

111TH CONGRESS
1ST SESSION

S. 722

To amend the Internal Revenue Code of 1986 to provide for permanent alternative minimum tax relief, middle class tax relief, and estate tax relief, and to permanently extend certain expiring provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2009

Mr. BAUCUS (for himself, Mr. ROCKEFELLER, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for permanent alternative minimum tax relief, middle class tax relief, and estate tax relief, and to permanently extend certain expiring provisions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Taxpayer Certainty and Relief Act of 2009”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—PERMANENT ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Exemption amounts made permanent.

Sec. 102. Exemption amounts indexed for inflation.

Sec. 103. Alternative minimum tax relief for nonrefundable credits.

TITLE II—PERMANENT MIDDLE CLASS TAX RELIEF

Sec. 201. Permanent reduction in tax rates for lower-income and middle-income individuals.

Sec. 202. Permanent reduction in rates on capital gains for lower-income and middle-income taxpayers.

Sec. 203. Modifications to child tax credit.

Sec. 204. Repeal of sunset on marriage penalty relief.

Sec. 205. Repeal of sunset on expansion of dependent care credit.

Sec. 206. Repeal of sunset on expansion of adoption credit and adoption assistance programs.

Sec. 207. Expansion of earned income tax credit.

TITLE III—PERMANENT ESTATE TAX RELIEF

Sec. 301. Permanent extension of estate tax as in effect in 2009.

Sec. 302. Unified credit increased by unused unified credit of deceased spouse.

7 **TITLE I—PERMANENT ALTER-**
 8 **NATIVE MINIMUM TAX RE-**
 9 **LIEF**

10 **SEC. 101. EXEMPTION AMOUNTS MADE PERMANENT.**

11 (a) IN GENERAL.—Paragraph (1) of section 55(d) is
 12 amended—

1 (1) by striking “\$45,000 (\$70,950 in the case
2 of taxable years beginning in 2009)” in subpara-
3 graph (A) and inserting “\$70,950 in the case of”,

4 (2) by striking “\$33,750 (\$46,700 in the case
5 of taxable years beginning in 2009)” in subpara-
6 graph (B) and inserting “\$46,700 in the case of an
7 individual who”, and

8 (3) by striking “paragraph (1)(A)” in subpara-
9 graph (C) and inserting “subparagraph (A)”.

10 (b) **REPEAL OF EGTRRA SUNSET.**—Title IX of the
11 Economic Growth and Tax Relief Reconciliation Act of
12 2001 (relating to sunset of provisions of such Act) shall
13 not apply to section 701 of such Act (relating to increase
14 in alternative minimum tax exemption).

15 (c) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2009.

18 **SEC. 102. EXEMPTION AMOUNTS INDEXED FOR INFLATION.**

19 (a) **IN GENERAL.**—Subsection (d) of section 55 is
20 amended by adding at the end the following new para-
21 graph:

22 “(4) **INFLATION ADJUSTMENT.**—

23 “(A) **IN GENERAL.**—In the case of any
24 taxable year beginning in a calendar year after
25 2009, each of the dollar amounts contained in

1 subsection (b)(1)(A)(i) and paragraphs (1)(A),
 2 (1)(B), (1)(D), (3)(A), and (3)(B) of this sub-
 3 section shall be increased by an amount equal
 4 to—

5 “(i) such dollar amount, multiplied by

6 “(ii) the cost-of-living adjustment de-
 7 termined under section 1(f)(3) for the cal-
 8 endar year in which the taxable year be-
 9 gins, determined by substituting ‘calendar
 10 year 2008’ for ‘calendar year 1992’ in sub-
 11 paragraph (B) thereof.

12 “(B) ROUNDING.—Any increase deter-
 13 mined under subparagraph (A) shall be rounded
 14 to the nearest multiple of \$100.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Clause (iii) of section 55(b)(1)(A) is amend-
 17 ed by striking “by substituting” and all that follows
 18 through “appears.” and inserting “by substituting
 19 50 percent of the dollar amount otherwise applicable
 20 under subclause (I) and subclause (II) thereof”.

