

117TH CONGRESS
1ST SESSION

H. R. 2576

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2021

Mr. GOMEZ (for himself, Mr. BLUMENAUER, Ms. BUSH, Mr. CARSON, Ms. CHU, Mr. COHEN, Mr. DANNY K. DAVIS of Illinois, Mr. DEFazio, Ms. DELAuro, Mr. DESAULNIER, Mr. ESPAILLAT, Mr. GARCÍA of Illinois, Mr. GRIJALVA, Ms. NORTON, Ms. JAYAPAL, Mr. JONES, Mr. KHANNA, Ms. LEE of California, Mr. LEVIN of Michigan, Mr. LIEU, Mr. LOWENTHAL, Mrs. CAROLYN B. MALONEY of New York, Ms. MENG, Mrs. NAPOLITANO, Ms. NEWMAN, Ms. OMAR, Mr. PAYNE, Mr. POCAN, Ms. PRESSLEY, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. SCHAKOWSKY, Mr. TAKANO, Ms. TLAIB, and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to reinstate estate and generation-skipping 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 “For the 99.5 Percent
5 Act”.

1 **SEC. 2. MODIFICATIONS TO ESTATE, GIFT, AND GENERA-**
 2 **TION-SKIPPING TRANSFER TAXES.**

3 (a) **MODIFICATION OF RATES.**—Section 2001(c) of
 4 the Internal Revenue Code of 1986 is amended by striking
 5 the last 2 rows and inserting the following:

“Over \$750,000 but not over \$3,500,000	\$248,300 plus 39 per- cent of the excess of such amount over \$750,000.
Over \$3,500,000 but not over \$10,000,000	\$1,320,800 plus 45 percent of the ex- cess of such amount over \$3,500,000.
Over \$10,000,000 but not over \$50,000,000	\$4,245,800 plus 50 percent of the ex- cess of such amount over \$10,000,000.
Over \$50,000,000 but not over \$1,000,000,000	\$24,245,800 plus 55 percent of the ex- cess of such amount over \$50,000,000.
Over \$1,000,000,000	\$546,745,800 plus 65 percent of the ex- cess of such amount over \$1,000,000,000.”.

6 (b) **EXCLUSION AMOUNT.**—

7 (1) **ESTATE TAX.**—Paragraph (3) of section
 8 2010(c) of the Internal Revenue Code of 1986 is
 9 amended to read as follows:

10 “(3) **BASIC EXCLUSION AMOUNT.**—For pur-
 11 poses of this section, the basic exclusion amount is
 12 \$3,500,000.”.

13 (2) **MODIFICATION TO GIFT TAX EXCLUSION**
 14 **AMOUNT.**—Paragraph (1) of section 2505(a) of the

1 Internal Revenue Code of 1986 is amended to read
2 as follows:

3 “(1) the applicable credit amount in effect
4 under section 2010(c) for such calendar year (deter-
5 mined as if the basic exclusion amount in section
6 2010(c)(2)(A) were \$1,000,000), reduced by”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to estates of decedents dying, and
9 generation-skipping transfers and gifts made, after De-
10 cember 31, 2021.

11 **SEC. 3. MODIFICATION OF RULES FOR VALUE OF CERTAIN**
12 **FARM, ETC., REAL PROPERTY.**

13 (a) IN GENERAL.—Paragraph (2) of section
14 2032A(a) of the Internal Revenue Code of 1986 is amend-
15 ed by striking “\$750,000” and inserting “\$3,000,000”.

16 (b) INFLATION ADJUSTMENT.—Paragraph (3) of sec-
17 tion 2032A(a) of such Code is amended—

18 (1) by striking “1998” and inserting “2022”,

19 (2) by striking “\$750,000” each place it ap-
20 pears and inserting “\$3,000,000”, and

21 (3) by striking “calendar year 1997” and in-
22 serting “calendar year 2021” in subparagraph (B).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to estates of decedents dying, and
25 gifts made, after December 31, 2021.

1 **SEC. 4. MODIFICATION OF ESTATE TAX RULES WITH RE-**
2 **SPECT TO LAND SUBJECT TO CONSERVATION**
3 **EASEMENTS.**

4 (a) MODIFICATION OF EXCLUSION LIMITATION.—
5 Subparagraph (B) of section 2031(c)(1) of the Internal
6 Revenue Code of 1986 is amended by striking “\$500,000”
7 and inserting “\$2,000,000”.

8 (b) MODIFICATION OF APPLICABLE PERCENTAGE.—
9 Paragraph (2) of section 2031(c) of the Internal Revenue
10 Code of 1986 is amended by striking “40 percent” and
11 inserting “60 percent”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to estates of decedents dying, and
14 gifts made, after December 31, 2021.

