



**Legislative Bulletin.....April 13, 2005**

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**Summary of the Bills Under Consideration Today:**

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** \$0

**Effect on Revenue:** \$9.5 billion in savings to taxpayers over five years

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:** 0

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 4

**Number of Reported Bills that Don’t Cite Specific Clauses of Constitutional Authority:** None of the bills were officially reported from committee

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**H.R. 1463 —Justin W. Williams United States Attorney’s Building Designation Act — *as introduced* (Tom Davis)**

**Order of Business:** The bill is scheduled for consideration on April 13, 2005, under a motion to suspend the rules and pass the bill. An identical bill, H.R. 3428, passed the House in the 108<sup>th</sup> Congress on September 22, 2004.

**Summary:** H.R. 1463 would designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the “Justin W. Williams United States Attorney’s Building.”

**Additional Background:** Justin W. Williams earned his Bachelor’s Degree from Columbia University in 1963 and his law degree from the University of Virginia in 1967. In 1970, he was appointed as an Assistant U.S. Attorney for the Eastern District of Virginia, based in Alexandria. In 1986 he was appointed Chief of the Criminal Division, a position he held until his death in 2003. He served as the Interim U.S. Attorney for the Eastern District of Virginia from 1979-1981 and again in 1986.

**Committee Action:** On April 5, 2005, the bill was referred to the House Committee on Transportation and Infrastructure, which took no official action on it.

**Cost to Taxpayers:** The only costs associated with a renaming a federal building are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 483 —Reynaldo G. Garza and Filemon B. Vela United States Courthouse Designation Act — *as introduced (Ortiz)***

**Order of Business:** The bill is scheduled for consideration on April 13, 2005, under a motion to suspend the rules and pass the bill. An identical bill, H.R. 1402, passed the House in the 108<sup>th</sup> Congress on September 29, 2004.

**Summary:** H.R. 483 would designate a United States courthouse in Brownsville, Texas, as the “Reynaldo G. Garza and Filemon B. Vela United States Courthouse.”

**Additional Background:** Judge Reynaldo G. Garza earned both undergraduate and law degrees at The University of Texas and became the country’s first Mexican-American federal judge when he was appointed by President John F. Kennedy to the Southern District Court in 1961. He served as chief judge of the district from 1974 to 1979. In 1979, President Carter appointed Garza to the U.S. Court of Appeals for the Fifth Circuit. The appointment made him the first Mexican American to sit on that bench. He assumed senior status in 1982 and continued to work until a month before his death. Judge Gaza died of pneumonia in Brownsville, Texas, on September 14, 2004.

Filemon Vela served in the judiciary for over 25 years. Judge Vela served most recently as the Senior U.S. District Judge of the Southern District of Texas, Brownsville Division. Judge Vela died in Harlingen, Texas, on April 13, 2004, after a short battle with cancer. President Carter appointed Judge Vela to the federal bench in 1980.

**Committee Action:** On February 1, 2005, the bill was referred to the House Committee on Transportation and Infrastructure, which took no official action on it.

**Cost to Taxpayers:** The only costs associated with renaming a courthouse are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 787— Robert T. Matsui United States Courthouse Designation Act— *as introduced (Thompson of CA)***

**Order of Business:** The bill is scheduled to be considered on Wednesday, April 13<sup>th</sup>, under a motion to suspend the rules and pass the bill. An identical bill, S. 125 passed the Senate by unanimous consent on February 17, 2005.

**Summary:** H.R. 787 would designate the United States courthouse located at 501 I Street in Sacramento, California, as the “Robert T. Matsui United States Courthouse.”

**Additional Background:** Robert Matsui was a U.S. Congressman from Sacramento, California from 1979-2005. He was chairman of the Democratic Congressional Campaign Committee.

Matsui had been battling Myelodysplastic Disorder (MDS), a rare stem cell disorder that causes an inability of the bone marrow to produce blood products, such as red blood cells, white blood cells, and platelets. The disorder leaves the patient at a heightened susceptibility to illness and compromises the ability to fight illness when it occurs. Matsui entered Bethesda Naval Hospital on December 24, 2004, with pneumonia, a complication that developed as a result of his prior illness. He died on January 1, 2005.

**Committee Action:** On February 10, 2005, the bill was referred to the Transportation & Infrastructure Committee, which took no official action on it.

**Cost to Taxpayers:** The only costs associated with a courthouse renaming are those for sign and map changes, none of which significantly affect the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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**H.R. 8—Death Tax Repeal Permanency Act (Hulshof)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, April 13<sup>th</sup>, subject to a rule (H.Res. 202). Only one Democrat amendment in the nature of a substitute (summarized below) may be offered to H.R. 8 under the rule.

The House passed substantively identical legislation (H.R. 2143) on June 6, 2002, by a vote of 256-171: <http://clerk.house.gov/evs/2002/roll219.xml>

The House also passed identical legislation (H.R. 8) on June 18, 2003, by a vote of 264-163: <http://clerk.house.gov/evs/2003/roll288.xml>

The Senate never considered these earlier versions of the legislation.

**Summary:** H.R. 8 would make permanent the elimination of the estate tax (otherwise known as the “death tax”), gift tax, and generation-skipping transfer tax, which are set to be fully eliminated in 2010 (but fully reinstated in 2011). The bill would also make permanent the other provisions of Title V of the 2001 Bush Tax Cut (Public Law 107-16), including replacing the *state* estate tax credit with a state estate tax deduction and the extension of time for paying the estate tax.

