

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE HOUSE AMENDMENT TO THE SENATE AMENDMENT TO THE BILL (H.R. 4853) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO EXTEND THE FUNDING AND EXPENDITURE AUTHORITY OF THE AIRPORT AND AIRWAY TRUST FUND, TO AMEND TITLE 49, UNITED STATES CODE, TO EXTEND AUTHORIZATIONS FOR THE AIRPORT IMPROVEMENT PROGRAM, AND FOR OTHER PURPOSES

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DECEMBER 15, 2010.—Referred to the House Calendar and ordered to be printed.

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Ms. SLAUGHTER, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 1766]

The Committee on Rules, having had under consideration House Resolution 1766, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The resolution provides three hours of debate on the topics addressed by the motions specified in sections 2 and 3 of the resolution, equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means.

The resolution makes in order a motion offered by the chair of the Committee on Ways and Means that the House concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 4853 with the amendment printed in this report. The resolution waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI.

If the motion described in section 2 of the resolution fails of adoption, the resolution causes to be pending a motion to concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 4853.

Finally, until completion of proceedings enabled by the first three sections of the resolution, the Chair may decline to entertain any intervening motion, resolution, question, or notice; the Chair may

intervening motion, resolution, question, or notice; the Chair may postpone such proceedings to such time as may be designated by the Speaker; and each amendment and motion considered pursuant to the resolution shall be considered as read.

#### EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the motion (except those arising under clause 10 of rule XXI), the Committee is not aware of any points of order against the motion. The waiver of all points of order against the motion is prophylactic.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 516*

Date: December 15, 2010.

Measure: Senate amendment to the House amendment to the Senate amendment to H.R. 4853.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide the necessary waivers for all amendments submitted to the Rules Committee.

Results: Defeated 2–7.

Vote by Members: McGovern—Nay; Matsui—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

##### *Rules Committee record vote No. 517*

Date: December 15, 2010.

Measure: Senate amendment to the House amendment to the Senate amendment to H.R. 4853.

Motion by: Dr. Foxx.

Summary of motion: To make in order and provide any necessary waivers for an amendment by Rep. Pence (IN), #1, which would permanently extend the tax rates established in 2001 and 2003, permanently repeal the estate tax, maintain the current tax level on capital gains and dividends income, and provide permanent tax relief from the Alternative Minimum Tax by raising the AMT exemption.

Results: Defeated 2–7.

Vote by Members: McGovern—Nay; Matsui—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

#### SUMMARY OF HOUSE AMENDMENT

Pomeroy (ND): Two-year extension of 2009 estate tax law. The amendment would strike Title III of the Senate amendment to H.R. 4583 and amend the bill to provide two years of estate tax relief at 2009 levels. In calendar years 2011 and 2012, the estate tax exemption amount would be \$3.5 million (\$7 million total for a married couple) and the maximum tax rate on estates would be 45%. Additionally, the amendment would provide estates from decedents

in 2010 with the ability to elect to be treated under the 2009 levels or to be treated under current law for tax purposes. This election will allow estates to receive a step up in basis on inherited property rather than the 2010 carryover basis rules. The exemption level and rate are consistent with the estate tax proposal included in the President's FY2010 and FY2011 Budgets. Under the Senate amendment to H.R. 4583, the bill would provide two years of estate tax relief with a \$5 million estate tax exemption (\$10 million total for a married couple) and a maximum rate of 35%. This amendment would save \$23 billion, and would affect a mere 6,600 estates in 2011. These 6,600 estates would receive an average additional tax cut of more than \$1.5 million under the Senate bill.

TEXT OF HOUSE AMENDMENT

In the matter proposed to be inserted by the Senate Amendment to the House Amendment to the Senate Amendment,  
Strike title III and insert the following:

**TITLE III—TEMPORARY ESTATE TAX RELIEF**

**SEC. 301. REINSTATEMENT OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.**

(a) IN GENERAL.—Each provision of law amended by subtitle A or E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended to read as such provision would read if such subtitle had never been enacted.