15 **SEC. 5. DISALLOWANCE OF STEP-UP IN BASIS FOR PROP-**
16 **ERTY HELD IN CERTAIN GRANTOR TRUSTS.**

17 (a) IN GENERAL.—Section 1014 of the Internal Rev-
18 enue Code of 1986 is amended—

19 (1) by redesignating subsection (f) as sub-
20 section (g), and

21 (2) by inserting after subsection (e) the fol-
22 lowing:

23 “(f) PROPERTY HELD IN CERTAIN GRANTOR
24 TRUSTS.—This section shall not apply to property—

1 which is actively traded (within the meaning of sec-
2 tion 1092)—

3 “(A) the value of any nonbusiness assets
4 held by the entity with respect to such interest
5 shall be determined as if the transferor had
6 transferred such assets directly to the trans-
7 feree (and no valuation discount shall be al-
8 lowed with respect to such nonbusiness assets),
9 and

10 “(B) such nonbusiness assets shall not be
11 taken into account in determining the value of
12 the interest in the entity.

13 “(2) NONBUSINESS ASSETS.—For purposes of
14 this subsection—

15 “(A) IN GENERAL.—The term ‘nonbusi-
16 ness asset’ means any asset which is not used
17 in the active conduct of 1 or more trades or
18 businesses.

19 “(B) EXCEPTION FOR CERTAIN PASSIVE
20 ASSETS.—Except as provided in subparagraph
21 (C), a passive asset shall not be treated for pur-
22 poses of subparagraph (A) as used in the active
23 conduct of a trade or business unless—

24 “(i) the asset is property described in
25 paragraph (1) or (4) of section 1221(a) or

1 is a hedge with respect to such property,
2 or

3 “(ii) the asset is real property used in
4 the active conduct of 1 or more real prop-
5 erty trades or businesses (within the mean-
6 ing of section 469(c)(7)(C)) in which the
7 transferor materially participates and with
8 respect to which the transferor meets the
9 requirements of section 469(c)(7)(B)(ii).

10 For purposes of clause (ii), material participa-
11 tion shall be determined under the rules of sec-
12 tion 469(h), except that section 469(h)(3) shall
13 be applied without regard to the limitation to
14 farming activity.

15 “(C) EXCEPTION FOR WORKING CAP-
16 ITAL.—Any asset (including a passive asset)
17 which is held as a part of the reasonably re-
18 quired working capital needs of a trade or busi-
19 ness shall be treated as used in the active con-
20 duct of a trade or business.

21 “(3) PASSIVE ASSET.—For purposes of this
22 subsection, the term ‘passive asset’ means any—

23 “(A) cash or cash equivalents,

1 “(B) except to the extent provided by the
2 Secretary, stock in a corporation or any other
3 equity, profits, or capital interest in any entity,

4 “(C) evidence of indebtedness, option, for-
5 ward or futures contract, notional principal con-
6 tract, or derivative,

7 “(D) asset described in clause (iii), (iv), or
8 (v) of section 351(e)(1)(B),

9 “(E) annuity,

10 “(F) real property used in 1 or more real
11 property trades or businesses (as defined in sec-
12 tion 469(e)(7)(C)),

13 “(G) asset (other than a patent, trade-
14 mark, or copyright) which produces royalty in-
15 come,

16 “(H) commodity,

17 “(I) collectible (within the meaning of sec-
18 tion 408(m)), or

19 “(J) any other asset specified in regula-
20 tions prescribed by the Secretary.

21 “(4) LOOK-THRU RULES.—

22 “(A) IN GENERAL.—If a nonbusiness asset
23 of an entity consists of a 10-percent interest in
24 any other entity, this subsection shall be ap-
25 plied by disregarding the 10-percent interest

1 and by treating the entity as holding directly its
2 ratable share of the assets of the other entity.
3 This subparagraph shall be applied successively
4 to any 10-percent interest of such other entity
5 in any other entity.

6 “(B) 10-PERCENT INTEREST.—The term
7 ‘10-percent interest’ means—

8 “(i) in the case of an interest in a cor-
9 poration, ownership of at least 10 percent
10 (by vote or value) of the stock in such cor-
11 poration,

12 “(ii) in the case of an interest in a
13 partnership, ownership of at least 10 per-
14 cent of the capital or profits interest in the
15 partnership, and

16 “(iii) in any other case, ownership of
17 at least 10 percent of the beneficial inter-
18 ests in the entity.

19 “(5) COORDINATION WITH SUBSECTION (b).—
20 Subsection (b) shall apply after the application of
21 this subsection.