21 (2) Paragraph (3) of section 55(d) is amend-
 22 ed—

23 (A) by striking “or (2)” in subparagraph
 24 (A),

1 (B) by striking “and” at the end of sub-
2 paragraph (B), and

3 (C) by striking subparagraph (C) and in-
4 serting the following new subparagraphs:

5 “(C) 50 percent of the dollar amount ap-
6 plicable under subparagraph (A) in the case of
7 a taxpayer described in subparagraph (C) or
8 (D) of paragraph (1), and

9 “(D) \$150,000 in the case of a taxpayer
10 described in paragraph (2).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2009.

14 **SEC. 103. ALTERNATIVE MINIMUM TAX RELIEF FOR NON-**
15 **REFUNDABLE CREDITS.**

16 (a) IN GENERAL.—Subsection (a) of section 26 is
17 amended to read as follows:

18 “(a) LIMITATION BASED ON AMOUNT OF TAX.—The
19 aggregate amount of credits allowed by this subpart for
20 the taxable year shall not exceed the sum of—

21 “(1) the taxpayer’s regular tax liability for the
22 taxable year reduced by the foreign tax credit allow-
23 able under section 27(a), and

24 “(2) the tax imposed by section 55(a) for the
25 taxable year.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) ADOPTION CREDIT.—

3 (A) Section 23(b) is amended by striking
4 paragraph (4).

5 (B) Section 23(c) is amended by striking
6 paragraphs (1) and (2) and inserting the fol-
7 lowing:

8 “(1) IN GENERAL.—If the credit allowable
9 under subsection (a) for any taxable year exceeds
10 the limitation imposed by section 26(a) for such tax-
11 able year reduced by the sum of the credits allowable
12 under this subpart (other than this section and sec-
13 tions 25D and 1400C), such excess shall be carried
14 to the succeeding taxable year and added to the
15 credit allowable under subsection (a) for such tax-
16 able year.”.

17 (C) Section 23(c) is amended by redesignig-
18 nating paragraph (3) as paragraph (2).

19 (2) CHILD TAX CREDIT.—

20 (A) Section 24(b) is amended by striking
21 paragraph (3).

22 (B) Section 24(d)(1) is amended—

23 (i) by striking “section 26(a)(2) or
24 subsection (b)(3), as the case may be,”

1 each place it appears in subparagraphs (A)
 2 and (B) and inserting “section 26(a)”, and
 3 (ii) by striking “section 26(a)(2) or
 4 subsection (b)(3), as the case may be” in
 5 the second last sentence and inserting
 6 “section 26(a)”.

7 (3) CREDIT FOR INTEREST ON CERTAIN HOME
 8 MORTGAGES.—Section 25(e)(1)(C) is amended to
 9 read as follows:

10 “(C) APPLICABLE TAX LIMIT.—For pur-
 11 poses of this paragraph, the term ‘applicable
 12 tax limit’ means the limitation imposed by sec-
 13 tion 26(a) for the taxable year reduced by the
 14 sum of the credits allowable under this subpart
 15 (other than this section and sections 23, 25D,
 16 and 1400C).”.

17 (4) SAVERS’ CREDIT.—Section 25B is amended
 18 by striking subsection (g).

19 (5) RESIDENTIAL ENERGY EFFICIENT PROP-
 20 ERTY.—Section 25D(c) is amended to read as fol-
 21 lows:

22 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the
 23 credit allowable under subsection (a) exceeds the limita-
 24 tion imposed by section 26(a) for such taxable year re-
 25 duced by the sum of the credits allowable under this sub-

1 part (other than this section), such excess shall be carried
2 to the succeeding taxable year and added to the credit al-
3 lowable under subsection (a) for such succeeding taxable
4 year.”.

5 (6) CERTAIN PLUG-IN ELECTRIC VEHICLES.—

6 Section 30(c)(2) is amended to read as follows:

7 “(2) PERSONAL CREDIT.—For purposes of this
8 title, the credit allowed under subsection (a) for any
9 taxable year (determined after application of para-
10 graph (1)) shall be treated as a credit allowable
11 under subpart A for such taxable year.”.

12 (7) ALTERNATIVE MOTOR VEHICLE CREDIT.—

13 Section 30B(g)(2) is amended to read as follows:

14 “(2) PERSONAL CREDIT.—For purposes of this
15 title, the credit allowed under subsection (a) for any
16 taxable year (determined after application of para-
17 graph (1)) shall be treated as a credit allowable
18 under subpart A for such taxable year.”.