**Current law** for phasing out and eliminating the estate, gift, and generation-skipping transfer taxes is as follows:

- Phases-out the estate tax beginning in 2002 by eliminating the 5% surtax and the rates in excess of 50% and increases the exemption to \$1 million.
- Continues to phase out the estate tax as follows:

<b>Calendar Year</b>	<b>Exemption</b>	<b>Highest Estate and Gift Tax Rate</b>
2002	\$1 million	50%
2003	\$1 million	49%
2004	\$1.5 million	48%
2005	\$1.5 million	47%
2006	\$2 million	46%
2007	\$2 million	45%

2008	\$2 million	45%
2009	\$3.5 million	45%
2010	Estate tax repealed	Top Individual Rate (for gift tax)
2011 and after	Estate and gift taxes fully reinstated to pre-2002 levels	Estate and gift taxes fully reinstated to pre-2002 levels

- Beginning in 2010, the “stepped up” basis for valuation of inherited assets would be replaced with the “carryover basis,” thereby imposing a capital gains tax on the difference between what the deceased paid for an asset and the current market value of the asset (upon sale of the asset). An exemption of \$1.3 million in gained value (\$4.3 million for a surviving spouse) would be allowed.

The elimination of the death and gift taxes is set to expire on January 1, 2011. If H.R. 8 is not signed into law, these taxes would return to pre-phase-out levels literally overnight on New Year’s Day, 2011. In other words, if H.R. 8 is not enacted, the bolded box in current law above would become effective. If H.R. 8 is enacted, the bolded box would not become effective, and the provisions for 2010 would remain indefinitely.

**Additional Background:** The phase-out of the death, gift, and generation-skipping transfer taxes was implemented as part of the Bush tax-cut package (H.R. 1836; Public Law 107-16) signed into law on June 7, 2001. In order to comply with reconciliation procedures under the Congressional Budget Act of 1974 (i.e. section 313 of the Budget Act, under which a point of order may be lodged in the Senate), the tax-cut bill included a “sunset” provision, under which the law and all the tax-cut provisions in it expire at the end of 2010.

**Democrat Amendment Made in Order under the Rule (H.Res. 202):** The Pomeroy amendment in the nature of a substitute is the only amendment made in order under the rule.

The Democrat substitute would immediately and permanently restore the death, gift, and generation-skipping transfer taxes (i.e. eliminate their phase-outs) by treating such provisions of the Bush tax-cut package (Subtitles A and E of Title V of Public Law 107-16) as if they had never been enacted. This treatment would also mean repealing the implementation of the “carryover basis” for calculating the value of inherited assets (and the accompanying capital gains tax on the difference between what the deceased paid for assets and current market value).

The Democrat substitute would raise the death tax exemption to \$3.0 million for individuals beginning January 1, 2006, yet permanently freeze existing estate tax rates (topped at 47%). The exemption would increase to \$3.5 million for individuals beginning January 1, 2009. Further, the substitute would eliminate (with a few exceptions) the ability to claim valuation discounts by holding property through partnerships.

**Committee Action:** H.R. 8 was referred to the Ways & Means Committee on February 17, 2005, but no public action was taken.

**Note:** RSC Member Chris Cox (R-CA) has introduced a bill (H.R. 64), which would immediately and permanently repeal the estate, gift, and generation-skipping transfer taxes. H.R. 8 would make such repeals permanent once they occur in 2010. Rep. Cox is a co-sponsor of H.R. 8 and is urging its passage today.

**Administration Position:** Though no Statement of Administration Policy (SAP) is available specifically for H.R. 8 this year, the SAP for H.R. 8 last Congress (identical legislation) began as follows:

The Administration strongly supports House passage of H.R. 8. The Administration is pleased that the House is acting now to make an important part of the President's tax relief plan permanent.

To read the complete SAP, visit this website:

<http://www.whitehouse.gov/omb/legislative/sap/108-1/hr8sap-h.pdf>

**Cost to Taxpayers:** CBO's January 2005 projections put the taxpayer savings of permanent death tax repeal at about \$2.0 billion in FY2006, \$9.5 billion over five years (FY2006-FY2010), and \$270.6 billion over ten years (FY2006-FY2015). The FY2006 Bush budget proposal scored repeal at savings taxpayers about \$557.0 million in FY2006, \$7.020 billion over five years, and \$256.057 billion over ten years.

These estimates are made under the assumption that permanent repeal would cause some taxpayers to alter their estate planning and gift giving plans *before* the actual repeal.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** Though a committee report citing constitutional authority in unavailable, Article I, Section 8, Clause 1 grants Congress the power to "lay and collect Taxes, Duties, Imposts and Excises..." and the 16<sup>th</sup> Amendment grants Congress the power to "lay and collect taxes on incomes, from whatever source derived,...."

**Outside Organizations:** The U.S. Chamber of Commerce, Americans for Tax Reform, the National Taxpayers Union, the American Family Business Institute, the American Shareholders Association, the 60 Plus Association, Frontiers of Freedom, and a host of other conservative groups have each expressed strong support for the passage of H.R. 8 (as currently written) and strong opposition to the Democrat substitute. Some of these groups may include the votes related to H.R. 8 in their annual ratings of Congress.

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