

115TH CONGRESS
1ST SESSION

S. _____

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

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on _____

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 2017”.

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

8 (a) ESTATE TAX REPEAL.—Subchapter C of chapter
9 11 of subtitle B of the Internal Revenue Code of 1986
10 is amended by adding at the end the following new section:

1 **“SEC. 2210. TERMINATION.**

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

6 “(b) CERTAIN DISTRIBUTIONS FROM QUALIFIED
7 DOMESTIC TRUSTS.—In applying section 2056A with re-
8 spect to the surviving spouse of a decedent dying before
9 the date of the enactment of the Death Tax Repeal Act
10 of 2017—

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

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

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

20 **“SEC. 2664. TERMINATION.**

21 “This chapter shall not apply to generation-skipping
22 transfers on or after the date of the enactment of the
23 Death Tax Repeal Act of 2017.”.

24 (c) CONFORMING AMENDMENTS.—

25 (1) The table of sections for subchapter C of
26 chapter 11 of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new
2 item:

“Sec. 2210. Termination.”.

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

“Sec. 2664. Termination.”.

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

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

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

14 “(a) COMPUTATION OF TAX.—

15 “(1) IN GENERAL.—The tax imposed by section
16 2501 for each calendar year shall be an amount
17 equal to the excess of—

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

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

1 “(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.”.

2 (b) TREATMENT OF CERTAIN TRANSFERS IN
3 TRUST.—Section 2511 of the Internal Revenue Code of
4 1986 is amended by adding at the end the following new
5 subsection:

6 “(c) TREATMENT OF CERTAIN TRANSFERS IN
7 TRUST.—Notwithstanding any other provision of this sec-
8 tion and except as provided in regulations, a transfer in
9 trust shall be treated as a taxable gift under section 2503,
10 unless the trust is treated as wholly owned by the donor

1 or the donor's spouse under subpart E of part I of sub-
2 chapter J of chapter 1.”.

3 (c) LIFETIME GIFT EXEMPTION.—

4 (1) IN GENERAL.—Paragraph (1) of section
5 2505(a) of the Internal Revenue Code of 1986 is
6 amended to read as follows:

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

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

15 “(d) INFLATION ADJUSTMENT.—

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

19 “(A) such dollar amount, multiplied by

20 “(B) the cost-of-living adjustment deter-
21 mined under section 1(f)(3) for such calendar
22 year by substituting ‘calendar year 2010’ for
23 ‘calendar year 1992’ in subparagraph (B)
24 thereof.

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

5 (d) CONFORMING AMENDMENTS.—

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

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

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

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

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

16 (f) TRANSITION RULE.—

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

24 (2) APPLICATION OF SECTION 2504(b).—For
25 purposes of applying section 2504(b) of the Internal

1 Revenue Code of 1986, the calendar year in which
2 this Act is enacted shall be treated as one preceding
3 calendar period.