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H. R. 7502

To amend the Internal Revenue Code of 1986 to adopt mark-to-market income tax rules for taxpayers with net worth above a specified threshold, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2022

Mr. BOWMAN (for himself, Mr. PASCRELL, Mr. DANNY K. DAVIS of Illinois, Ms. WILD, Ms. NORTON, Mrs. WATSON COLEMAN, Mr. CARSON, and Ms. CLARKE of New York) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Internal Revenue Code of 1986 to adopt mark-to-market income tax rules for taxpayers with net worth above a specified threshold, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Babies over Billionaires Act of 2022''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Billionaires have disproportionately benefitted from financial gains during the pandemic as their collective net worth grew by $1.7 trillion since the beginning of the pandemic as employment for low-wage workers fell by 36.7 percent at the trough of the pandemic in April 2020.

(2) The 25 wealthiest billionaires in America made $401 billion from 2014 to 2018 and paid an effective tax rate of 3.4 percent.

(3) The wealthiest 400 households in America paid an average effective tax rate of just 8.2 percent between 2010 and 2018.

(4) A gradual tax on the unrealized capital gains of billionaires from tradable and non-tradable assets could raise more than $1 trillion over 10 years.

(5) Investing revenue from such a tax in children at birth, particularly in the first 1000 days of life, would support children's healthy physical development, brain development, social-emotional health, and long-term well-being.

SEC. 3. DEEMED REALIZATION MARK-TO-MARKET RULES.

(a) IMPOSITION OF TAX.—Part I of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amend-

ed by inserting after section 1001 the following new section:

"SEC. 1002. DEEMED REALIZATION MARK-TO-MARKET RULES.

"(a) ANNUAL REALIZATION OF GAINS AND LOSSES IN PUBLICLY TRADED ASSETS.—Except as provided in subsection (c), for the purposes of section 1, 30 percent by value of the publicly traded securities of each covered taxpayer are deemed sold on the last day of each taxable year.

"(b) REALIZATION OF GAINS AND LOSSES ON ALL ASSETS.—Except as provided in subsection (c), in the first taxable year in which a taxpayer has tax liability resulting from the operation of subsection (a) and every 5 taxable years thereafter (excluding any taxable year in which such taxpayer is not a covered taxpayer), for the purposes of section 1, 50 percent by value of such taxpayer's assets that is not a publicly traded security is deemed sold on the last day of such taxable year.

"(c) PHASE-IN CAP.—The amount of tax liability with respect to a taxpayer in a taxable year resulting from the operation of subsections (a) and (b) (determined without regard to this subsection) may not exceed 35 percent of the amount by which the taxpayer's net worth exceeds

the exemption amount on the last day of such taxable year.

"(d) NET LOSSES.—Net losses shall not be recognized as a result of this subsection except to the extent that net gains were recognized by the taxpayer as a result of this subsection in any prior year. Any taxpayer who recognized net gains in any prior year as a result of this subsection may elect to have this subsection apply in the current year even if that taxpayer does not currently have net assets in excess of the exemption amount.

"(e) COVERED TAXPAYER DEFINED.—For the purposes of this section, the term 'covered taxpayer' means, with respect to a taxable year, a taxpayer whose net worth exceeds the exemption amount on the last day of such taxable year.

"(f) DEEMED LONG-TERM CAPITAL GAINS OR LOSSES.—For purposes of determining the character of any gain or loss with respect to any piece of property deemed sold under this section, such property shall be treated as a capital asset held for more than 1 year.

"(g) ADJUSTED BASIS.—

"(1) IN GENERAL.—The Secretary shall adjust the taxpayer's basis in an asset deemed sold under subsection (a) or (b) as the Secretary determines ap-

propriate to reflect the amount of gain or loss that resulted from the operation of such subsection.

"(2) COST RECOVERY.—Adjustments to a taxpayer's basis in an asset made under paragraph (1) shall not be included in such taxpayer's basis in such asset for the purposes of sections 167(c), 168, 179, or 197.

"(h) PAYMENT SCHEDULE.—

"(1) IN GENERAL.—A taxpayer may elect to pay a tax liability, increased by the deferral charge determined in paragraph (2), resulting from the operation of subsection (b) in 5 equal, annual installments beginning in the taxable year in which this section takes effect.

"(2) DEFERRAL CHARGE.—The deferral charge determined in this paragraph is equal to the amount that the Secretary determines is a conservative estimate of the cost to the United States of permitting a taxpayer to make an election under paragraph (1).

"(i) EXEMPTION AMOUNT.—For the purposes of this section, the term 'exemption amount' means $100,000,000.

"(j) DETERMINATION OF VALUATION.—

"(1) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the

Secretary shall issue regulations for determining the net worth of a taxpayer and the deemed sale-price valuations of each asset of a taxpayer for the purposes of this section. Such regulations may require the use of formulaic valuation approaches for designated assets, including formulaic approaches based on proxies for determining presumptive valuations, formulaic approaches based on prospective adjustments from purchase prices or other prior events, or formulaic approaches based on retrospectively adding deferral charges based on eventual sale prices or other specified later events indicative of valuation.

