

114TH CONGRESS
1ST SESSION

H. R. 1544

To amend the Internal Revenue Code of 1986 to reform the estate and gift tax.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2015

Mr. McDERMOTT introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to reform the estate and gift tax.

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 “Sensible Estate Tax
5 Act of 2015”.

6 **SEC. 2. MODIFICATION OF ESTATE TAX EXCLUSION AND ES-**
7 **TATE TAX RATES.**

8 (a) EXCLUSION AMOUNT.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 2010(c)(3) of the Internal Revenue Code of 1986 is

1 amended by striking “\$5,000,000” and inserting
 2 “\$1,000,000”.

3 (2) INFLATION ADJUSTMENT.—Subparagraph
 4 (B) of section 2010(c)(3) of such Code is amend-
 5 ed—

6 (A) by striking “2011” in the matter pre-
 7 ceding clause (i) and inserting “2016”, and

8 (B) by striking “2015” in clause (ii) and
 9 inserting “2000”.

10 (b) ESTATE TAX RATES.—

11 (1) IN GENERAL.—The table contained in sub-
 12 section (c) of section 2001 of such Code is amended
 13 by striking “Over \$1,000,000” and all that follows
 14 and inserting the following:

“Over \$1,000,000 but not over \$1,250,000.	\$345,800, plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$5,000,000.	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$5,000,000 but not over \$10,000,000.	\$2,130,800, plus 50 percent of the excess of such amount over \$5,000,000.
Over \$10,000,000	\$4,630,800, plus 55 percent of the excess of such amount over \$10,000,000.”.

15 (2) ADJUSTMENT FOR INFLATION.—Subsection
 16 (c) of section 2001 of such Code is amended—

17 (A) by inserting the following before the
 18 table contained therein:

1 “(1) IN GENERAL.—”, and

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

4 “(2) INFLATION ADJUSTMENT.—In the case of
5 any decedent dying in a calendar year after 2016—

6 “(A) each minimum and maximum dollar
7 amount for each rate bracket in the table in
8 paragraph (1) shall be increased by an amount
9 equal to—

10 “(i) such dollar amount, multiplied by

11 “(ii) the cost-of-living adjustment de-
12 termined under section 1(f)(3) for such
13 calendar year, determined by substituting
14 ‘2015’ for ‘1992’ in subparagraph (B)
15 thereof, and

16 “(B) each of the amounts setting forth the
17 tax under such table shall be adjusted to the
18 extent necessary to reflect the adjustments in
19 the rate brackets made by subparagraph (A).

20 If any increase determined under subparagraph (A)
21 is not a multiple of \$10,000, such increase shall be
22 rounded to the nearest multiple of \$10,000.”.

23 (c) COORDINATION WITH GIFT TAX TO REFLECT
24 DECREASE IN APPLICABLE CREDIT AMOUNT.—Sub-

1 section (g) of section 2001 of such Code is amended to
 2 read as follows:

3 “(g) MODIFICATIONS TO GIFT TAX CALCULATION.—
 4 For purposes of applying subsection (b)(2) with respect
 5 to 1 or more gifts—

6 “(1) MODIFICATIONS TO REFLECT DIFFERENT
 7 TAX RATES.—The rates of tax under subsection (c)
 8 in effect at the decedent’s death shall, in lieu of the
 9 rates of tax in effect at the time of such gifts, be
 10 used both to compute—

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

13 “(B) the credit allowed against such tax
 14 under section 2505, including in computing—

15 “(i) the amount determined under
 16 section 2505(a)(1), and

17 “(ii) the sum of the amounts allowed
 18 as a credit for all preceding periods under
 19 section 2505(a)(2).

20 “(2) MODIFICATION TO REFLECT REDUCED AP-
 21 PPLICABLE CREDIT AMOUNTS.—The amount deter-
 22 mined under section 2505(a)(1) for each calendar
 23 year shall not exceed the estate’s applicable credit
 24 amount under section 2010(c).”.

1 (d) EFFECTIVE DATE.—Except as otherwise pro-
2 vided by in this subsection, the amendments made by this
3 section shall apply to estates of decedents dying, genera-
4 tion-skipping transfers, and gifts made, after December
5 31, 2015.

