

114TH CONGRESS
1ST SESSION

S. 1677

To amend the Internal Revenue Code of 1986 to reinstate estate and generation-skipping taxes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2015

Mr. SANDERS 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 reinstate estate and generation-skipping taxes, 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 “Responsible Estate
5 Tax Act”.

6 **SEC. 2. MODIFICATIONS TO ESTATE, GIFT, AND GENERA-**
7 **TION-SKIPPING TRANSFER TAXES.**

8 (a) MODIFICATION OF RATES.—

1 (1) IN GENERAL.—Section 2001(c) of the Inter-
 2 nal Revenue Code of 1986 is amended by striking
 3 the last 2 rows and inserting the following:

“Over \$750,000 but not over \$3,500,000	\$248,300 plus 39 per- cent of the excess of such amount over \$750,000.
Over \$3,500,000 but not over \$10,000,000	\$1,320,800 plus 45 percent of the ex- cess of such amount over \$3,500,000.
Over \$10,000,000 but not over \$50,000,000	\$4,245,800 plus 50 percent of the ex- cess of such amount over \$10,000,000.
Over \$50,000,000	\$24,245,800 plus 55 percent of the ex- cess of such amount over \$50,000,000.”.

4 (2) SURTAX ON WEALTHY ESTATES.—Sub-
 5 section (c) of section 2001 of such Code is amend-
 6 ed—

7 (A) by inserting before the table the fol-
 8 lowing:

9 “(1) IN GENERAL.—”, and

10 (B) by adding at the end the following new
 11 paragraph:

12 “(2) SURTAX ON ESTATES OVER \$500,000,000.—
 13 Notwithstanding paragraph (1), if the amount with
 14 respect to which the tentative tax to be computed is
 15 over \$500,000,000, the rate of tax otherwise in ef-
 16 fect under this subsection with respect to the

1 amount in excess of \$500,000,000 shall be increased
 2 by 10 percent.”.

3 (b) EXCLUSION AMOUNT.—

4 (1) ESTATE TAX.—Paragraph (3) of section
 5 2010(c) of the Internal Revenue Code of 1986 is
 6 amended to read as follows:

7 “(3) BASIC EXCLUSION AMOUNT.—For pur-
 8 poses of this section, the basic exclusion amount is
 9 \$3,500,000.”.

10 (2) MODIFICATION TO GIFT TAX EXCLUSION
 11 AMOUNT.—Paragraph (1) of section 2505(a) of the
 12 Internal Revenue Code of 1986 is amended to read
 13 as follows:

14 “(1) the applicable credit amount in effect
 15 under section 2010(c) for such calendar year (deter-
 16 mined as if the basic exclusion amount in section
 17 2010(c)(2)(A) were \$1,000,000), reduced by”.

18 (3) MODIFICATIONS OF ESTATE AND GIFT
 19 TAXES TO REFLECT DIFFERENCES IN CREDIT RE-
 20 SULTING FROM DIFFERENT EXCLUSION AMOUNTS.—

21 (A) ESTATE TAX ADJUSTMENT.—Section
 22 2001 of the Internal Revenue Code of 1986 is
 23 amended by adding at the end the following
 24 new subsection:

1 “(h) ADJUSTMENT TO REFLECT CHANGES IN EX-
2 CLUSION AMOUNT.—

3 “(1) IN GENERAL.—If, with respect to any gift
4 to which subsection (b)(2) applies, the applicable ex-
5 clusion amount in effect at the time of the dece-
6 dent’s death is less than such amount in effect at
7 the time such gift is made by the decedent, the
8 amount of tax computed under subsection (b) shall
9 be reduced by the amount of tax which would have
10 been payable under chapter 12 at the time of the
11 gift if the applicable exclusion amount in effect at
12 such time had been the applicable exclusion amount
13 in effect at the time of the decedent’s death and the
14 modifications described in subsection (g) had been
15 applicable at the time of such gifts.

16 “(2) LIMITATION.—The aggregate amount of
17 gifts made in any calendar year to which the reduc-
18 tion under paragraph (1) applies shall not exceed
19 the excess of—

20 “(A) the applicable exclusion amount in ef-
21 fect for such calendar year, over

22 “(B) the applicable exclusion amount in ef-
23 fect at the time of the decedent’s death.

24 “(3) APPLICABLE EXCLUSION AMOUNT.—The
25 term ‘applicable exclusion amount’ means, with re-

spect to any period, the amount determined under section 2010(c) for such period, except that in the case of any period for which such amount includes the deceased spousal unused exclusion amount (as defined in section 2010(c)(4)), such term shall mean the basic exclusion amount (as defined under section 2010(c)(3), as in effect for such period).”.

