

114TH CONGRESS  
1ST SESSION

# H. R. 3508

To amend the Internal Revenue Code of 1986 to allow an annual elective surcharge in lieu of estate tax, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2015

Mr. HARRIS (for himself, Mr. MOONEY of West Virginia, and Mr. BEYER) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow an annual elective surcharge in lieu of estate tax, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Solution for Simplifying the Estate Tax Act  
6 of 2015”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Congressional findings.

- Sec. 3. Elective simplified estate tax.
- Sec. 4. Carry-over basis.
- Sec. 5. Returns.
- Sec. 6. Special rule for revocation of trusts in connection with election.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 Congress finds the following:

3 (1) The current method of collecting Federal  
4 estate tax often cripples American family-owned  
5 businesses, farms, and ranches by forcing the sale of  
6 ongoing concerns in order to pay tax liability arising  
7 from the death of an owner, creating inefficiencies,  
8 dislocation, and often job losses.

9 (2) From farmers and ranchers to urban busi-  
10 ness owners, the Federal estate tax looms heavily  
11 and has a counterproductive effect on our Nation's  
12 family-owned businesses that costs numerous jobs.

13 (3) The job losses, economic dislocation, and ex-  
14 cessive compliance costs are not justified given the  
15 fact that the estate tax has averaged one percent of  
16 total IRS collections since 1960, with \$14 billion col-  
17 lected in fiscal year 2013 (less than 1/2 percent of  
18 total IRS collections).

19 (4) The Joint Economic Committee in its May  
20 2006 study concluded that in order to avoid wealth  
21 transfer taxes, individuals' costs of complying with  
22 the estate tax roughly equals the revenue yield of the  
23 estate tax for the U.S. Treasury.

1           (5) The current method of collection of the es-  
2       tate tax leads many wealthy Americans to lock up  
3       capital in trusts to minimize or eliminate tax liabil-  
4       ity, meaning that billions of dollars are left idle in-  
5       stead of facilitating the creation of new business  
6       ventures that could stimulate the economy.

7           (6) As recently as 2009, of the 34,000 estate  
8       tax returns filed that year, only half owed any estate  
9       tax, indicating that many wealthy Americans have  
10      found means to avoid paying this tax. In 2012,  
11      9,400 Americans still had to file estate tax returns,  
12      even with the higher \$5 million threshold.

13          (7) It is in the national interest to modify the  
14      mechanism for collection of revenues from those  
15      Americans who have the largest estates, provided  
16      that it is done in a revenue neutral manner that en-  
17      sures the ongoing collection of an appropriate per-  
18      centage of the historical average of 1 percent of total  
19      IRS tax receipts that reflects the lower amount of  
20      estate tax revenues generated under the 2010 and  
21      2012 amendments due to a higher exemption  
22      amount.

1 **SEC. 3. ELECTIVE SIMPLIFIED ESTATE TAX.**

2 (a) IN GENERAL.—Chapter 11 of the Internal Rev-  
 3 enue Code of 1986 is amended by adding at the end the  
 4 following new subchapter:

5 **“Subchapter D—Simplified Estate Tax**

“Sec. 2301. Simplified estate tax.

“Sec. 2302. Imposition and rate.

“Sec. 2303. Election.

“Sec. 2304. Seven taxable year minimum.

6 **“SEC. 2301. SIMPLIFIED ESTATE TAX.**

7 “In the case of an individual (and, if married, such  
 8 individual’s spouse) who elects the application of this sub-  
 9 chapter—

10 “(1) chapter 11 shall thereafter not apply with  
 11 respect to the transfer of the estate of such indi-  
 12 vidual (or such spouse),

13 “(2) chapter 13 shall thereafter not apply with  
 14 respect to any generation-skipping transfer (as de-  
 15 fined in section 2611) made by such individual (or  
 16 such spouse), and

17 “(3) a tax shall be imposed by section 2302  
 18 with respect to such individual (and such spouse) for  
 19 the taxable year of the election and each taxable  
 20 year thereafter.

21 **“SEC. 2302. IMPOSITION AND RATE.**

22 “(a) IN GENERAL.—The tax imposed by this section  
 23 for any taxable year shall be treated as an increase in the

1 taxpayer's tax under chapter 1 for the taxable year by an  
2 amount equal to 1 percent of the modified adjusted gross  
3 income of the taxpayer for the taxable year.

