

115TH CONGRESS  
1ST SESSION

# S. 309

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

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IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2019

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

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## 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 99.8 Percent  
5 Act”.

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

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

“Over \$750,000 but not over \$3,500,000 .....	\$248,300 plus 39 percent 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 excess 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 excess 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 excess of such amount over \$50,000,000.
Over \$1,000,000,000 .....	\$546,745,800 plus 77 percent of the excess of such amount over \$1,000,000,000.”.

1 (b) EXCLUSION AMOUNT.—

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

5 “(3) BASIC EXCLUSION AMOUNT.—For pur-  
6 poses of this section, the basic exclusion amount is  
7 \$3,500,000.”.

8 (2) MODIFICATION TO GIFT TAX EXCLUSION  
9 AMOUNT.—Paragraph (1) of section 2505(a) of the  
10 Internal Revenue Code of 1986 is amended to read  
11 as follows:

12 “(1) the applicable credit amount in effect  
13 under section 2010(c) for such calendar year (deter-  
14 mined as if the basic exclusion amount in section  
15 2010(c)(2)(A) were \$1,000,000), reduced by”.

1           (3) MODIFICATIONS OF ESTATE AND GIFT  
2 TAXES TO REFLECT DIFFERENCES IN CREDIT RE-  
3 SULTING FROM DIFFERENT EXCLUSION AMOUNTS.—

4           (A) ESTATE TAX ADJUSTMENT.—Section  
5 2001 of the Internal Revenue Code of 1986 is  
6 amended by adding at the end the following  
7 new subsection:

8           “(h) ADJUSTMENT TO REFLECT CHANGES IN EX-  
9 CLUSION AMOUNT.—

10           “(1) IN GENERAL.—If, with respect to any gift  
11 to which subsection (b)(2) applies, the applicable ex-  
12 clusion amount in effect at the time of the dece-  
13 dent’s death is less than such amount in effect at  
14 the time such gift is made by the decedent, the  
15 amount of tax computed under subsection (b) shall  
16 be reduced by the amount of tax which would have  
17 been payable under chapter 12 at the time of the  
18 gift if the applicable exclusion amount in effect at  
19 such time had been the applicable exclusion amount  
20 in effect at the time of the decedent’s death and the  
21 modifications described in subsection (g) had been  
22 applicable at the time of such gifts.

23           “(2) LIMITATION.—The aggregate amount of  
24 gifts made in any calendar year to which the reduc-

1       tion under paragraph (1) applies shall not exceed  
2       the excess of—

3               “(A) the applicable exclusion amount in ef-  
4               fect for such calendar year, over

5               “(B) the applicable exclusion amount in ef-  
6               fect at the time of the decedent’s death.

7               “(3) APPLICABLE EXCLUSION AMOUNT.—The  
8       term ‘applicable exclusion amount’ means, with re-  
9       spect to any period, the amount determined under  
10      section 2010(c) for such period, except that in the  
11      case of any period for which such amount includes  
12      the deceased spousal unused exclusion amount (as  
13      defined in section 2010(c)(4)), such term shall mean  
14      the basic exclusion amount (as defined under section  
15      2010(c)(3), as in effect for such period).”.

16              (B) GIFT TAX ADJUSTMENT.—Section  
17              2502 of such Code is amended by adding at the  
18              end the following new subsection:

19              “(d) ADJUSTMENT TO REFLECT CHANGES IN EX-  
20      CLUSION AMOUNT.—

21              “(1) IN GENERAL.—If the taxpayer made a tax-  
22              able gift in an applicable preceding calendar period,  
23              the amount of tax computed under subsection (a)  
24              shall be reduced by the amount of tax which would  
25              have been payable under chapter 12 for such appli-

1 cable preceding calendar period if the applicable ex-  
2 clusion amount in effect for such preceding calendar  
3 period had been the applicable exclusion amount in  
4 effect for the calendar year for which the tax is  
5 being computed and the modifications described in  
6 subsection (g) had been applicable for such pre-  
7 ceding calendar period.

8 “(2) LIMITATION.—The aggregate amount of  
9 gifts made in any applicable preceding calendar pe-  
10 riod to which the reduction under paragraph (1) ap-  
11 plies shall not exceed the excess of—

12 “(A) the applicable exclusion amount for  
13 such preceding calendar period, over

14 “(B) the applicable exclusion amount for  
15 the calendar year for which the tax is being  
16 computed.

17 “(3) APPLICABLE PRECEDING CALENDAR YEAR  
18 PERIOD.—The term ‘applicable preceding calendar  
19 year period’ means any preceding calendar year pe-  
20 riod in which the applicable exclusion amount ex-  
21 ceeded the applicable exclusion amount for the cal-  
22 endar year for which the tax is being computed.

23 “(4) APPLICABLE EXCLUSION AMOUNT.—The  
24 term ‘applicable exclusion amount’ means, with re-  
25 spect to any period, the amount determined under

1 section 2010(c) for such period, except that in the  
2 case of any period for which such amount includes  
3 the deceased spousal unused exclusion amount (as  
4 defined in section 2010(c)(4)), such term shall mean  
5 the basic exclusion amount (as defined under section  
6 2010(c)(3), as in effect for such period).”.

