

118TH CONGRESS  
1ST SESSION

# H. R. 34

To amend the Social Security Act and the Internal Revenue Code of 1986 to include net investment income tax imposed in the Federal Hospital Insurance Trust Fund and to modify the net investment income tax.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. DOGGETT (for himself, Ms. BARRAGÁN, Mr. BLUMENAUER, Mr. BOYLE of Pennsylvania, Mr. COHEN, Mr. GRIJALVA, Ms. JAYAPAL, Mr. LARSON of Connecticut, Ms. MOORE of Wisconsin, Mr. POCAN, Ms. SÁNCHEZ, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. TITUS, Ms. WILLIAMS of Georgia, and Mr. CASAR) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Social Security Act and the Internal Revenue Code of 1986 to include net investment income tax imposed in the Federal Hospital Insurance Trust Fund and to modify the net investment income tax.

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 “Assuring Medicare’s  
5 Promise Act of 2023”.

1 **SEC. 2. INCLUSION OF NET INVESTMENT INCOME TAX IN**  
2 **HOSPITAL INSURANCE TRUST FUND.**

3 (a) IN GENERAL.—Section 1817(a) of the Social Se-  
4 curity Act (42 U.S.C. 1395i(a)) is amended—

5 (1) by striking “and” at the end of paragraph  
6 (1);

7 (2) by striking the period at the end of para-  
8 graph (2) and inserting “; and”; and

9 (3) by inserting after paragraph (2) the fol-  
10 lowing new paragraph:

11 “(3) the taxes imposed by section 1411 of the Inter-  
12 nal Revenue Code of 1986 reported to the Secretary of  
13 the Treasury or the Secretary’s delegate on tax returns  
14 under subtitle F of such Code.”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply with respect to taxes imposed for  
17 taxable years beginning after December 31, 2023.

18 **SEC. 3. APPLICATION OF NET INVESTMENT INCOME TAX TO**  
19 **TRADE OR BUSINESS INCOME OF CERTAIN**  
20 **HIGH INCOME INDIVIDUALS.**

21 (a) IN GENERAL.—Section 1411 of the Internal Rev-  
22 enue Code of 1986 is amended by adding at the end the  
23 following new subsection:

24 “(f) APPLICATION TO CERTAIN HIGH INCOME INDI-  
25 VIDUALS.—

1           “(1) IN GENERAL.—In the case of any indi-  
2           vidual whose modified adjusted gross income for the  
3           taxable year exceeds the high income threshold  
4           amount, subsection (a)(1) shall be applied by sub-  
5           stituting ‘the greater of specified net income or net  
6           investment income’ for ‘net investment income’ in  
7           subparagraph (A) thereof.

8           “(2) PHASE-IN OF INCREASE.—The increase in  
9           the tax imposed under subsection (a)(1) by reason of  
10          the application of paragraph (1) of this subsection  
11          shall not exceed the amount which bears the same  
12          ratio to the amount of such increase (determined  
13          without regard to this paragraph) as—

14                 “(A) the excess described in paragraph (1),  
15                 bears to

16                 “(B) \$100,000 ( $\frac{1}{2}$  such amount in the  
17                 case of a married taxpayer (as defined in sec-  
18                 tion 7703) filing a separate return).

19          “(3) HIGH INCOME THRESHOLD AMOUNT.—For  
20          purposes of this subsection, the term ‘high income  
21          threshold amount’ means—

22                 “(A) except as provided in subparagraph  
23                 (B) or (C), \$400,000,

24                 “(B) in the case of a taxpayer making a  
25                 joint return under section 6013 or a surviving

1 spouse (as defined in section 2(a)), \$500,000,  
2 and

3 “(C) in the case of a married taxpayer (as  
4 defined in section 7703) filing a separate re-  
5 turn,  $\frac{1}{2}$  of the dollar amount determined under  
6 subparagraph (B).