(B) GIFT TAX ADJUSTMENT.—Section 2502 of such Code is amended by adding at the end the following new subsection:

“(d) ADJUSTMENT TO REFLECT CHANGES IN EXCLUSION AMOUNT.—

“(1) IN GENERAL.—If the taxpayer made a taxable gift in an applicable preceding calendar period, the amount of tax computed under subsection (a) shall be reduced by the amount of tax which would have been payable under chapter 12 for such applicable preceding calendar period if the applicable exclusion amount in effect for such preceding calendar period had been the applicable exclusion amount in effect for the calendar year for which the tax is being computed and the modifications described in subsection (g) had been applicable for such preceding calendar period.

1 “(2) LIMITATION.—The aggregate amount of
 2 gifts made in any applicable preceding calendar pe-
 3 riod to which the reduction under paragraph (1) ap-
 4 plies shall not exceed the excess of—

5 “(A) the applicable exclusion amount for
 6 such preceding calendar period, over

7 “(B) the applicable exclusion amount for
 8 the calendar year for which the tax is being
 9 computed.

10 “(3) APPLICABLE PRECEDING CALENDAR YEAR
 11 PERIOD.—The term ‘applicable preceding calendar
 12 year period’ means any preceding calendar year pe-
 13 riod in which the applicable exclusion amount ex-
 14 ceeded the applicable exclusion amount for the cal-
 15 endar year for which the tax is being computed.

16 “(4) APPLICABLE EXCLUSION AMOUNT.—The
 17 term ‘applicable exclusion amount’ means, with re-
 18 spect to any period, the amount determined under
 19 section 2010(c) for such period, except that in the
 20 case of any period for which such amount includes
 21 the deceased spousal unused exclusion amount (as
 22 defined in section 2010(c)(4)), such term shall mean
 23 the basic exclusion amount (as defined under section
 24 2010(c)(3), as in effect for such period).’”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to estates of decedents dying, and
 3 generation-skipping transfers and gifts made, after De-
 4 cember 31, 2015.

5 **SEC. 3. MODIFICATION OF RULES FOR VALUE OF CERTAIN**
 6 **FARM, ETC., REAL PROPERTY.**

7 (a) IN GENERAL.—Paragraph (2) of section
 8 2032A(a) of the Internal Revenue Code of 1986 is amend-
 9 ed by striking “\$750,000” and inserting “\$3,000,000”.

10 (b) INFLATION ADJUSTMENT.—Paragraph (3) of sec-
 11 tion 2032A(a) of such Code is amended—

12 (1) by striking “1998” and inserting “2015”,

13 (2) by striking “\$750,000” and inserting
 14 “\$3,000,000” in subparagraph (A), and

15 (3) by striking “calendar year 1997” and in-
 16 serting “calendar year 2014” in subparagraph (B).

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

20 **SEC. 4. MODIFICATION OF ESTATE TAX RULES WITH RE-**
 21 **SPECT TO LAND SUBJECT TO CONSERVATION**
 22 **EASEMENTS.**

23 (a) MODIFICATION OF EXCLUSION LIMITATION.—
 24 Paragraph (1) of section 2031(c) of the Internal Revenue

1 Code of 1986 is amended by striking all that follows sub-
 2 paragraph (A) and inserting the following:

3 “(B) \$2,000,000.”.

4 (b) MODIFICATION OF APPLICABLE PERCENTAGE.—
 5 Paragraph (2) of section 2031(c) of the Internal Revenue
 6 Code of 1986 is amended by striking “40 percent” and
 7 inserting “60 percent”.

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

11 **SEC. 5. CONSISTENT BASIS REPORTING BETWEEN ESTATE**
 12 **AND PERSON ACQUIRING PROPERTY FROM**
 13 **DECEDENT.**

14 (a) CONSISTENT USE OF BASIS.—

15 (1) PROPERTY ACQUIRED FROM A DECE-
 16 DENT.—Section 1014 of the Internal Revenue Code
 17 of 1986 is amended by adding at the end the fol-
 18 lowing new subsection:

19 “(f) BASIS MUST BE CONSISTENT WITH ESTATE
 20 TAX RETURN.—

21 “(1) IN GENERAL.—For purposes of this sec-
 22 tion, the value used to determine the basis of any in-
 23 terest in property in the hands of the person acquir-
 24 ing such property shall not exceed the value of such

1 interest as finally determined for purposes of chap-
 2 ter 11.

