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115TH CONGRESS
1ST SESSION

S. 205

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

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2017

Mr. THUNE (for himself, Mr. ALEXANDER, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. COCHRAN, Mr. CORNYN, Mr. CRAPO, Mr. CRUZ, Mr. DAINES, Mr. ENZI, Mrs. ERNST, Mrs. FISCHER, Mr. GARDNER, Mr. GRASSLEY, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. ISAKSON, Mr. LEE, Mr. MCCONNELL, Mr. MORAN, Mr. ROBERTS, Mr. ROUNDS, Mr. SCOTT, Mr. SHELBY, Mr. TILLIS, and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to repeal the estate and generation-skipping transfer taxes, 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 ''Death Tax Repeal Act of 2017''.

SEC. 2. REPEAL OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.

(a) ESTATE TAX REPEAL.—Subchapter C of chapter 11 of subtitle B of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 2210. TERMINATION.

"(a) IN GENERAL.—Except as provided in subsection (b), this chapter shall not apply to the estates of decedents dying on or after the date of the enactment of the Death Tax Repeal Act of 2017.

"(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED DOMESTIC TRUSTS.—In applying section 2056A with respect to the surviving spouse of a decedent dying before the date of the enactment of the Death Tax Repeal Act of 2017—

"(1) section 2056A(b)(1)(A) shall not apply to distributions made after the 10-year period beginning on such date, and

"(2) section 2056A(b)(1)(B) shall not apply on or after such date.".

(b) GENERATION-SKIPPING TRANSFER TAX REPEAL.—Subchapter G of chapter 13 of subtitle B of such Code is amended by adding at the end the following new section:

"SEC. 2664. TERMINATION.

"This chapter shall not apply to generation-skipping transfers on or after the date of the enactment of the Death Tax Repeal Act of 2017.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter C of chapter 11 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 2210. Termination.".

(2) The table of sections for subchapter G of chapter 13 of such Code is amended by adding at the end the following new item:

"Sec. 2664. Termination.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and generation-skipping transfers, after the date of the enactment of this Act.

SEC. 3. MODIFICATIONS OF GIFT TAX.

(a) COMPUTATION OF GIFT TAX.—Subsection (a) of section 2502 of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) COMPUTATION OF TAX.—

"(1) IN GENERAL.—The tax imposed by section 2501 for each calendar year shall be an amount equal to the excess of—

"(A) a tentative tax, computed under paragraph (2), on the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over

"(B) a tentative tax, computed under paragraph (2), on the aggregate sum of the taxable gifts for each of the preceding calendar periods.

"(2) RATE SCHEDULE.—

"If the amount with respect to which the tentative tax to be computed is:.	**The tentative tax is:**
Not over $10,000	18% of such amount.
Over $10,000 but not over $20,000	$1,800, plus 20% of the excess over $10,000.
Over $20,000 but not over $40,000	$3,800, plus 22% of the excess over $20,000.
Over $40,000 but not over $60,000	$8,200, plus 24% of the excess over $40,000.
Over $60,000 but not over $80,000	$13,000, plus 26% of the excess over $60,000.
Over $80,000 but not over $100,000	$18,200, plus 28% of the excess over $80,000.
Over $100,000 but not over $150,000	$23,800, plus 30% of the excess over $100,000.
Over $150,000 but not over $250,000	$38,800, plus 32% of the excess of $150,000.
Over $250,000 but not over $500,000	$70,800, plus 34% of the excess over $250,000.
Over $500,000	$155,800, plus 35% of the excess of $500,000.".

(b) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—Section 2511 of the Internal Revenue Code of

1986 is amended by adding at the end the following new subsection:

''(c) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—Notwithstanding any other provision of this section and except as provided in regulations, a transfer in trust shall be treated as a taxable gift under section 2503, unless the trust is treated as wholly owned by the donor or the donor's spouse under subpart E of part I of subchapter J of chapter 1.''.

(c) LIFETIME GIFT EXEMPTION.—

(1) IN GENERAL.—Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2502(a)(2) if the amount with respect to which such tentative tax is to be computed were $5,000,000, reduced by''.

(2) INFLATION ADJUSTMENT.—Section 2505 of such Code is amended by adding at the end the following new subsection:

''(d) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any calendar year after 2011, the dollar amount in subsection (a)(1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2010' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 2505(a) of such Code is amended by striking the last sentence.

(2) The heading for section 2505 of such Code is amended by striking ''**UNIFIED**''.

(3) The item in the table of sections for subchapter A of chapter 12 of such Code relating to section 2505 is amended to read as follows:

''Sec. 2505. Credit against gift tax.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made on or after the date of the enactment of this Act.

(f) TRANSITION RULE.—

(1) IN GENERAL.—For purposes of applying sections 1015(d), 2502, and 2505 of the Internal Revenue Code of 1986, the calendar year in which

this Act is enacted shall be treated as 2 separate calendar years one of which ends on the day before the date of the enactment of this Act and the other of which begins on such date of enactment.

(2) APPLICATION OF SECTION 2504(b).—For purposes of applying section 2504(b) of the Internal Revenue Code of 1986, the calendar year in which this Act is enacted shall be treated as one preceding calendar period.

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