22 “(e) LIMITATION ON MINORITY DISCOUNTS.—For
23 purposes of this chapter and chapter 12, in the case of
24 the transfer of any interest in an entity other than an in-
25 terest which is actively traded (within the meaning of sec-

1 tion 1092), no discount shall be allowed by reason of the
 2 fact that the transferee does not have control of such enti-
 3 ty, or by reason of the lack of marketability of the interest,
 4 if the transferor, the transferee, and members of the fam-
 5 ily (as defined in section 2032A(e)(2)) of the transferor
 6 and transferee—

7 “(1) have control of such entity, or

8 “(2) own the majority of the ownership inter-
 9 ests (by value) in such entity.”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
 11 this section shall apply to transfers after the date of the
 12 enactment of this Act.

13 **SEC. 7. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
 14 **GRANTOR RETAINED ANNUITY TRUSTS.**

15 (a) **IN GENERAL.**—Subsection (b) of section 2702 of
 16 the Internal Revenue Code of 1986 is amended—

17 (1) by redesignating paragraphs (1), (2), and
 18 (3) as subparagraphs (A), (B), and (C), respectively,
 19 and by moving such subparagraphs (as so redesign-
 20 ated) 2 ems to the right;

21 (2) by striking “For purposes of” and inserting
 22 the following:

23 “(1) **IN GENERAL.**—For purposes of”;

1 (3) by striking “paragraph (1) or (2)” in para-
2 graph (1)(C) (as so redesignated) and inserting
3 “subparagraph (A) or (B)”; and

4 (4) by adding at the end the following new
5 paragraph:

6 “(2) ADDITIONAL REQUIREMENTS WITH RE-
7 SPECT TO GRANTOR RETAINED ANNUITIES.—For
8 purposes of subsection (a), in the case of an interest
9 described in paragraph (1)(A) (determined without
10 regard to this paragraph) which is retained by the
11 transferor, such interest shall be treated as de-
12 scribed in such paragraph only if—

13 “(A) the right to receive the fixed amounts
14 referred to in such paragraph is for a term of
15 not less than 10 years and not more than the
16 life expectancy of the annuitant plus 10 years,

17 “(B) such fixed amounts, when determined
18 on an annual basis, do not decrease during the
19 term described in subparagraph (A), and

20 “(C) the remainder interest has a value, as
21 determined as of the time of the transfer, which
22 is—

23 “(i) not less than an amount equal to
24 the greater of—

1 “(I) 25 percent of the fair mar-
2 ket value of the property in the trust,
3 or
4 “(II) \$500,000, and
5 “(ii) not greater than the fair market
6 value of the property in the trust.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to transfers made after the date
9 of the enactment of this Act.

10 **SEC. 8. CERTAIN TRANSFER TAX RULES APPLICABLE TO**
11 **GRANTOR TRUSTS.**

12 (a) IN GENERAL.—Subtitle B of the Internal Rev-
13 enue Code of 1986 is amended by adding at the end the
14 following new chapter:

15 **“CHAPTER 16—SPECIAL RULES FOR**
16 **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

17 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

18 “(a) IN GENERAL.—In the case of any portion of a
19 trust to which this section applies—

20 “(1) the value of the gross estate of the de-
21 ceased deemed owner of such portion shall include
22 all assets attributable to that portion at the time of
23 the death of such owner,

1 “(2) any distribution from such portion to one
2 or more beneficiaries during the life of the deemed
3 owner of such portion shall be treated as a transfer
4 by gift for purposes of chapter 12, and

5 “(3) if at any time during the life of the
6 deemed owner of such portion, such owner ceases to
7 be treated as the owner of such portion under sub-
8 part E of part 1 of subchapter J of chapter 1, all
9 assets attributable to such portion at such time shall
10 be treated for purposes of chapter 12 as a transfer
11 by gift made by the deemed owner.

12 “(b) PORTION OF TRUST TO WHICH SECTION AP-
13 PLIES.—This section shall apply to—

14 “(1) the portion of a trust with respect to
15 which the grantor is the deemed owner, and

16 “(2) the portion of the trust to which a person
17 who is not the grantor is a deemed owner by reason
18 of the rules of subpart E of part 1 of subchapter J
19 of chapter 1, and such deemed owner engages in a
20 sale, exchange, or comparable transaction with the
21 trust that is disregarded for purposes of subtitle A.

22 For purposes of paragraph (2), the portion of the trust
23 described with respect to a transaction is the portion of
24 the trust attributable to the property received by the trust
25 in such transaction, including all retained income there-

1 from, appreciation thereon, and reinvestments thereof, net
2 of the amount of consideration received by the deemed
3 owner in such transaction.