4 “(b) MODIFIED ADJUSTED GROSS INCOME.—For  
5 purposes of this section, the term ‘modified adjusted gross  
6 income’ means adjusted gross income increased by—

7 “(1) any amount excluded from gross income  
8 under section 911, 931, or 933, or

9 “(2) any amount of interest received or accrued  
10 by the taxpayer during the taxable year which is ex-  
11 empt from tax.

12 “(c) APPLICATION OF INCREASE IN RATE.—Any in-  
13 crease in the rate of tax imposed by subsection (a) shall  
14 not apply to any individual who has elected the application  
15 of this subchapter prior to the effective date of such in-  
16 crease.

17 **“SEC. 2303. ELECTION.**

18 “(a) IN GENERAL.—Except as the Secretary shall by  
19 regulation prescribe in the case of separation, divorce, re-  
20 marriage, or other circumstances the Secretary determines  
21 equitable, election for this subchapter to apply, once made,  
22 shall be irrevocable.

23 “(b) MARRIED COUPLES TO FILE JOINTLY.—If the  
24 taxpayer and the taxpayer's spouse elect the application  
25 of this subchapter and are married (within the meaning

1 of section 7703) at the end of the taxable year, the tax-  
 2 payer and the taxpayer's spouse shall file a joint return  
 3 for the taxable year.

4 **“SEC. 2304. SEVEN TAXABLE YEAR MINIMUM.**

5       “(a) IN GENERAL.—In the case of a decedent whose  
 6 last taxable year is not at least the 7th taxable year for  
 7 which the tax under section 2302 is imposed, the applica-  
 8 tion of this subchapter shall be treated as not having been  
 9 elected.

10       “(b) TRANSITION RULE FOR 2016 AND 2017.—

11               “(1) IN GENERAL.—In the case of a decedent  
 12 who first elected the application of this subchapter  
 13 during 2016 or 2017, subsection (a) shall not apply  
 14 if the executor of the decedent's estate elects to in-  
 15 crease the amount of the tax imposed under chapter  
 16 1 for the decedent's last taxable year by an amount  
 17 equal to—

18                       “(A) the highest amount of tax imposed by  
 19 section 2302 with respect to such decedent for  
 20 any taxable year (including the decedent's last  
 21 taxable year), multiplied by

22                       “(B) an amount equal to the difference  
 23 of—

24                               “(i) 7, over

1                   “(ii) the number of taxable years for  
2                   which such tax was imposed with respect  
3                   to such decedent (including the decedent’s  
4                   last taxable year).

5                   “(2) SPECIAL RULE FOR DECEDENT DYING  
6                   DURING YEAR OF ELECTION.—In the case of a dece-  
7                   dent to whom paragraph (1) applies and who first  
8                   elected the application of this subchapter with re-  
9                   spect to the last taxable year of the decedent, the  
10                  amount under subparagraph (A) shall not be less  
11                  than the amount of tax which would have been im-  
12                  posed by section 2302 had such election first been  
13                  elected with respect to the preceding taxable year.

14                  “(c) CREDIT FOR TAXES PAID.—

15                  “(1) IN GENERAL.—In the case of a decedent  
16                  to which subsection (a) applies, the Secretary shall  
17                  by regulation provide for allowing for a credit  
18                  against the tax imposed by chapter 11 with respect  
19                  to the decedent to account for any taxes paid by the  
20                  decedent under section 2302.

21                  “(2) INTEREST.—The amount of any credit de-  
22                  termined under paragraph (1) with respect to any  
23                  tax paid shall include interest, which shall be deter-  
24                  mined—

1 “(A) at the overpayment rate established  
2 under section 6621, and

3 “(B) from the date of payment of such tax  
4 to the due date of the amount against which  
5 the credit is allowed.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after,  
8 and estates of decedents dying after, December 31, 2015.

9 **SEC. 4. CARRY-OVER BASIS.**

10 (a) IN GENERAL.—Part II of subchapter O of chap-  
11 ter 1 of such Code is amended by inserting after section  
12 1021 the following new section:

13 **“SEC. 1022. TREATMENT OF PROPERTY ACQUIRED FROM A**  
14 **DECEDENT WHO ELECTED SIMPLIFIED ES-**  
15 **TATE TAX TREATMENT.**

16 “(a) IN GENERAL.—In the case of property acquired  
17 from a decedent who elected the application of subchapter  
18 D of chapter 11—

19 “(1) such property shall be treated for purposes  
20 of this subtitle as transferred by gift, and

21 “(2) the basis of the person acquiring property  
22 from such a decedent shall be the lesser of—

23 “(A) the adjusted basis of the decedent, or

24 “(B) the fair market value of the property  
25 at the date of the decedent’s death.