6 **SEC. 3. RESTORATION OF CREDIT FOR STATE TRANSFER**
7 **TAX.**

8 (a) IN GENERAL.—Section 2011 of the Internal Rev-
9 enue Code of 1986 is amended by striking subsection (f).

10 (b) REPEAL OF DEDUCTION FOR STATE TRANSFER
11 TAXES.—

12 (1) IN GENERAL.—Section 2058 of such Code
13 is amended by adding at the end the following:

14 “(c) TERMINATION.—This section shall not apply to
15 the estates of decedents dying after December 31, 2015.”.

16 (2) CONFORMING AMENDMENT.—Section
17 2106(a)(4) of such Code is amended by adding at
18 the end the following new sentence: “This paragraph
19 shall not apply to the estates of decedents dying
20 after December 31, 2015.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to estates of decedents dying, and
23 gifts made, after December 31, 2015.

1 **SEC. 4. VALUATION RULES FOR CERTAIN TRANSFERS OF**
2 **NONBUSINESS ASSETS; LIMITATION ON MI-**
3 **NORITY DISCOUNTS.**

4 (a) IN GENERAL.—Section 2031 of the Internal Rev-
5 enue Code of 1986 is amended by redesignating subsection
6 (d) as subsection (f) and by inserting after subsection (c)
7 the following new subsections:

8 “(d) VALUATION RULES FOR CERTAIN TRANSFERS
9 OF NONBUSINESS ASSETS.—For purposes of this chapter
10 and chapter 12—

11 “(1) IN GENERAL.—In the case of the transfer
12 of any interest in an entity other than an interest
13 which is actively traded (within the meaning of sec-
14 tion 1092)—

15 “(A) the value of any nonbusiness assets
16 held by the entity shall be determined as if the
17 transferor had transferred such assets directly
18 to the transferee (and no valuation discount
19 shall be allowed with respect to such nonbusi-
20 ness assets), and

21 “(B) the nonbusiness assets shall not be
22 taken into account in determining the value of
23 the interest in the entity.

24 “(2) NONBUSINESS ASSETS.—For purposes of
25 this subsection—

1 “(A) IN GENERAL.—The term ‘nonbusi-
 2 ness asset’ means any asset which is not used
 3 in the active conduct of 1 or more trades or
 4 businesses.

5 “(B) EXCEPTION FOR CERTAIN PASSIVE
 6 ASSETS.—Except as provided in subparagraph
 7 (C), a passive asset shall not be treated for pur-
 8 poses of subparagraph (A) as used in the active
 9 conduct of a trade or business unless—

10 “(i) the asset is property described in
 11 paragraph (1) or (4) of section 1221(a) or
 12 is a hedge with respect to such property,
 13 or

14 “(ii) the asset is real property used in
 15 the active conduct of 1 or more real prop-
 16 erty trades or businesses (within the mean-
 17 ing of section 469(c)(7)(C)) in which the
 18 transferor materially participates and with
 19 respect to which the transferor meets the
 20 requirements of section 469(c)(7)(B)(ii).

21 For purposes of clause (ii), material participa-
 22 tion shall be determined under the rules of sec-
 23 tion 469(h), except that section 469(h)(3) shall
 24 be applied without regard to the limitation to
 25 farming activity.

1 “(C) EXCEPTION FOR WORKING CAP-
2 ITAL.—Any asset (including a passive asset)
3 which is held as a part of the reasonably re-
4 quired working capital needs of a trade or busi-
5 ness shall be treated as used in the active con-
6 duct of a trade or business.

7 “(3) PASSIVE ASSET.—For purposes of this
8 subsection, the term ‘passive asset’ means any—

9 “(A) cash or cash equivalents,

10 “(B) except to the extent provided by the
11 Secretary, stock in a corporation or any other
12 equity, profits, or capital interest in any entity,

13 “(C) evidence of indebtedness, option, for-
14 ward or futures contract, notional principal con-
15 tract, or derivative,

16 “(D) asset described in clause (iii), (iv), or
17 (v) of section 351(e)(1)(B),

18 “(E) annuity,

19 “(F) real property used in 1 or more real
20 property trades or businesses (as defined in sec-
21 tion 469(e)(7)(C)),

22 “(G) asset (other than a patent, trade-
23 mark, or copyright) which produces royalty in-
24 come,

25 “(H) commodity,

1 “(I) collectible (within the meaning of sec-
2 tion 401(m)), or

3 “(J) any other asset specified in regula-
4 tions prescribed by the Secretary.