"(2) RULE IN THE ABSENCE OF REGULATION.—If the Secretary has not issued regulations under paragraph (1), the fair market value of each asset owned by the taxpayer shall be the price at which such asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts. The value of a particular asset shall not be the price that a forced sale of the property would produce. Further, the fair market value of an asset shall not be the sale price in a market other than that in which such item is most commonly sold to the public, taking into ac-

count the location of the item wherever appropriate. In the case of an asset which is generally obtained by the public in the retail market, the fair market value of such an asset shall be the price at which such item or a comparable item would be sold at retail.

"(3) LIMITATION.—For purposes of this subsection, any feature of an asset that was added with the intent, and has the effect, of reducing the value of the asset shall be disregarded, and no valuation or other discount shall be taken into account if it would have the effect of reducing the value of a pro rata economic interest in an asset below the pro rata portion of the value of the entire asset.

"(4) EXCEPTION WITH RESPECT TO CERTAIN ASSETS TAKEN INTO ACCOUNT IN DETERMINING NET WORTH.—Notwithstanding the preceding provisions of this subsection, if the Secretary has not issued regulations under paragraph (1) specifying otherwise, for purposes of determining the taxpayer's net worth for purposes of this section with respect to any taxable year after the first taxable year with respect to which subsection (b) applies to the taxpayer, the taxpayer may value assets that are not publicly traded securities at the value of such

asset that the taxpayer most recently reported for purposes of subsection (b).

"(k) INFORMATION REPORTING.—The Secretary shall, not later than 1 year after the date of the enactment of this section, issue regulations—

"(1) requiring such persons as the Secretary determines appropriate to report such information to the Secretary as the Secretary determines necessary to carry out this section, and

"(2) prohibiting such conduct as the Secretary determines appropriate to prevent a taxpayer from avoiding the requirements of this paragraph.

"(l) AUDIT REQUIRED.—The Secretary shall, with respect to each taxable year, audit each covered taxpayer and each taxpayer who was a covered taxpayer in any of the 3 preceding taxable years.

"(m) PENALTIES.—

"(1) APPLICABILITY.—Except as provided in paragraph (5), a taxpayer that has tax liability as a result of the operation of this section with an understatement of tax shall be subject to the penalty described in paragraph (2) if the amount of such understatement for a taxable year exceeds the greater of—

"(A) $1,000,000, or

"(B) 20 percent of the tax shown on an original return or shown on an amended return filed on or before the original or extended due date of the return for the taxable year.

"(2) PENALTY DESCRIBED.—The penalty described in this paragraph is an amount equal to—

"(A) 20 percent of the understatement of tax, or

"(B) in the case of an understatement that is substantially the result of a failure to fulfill a requirement to report an asset, 40 percent of such understatement.

"(3) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by paragraph (1) is in addition to any other penalties imposed on such understatement.

"(4) LIMITATION ON REFUND OR CREDIT.—The Secretary may not refund or issue a credit with respect to a penalty imposed under paragraph (1) unless such refund or credit is attributable to the Secretary's miscalculation of the amount of such penalty.

"(5) EXCEPTIONS.—The Secretary may not impose a penalty under paragraph (1) if the understatement is the result of—

"(A) a change in law after the earlier of—

"(i) the date the taxpayer files a return for the applicable taxable year, or

"(ii) the extended due date for the return of the taxpayer for the applicable taxable year, or

"(B) the taxpayer's reasonable reliance on a formal legal ruling issued by the Secretary.".

(b) COMPREHENSIVE PLAN FOR ENHANCED ENFORCEMENT OF REPORTING ON CERTAIN FOREIGN ACCOUNTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a comprehensive plan for managing efforts to leverage data collected under chapter 4 of the Internal Revenue Code of 1986 in agency compliance efforts. Such plan shall include an evaluation of the extent to which actions being undertaken as of the date of the enactment of this Act for the enforcement of the requirements of such chapter improve voluntary compliance and address noncompliance with such requirements.

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 1002. Deemed realization mark-to-market rules.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

(e) SENSE OF CONGRESS.—It is the sense of Congress that the taxation by the several States of extreme wealth is in the public interest and that silence on the part of Congress shall not be construed to impose any barrier to the use of reasonable residency rules, including such rules that apportion a tax on deemed sales or extreme wealth over no more than five years, by the several States or the District of Columbia.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this section and the amendments by this section.

SEC. 4. FAMILY INVESTMENT TRUST FUND.

(a) IN GENERAL.—Subchapter A of Chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. FAMILY INVESTMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the Family Investment Trust Fund, consisting of such amounts as may be appropriated or

1 credited to such Trust Fund as provided in this section
2 or section 9602(b).

3 "(b) TRANSFER TO TRUST FUND OF AMOUNTS
4 EQUIVALENT TO CERTAIN TAXES.—There are hereby ap-
5 propriated to the Family Investment Trust Fund amounts
6 equivalent to the taxes received in the Treasury as a result
7 of the operation of section 1002.

8 "(c) EXPENDITURES FROM TRUST FUND.—Amounts
9 in the Family Investment Trust Fund shall be available,
10 as provided by appropriation Acts, in equal amounts to
11 the Secretary of Education and the Secretary of Health
12 and Human Services for programs relating to supporting
13 family well-being and the development of children.".

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for subchapter A of chapter 98 of such Code is amended
16 by adding at the end the following new item:

"Sec. 9512. Family Investment Trust Fund.".

17 (c) EFFECTIVE DATE.—The amendments made by
18 this Act shall apply to amounts received after the date
19 of the enactment of this Act.

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