(b) CONFORMING AMENDMENT.—On and after January 1, 2011, paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 is amended to read as such paragraph would read if section 521(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(c) SPECIAL ELECTION WITH RESPECT TO ESTATES OF DECEDENTS DYING IN 2010.—Notwithstanding subsection (a), in the case of an estate of a decedent dying after December 31, 2009, and before January 1, 2011, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1986) may elect to apply such Code as though the amendments made by subsection (a) do not apply with respect to chapter 11 of such Code and with respect to property acquired or passing from such decedent (within the meaning of section 1014(b) of such Code). Such election shall be made at such time and in such manner as the Secretary of the Treasury or the Secretary's delegate shall provide. Such an election once made shall be revocable only with the consent of the Secretary of the Treasury or the Secretary's delegate. For purposes of section 2652(a)(1) of such Code, the determination of whether any property is subject to the tax imposed by such chapter 11 shall be made without regard to any election made under this subsection.

(d) EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.—

(1) ESTATE TAX.—In the case of the estate of a decedent dying after December 31, 2009, and before the date of the enactment of this Act, the due date for—

(A) filing any return under section 6018 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) as such section is in effect after

the date of the enactment of this Act without regard to any election under subsection (c),

(B) making any payment of tax under chapter 11 of such Code, and

(C) making any disclaimer described in section 2518(b) of such Code of an interest in property passing by reason of the death of such decedent, shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(2) GENERATION-SKIPPING TAX.—In the case of any generation-skipping transfer made after December 31, 2009, and before the date of the enactment of this Act, the due date for filing any return under section 2662 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to estates of decedents dying, and transfers made, after December 31, 2009.

**SEC. 302. MODIFICATIONS TO ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.**

(a) MODIFICATIONS TO ESTATE TAX.—

(1) \$3,500,000 APPLICABLE EXCLUSION AMOUNT.—Subsection (c) of section 2010 is amended to read as follows:

“(c) APPLICABLE CREDIT AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

“(2) APPLICABLE EXCLUSION AMOUNT.—

“(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is \$3,500,000.

“(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2011, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) 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.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”

(2) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PERCENT.—Subsection (c) of section 2001 is amended—

(A) by striking “Over \$1,500,000” and all that follows in the table contained in paragraph (1) and inserting the following:

“Over \$1,500,000 .....	\$555,800 plus 45 percent of the excess of such amount over \$1,500,000.”,
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(B) by striking “(1) IN GENERAL.—”, and

(C) by striking paragraph (2).

## (b) MODIFICATIONS OF GIFT TAX RATE.—

(1) IN GENERAL.—On and after January 1, 2011, subsection (a) of section 2502 is amended to read as such subsection would read if section 511(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

## (2) APPLICABLE EXCLUSION AMOUNT FOR GIFT TAX.—

(A) INFLATION ADJUSTMENT.—Section 2505 is amended by adding at the end the following new subsection:

“(d) INFLATION ADJUSTMENT.—In the case of any calendar year after 2011, the dollar amount in subsection (a)(1) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) 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.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to calendar years beginning after 2011.

(c) MODIFICATION OF GENERATION-SKIPPING TRANSFER TAX.—In the case of any generation-skipping transfer made after December 31, 2009, and before January 1, 2011, the applicable rate determined under section 2641(a) of the Internal Revenue Code of 1986 shall be zero.

## (d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN CREDIT RESULTING FROM DIFFERENT TAX RATES.—

## (1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) is amended by striking “if the provisions of subsection (c) (as in effect at the decedent’s death)” and inserting “if the modifications described in subsection (g)”.

(B) MODIFICATIONS.—Section 2001 is amended by adding at the end the following new subsection:

“(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent’s death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

“(1) the tax imposed by chapter 12 with respect to such gifts, and

“(2) the credit allowed against such tax under section 2505, including in computing—

“(A) the applicable credit amount under section 2505(a)(1), and

“(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).”.

(2) GIFT TAX.—Section 2505(a) is amended by adding at the end the following new flush sentence:

“For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.”.

(e) CONFORMING AMENDMENT.—Section 2511 is amended by striking subsection (c).

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

**SEC. 303. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall apply to the amendments made by this title.