19 (8) NEW QUALIFIED PLUG-IN ELECTRIC VEHI-

20 CLE CREDIT.—Section 30D(c)(2) is amended to read
21 as follows:

22 “(2) PERSONAL CREDIT.—For purposes of this
23 title, the credit allowed under subsection (a) for any
24 taxable year (determined after application of para-

1 graph (1)) shall be treated as a credit allowable
2 under subpart A for such taxable year.”.

3 (9) CROSS REFERENCES.—Section 55(c)(3) is
4 amended by striking “26(a), 30C(d)(2),” and insert-
5 ing “30C(d)(2)”.

6 (10) FOREIGN TAX CREDIT.—Section 904 is
7 amended by striking subsection (i) and by redesignig-
8 nating subsections (j) , (k), and (l) as subsections
9 (i), (j), and (k), respectively.

10 (11) FIRST-TIME HOME BUYER CREDIT FOR
11 THE DISTRICT OF COLUMBIA.—Section 1400C(d) is
12 amended to read as follows:

13 “(d) CARRYFORWARD OF UNUSED CREDIT.—If the
14 credit allowable under subsection (a) exceeds the limita-
15 tion imposed by section 26(a) for such taxable year re-
16 duced by the sum of the credits allowable under subpart
17 A of part IV of subchapter A (other than this section and
18 section 25D), such excess shall be carried to the suc-
19 ceeding taxable year and added to the credit allowable
20 under subsection (a) for such taxable year.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2009.

1 **TITLE II—PERMANENT MIDDLE**
2 **CLASS TAX RELIEF**

3 **SEC. 201. PERMANENT REDUCTION IN TAX RATES FOR**
4 **LOWER-INCOME AND MIDDLE-INCOME INDI-**
5 **VIDUALS.**

6 (a) IN GENERAL.—Paragraph (2) of section 1(i) is
7 amended to read as follows:

8 “(2) REDUCTION IN RATES.—The tables under
9 subsections (a), (b), (c), (d), and (e) shall be ap-
10 plied—

11 “(A) in the case of taxable years beginning
12 after 2008—

13 “(i) by substituting ‘25%’ for ‘28%’
14 each place it appears (before the applica-
15 tion of clause (ii)), and

16 “(ii) by substituting ‘28%’ for ‘31%’
17 each place it appears, and

18 “(B) in the case of taxable years beginning
19 in 2009 and 2010—

20 “(i) by substituting ‘33%’ for ‘36%’
21 each place it appears, and

22 “(ii) by substituting ‘35%’ for ‘39.6%’
23 each place it appears.”.

24 (b) REPEAL OF EGTRRA SUNSET.—Title IX of the
25 Economic Growth and Tax Relief Reconciliation Act of

1 2001 (relating to sunset of provisions of such Act) shall
2 not apply to section 101 of such Act (relating to reduction
3 in income tax rates for individuals).

4 (c) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2008.

7 **SEC. 202. PERMANENT REDUCTION IN RATES ON CAPITAL**
8 **GAINS FOR LOWER-INCOME AND MIDDLE-IN-**
9 **COME TAXPAYERS.**

10 (a) IN GENERAL.—

11 (1) REGULAR TAX.—Section 1(h)(1) is amend-
12 ed by redesignating subparagraphs (D) and (E) as
13 subparagraphs (E) and (F), respectively, and by
14 striking subparagraph (C) and inserting the fol-
15 lowing:

16 “(C) 15 percent of the lesser of—

17 “(i) so much of the adjusted net cap-
18 ital gain (or, if less, taxable income) as ex-
19 ceeds the amount on which a tax is deter-
20 mined under subparagraph (B), or

21 “(ii) the excess (if any) of—

22 “(I) amount of taxable income
23 which would (without regard to this
24 paragraph) be taxed at a rate below
25 the second highest tax rate, over

1 “(II) the greater of the amounts
2 determined under clauses (i) and (ii)
3 of subparagraph (B);

4 “(D) 20 percent of the adjusted net capital
5 gain (or, if less, taxable income) in excess of the
6 sum of the amounts on which tax is determined
7 under subparagraphs (B) and (C);”.