5 “(4) LOOK-THRU RULES.—

6 “(A) IN GENERAL.—If a nonbusiness asset
7 of an entity consists of a 10-percent interest in
8 any other entity, this subsection shall be ap-
9 plied by disregarding the 10-percent interest
10 and by treating the entity as holding directly its
11 ratable share of the assets of the other entity.
12 This subparagraph shall be applied successively
13 to any 10-percent interest of such other entity
14 in any other entity.

15 “(B) 10-PERCENT INTEREST.—The term
16 ‘10-percent interest’ means—

17 “(i) in the case of an interest in a cor-
18 poration, ownership of at least 10 percent
19 (by vote or value) of the stock in such cor-
20 poration,

21 “(ii) in the case of an interest in a
22 partnership, ownership of at least 10 per-
23 cent of the capital or profits interest in the
24 partnership, and

1 “(iii) in any other case, ownership of
2 at least 10 percent of the beneficial inter-
3 ests in the entity.

4 “(C) EXCEPTION FOR ACTIVELY TRADED
5 INTERESTS.—Subparagraph (A) shall not apply
6 to any nonbusiness asset which consists of an
7 interest which is actively traded (within the
8 meaning of section 1092).

9 “(5) COORDINATION WITH SUBSECTION (b).—
10 Subsection (b) shall apply after the application of
11 this subsection.

12 “(e) LIMITATION ON MINORITY DISCOUNTS.—For
13 purposes of this chapter and chapter 12, in the case of
14 the transfer of any interest in an entity other than an in-
15 terest which is actively traded (within the meaning of sec-
16 tion 1092), no discount shall be allowed by reason of the
17 fact that the transferee does not have control of such enti-
18 ty if the transferee and members of the family (as defined
19 in section 2032A(e)(2)) of the transferee have control of
20 such entity (determined immediately after such trans-
21 fer).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to transfers after the date of the
24 enactment of this Act.

1 **SEC. 5. CONSISTENT BASIS REPORTING BETWEEN ESTATE**
2 **AND PERSON ACQUIRING PROPERTY FROM**
3 **DECEDENT.**

4 (a) CONSISTENT USE OF BASIS.—

5 (1) PROPERTY ACQUIRED FROM A DECE-
6 DENT.—Section 1014 of the Internal Revenue Code
7 of 1986 is amended by adding at the end the fol-
8 lowing new subsection:

9 “(f) BASIS MUST BE CONSISTENT WITH ESTATE
10 TAX RETURN.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the value used to determine the basis of any in-
13 terest in property in the hands of the person acquir-
14 ing such property shall not exceed the value of such
15 interest as finally determined for purposes of chap-
16 ter 11.

17 “(2) SPECIAL RULE WHERE NO FINAL DETER-
18 MINATION.—In any case in which the final value of
19 property has not been determined under chapter 11
20 and there has been a statement furnished under sec-
21 tion 6035(a), the value used to determine the basis
22 of any interest in property in the hands of the per-
23 son acquiring such property shall not exceed the
24 amount reported on any statement furnished under
25 section 6035(a).

1 “(3) REGULATIONS.—The Secretary may by
2 regulations provide exceptions to the application of
3 this subsection.”.

4 (b) INFORMATION REPORTING.—

5 (1) IN GENERAL.—Subpart A of part III of
6 subchapter A of chapter 61 of such Code is amended
7 by inserting after section 6034A the following new
8 section:

9 **“SEC. 6035. BASIS INFORMATION TO PERSONS ACQUIRING**
10 **PROPERTY FROM DECEDENT.**

11 “(a) INFORMATION WITH RESPECT TO PROPERTY
12 ACQUIRED FROM DECEDENTS.—

13 “(1) IN GENERAL.—The executor of any estate
14 required to file a return under section 6018(a) shall
15 furnish to the Secretary and to each person acquir-
16 ing any interest in property included in the dece-
17 dent’s gross estate for Federal estate tax purposes
18 a statement identifying the value of each interest in
19 such property as reported on such return and such
20 other information with respect to such interest as
21 the Secretary may prescribe.