3 “(2) SPECIAL RULE WHERE NO FINAL DETER-
 4 MINATION.—In any case in which the final value of
 5 property has not been determined under chapter 11
 6 and there has been a statement furnished under sec-
 7 tion 6035(a), the value used to determine the basis
 8 of any interest in property in the hands of the per-
 9 son acquiring such property shall not exceed the
 10 amount reported on any statement furnished under
 11 section 6035(a).

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

15 (2) PROPERTY ACQUIRED BY GIFTS AND
 16 TRANSFERS IN TRUST.—Section 1015 of the Inter-
 17 nal Revenue Code of 1986 is amended by adding at
 18 the end the following new subsection:

19 “(f) BASIS MUST BE CONSISTENT GIFT TAX RE-
 20 TURN.—

21 “(1) IN GENERAL.—For purposes of this sec-
 22 tion, the value used to determine the basis of any in-
 23 terest in property in the hands of the person acquir-
 24 ing such property shall not exceed the value of such

1 interest as finally determined for purposes of chap-
 2 ter 12.

3 “(2) SPECIAL RULE WHERE NO FINAL DETER-
 4 MINATION.—In any case in which the final value of
 5 property has not been determined under chapter 12
 6 and there has been a statement furnished under sec-
 7 tion 6035(b), the value used to determine the basis
 8 of any interest in property in the hands of the per-
 9 son acquiring such property shall not exceed the
 10 amount reported on any statement furnished under
 11 section 6035(b).

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

15 (b) INFORMATION REPORTING.—

16 (1) IN GENERAL.—Subpart A of part III of
 17 subchapter A of chapter 61 of the Internal Revenue
 18 Code of 1986 is amended by inserting after section
 19 6034A the following new section:

20 **“SEC. 6035. BASIS INFORMATION TO PERSONS ACQUIRING**
 21 **PROPERTY FROM DECEDENT OR BY GIFT.**

22 “(a) INFORMATION WITH RESPECT TO PROPERTY
 23 ACQUIRED FROM DECEDENTS.—

24 “(1) IN GENERAL.—The executor of any estate
 25 required to file a return under section 6018(a) shall

1 furnish to the Secretary and to each person acquir-
2 ing any interest in property included in the dece-
3 dent's gross estate for Federal estate tax purposes
4 a statement identifying the value of each interest in
5 such property as reported on such return and such
6 other information with respect to such interest as
7 the Secretary may prescribe.

8 “(2) STATEMENTS BY BENEFICIARIES.—Each
9 person required to file a return under section
10 6018(b) shall furnish to the Secretary and to each
11 other person who holds a legal or beneficial interest
12 in the property to which such return relates a state-
13 ment identifying the information described in para-
14 graph (1).

15 “(3) TIME FOR FURNISHING STATEMENT.—

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

21 “(i) the date which is 30 days after
22 the date on which the return under section
23 6018 was required to be filed (including
24 extensions, if any), or

1 “(ii) the date which is 30 days after
2 the date such return is filed.

3 “(B) ADJUSTMENTS.—In any case in
4 which there is an adjustment to the information
5 required to be included on a statement filed
6 under paragraph (1) or (2) after such state-
7 ment has been filed, a supplemental statement
8 under such paragraph shall be filed not later
9 than the date which is 30 days after such ad-
10 justment is made.

11 “(b) INFORMATION WITH RESPECT TO PROPERTY
12 ACQUIRED BY GIFT.—

13 “(1) IN GENERAL.—Each person making a
14 transfer by gift who is required to file a return
15 under section 6019 with respect to such transfer
16 shall furnish to the Secretary and to each person ac-
17 quiring any interest in property by reason of such
18 transfer a statement identifying the value of each in-
19 terest in such property as reported on such return
20 and such other information with respect to such in-
21 terest as the Secretary may prescribe.

22 “(2) TIME FOR FURNISHING STATEMENT.—

23 “(A) IN GENERAL.—Each statement re-
24 quired to be furnished under paragraph (1)
25 shall be furnished at such time as the Secretary

1 may prescribe, but in no case at a time later
2 than the earlier of—

3 “(i) the date which is 30 days after
4 the date on which the return under section
5 6019 was required to be filed (including
6 extensions, if any), or

7 “(ii) the date which is 30 days after
8 the date such return is filed.