8 (2) MINIMUM TAX.—Section 55(b)(3) is amend-
9 ed by redesignating subparagraph (D) as subpara-
10 graphs (E) and by striking subparagraph (C) and
11 inserting the following:

12 “(C) 15 percent of the lesser of—

13 “(i) so much of the adjusted net cap-
14 ital gain (or, if less, taxable excess) as ex-
15 ceeds the amount on which tax is deter-
16 mined under subparagraph (B), or

17 “(ii) the excess described in section
18 1(h)(1)(C)(ii), plus

19 “(D) 20 percent of the adjusted net capital
20 gain (or, if less, taxable excess) in excess of the
21 sum of the amounts on which tax is determined
22 under subparagraphs (B) and (C), plus”.

23 (3) CONFORMING AMENDMENTS.—

1 (A) The following sections are each amend-
2 ed by striking “15 percent” and inserting “20
3 percent”:

4 (i) Section 1445(e)(1).

5 (ii) The second sentence of section
6 7518(g)(6)(A).

7 (iii) Section 53511(f)(2) of title 46,
8 United States Code.

9 (B) Section 1(h)(1)(B) is amended by
10 striking “5 percent (0 percent in the case of
11 taxable years beginning after 2007)” and in-
12 sserting “0 percent”.

13 (C) Section 55(b)(3)(B) is amended by
14 striking “5 percent (0 percent in the case of
15 taxable years beginning after 2007)” and in-
16 sserting “0 percent”.

17 (D) Section 1445(e)(6) is amended by
18 striking “15 percent (20 percent in the case of
19 taxable years beginning after December 31,
20 2010)” and inserting “20 percent”.

21 (b) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), the amendments made by this section
24 shall apply to taxable years beginning after Decem-
25 ber 31, 2010.

1 (2) WITHHOLDING.—The amendment made by
2 subsection (a)(3)(A)(i) shall apply to amounts paid
3 on or after January 1, 2011.

4 (c) REPEAL OF JGTRRA SUNSET.—Section 303 of
5 the Jobs and Growth Tax Relief Reconciliation Act of
6 2003 is repealed.

7 **SEC. 203. MODIFICATIONS TO CHILD TAX CREDIT.**

8 (a) REPEAL OF EGTRRA SUNSET.—Title IX of the
9 Economic Growth and Tax Relief Reconciliation Act of
10 2001 (relating to sunset of provisions of such Act) shall
11 not apply to sections 201 (relating to modifications to
12 child tax credit) and 203 (relating to refunds disregarded
13 in the administration of Federal programs and federally
14 assisted programs) of such Act.

15 (b) MODIFICATION OF THRESHOLD AMOUNT.—

16 (1) IN GENERAL.—Clause (i) of section
17 24(d)(1)(B) is amended by striking “\$10,000” and
18 inserting “\$3,000”.

19 (2) REPEAL OF INFLATION ADJUSTMENT TO
20 EARNED INCOME BASE.—Subsection (d) of section
21 24 (relating to portion of credit refundable) is
22 amended by striking paragraph (3).

23 (3) CONFORMING AMENDMENT.—Section 24(d)
24 is amended by striking paragraph (4).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 204. REPEAL OF SUNSET ON MARRIAGE PENALTY RE-**
5 **LIEF.**

6 Title IX of the Economic Growth and Tax Relief Rec-
7 onciliation Act of 2001 (relating to sunset of provisions
8 of such Act) shall not apply to sections 301, 302, and
9 303(a) of such Act (relating to marriage penalty relief).

10 **SEC. 205. REPEAL OF SUNSET ON EXPANSION OF DEPEND-**
11 **ENT CARE CREDIT.**

12 Title IX of the Economic Growth and Tax Relief Rec-
13 onciliation Act of 2001 (relating to sunset of provisions
14 of such Act) shall not apply to section 204 of such Act
15 (relating to dependent care credit).

16 **SEC. 206. REPEAL OF SUNSET ON EXPANSION OF ADOPTION**
17 **CREDIT AND ADOPTION ASSISTANCE PRO-**
18 **GRAMS.**

19 Title IX of the Economic Growth and Tax Relief Rec-
20 onciliation Act of 2001 (relating to sunset of provisions
21 of such Act) shall not apply to section 202 of such Act
22 (relating to expansion of adoption credit and adoption as-
23 sistance programs).

1 **SEC. 207. EXPANSION OF EARNED INCOME TAX CREDIT.**

2 (a) **REPEAL OF EGTRRA SUNSET.**—Title IX of the
3 Economic Growth and Tax Relief Reconciliation Act of
4 2001 (relating to sunset of provisions of such Act) shall
5 not apply to subsections (b) through (h) of section 303
6 of such Act (relating to earned income tax credit).