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, 2019.

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 “2019”,

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 2018” 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, 2019.

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, 2019.

15 **SEC. 5. CONSISTENT BASIS REPORTING FOR PROPERTY AC-**  
16 **QUIRED BY GIFTS AND TRANSFERS IN TRUST.**

17 (a) CONSISTENT USE OF BASIS.—Section 1015 of  
18 the Internal Revenue Code of 1986 is amended by adding  
19 at the end the following new subsection:

20 “(f) BASIS MUST BE CONSISTENT WITH GIFT TAX  
21 RETURN.—

22 “(1) IN GENERAL.—The basis of any property  
23 to which this section applies shall not exceed—

24 “(A) in the case of property the final value  
25 of which has been determined for purposes of

1 the tax imposed by chapter 12 on the donor of  
2 such property, such value, and

3 “(B) in the case of property not described  
4 in subparagraph (A) and with respect to which  
5 a statement has been furnished under section  
6 6035(b) identifying the value of such property,  
7 such value.

8 “(2) DETERMINATION.—For purposes of para-  
9 graph (1), the basis of property has been determined  
10 for purposes of the tax imposed by chapter 12 if—

11 “(A) the value of such property is shown  
12 on a return under section 6019 and such value  
13 is not contested by the Secretary before the ex-  
14 piration of the time for assessing a tax under  
15 chapter 12,

16 “(B) in a case not described in subpara-  
17 graph (A), the value is specified by the Sec-  
18 retary and such value is not timely contested by  
19 the donor of such property, or

20 “(C) the value is determined by a court or  
21 pursuant to a settlement agreement with the  
22 Secretary.

23 “(3) REGULATIONS.—The Secretary may by  
24 regulations provide exceptions to the application of  
25 this subsection.”.



1 (b) INFORMATION REPORTING.—

2 (1) IN GENERAL.—Section 6035 of the Internal  
3 Revenue Code of 1986 is amended—

4 (A) in the heading, by inserting “**OR BY**  
5 **GIFT**” after “**DECEDENT**”,

6 (B) by redesignating subsection (b) as sub-  
7 section (c),

8 (C) by inserting after subsection (a) the  
9 following new subsection:

10 “(b) INFORMATION WITH RESPECT TO PROPERTY  
11 ACQUIRED BY GIFT.—

12 “(1) IN GENERAL.—Each person making a  
13 transfer by gift who is required to file a return  
14 under section 6019 with respect to such transfer  
15 shall furnish to the Secretary and to each person ac-  
16 quiring any interest in property by reason of such  
17 transfer a statement identifying the value of each in-  
18 terest in such property as reported on such return  
19 and such other information with respect to such in-  
20 terest as the Secretary may prescribe.

21 “(2) TIME FOR FURNISHING STATEMENT.—

22 “(A) IN GENERAL.—Each statement re-  
23 quired to be furnished under paragraph (1)  
24 shall be furnished at such time as the Secretary

1           may prescribe, but in no case at a time later  
2           than the earlier of—

3                   “(i) the date which is 30 days after  
4                   the date on which the return under section  
5                   6019 was required to be filed (including  
6                   extensions, if any), or

7                   “(ii) the date which is 30 days after  
8                   the date such return is filed.

9                   “(B) ADJUSTMENTS.—In any case in  
10                  which there is an adjustment to the information  
11                  required to be included on a statement filed  
12                  under paragraph (1) after such statement has  
13                  been filed, a supplemental statement under  
14                  such paragraph shall be filed not later than the  
15                  date which is 30 days after such adjustment is  
16                  made.”, and

17                  (D) in paragraph (1) of subsection (c), as  
18                  redesignated by subparagraph (B), by striking  
19                  “estate tax return” and inserting “estate or gift  
20                  tax return”.

21                  (2) CLERICAL AMENDMENT.—The table of sec-  
22                  tions for subpart A of part III of subchapter A of  
23                  chapter 61 of the Internal Revenue Code of 1986 is  
24                  amended by striking the item relating to section  
25                  6035 and inserting the following:

“Sec. 6035. Basis information to persons acquiring property from decedent or by gift.”.

1 (c) PENALTY FOR INCONSISTENT REPORTING.—

2 (1) IN GENERAL.—Paragraph (8) of section  
3 6662(b) of the Internal Revenue Code of 1986 is  
4 amended by inserting “or gift” after “estate”.

5 (2) INCONSISTENT BASIS REPORTING.—Sub-  
6 section (k) of section 6662 of such Code is amended  
7 to read as follows:

8 “(k) INCONSISTENT ESTATE OR GIFT BASIS RE-  
9 PORTING.—For purposes of this section, there is an ‘in-  
10 consistent estate or gift basis’ if—

11 “(1) in the case of property acquired from a de-  
12 cedent, the basis of property claimed on a return ex-  
13 ceeds the basis as determined under section 1014(f),  
14 and

15 “(2) in the case of property acquired by gift,  
16 the basis of property claimed on a return exceeds  
17 the basis as determined under section 1015(f).”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to transfers for which returns are  
20 filed after the date of the enactment of this Act.