4 “(c) EXCEPTIONS.—This section shall not apply to
5 any trust that is includible in the gross estate of the
6 deemed owner (without regard to subsection (a)(1)).

7 “(d) DEEMED OWNER DEFINED.—For purposes of
8 this section, the term ‘deemed owner’ means any person
9 who is treated as the owner of a portion of a trust under
10 subpart E of part 1 of subchapter J of chapter 1.

11 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST
12 MADE BY OWNER.—The amount to which subsection (a)
13 applies shall be reduced by the value of any transfer by
14 gift by the deemed owner to the trust previously taken
15 into account by the deemed owner under chapter 12.

16 “(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-
17 posed pursuant to subsection (a) shall be a liability of the
18 trust.”.

19 (b) CLERICAL AMENDMENT.—The table of chapters
20 for subtitle B of such Code is amended by adding at the
21 end the following new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply—

24 (1) to trusts created on or after the date of the
25 enactment of this Act,

1 (2) to any portion of a trust established before
2 the date of the enactment of this Act which is attrib-
3 utable to a contribution made on or after such date,
4 and

5 (3) to any portion of a trust established before
6 the date of the enactment of this Act to which sec-
7 tion 2901(a) of the Internal Revenue Code of 1986
8 (as added by subsection (a)) applies by reason of a
9 transaction described in section 2901(b)(2) of such
10 Code on or after such date.

11 **SEC. 9. ELIMINATION OF GENERATION-SKIPPING TRANS-**
12 **FER TAX EXEMPTION FOR CERTAIN TRUSTS.**

13 (a) IN GENERAL.—Section 2642 of the Internal Rev-
14 enue Code of 1986 is amended by adding at the end the
15 following new subsection:

16 “(h) ELIMINATION OF GST EXEMPTION FOR CER-
17 TAIN TRUSTS.—

18 “(1) IN GENERAL.—

19 “(A) TRANSFERS FROM NON-QUALIFYING
20 TRUSTS.—In the case of any generation-skip-
21 ping transfer made from a trust that is not a
22 qualifying trust, the inclusion ratio with respect
23 to any property transferred in such transfer
24 shall be 1.

1 “(B) QUALIFYING TRUST.—For purposes
2 of this subsection, the term ‘qualifying trust’
3 means a trust for which the date of termination
4 of such trust is not greater than 50 years after
5 the date on which such trust is created.

6 “(2) TRUSTS CREATED BEFORE DATE OF EN-
7 ACTMENT.—In the case of any trust created before
8 the date of the enactment of this subsection, such
9 trust shall be deemed to be a qualifying trust for a
10 period of 50 years after the date of the enactment
11 of this subsection.

12 “(3) DATE OF CREATION OF CERTAIN DEEMED
13 SEPARATE TRUSTS.—In the case of any portion of a
14 trust which is treated as a separate trust under sec-
15 tion 2654(b)(1), such separate trust shall be treated
16 as created on the date of the first transfer described
17 in such section with respect to such separate trust.

18 “(4) DATE OF CREATION OF POUR-OVER
19 TRUSTS.—In the case of any generation-skipping
20 transfer of property which involves the transfer of
21 property from 1 trust to another trust, the date of
22 the creation of the transferee trust shall be treated
23 as being the earlier of—

24 “(A) the date of the creation of such trans-
25 feree trust, or

1 subsection (a), be included in the total amount
2 of gifts made during such year.

3 “(B) CUMULATIVE LIMIT PER DONOR.—

4 “(i) IN GENERAL.—The aggregate
5 amount excluded under subparagraph (A)
6 with respect to all transfers described in
7 clause (ii) made by the donor during the
8 calendar year shall not exceed twice the
9 dollar amount in effect under such sub-
10 paragraph for such calendar year.

11 “(ii) TRANSFERS SUBJECT TO LIMITA-
12 TION.—The transfers described in this
13 clause are—

14 “(I) a transfer in trust,

15 “(II) a transfer of an interest in
16 a passthrough entity,

17 “(III) a transfer of an interest
18 subject to a prohibition on sale, and

19 “(IV) any other transfer of prop-
20 erty that, without regard to with-
21 drawal, put, or other such rights in
22 the donee, cannot immediately be liq-
23 uidated by the donee.”.

1 (b) CONFORMING AMENDMENT.—Section 2503 of the
2 Internal Revenue Code of 1986 is amended by striking
3 subsection (c).

4 (c) REGULATIONS.—The Secretary of the Treasury,
5 or the Secretary of the Treasury’s delegate, may prescribe
6 such regulations or other guidance as may be necessary
7 or appropriate to carry out the amendments made by this
8 section.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to any calendar year beginning
11 after the date of the enactment of this Act.

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