept. 26, 1980; Stats.1980, c. 1349, p. 4767, § 1.5; Stats.1981, c. 615, p. 2359, § 1, eff. Sept. 22, 1981; Stats.1981, c. 1141, p. 4518, § 2; Stats.1982, c. 911, p. 3345, § 1; Stats.1982, c. 1465, p. 5633, § 4.5; Stats.1984, c. 1010, § 1; Stats.1985, c. 186, § 4; Stats.1996, c. 388 (S.B.44), § 2; Stats.1996, c. 1087 (S.B.1827), § 9.5; Stats.2002, c. 775 (S.B.2092), § 1; Stats.2005, c. 416 (S.B.565), § 2, eff. Sept. 29, 2005; Stats.2006, c. 364 (A.B.3076), § 1.1; Stats.2007, c. 555 (S.B.559), § 2, eff. Oct. 12, 2007; Stats.2014, c. 71 (S.B.1304), § 159, eff. Jan. 1, 2015; Stats.2014, c. 134 (S.B.1464), § 1, eff. Jan. 1, 2015.)



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## SB-1464 Property taxation. (2013-2014)

<b>Text</b>	Votes	History	Bill Analysis	Today's Law As Amended ⓘ	Compare Versions	Status	Comments To Author
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### Senate Bill No. 1464

#### CHAPTER 134

An act to amend Sections 62, 170, 201.7, and 439.2 of the Revenue and Taxation Code, relating to taxation.

[ Approved by Governor July 16, 2014. Filed with Secretary of State July 16, 2014. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1464, Committee on Governance and Finance. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would make technical, nonsubstantive changes to this provision and would update a cross-reference.



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## SB-1464 Property taxation. (2013-2014)

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### Bill Analysis

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[04/21/14- Senate Governance And Finance](#)



**SENATE GOVERNANCE & FINANCE COMMITTEE**  
**Senator Lois Wolk, Chair**

**BILL NO:** SB 1464

**AUTHOR:** Committee on G&F

**VERSION:** 3/13/14

**CONSULTANT:** Grinnell

**HEARING:** 4/24/14

**FISCAL:** No

**TAX LEVY:** No

***PROPERTY TAXATION***

*Makes four technical, consensus changes to property tax law suggested by the State Board of Equalization.*

**Background and Proposed Law**

Senate Bill 1464 contains four changes to property tax law suggested by the Board of Equalization (BOE):

**I. Name Change.** State law directs BOE to determine the interest rate on the capitalization rate that assessors use to value historic property using data published by the Federal Home Finance Board. However, the Federal Home Finance Board changed its name to the Federal Home Finance Agency, so SB 1464 updates the law to reflect the change.

## State Revenue Impact

BOE states that the measure has no impact on property tax revenues.

## Comment

Purpose of the bill. SB 1464 is this year's omnibus property tax law cleanup bill, and makes four technical, consensus changes intended to improve tax administration for taxpayers, assessors, and BOE. By combining four changes into one bill, there's no need for individual legislative bills for each change. The bill is a consensus project: should anyone object to any provision of the bill, it's removed.

## Support and Opposition (4/21/14)

Support: State Board of Equalization.

Opposition: None Received.





QUESTIONS?