9 “(B) ADJUSTMENTS.—In any case in
10 which there is an adjustment to the information
11 required to be included on a statement filed
12 under paragraph (1) after such statement has
13 been filed, a supplemental statement under
14 such paragraph shall be filed not later than the
15 date which is 30 days after such adjustment is
16 made.

17 “(c) REGULATIONS.—The Secretary shall prescribe
18 such regulations as necessary to carry out this section, in-
19 cluding regulations relating to—

20 “(1) the application of this section to property
21 with regard to which no estate or gift tax return is
22 required to be filed, and

23 “(2) situations in which the surviving joint ten-
24 ant or other recipient may have better information

1 than the executor regarding the basis or fair market
 2 value of the property.”.

3 (2) PENALTY FOR FAILURE TO FILE.—

4 (A) RETURN.—Section 6724(d)(1) of the
 5 Internal Revenue Code of 1986 is amended by
 6 striking “and” at the end of subparagraph (B),
 7 by striking the period at the end of subpara-
 8 graph (C) and inserting “, and”, and by insert-
 9 ing after subparagraph (C) the following new
 10 subparagraph:

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

13 (B) STATEMENT.—Section 6724(d)(2) of
 14 such Code is amended by striking “or” at the
 15 end of subparagraph (GG), by striking the pe-
 16 riod at the end of subparagraph (HH) and in-
 17 serting “, or”, and by inserting after subpara-
 18 graph (HH) the following new subparagraph:

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

21 (3) CLERICAL AMENDMENT.—The table of sec-
 22 tions for subpart A of part III of subchapter A of
 23 chapter 61 of the Internal Revenue Code of 1986 is
 24 amended by inserting after the item relating to sec-
 25 tion 6034A the following new item:

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

1 (c) PENALTY FOR INCONSISTENT REPORTING.—

2 (1) IN GENERAL.—Subsection (b) of section
3 6662 of the Internal Revenue Code of 1986 is
4 amended by inserting after paragraph (7) the fol-
5 lowing new paragraph:

6 “(8) Any inconsistent estate or gift basis.”.

7 (2) INCONSISTENT BASIS REPORTING.—Section
8 6662 of such Code is amended by adding at the end
9 the following new subsection:

10 “(k) INCONSISTENT ESTATE OR GIFT BASIS RE-
11 PORTING.—For purposes of this section, the term ‘incon-
12 sistent estate or gift basis’ means the portion of the under-
13 statement which is attributable to—

14 “(1) in the case of property acquired from a de-
15 cedent, a basis determination with respect to such
16 property which is not consistent with the value of
17 such property as determined under section 1014(f),
18 and

19 “(2) in the case of property acquired by gift, a
20 basis determination with respect to such property
21 which is not consistent with the value of such prop-
22 erty as determined under section 1015(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. VALUATION RULES FOR CERTAIN TRANSFERS OF**
 5 **NONBUSINESS ASSETS; LIMITATION ON MI-**
 6 **NORITY DISCOUNTS.**

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

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

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

18 “(A) the value of any nonbusiness assets
 19 held by the entity with respect to such interest
 20 shall be determined as if the transferor had
 21 transferred such assets directly to the trans-
 22 feree (and no valuation discount shall be al-
 23 lowed with respect to such nonbusiness assets),
 24 and

1 “(B) such nonbusiness assets shall not be
2 taken into account in determining the value of
3 the interest in the entity.

4 “(2) NONBUSINESS ASSETS.—For purposes of
5 this subsection—

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

10 “(B) EXCEPTION FOR CERTAIN PASSIVE
11 ASSETS.—Except as provided in subparagraph
12 (C), a passive asset shall not be treated for pur-
13 poses of subparagraph (A) as used in the active
14 conduct of a trade or business unless—

15 “(i) the asset is property described in
16 paragraph (1) or (4) of section 1221(a) or
17 is a hedge with respect to such property,
18 or

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

1 For purposes of clause (ii), material participa-
 2 tion shall be determined under the rules of sec-
 3 tion 469(h), except that section 469(h)(3) shall
 4 be applied without regard to the limitation to
 5 farming activity.

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

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

14 “(A) cash or cash equivalents,

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

18 “(C) evidence of indebtedness, option, for-
 19 ward or futures contract, notional principal con-
 20 tract, or derivative,

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

23 “(E) annuity,

1 “(F) real property used in 1 or more real
2 property trades or businesses (as defined in sec-
3 tion 469(c)(7)(C)),

4 “(G) asset (other than a patent, trade-
5 mark, or copyright) which produces royalty in-
6 come,

7 “(H) commodity,

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

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

12 “(4) LOOK-THRU RULES.—

13 “(A) IN GENERAL.—If a nonbusiness asset
14 of an entity consists of a 10-percent interest in
15 any other entity, this subsection shall be ap-
16 plied by disregarding the 10-percent interest
17 and by treating the entity as holding directly its
18 ratable share of the assets of the other entity.
19 This subparagraph shall be applied successively
20 to any 10-percent interest of such other entity
21 in any other entity.