1 “(b) PROPERTY ACQUIRED FROM THE DECEDENT.—

2 For purposes of this section, the following property shall  
3 be considered to have been acquired from the decedent:

4 “(1) Property acquired by bequest, devise, or  
5 inheritance, or by the decedent’s estate from the de-  
6 cedent.

7 “(2) Property transferred by the decedent dur-  
8 ing his lifetime—

9 “(A) to a qualified revocable trust (as de-  
10 fined in section 645(b)(1)), or

11 “(B) to any other trust with respect to  
12 which the decedent reserved the right to make  
13 any change in the enjoyment thereof through  
14 the exercise of a power to alter, amend, or ter-  
15 minate the trust.

16 “(3) Any other property passing from the dece-  
17 dent by reason of death to the extent that such  
18 property passed without consideration.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply with respect to estates of decedents  
21 dying after December 31, 2015.

22 **SEC. 5. SIMPLIFIED ESTATE TAX RETURNS.**

23 (a) INFORMATION RETURNS.—

24 (1) IN GENERAL.—Subpart C of part II of sub-  
25 chapter A of chapter 61 of such Code is amended by

1 inserting after section 6018 the following new sec-  
2 tion:

3 **“SEC. 6018A. SIMPLIFIED ESTATE TAX RETURNS.**

4 “(a) IN GENERAL.—In the case of property acquired  
5 from a decedent who has in effect an election under sub-  
6 chapter D of chapter 11, the executor of the estate of such  
7 decedent shall make a return containing the following in-  
8 formation with respect to such property:

9 “(1) The name and TIN of the recipient of  
10 such property.

11 “(2) An accurate description of such property.

12 “(3) The adjusted basis of such property in the  
13 hands of the decedent and its fair market value at  
14 the time of death.

15 “(4) The decedent’s holding period for such  
16 property.

17 “(5) Sufficient information to determine wheth-  
18 er any gain on the disposition of the property would  
19 be treated as ordinary income.

20 “(b) PROPERTY ACQUIRED FROM DECEDENT.—For  
21 purposes of this section, section 1022 shall apply for pur-  
22 poses of determining the property acquired from a dece-  
23 dent.

24 “(c) STATEMENTS TO BE FURNISHED TO CERTAIN  
25 PERSONS.—Every person required to make a return under

1 subsection (a) shall furnish to each person whose name  
2 is required to be set forth in such return (other than the  
3 person required to make such return) a written statement  
4 showing—

5           “(1) the name, address, and phone number of  
6           the person required to make such return, and

7           “(2) the information specified in subsection (a)  
8           with respect to property acquired from, or passing  
9           from, the decedent to the person required to receive  
10          such statement.

11 The written statement required under the preceding sen-  
12 tence shall be furnished not later than 30 days after the  
13 date that the return required by subsection (a) is filed.

14          “(d) ANNUAL BENEFICIARY ASSET STATUS RE-  
15 TURN.—Each recipient of property with respect to whom  
16 a statement is required to be furnished under subsection  
17 (c) and who owns any such property during the taxable  
18 year shall make a return with respect to such property  
19 containing the following information:

20           “(1) An accurate description of such property.

21           “(2) An accounting of the disposition of any  
22          such property during the taxable year.

23           “(3) The adjusted basis of such property as of  
24          the later of the end of the taxable year or the date  
25          of any such disposition.

1 “(e) EXCEPTED PROPERTY.—

2 “(1) IN GENERAL.—Subsections (a) and (b)  
3 shall not apply with respect to—

4 “(A) any property the fair market value of  
5 which, at the time of the decedent’s death, does  
6 not exceed \$10,000, and

7 “(B) any property the basis of which was  
8 determined by reference to the fair market  
9 value of the property at the date of the de-  
10 cent’s death.

11 “(2) INFLATION ADJUSTMENT.—

12 “(A) IN GENERAL.—In the case of any cal-  
13 endar year after 2016, the \$10,000 amount  
14 under paragraph (1) shall be increased by an  
15 amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-  
18 termined under section 1(f)(3) for the cal-  
19 endar year, determined by substituting  
20 ‘calendar year 2014’ for ‘calendar year  
21 1992’ in subparagraph (B) thereof.

22 “(B) ROUNDING.—If any amount as ad-  
23 justed under subparagraph (A) is not a multiple  
24 of \$100, such amount shall be rounded to the  
25 next lowest multiple of \$100.”.