7 (b) **INCREASE IN CREDIT PERCENTAGE FOR FAMI-**
8 **LIES WITH 3 OR MORE CHILDREN.**—Paragraph (1) of
9 section 32(b) is amended by striking subparagraphs (B)
10 and (C) and inserting the following new subparagraph:

11 “(B) **INCREASED CREDIT PERCENTAGE**
12 **FOR FAMILIES WITH 3 OR MORE QUALIFYING**
13 **CHILDREN.**—In the case of an eligible indi-
14 vidual with 3 or more qualifying children, the
15 table in subparagraph (A) shall be applied by
16 substituting ‘45’ for ‘40’ in the second column
17 thereof.”.

18 (c) **JOINT RETURNS.**—

19 (1) **IN GENERAL.**—Subparagraph (B) of section
20 32(b)(2) is amended by striking “increased by” and
21 all that follows and inserting “increased by \$5,000.”

22 (2) **INFLATION ADJUSTMENTS.**—Clause (ii) of
23 section 32(j)(1)(B) is amended—

24 (A) by striking “\$3,000” and inserting
25 “\$5,000”, and

1 (B) by striking “calendar year 2007” and
2 inserting “calendar year 2008”.

3 (d) CONFORMING AMENDMENT.—Section 32(b) is
4 amended by striking paragraph (3).

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2009.

8 **TITLE III—PERMANENT ESTATE**
9 **TAX RELIEF**

10 **SEC. 301. PERMANENT EXTENSION OF ESTATE TAX AS IN**
11 **EFFECT IN 2009.**

12 (a) RESTORATION OF UNIFIED CREDIT AGAINST
13 GIFT TAX.—Paragraph (1) of section 2505(a) (relating
14 to general rule for unified credit against gift tax), after
15 the application of subsection (g), is amended by striking
16 “(determined as if the applicable exclusion amount were
17 \$1,000,000)”.

18 (b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT
19 EQUAL TO \$3,500,000.—Subsection (c) of section 2010
20 (relating to unified credit against estate tax) is amended
21 to read as follows:

22 “(c) APPLICABLE CREDIT AMOUNT.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, the applicable credit amount is the amount of
25 the tentative tax which would be determined under

1 section 2001(c) if the amount with respect to which
2 such tentative tax is to be computed were equal to
3 the applicable exclusion amount.

4 “(2) APPLICABLE EXCLUSION AMOUNT.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, the applicable exclusion amount is
7 \$3,500,000.

8 “(B) INFLATION ADJUSTMENT.—In the
9 case of any decedent dying in a calendar year
10 after 2010, the dollar amount in subparagraph
11 (A) shall be increased by an amount equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the cost-of-living adjustment de-
14 termined under section 1(f)(3) for such
15 calendar year by substituting ‘calendar
16 year 2009’ for ‘calendar year 1992’ in sub-
17 paragraph (B) thereof.

18 If any amount as adjusted under the preceding
19 sentence is not a multiple of \$10,000, such
20 amount shall be rounded to the nearest multiple
21 of \$10,000.”.

22 (c) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PER-
23 CENT.—

1 (1) IN GENERAL.—Subsection (c) of section
2 2001 (relating to imposition and rate of tax) is
3 amended—

4 (A) by striking “but not over \$2,000,000”
5 in the table contained in paragraph (1),

6 (B) by striking the last 2 items in such
7 table,

8 (C) by striking “(1) IN GENERAL.—”, and

9 (D) by striking paragraph (2).

10 (2) CONFORMING AMENDMENT.—Paragraphs
11 (1) and (2) of section 2102(b) are amended to read
12 as follows:

13 “(1) IN GENERAL.—A credit in an amount that
14 would be determined under section 2010 as the ap-
15 plicable credit amount if the applicable exclusion
16 amount were \$60,000 shall be allowed against the
17 tax imposed by section 2101.

18 “(2) RESIDENTS OF POSSESSIONS OF THE
19 UNITED STATES.—In the case of a decedent who is
20 considered to be a ‘nonresident not a citizen of the
21 United States’ under section 2209, the credit al-
22 lowed under this subsection shall not be less than
23 the proportion of the amount that would be deter-
24 mined under section 2010 as the applicable credit
25 amount if the applicable exclusion amount were

1 \$175,000 which the value of that part of the dece-
2 dent's gross estate which at the time of the dece-
3 dent's death is situated in the United States bears
4 to the value of the decedent's entire gross estate,
5 wherever situated.”.