22 “(B) 10-PERCENT INTEREST.—The term
23 ‘10-percent interest’ means—

24 “(i) in the case of an interest in a cor-
25 poration, ownership of at least 10 percent

1 (by vote or value) of the stock in such cor-
 2 poration,

3 “(ii) in the case of an interest in a
 4 partnership, ownership of at least 10 per-
 5 cent of the capital or profits interest in the
 6 partnership, and

7 “(iii) in any other case, ownership of
 8 at least 10 percent of the beneficial inter-
 9 ests in the entity.

10 “(5) COORDINATION WITH SUBSECTION (b).—

11 Subsection (b) shall apply after the application of
 12 this subsection.

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

22 “(1) have control of such entity, or

23 “(2) own the majority of the ownership inter-
 24 ests (by value) in such entity.”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to transfers after the date of the
 3 enactment of this Act.

4 **SEC. 7. 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 nated) 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 equal to or greater than 10 percent of the value
 12 of the assets transferred to the trust, deter-
 13 mined as of the time of the transfer.”.

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

17 **SEC. 8. CERTAIN TRANSFER TAX RULES APPLICABLE TO**
 18 **GRANTOR TRUSTS.**

19 (a) IN GENERAL.—Subtitle B of the Internal Rev-
 20 enue Code of 1986 is amended by adding at the end the
 21 following new chapter:

22 **“CHAPTER 16—SPECIAL RULES FOR**
 23 **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

1 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

2 “(a) IN GENERAL.—In the case of any portion of a
3 trust to which this section applies—

4 “(1) the value of the gross estate of the de-
5 ceased deemed owner of such portion shall include
6 all assets attributable to that portion at the time of
7 the death of such owner,

8 “(2) any distribution from such portion to one
9 or more beneficiaries during the life of the deemed
10 owner of such portion shall be treated as a transfer
11 by gift for purposes of chapter 12, and

12 “(3) if at any time during the life of the
13 deemed owner of such portion, such owner ceases to
14 be treated as the owner of such portion under sub-
15 part E of part 1 of subchapter J of chapter 1, all
16 assets attributable to such portion at such time shall
17 be treated for purposes of chapter 12 as a transfer
18 by gift made by the deemed owner.

19 “(b) PORTION OF TRUST TO WHICH SECTION AP-
20 PLIES.—This section shall apply to—

21 “(1) the portion of a trust with respect to
22 which the grantor is the deemed owner, and

23 “(2) the portion of the trust to which a person
24 who is not the grantor is a deemed owner by reason
25 of the rules of subpart E of part 1 of subchapter J
26 of chapter 1, and such deemed owner engages in a

1 sale, exchange, or comparable transaction with the
 2 trust that is disregarded for purposes of subtitle A.
 3 For purposes of paragraph (2), the portion of the trust
 4 described with respect to a transaction is the portion of
 5 the trust attributable to the property received by the trust
 6 in such transaction, including all retained income there-
 7 from, appreciation thereon, and reinvestments thereof, net
 8 of the amount of consideration received by the deemed
 9 owner in such transaction.

10 “(c) EXCEPTIONS.—This section shall not apply to—

11 “(1) any trust that is includible in the gross es-
 12 tate of the deemed owner (without regard to sub-
 13 section (a)(1)), and

14 “(2) any other type of trust that the Secretary
 15 determines by regulations or other guidance does not
 16 have as a significant purpose the avoidance of trans-
 17 fer taxes.

18 “(d) DEEMED OWNER DEFINED.—For purposes of
 19 this section, the term ‘deemed owner’ means any person
 20 who is treated as the owner of a portion of a trust under
 21 subpart E of part 1 of subchapter J of chapter 1.

22 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST
 23 MADE BY OWNER.—The amount to which subsection (a)
 24 applies shall be reduced by the value of any transfer by

1 gift by the deemed owner to the trust previously taken
 2 into account by the deemed owner under chapter 12.

3 “(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-
 4 posed pursuant to subsection (a) shall be a liability of the
 5 trust.”.