7 “(4) SPECIFIED NET INCOME.—For purposes of  
8 this section, the term ‘specified net income’ means  
9 net investment income determined—

10 “(A) without regard to the phrase ‘other  
11 than such income which is derived in the ordi-  
12 nary course of a trade or business not described  
13 in paragraph (2),’ in subsection (c)(1)(A)(i),

14 “(B) without regard to the phrase ‘de-  
15 scribed in paragraph (2)’ in subsection  
16 (c)(1)(A)(ii),

17 “(C) without regard to the phrase ‘other  
18 than property held in a trade or business not  
19 described in paragraph (2)’ in subsection  
20 (c)(1)(A)(iii),

21 “(D) without regard to paragraphs (2),  
22 (3), and (4) of subsection (c), and

23 “(E) by treating paragraphs (5) and (6) of  
24 section 469(c) (determined without regard to  
25 the phrase ‘To the extent provided in regula-

1           tions,’ in such paragraph (6)) as applying for  
2           purposes of subsection (c) of this section.”.

3           (b) APPLICATION TO TRUSTS AND ESTATES.—Sec-  
4           tion 1411(a)(2)(A) of such Code is amended by striking  
5           “undistributed net investment income” and inserting “the  
6           greater of undistributed specified net income or undistrib-  
7           uted net investment income”.

8           (c) CLARIFICATIONS WITH RESPECT TO DETER-  
9           MINATION OF NET INVESTMENT INCOME.—

10           (1) CERTAIN EXCEPTIONS.—Section 1411(c)(6)  
11           of such Code is amended to read as follows:

12           “(6) SPECIAL RULES.—Net investment income  
13           shall not include—

14                   “(A) any item taken into account in deter-  
15                   mining self-employment income for such taxable  
16                   year on which a tax is imposed by section  
17                   1401(b),

18                   “(B) wages received with respect to em-  
19                   ployment on which a tax is imposed under sec-  
20                   tion 3101(b) or 3201(a) (including amounts  
21                   taken into account under section 3121(v)(2)),  
22                   and

23                   “(C) wages received from the performance  
24                   of services earned outside the United States for  
25                   a foreign employer.”.

1           (2) NET OPERATING LOSSES NOT TAKEN INTO  
2 ACCOUNT.—Section 1411(c)(1)(B) of such Code is  
3 amended by inserting “(other than section 172)”  
4 after “this subtitle”.

5           (3) INCLUSION OF CERTAIN FOREIGN IN-  
6 COME.—

7           (A) IN GENERAL.—Section 1411(c)(1)(A)  
8 of such Code is amended by striking “and” at  
9 the end of clause (ii), by striking “over” at the  
10 end of clause (iii) and inserting “and”, and by  
11 adding at the end the following new clause:

12                   “(iv) any amount includible in gross  
13 income under section 951, 951A, 1293, or  
14 1296, over”.

15           (B) PROPER TREATMENT OF CERTAIN  
16 PREVIOUSLY TAXED INCOME.—Section 1411(c)  
17 of such Code is amended by adding at the end  
18 the following new paragraph:

19           “(7) CERTAIN PREVIOUSLY TAXED INCOME.—  
20 The Secretary shall issue regulations or other guid-  
21 ance providing for the treatment of—

22                   “(A) distributions of amounts previously  
23 included in gross income for purposes of chap-  
24 ter 1 but not previously subject to tax under  
25 this section, and

1                   “(B) distributions described in section  
2                   962(d).”.

3           (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2023.

6           (e) TRANSITION RULE.—The regulations or other  
7 guidance issued by the Secretary under section 1411(e)(7)  
8 of the Internal Revenue Code of 1986 (as added by this  
9 section) shall include provisions which provide for the  
10 proper coordination and application of clauses (i) and (iv)  
11 of section 1411(e)(1)(A) with respect to—

12                   (1) taxable years beginning on or before De-  
13                   cember 31, 2023, and

14                   (2) taxable years beginning after such date.

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