

112TH CONGRESS
2D SESSION

S. 2242

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

MARCH 28, 2012

Mr. THUNE (for himself, Mr. RUBIO, Mr. BOOZMAN, Mr. LUGAR, Mr. VITTER, Mr. ISAKSON, Mr. KYL, Mr. HELLER, Mr. MORAN, Mr. ROBERTS, Mr. INHOFE, Mr. ENZI, Mr. GRASSLEY, Mr. LEE, Mr. PAUL, Mr. BLUNT, Mr. MCCAIN, Mr. BARRASSO, Mr. CORNYN, Mr. MCCONNELL, Mr. CRAPO, Mr. HOEVEN, Mr. KIRK, Mr. WICKER, Mrs. HUTCHISON, Mr. COCHRAN, Mr. BURR, Mr. SESSIONS, Mr. TOOMEY, Ms. AYOTTE, Mr. RISCH, Mr. COBURN, Mr. JOHANNIS, Mr. DEMINT, and Mr. COATS) 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 repeal the estate and generation-skipping transfer 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 “Death Tax Repeal Per-
5 manency Act of 2012”.

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

3 (a) ESTATE TAX REPEAL.—Subchapter C of chapter
 4 11 of subtitle B of the Internal Revenue Code of 1986
 5 is amended by adding at the end the following new section:

6 **“SEC. 2210. TERMINATION.**

7 “(a) IN GENERAL.—Except as provided in subsection
 8 (b), this chapter shall not apply to the estates of decedents
 9 dying on or after the date of the enactment of the Death
 10 Tax Repeal Permanency Act of 2012.

11 “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED
 12 DOMESTIC TRUSTS.—In applying section 2056A with re-
 13 spect to the surviving spouse of a decedent dying before
 14 the date of the enactment of the Death Tax Repeal Per-
 15 manency Act of 2012—

16 “(1) section 2056A(b)(1)(A) shall not apply to
 17 distributions made after the 10-year period begin-
 18 ning on such date, and

19 “(2) section 2056A(b)(1)(B) shall not apply on
 20 or after such date.”.

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

1 **“SEC. 2664. TERMINATION.**

2 “This chapter shall not apply to generation-skipping
3 transfers on or after the date of the enactment of the
4 Death Tax Repeal Permanency Act of 2012.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) The table of sections for subchapter C of
7 chapter 11 is amended by adding at the end the fol-
8 lowing new item:

“Sec. 2210. Termination.”.

9 (2) The table of sections for subchapter G of
10 chapter 13 is amended by adding at the end the fol-
11 lowing new item:

“Sec. 2664. Termination.”.

12 (d) RESTORATION OF PRE-EGTRRA PROVISIONS
13 NOT APPLICABLE.—

14 (1) IN GENERAL.—Section 301 of the Tax Re-
15 lief, Unemployment Insurance Reauthorization, and
16 Job Creation Act of 2010 shall not apply to estates
17 of decedents dying, and transfers made, on or after
18 the date of the enactment of this Act.

19 (2) EXCEPTION FOR STEPPED-UP BASIS.—
20 Paragraph (1) shall not apply to the provisions of
21 law amended by subtitle E of title V of the Eco-
22 nomic Growth and Tax Relief Reconciliation Act of
23 2001 (relating to carryover basis at death; other
24 changes taking effect with repeal).

1 (e) SUNSET NOT APPLICABLE.—

2 (1) Section 901 of the Economic Growth and
3 Tax Relief Reconciliation Act of 2001 shall not
4 apply to title V of such Act in the case of estates
5 of decedents dying, and transfers made, on or after
6 the date of the enactment of this Act.

7 (2) Section 304 of the Tax Relief, Unemploy-
8 ment Insurance Reauthorization, and Job Creation
9 Act of 2010 is hereby repealed.

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

14 **SEC. 3. MODIFICATIONS OF GIFT TAX.**

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

18 “(a) COMPUTATION OF TAX.—

19 “(1) IN GENERAL.—The tax imposed by section
20 2501 for each calendar year shall be an amount
21 equal to the excess of—

22 “(A) a tentative tax, computed under para-
23 graph (2), on the aggregate sum of the taxable
24 gifts for such calendar year and for each of the
25 preceding calendar periods, over

1 “(B) a tentative tax, computed under para-
 2 graph (2), on the aggregate sum of the taxable
 3 gifts for each of the preceding calendar periods.

4 “(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.”.

5 (b) TREATMENT OF CERTAIN TRANSFERS IN
 6 TRUST.—Section 2511 (relating to transfers in general)
 7 is amended by adding at the end the following new sub-
 8 section:

9 “(c) TREATMENT OF CERTAIN TRANSFERS IN
 10 TRUST.—Notwithstanding any other provision of this sec-
 11 tion and except as provided in regulations, a transfer in

1 trust shall be treated as a taxable gift under section 2503,
 2 unless the trust is treated as wholly owned by the donor
 3 or the donor's spouse under subpart E of part I of sub-
 4 chapter J of chapter 1.”.

5 (c) LIFETIME GIFT EXEMPTION.—Paragraph (1) of
 6 section 2505(a) of the Internal Revenue Code of 1986 is
 7 amended to read as follows:

8 “(1) the amount of the tentative tax which
 9 would be determined under the rate schedule set
 10 forth in section 2502(a)(2) if the amount with re-
 11 spect to which such tentative tax is to be computed
 12 were \$5,000,000, reduced by”.

13 (d) CONFORMING AMENDMENTS.—

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

16 (2) The heading for section 2505 of such Code
 17 is amended by striking “**UNIFIED**”.

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

“Sec. 2505. Credit against gift tax.”.

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

24 (f) TRANSITION RULE.—

1 (1) IN GENERAL.—For purposes of applying
2 sections 1015(d), 2502, and 2505 of the Internal
3 Revenue Code of 1986, the calendar year in which
4 this Act is enacted shall be treated as 2 separate cal-
5 endar years one of which ends on the day before the
6 date of the enactment of this Act and the other of
7 which begins on such date of enactment.

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

○