

117TH CONGRESS
2D SESSION

S. 4608

To amend the Internal Revenue Code of 1986 to exclude from gross income de minimis gains from certain sales or exchanges of virtual currency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2022

Mr. TOOMEY 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 exclude from gross income de minimis gains from certain sales or exchanges of virtual currency, 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.**

4 This Act may be cited as the “Virtual Currency Tax
5 Fairness Act”.

6 **SEC. 2. VIRTUAL CURRENCY.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting after section 139I the following new section:

1 **“SEC. 139J. DE MINIMIS GAIN FROM SALE OR EXCHANGE**
2 **OF VIRTUAL CURRENCY.**

3 “(a) IN GENERAL.—Subject to subsection (b), gross
4 income shall not include gain from the sale or exchange
5 of virtual currency, unless the sale or exchange is for—

6 “(1) cash or cash equivalents,

7 “(2) any property used by the taxpayer in the
8 active conduct of a trade or business, or

9 “(3) any property held by the taxpayer for the
10 production of income (as described in section
11 212(2)).

12 “(b) LIMITATION.—

13 “(1) IN GENERAL.—Subsection (a) shall not
14 apply in the case of any sale or exchange for
15 which—

16 “(A) the total value of such sale or ex-
17 change exceeds \$50, or

18 “(B) the total gain which would otherwise
19 be recognized with respect to such sale or ex-
20 change exceeds \$50.

21 “(2) AGGREGATION RULE.—For purposes of
22 this subsection, all sales or exchanges which are part
23 of the same transaction (or a series of related trans-
24 actions) shall be treated as one sale or exchange.

1 “(c) VIRTUAL CURRENCY.—For purposes of this sec-
 2 tion, the term ‘virtual currency’ means a digital represen-
 3 tation of value which—

4 “(1) functions as a unit of account, a store of
 5 value, or a medium of exchange, and

6 “(2) is not a representation of the United
 7 States dollar or any foreign currency.

8 “(d) INFLATION ADJUSTMENT.—In the case of any
 9 taxable year beginning in a calendar year after 2023, the
 10 dollar amount in subsection (b)(1) shall be increased by
 11 an amount equal to—

12 “(1) such dollar amount, multiplied by

13 “(2) the cost-of-living adjustment determined
 14 under section 1(f)(3) for the calendar year in which
 15 the taxable year begins, determined by substituting
 16 ‘calendar year 2022’ for ‘calendar year 2016’ in sub-
 17 paragraph (A)(ii) thereof.

18 Any increase determined under the preceding sentence
 19 shall be rounded to the nearest multiple of \$10.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 for part III of subchapter B of chapter 1 of the Internal
 22 Revenue Code of 1986 is amended by inserting after the
 23 item relating to section 139I the following new item:

“Sec. 139J. De minimis gain from sale or exchange of virtual currency.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to transactions en-
3 tered into after December 31, 2022.

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