6 (d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO
7 REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING
8 FROM DIFFERENT TAX RATES.—

9 (1) ESTATE TAX.—

10 (A) IN GENERAL.—Section 2001(b)(2) (re-
11 lating to computation of tax) is amended by
12 striking “if the provisions of subsection (c) (as
13 in effect at the decedent's death)” and inserting
14 “if the modifications described in subsection
15 (g)”.

16 (B) MODIFICATIONS.—Section 2001 is
17 amended by adding at the end the following
18 new subsection:

19 “(g) MODIFICATIONS TO GIFT TAX PAYABLE TO RE-
20 FLECT DIFFERENT TAX RATES.—For purposes of apply-
21 ing subsection (b)(2) with respect to 1 or more gifts, the
22 rates of tax under subsection (c) in effect at the decedent's
23 death shall, in lieu of the rates of tax in effect at the time
24 of such gifts, be used both to compute—

1 “(1) the tax imposed by chapter 12 with respect
2 to such gifts, and

3 “(2) the credit allowed against such tax under
4 section 2505, including in computing—

5 “(A) the applicable credit amount under
6 section 2505(a)(1), and

7 “(B) the sum of the amounts allowed as a
8 credit for all preceding periods under section
9 2505(a)(2).

10 For purposes of paragraph (2)(A), the applicable
11 credit amount for any calendar year before 1998 is
12 the amount which would be determined under sec-
13 tion 2010(c) if the applicable exclusion amount were
14 the dollar amount under section 6018(a)(1) for such
15 year.”.

16 (2) GIFT TAX.—Section 2505(a) (relating to
17 unified credit against gift tax) is amended by adding
18 at the end the following new flush sentence:

19 “For purposes of applying paragraph (2) for any calendar
20 year, the rates of tax in effect under section 2502(a)(2)
21 for such calendar year shall, in lieu of the rates of tax
22 in effect for preceding calendar periods, be used in deter-
23 mining the amounts allowable as a credit under this sec-
24 tion for all preceding calendar periods.”.

1 (e) INCREASE IN AGGREGATE REDUCTION IN FAIR
 2 MARKET VALUE ALLOWED UNDER SPECIAL USE VALU-
 3 ATION.—Section 2032A(a) (relating to value based on use
 4 under which property qualifies) is amended—

5 (1) by striking “\$750,000” in paragraph (2)
 6 and inserting “\$3,500,000,

7 (2) by striking “1998” in paragraph (3) and in-
 8 sserting “2010”,

9 (3) by striking “\$750,000” in paragraph (3)
 10 and inserting “\$3,500,000”, and

11 (4) by striking “1997” in paragraph (3) and in-
 12 sserting “2009”.

13 (f) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to estates of decedents dying, gen-
 15 eration-skipping transfers, and gifts made, after Decem-
 16 ber 31, 2009.

17 (g) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

18 (1) IN GENERAL.—The following provisions of
 19 the Economic Growth and Tax Relief Reconciliation
 20 Act of 2001, and the amendments made by such
 21 provisions, are hereby repealed:

22 (A) Subtitles A and E of title V.

23 (B) Subsection (d), and so much of sub-
 24 section (f)(3) as relates to subsection (d), of
 25 section 511.

1 (C) Paragraph (2) of subsection (b), and
2 paragraph (2) of subsection (e), of section 521.
3 The Internal Revenue Code of 1986 shall be applied
4 as if such provisions and amendments had never
5 been enacted.

6 (2) SUNSET NOT TO APPLY TO TITLE V OF
7 EGTRRA.—Section 901 of the Economic Growth and
8 Tax Relief Reconciliation Act of 2001 shall not
9 apply to title V of such Act.

10 (3) REPEAL OF DEADWOOD.—

11 (A) Sections 2011, 2057, and 2604 are
12 hereby repealed.

13 (B) The table of sections for part II of
14 subchapter A of chapter 11 is amended by
15 striking the item relating to section 2011.

16 (C) The table of sections for part IV of
17 subchapter A of chapter 11 is amended by
18 striking the item relating to section 2057.

19 (D) The table of sections for subchapter A
20 of chapter 13 is amended by striking the item
21 relating to section 2604.