6 (b) CLERICAL AMENDMENT.—The table of chapters
 7 for subtitle B of such Code is amended by adding at the
 8 end the following new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply—

11 (1) to trusts created on or after the date of the
 12 enactment of this Act,

13 (2) to any portion of a trust established before
 14 the date of the enactment of this Act which is attrib-
 15 utable to a contribution made on or after such date,
 16 and

17 (3) to any portion of a trust established before
 18 the date of the enactment of this Act to which sec-
 19 tion 2901(a) of the Internal Revenue Code of 1986
 20 (as added by subsection (a)) applies by reason of a
 21 transaction described in section 2901(b)(2) of such
 22 Code on or after such date.

1 **SEC. 9. ELIMINATION OF GENERATION-SKIPPING TRANS-**
 2 **FER TAX EXEMPTION FOR CERTAIN TRUSTS.**

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

6 “(h) ELIMINATION OF GST EXEMPTION FOR CER-
 7 TAIN TRUSTS.—

8 “(1) IN GENERAL.—

9 “(A) TRANSFERS FROM NON-QUALIFYING
 10 TRUSTS.—In the case of any generation-skip-
 11 ping transfer made from a trust that is not a
 12 qualifying trust, the inclusion ratio with respect
 13 to any property transferred in such transfer
 14 shall be 1.

15 “(B) QUALIFYING TRUST.—For purposes
 16 of this subsection, the term ‘qualifying trust’
 17 means a trust for which the date of termination
 18 of such trust is not greater than 50 years after
 19 the date on which such trust is created.

20 “(2) TRUSTS CREATED BEFORE DATE OF EN-
 21 ACTMENT.—In the case of any trust created before
 22 the date of the enactment of this subsection, such
 23 trust shall be deemed to be a qualifying trust for a
 24 period of 50 years after the date of the enactment
 25 of this subsection.

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

7 “(4) DATE OF CREATION OF POUR-OVER
8 TRUSTS.—In the case of any generation-skipping
9 transfer of property which involves the transfer of
10 property from 1 trust to another trust, the date of
11 the creation of the transferee trust shall be treated
12 as being the earlier of—

13 “(A) the date of the creation of such trans-
14 feree trust, or

15 “(B) the date of the creation of the trans-
16 feror trust.

17 In the case of multiple transfers to which the pre-
18 ceding sentence applies, the date of the creation of
19 the transferor trust shall be determined under the
20 preceding sentence before the application of the pre-
21 ceding sentence to determine the date of the creation
22 of the transferee trust.

23 “(5) REGULATIONS.—The Secretary may pre-
24 scribe such regulations or other guidance as may be

1 necessary or appropriate to carry out this sub-
2 section.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 **SEC. 10. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL**
7 **GIFTS.**

8 (a) IN GENERAL.—Paragraph (1) of section 2503(b)
9 of the Internal Revenue Code of 1986 is amended to read
10 as follows:

11 “(1) IN GENERAL.—

12 “(A) LIMIT PER DONEE.—In the case of
13 gifts made to any person by the donor during
14 the calendar year, the first \$10,000 of such
15 gifts to such person shall not, for purposes of
16 subsection (a), be included in the total amount
17 of gifts made during such year.

18 “(B) CUMULATIVE LIMIT PER DONOR.—

19 “(i) IN GENERAL.—The aggregate
20 amount excluded under subparagraph (A)
21 with respect to all transfers described in
22 clause (ii) made by the donor during the
23 calendar year shall not exceed twice the
24 dollar amount in effect under such sub-
25 paragraph for such calendar year.

1 “(ii) TRANSFERS SUBJECT TO LIMITA-
 2 TION.—The transfers described in this
 3 clause are—

4 “(I) a transfer in trust,

5 “(II) a transfer of an interest in
 6 a passthrough entity,

7 “(III) a transfer of an interest
 8 subject to a prohibition on sale, and

9 “(IV) any other transfer of prop-
 10 erty that, without regard to with-
 11 drawal, put, or other such rights in
 12 the donee, cannot immediately be liq-
 13 uidated by the donee.”.

14 (b) CONFORMING AMENDMENT.—Section 2503 of the
 15 Internal Revenue Code of 1986 is amended by striking
 16 subsection (c).

17 (c) REGULATIONS.—The Secretary of the Treasury,
 18 or the Secretary of the Treasury’s delegate, may prescribe
 19 such regulations or other guidance as may be necessary
 20 or appropriate to carry out the amendments made by this
 21 section.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to any calendar year beginning
 24 after the date of the enactment of this Act.

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