1           (2) CLERICAL AMENDMENT.—The table of sec-  
 2           tions for subpart C of part II of subchapter A of  
 3           chapter 61 of such Code is amended by inserting  
 4           after the item relating to section 6018 the following  
 5           new item:

“Sec. 6018A. Simplified estate tax returns.”.

6           (b) TIME FOR FILING RETURNS.—Section 6075(a)  
 7           of such Code is amended—

8           (1) by striking “ESTATE TAX RETURN.—Re-  
 9           turns made” and inserting the following: “ESTATE  
 10          TAX RETURN.—

11          “(1) IN GENERAL.—Returns made”, and

12          (2) by adding at the end the following new  
 13          paragraph:

14          “(2) SIMPLIFIED ESTATE TAX.—

15               “(A) IN GENERAL.—Returns made under  
 16               section 6018A(a) shall be filed not later than  
 17               180 days after the date of the decedent’s death.

18               “(B) ANNUAL BENEFICIARY ASSET STATUS  
 19               RETURNS.—Returns made under section  
 20               6018A(d) for a taxable year shall be filed con-  
 21               currently with the individual’s return of income  
 22               tax for the taxable year.”.

23          (c) PENALTY FOR FAILURE TO FILE RETURNS.—

1           (1) IN GENERAL.—Part 1 of subchapter B of  
2       chapter 68 of such Code is amended by adding at  
3       the end the following new section:

4       **“SEC. 6720D. FAILURE TO FILE INFORMATION WITH RE-**  
5                       **SPECT TO SIMPLIFIED ESTATE TAX RETURNS.**

6       “(a) INFORMATION REQUIRED TO BE FILED WITH  
7       SECRETARY.—Any person required to furnish any infor-  
8       mation under section 6018A(a) who fails to do so on the  
9       date prescribed therefor (determined with regard to any  
10      extension of time for filing) shall pay a penalty of \$10,000  
11      for each such failure.

12      “(b) INFORMATION REQUIRED TO BE FURNISHED  
13      TO BENEFICIARIES.—Any person required to furnish in  
14      writing to each person described in section 6018A(c) the  
15      information required under such section who fails to do  
16      so shall pay a penalty of \$250 for each such failure.

17      “(c) ANNUAL INFORMATION RETURN REQUIRED TO  
18      BE FURNISHED BY BENEFICIARY.—Any person required  
19      to furnish any information under section 6018A(d) who  
20      fails to do so on the date prescribed therefor (determined  
21      with regard to any extension of time for filing) shall pay  
22      a penalty of \$5,000 for each such failure.

23      “(d) REASONABLE CAUSE EXCEPTION.—No penalty  
24      shall be imposed under subsection (a), (b), or (c) with re-

1 spect to a failure if it is shown that such failure is due  
2 to reasonable cause.

3 “(e) INTENTIONAL DISREGARD.—If any failure  
4 under subsection (a), (b), or (c) is due to intentional dis-  
5 regard of the requirements under section 6018A, the pen-  
6 alty under such subsection shall be 5 percent of the fair  
7 market value as of the date of death (in the case of section  
8 6018A(d), as of the date prescribed for furnishing such  
9 return (determined with regard to any extension of time  
10 for filing)) of the property with respect to which the infor-  
11 mation is required.

12 “(f) DEFICIENCY PROCEDURES NOT TO APPLY.—  
13 Subchapter B of chapter 63 (relating to deficiency proce-  
14 dures for income, estate, gift, and certain excise taxes)  
15 shall not apply in respect of the assessment or collection  
16 of any penalty imposed by this section.”.

17 (2) CLERICAL AMENDMENT.—The table of sec-  
18 tions for part 1 of subchapter B of chapter 68 of  
19 such Code is amended by adding at the end the fol-  
20 lowing new item:

“Sec. 6720D. Failure to file information with respect to simplified estate tax  
returns.”.

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

1 **SEC. 6. SPECIAL RULE FOR REVOCATION OF TRUSTS IN**  
2 **CONNECTION WITH ELECTION.**

3 Any reversioning in the grantor of title to property held  
4 in a trust, whether by revocation, dissolution, or otherwise,  
5 shall not be subject to any tax imposed by the Internal  
6 Revenue Code of 1986 if such reversioning occurs in 2016  
7 or 2017 and is in connection with the grantor's election  
8 for subchapter D of chapter 11 to apply.

○