1 **SEC. 302. UNIFIED CREDIT INCREASED BY UNUSED UNI-**
2 **FIED CREDIT OF DECEASED SPOUSE.**

3 (a) IN GENERAL.—Section 2010(c), as amended by
4 section 301(b), is amended by striking paragraph (2) and
5 inserting the following new paragraphs:

6 “(2) APPLICABLE EXCLUSION AMOUNT.—For
7 purposes of this subsection, the applicable exclusion
8 amount is the sum of—

9 “(A) the basic exclusion amount, and

10 “(B) in the case of a surviving spouse, the
11 aggregate deceased spousal unused exclusion
12 amount.

13 “(3) BASIC EXCLUSION AMOUNT.—

14 “(A) IN GENERAL.—For purposes of this
15 subsection, the basic exclusion amount is
16 \$3,500,000.

17 “(B) INFLATION ADJUSTMENT.—In the
18 case of any decedent dying in a calendar year
19 after 2010, the dollar amount in subparagraph
20 (A) shall be increased by an amount equal to—

21 “(i) such dollar amount, multiplied by

22 “(ii) the cost-of-living adjustment de-
23 termined under section 1(f)(3) for such
24 calendar year by substituting ‘calendar
25 year 2009’ for ‘calendar year 1992’ in sub-
26 paragraph (B) thereof.

1 If any amount as adjusted under the preceding
2 sentence is not a multiple of \$10,000, such
3 amount shall be rounded to the nearest multiple
4 of \$10,000.

5 “(4) AGGREGATE DECEASED SPOUSAL UNUSED
6 EXCLUSION AMOUNT.—For purposes of this sub-
7 section, the term ‘aggregate deceased spousal unused
8 exclusion amount’ means the lesser of—

9 “(A) the basic exclusion amount, or

10 “(B) the sum of the deceased spousal un-
11 used exclusion amounts computed with respect
12 to each deceased spouse of the surviving spouse.

13 “(5) DECEASED SPOUSAL UNUSED EXCLUSION
14 AMOUNT.—For purposes of this subsection, the term
15 ‘deceased spousal unused exclusion amount’ means,
16 with respect to the surviving spouse of any deceased
17 spouse dying after December 31, 2009, the excess (if
18 any) of—

19 “(A) the basic exclusion amount of the de-
20 ceased spouse, over

21 “(B) the amount with respect to which the
22 tentative tax is determined under section
23 2001(b)(1) on the estate of such deceased
24 spouse.

25 “(6) SPECIAL RULES.—

1 “(A) ELECTION REQUIRED.—A deceased
2 spousal unused exclusion amount may not be
3 taken into account by a surviving spouse under
4 paragraph (5) unless the executor of the estate
5 of the deceased spouse files an estate tax return
6 on which such amount is computed and makes
7 an election on such return that such amount
8 may be so taken into account. Such election,
9 once made, shall be irrevocable. No election
10 may be made under this subparagraph if such
11 return is filed after the time prescribed by law
12 (including extensions) for filing such return.

13 “(B) EXAMINATION OF PRIOR RETURNS
14 AFTER EXPIRATION OF PERIOD OF LIMITATIONS
15 WITH RESPECT TO DECEASED SPOUSAL UN-
16 USED EXCLUSION AMOUNT.—Notwithstanding
17 any period of limitation in section 6501, after
18 the time has expired under section 6501 within
19 which a tax may be assessed under chapter 11
20 or 12 with respect to a deceased spousal unused
21 exclusion amount, the Secretary may examine a
22 return of the deceased spouse to make deter-
23 minations with respect to such amount for pur-
24 poses of carrying out this subsection.

1 “(7) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as may be necessary or ap-
3 propriate to carry out this subsection.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Paragraph (1) of section 2505(a), as
6 amended by section 301(a), is amended to read as
7 follows:

8 “(1) the applicable credit amount in effect
9 under section 2010(c) which would apply if the
10 donor died as of the end of the calendar year, re-
11 duced by”.

12 (2) Section 2631(e) is amended by striking “the
13 applicable exclusion amount” and inserting “the
14 basic exclusion amount”.

15 (3) Section 6018(a)(1) is amended by striking
16 “applicable exclusion amount” and inserting “basic
17 exclusion amount”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to estates of decedents dying, gen-
20 eration-skipping transfers, and gifts made, after Decem-
21 ber 31, 2009.

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