22 “(2) STATEMENTS BY BENEFICIARIES.—Each
23 person required to file a return under section
24 6018(b) shall furnish to the Secretary and to each
25 other person who holds a legal or beneficial interest

1 in the property to which such return relates a state-
2 ment identifying the information described in para-
3 graph (1).

4 “(3) TIME FOR FURNISHING STATEMENT.—

5 “(A) IN GENERAL.—Each statement re-
6 quired to be furnished under paragraph (1) or
7 (2) shall be furnished at such time as the Sec-
8 retary may prescribe, but in no case at a time
9 later than the earlier of—

10 “(i) the date which is 30 days after
11 the date on which the return under section
12 6018 was required to be filed (including
13 extensions, if any), or

14 “(ii) the date which is 30 days after
15 the date such return is filed.

16 “(B) ADJUSTMENTS.—In any case in
17 which there is an adjustment to the information
18 required to be included on a statement filed
19 under paragraph (1) or (2) after such state-
20 ment has been filed, a supplemental statement
21 under such paragraph shall be filed not later
22 than the date which is 30 days after such ad-
23 justment is made.

1 “(b) REGULATIONS.—The Secretary shall prescribe
 2 such regulations as necessary to carry out this section, in-
 3 cluding regulations relating to—

4 “(1) the application of this section to property
 5 with regard to which no estate tax return is required
 6 to be filed, and

7 “(2) situations in which the surviving joint ten-
 8 ant or other recipient may have better information
 9 than the executor regarding the basis or fair market
 10 value of the property.”.

11 (2) PENALTY FOR FAILURE TO FILE.—

12 (A) RETURN.—Section 6724(d)(1) of the
 13 Internal Revenue Code of 1986 is amended by
 14 striking “and” at the end of subparagraph (B),
 15 by striking the period at the end of subpara-
 16 graph (C) and inserting “, and”, and by insert-
 17 ing after subparagraph (C) the following new
 18 subparagraph:

19 “(D) any statement required to be filed
 20 with the Secretary under section 6035.”.

21 (B) STATEMENT.—Section 6724(d)(2) of
 22 such Code is amended by striking “or” at the
 23 end of subparagraph (GG), by striking the pe-
 24 riod at the end of subparagraph (HH) and in-

1 serting “, or”, and by inserting after subpara-
 2 graph (HH) the following new subparagraph:

3 “(II) section 6035 (other than a statement
 4 described in paragraph (1)(D)).”.

5 (3) CLERICAL AMENDMENT.—The table of sec-
 6 tions for subpart A of part III of subchapter A of
 7 chapter 61 of the Internal Revenue Code of 1986 is
 8 amended by inserting after the item relating to sec-
 9 tion 6034A the following new item:

“Sec. 6035. Basis information to persons acquiring property from decedent.”.

10 (c) PENALTY FOR INCONSISTENT REPORTING.—

11 (1) IN GENERAL.—Subsection (b) of section
 12 6662 of the Internal Revenue Code of 1986 is
 13 amended by inserting after paragraph (7) the fol-
 14 lowing new paragraph:

15 “(8) Any inconsistent estate basis.”.

16 (2) INCONSISTENT BASIS REPORTING.—Section
 17 6662 of such Code is amended by adding at the end
 18 the following new subsection:

19 “(k) INCONSISTENT ESTATE BASIS REPORTING.—

20 For purposes of this section, the term ‘inconsistent estate
 21 basis’ means the portion of the understatement which is
 22 attributable to a basis determination with respect to such
 23 property which is not consistent with the value of such
 24 property as determined under section 1014(f).”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to transfers for which returns are
 3 filed after the date of the enactment of this Act.

4 **SEC. 6. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
 5 **GRANTOR RETAINED ANNUITY TRUSTS.**

6 (a) IN GENERAL.—Subsection (b) of section 2702 of
 7 the Internal Revenue Code of 1986 is amended—

8 (1) by redesignating paragraphs (1), (2), and
 9 (3) as subparagraphs (A), (B), and (C), respectively,
 10 and by moving such subparagraphs (as so redesign-
 11 ated) 2 ems to the right;

12 (2) by striking “For purposes of” and inserting
 13 the following:

14 “(1) IN GENERAL.—For purposes of”;

15 (3) by striking “paragraph (1) or (2)” in para-
 16 graph (1)(C) (as so redesignated) and inserting
 17 “subparagraph (A) or (B)”; and

