

118TH CONGRESS
1ST SESSION

S. 1108

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 30, 2023

Mr. THUNE (for himself, Mr. BARRASSO, Mrs. BLACKBURN, Mr. BOOZMAN, Mr. BRAUN, Mrs. BRITT, Mr. BUDD, Mrs. CAPITO, Mr. CORNYN, Mr. COTTON, Mr. CRAMER, Mr. CRAPO, Mr. CRUZ, Mr. DAINES, Ms. ERNST, Mrs. FISCHER, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGERTY, Mr. HAWLEY, Mr. HOEVEN, Mrs. HYDE-SMITH, Mr. JOHNSON, Mr. KENNEDY, Mr. LANKFORD, Mr. LEE, Ms. LUMMIS, Mr. MARSHALL, Mr. MCCONNELL, Mr. MORAN, Mr. MULLIN, Mr. RICKETTS, Mr. RISCH, Mr. ROUNDS, Mr. RUBIO, Mr. SCHMITT, Mr. SCOTT of Florida, Mr. SCOTT of South Carolina, Mr. TILLIS, Mr. TUBERVILLE, and Mr. WICKER) 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 Act
5 of 2023”.

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 Act of 2023.

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 Act
15 of 2023—

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 Act of 2023.”.

5 (c) CONFORMING AMENDMENTS.—

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

“Sec. 2210. Termination.”.

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

“Sec. 2664. Termination.”.

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

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

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

21 “(a) COMPUTATION OF TAX.—

22 “(1) IN GENERAL.—The tax imposed by section
23 2501 for each calendar year shall be an amount
24 equal to the excess of—

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

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

8 “(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 over \$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 over \$500,000.”.

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

1 1986 is amended by adding at the end the following new
2 subsection:

3 “(c) TREATMENT OF CERTAIN TRANSFERS IN
4 TRUST.—Notwithstanding any other provision of this sec-
5 tion and except as provided in regulations, a transfer in
6 trust shall be treated as a taxable gift under section 2503,
7 unless the trust is treated as wholly owned by the donor
8 or the donor’s spouse under subpart E of part I of sub-
9 chapter J of chapter 1.”.

10 (c) LIFETIME GIFT EXEMPTION.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 2505(a) of the Internal Revenue Code of 1986 is
13 amended to read as follows:

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

19 (2) INFLATION ADJUSTMENT.—Section 2505 of
20 such Code is amended by adding at the end the fol-
21 lowing new subsection:

22 “(d) INFLATION ADJUSTMENT.—

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

1 “(A) such dollar amount, multiplied by

2 “(B) the cost-of-living adjustment deter-
3 mined under section 1(f)(3) for such calendar
4 year by substituting ‘calendar year 2010’ for
5 ‘calendar year 2016’ in subparagraph (A)(ii)
6 thereof.

7 “(2) ROUNDING.—If any amount as adjusted
8 under paragraph (1) is not a multiple of \$10,000,
9 such amount shall be rounded to the nearest mul-
10 tiple of \$10,000.”.

11 (d) CONFORMING AMENDMENTS.—

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

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

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

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

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

22 (f) TRANSITION RULE.—

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

1 this Act is enacted shall be treated as 2 separate cal-
2 endar years one of which ends on the day before the
3 date of the enactment of this Act and the other of
4 which begins on such date of enactment.

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

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