18 (4) by adding at the end the following new
 19 paragraph:

20 “(2) ADDITIONAL REQUIREMENTS WITH RE-
 21 SPECT TO GRANTOR RETAINED ANNUITIES.—For
 22 purposes of subsection (a), in the case of an interest
 23 described in paragraph (1)(A) (determined without
 24 regard to this paragraph) which is retained by the

1 transferor, such interest shall be treated as de-
 2 scribed in such paragraph only if—

3 “(A) the right to receive the fixed amounts
 4 referred to in such paragraph is for a term of
 5 not less than 10 years,

6 “(B) such fixed amounts, when determined
 7 on an annual basis, do not decrease relative to
 8 any prior year during the first 10 years of the
 9 term referred to in subparagraph (A), and

10 “(C) the remainder interest has a value
 11 greater than zero determined as of the time of
 12 the transfer.”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to transfers made after the date
 15 of the enactment of this Act.

16 **SEC. 7. LIMITATION ON GST EXEMPTION OF PERPETUAL**
 17 **DYNASTY TRUSTS.**

18 (a) IN GENERAL.—Section 2642 of the Internal Rev-
 19 enue Code of 1986 is amended by adding at the end the
 20 following new subsection:

21 “(h) EXPIRATION OF GST EXEMPTION 90 YEARS
 22 AFTER ESTABLISHMENT OF TRUST.—

23 “(1) IN GENERAL.—In the case of any genera-
 24 tion-skipping transfer made from a trust after the
 25 date which is 90 years after the date on which such

1 trust is created, the inclusion ratio with respect to
2 any property transferred in such transfer shall be 1.

3 “(2) SPECIAL RULES.—For purposes of this
4 subsection—

5 “(A) DATE OF CREATION OF CERTAIN
6 DEEMED SEPARATE TRUSTS.—In the case of
7 any portion of a trust which is treated as a sep-
8 arate trust under section 2654(b)(1), such sep-
9 arate trust shall be treated as created on the
10 date of the first transfer described in such sec-
11 tion with respect to such separate trust.

12 “(B) DATE OF CREATION OF POUR-OVER
13 TRUSTS.—In the case of any generation-skip-
14 ping transfer of property which involves the
15 transfer of property from 1 trust to another
16 trust, the date of the creation of the transferee
17 trust shall be treated as being the earlier of—

18 “(i) the date of the creation of such
19 transferee trust, or

20 “(ii) the date of the creation of the
21 transferor trust.

22 In the case of multiple transfers to which the
23 preceding sentence applies, the date of the cre-
24 ation of the transferor trust shall be determined
25 under the preceding sentence before the appli-

1 cation of the preceding sentence to determine
2 the date of the creation of the transferee trust.

3 “(C) EXCEPTION FOR CERTAIN TRANS-
4 FERS FOR EDUCATION AND MEDICAL EX-
5 PENSES.—Subparagraph (B) shall not apply to
6 the transfer of property from 1 trust to another
7 trust if—

8 “(i) such transfer is described in sec-
9 tion 2642(c)(2), and

10 “(ii) the individual referred to in such
11 section with respect to the transferee trust
12 was also a beneficiary of the transferor
13 trust.

14 “(3) REGULATIONS.—The Secretary may pre-
15 scribe such regulations or other guidance as may be
16 necessary or appropriate to carry out this sub-
17 section.”.

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made this
20 section shall apply to—

21 (A) trusts created after the date of the en-
22 actment of this Act, and

23 (B) generation-skipping transfers made
24 from trusts created on or before such date, but
25 only to the extent such transfer is made out of

1 corpus added to the trust after such date (or
2 out of income attributable to corpus so added).

3 (2) DETERMINATION OF DATE OF CREATION.—

4 For purposes of this subsection, the rules of sections
5 2642(h)(2) (as added by this section) and 2654(b)
6 of the Internal Revenue Code of 1986 shall apply for
7 purposes of determining the date of the creation of
8 any trust.

9 (3) EXCEPTIONS.—The Secretary of the Treas-
10 ury, or his designee, shall issue regulations or other
11 guidance which provide exceptions to the application
12 of the amendments made by this section which are
13 substantially similar to the relevant exceptions under
14 paragraph (2) of section 1433(b) of the Tax Reform
15 Act of 1986.

○