1 **SEC. 6. VALUATION RULES FOR CERTAIN TRANSFERS OF**  
2 **NONBUSINESS ASSETS; LIMITATION ON MI-**  
3 **NORITY DISCOUNTS.**

4 (a) IN GENERAL.—Section 2031 of the Internal Rev-  
5 enue Code of 1986 is amended by redesignating subsection  
6 (d) as subsection (f) and by inserting after subsection (c)  
7 the following new subsections:

8 “(d) VALUATION RULES FOR CERTAIN TRANSFERS  
9 OF NONBUSINESS ASSETS.—For purposes of this chapter  
10 and chapter 12—

11 “(1) IN GENERAL.—In the case of the transfer  
12 of any interest in an entity other than an interest  
13 which is actively traded (within the meaning of sec-  
14 tion 1092)—

15 “(A) the value of any nonbusiness assets  
16 held by the entity with respect to such interest  
17 shall be determined as if the transferor had  
18 transferred such assets directly to the trans-  
19 feree (and no valuation discount shall be al-  
20 lowed with respect to such nonbusiness assets),  
21 and

22 “(B) such nonbusiness assets shall not be  
23 taken into account in determining the value of  
24 the interest in the entity.

25 “(2) NONBUSINESS ASSETS.—For purposes of  
26 this subsection—

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

5           “(B) EXCEPTION FOR CERTAIN PASSIVE  
6           ASSETS.—Except as provided in subparagraph  
7           (C), a passive asset shall not be treated for pur-  
8           poses of subparagraph (A) as used in the active  
9           conduct of a trade or business unless—

10                   “(i) the asset is property described in  
11                   paragraph (1) or (4) of section 1221(a) or  
12                   is a hedge with respect to such property,  
13                   or

14                   “(ii) the asset is real property used in  
15                   the active conduct of 1 or more real prop-  
16                   erty trades or businesses (within the mean-  
17                   ing of section 469(c)(7)(C)) in which the  
18                   transferor materially participates and with  
19                   respect to which the transferor meets the  
20                   requirements of section 469(c)(7)(B)(ii).

21           For purposes of clause (ii), material participa-  
22           tion shall be determined under the rules of sec-  
23           tion 469(h), except that section 469(h)(3) shall  
24           be applied without regard to the limitation to  
25           farming activity.

1           “(C) EXCEPTION FOR WORKING CAP-  
2           ITAL.—Any asset (including a passive asset)  
3           which is held as a part of the reasonably re-  
4           quired working capital needs of a trade or busi-  
5           ness shall be treated as used in the active con-  
6           duct of a trade or business.

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

9                   “(A) cash or cash equivalents,

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

13                   “(C) evidence of indebtedness, option, for-  
14           ward or futures contract, notional principal con-  
15           tract, or derivative,

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

18                   “(E) annuity,

19                   “(F) real property used in 1 or more real  
20           property trades or businesses (as defined in sec-  
21           tion 469(e)(7)(C)),

22                   “(G) asset (other than a patent, trade-  
23           mark, or copyright) which produces royalty in-  
24           come,

25                   “(H) commodity,

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

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

5           “(4) LOOK-THRU RULES.—

6           “(A) IN GENERAL.—If a nonbusiness asset  
7           of an entity consists of a 10-percent interest in  
8           any other entity, this subsection shall be ap-  
9           plied by disregarding the 10-percent interest  
10          and by treating the entity as holding directly its  
11          ratable share of the assets of the other entity.  
12          This subparagraph shall be applied successively  
13          to any 10-percent interest of such other entity  
14          in any other entity.

15          “(B) 10-PERCENT INTEREST.—The term  
16          ‘10-percent interest’ means—

17                  “(i) in the case of an interest in a cor-  
18                  poration, ownership of at least 10 percent  
19                  (by vote or value) of the stock in such cor-  
20                  poration,

21                  “(ii) in the case of an interest in a  
22                  partnership, ownership of at least 10 per-  
23                  cent of the capital or profits interest in the  
24                  partnership, and

1                   “(iii) in any other case, ownership of  
2                   at least 10 percent of the beneficial inter-  
3                   ests in the entity.

4                   “(5) COORDINATION WITH SUBSECTION (b).—  
5                   Subsection (b) shall apply after the application of  
6                   this subsection.

7                   “(e) LIMITATION ON MINORITY DISCOUNTS.—For  
8                   purposes of this chapter and chapter 12, in the case of  
9                   the transfer of any interest in an entity other than an in-  
10                  terest which is actively traded (within the meaning of sec-  
11                  tion 1092), no discount shall be allowed by reason of the  
12                  fact that the transferee does not have control of such enti-  
13                  ty if the transferor, the transferee, and members of the  
14                  family (as defined in section 2032A(e)(2)) of the trans-  
15                  feror and transferee—

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

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

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

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

24                  (a) IN GENERAL.—Subsection (b) of section 2702 of  
25                  the Internal Revenue Code of 1986 is amended—



1           (1) by redesignating paragraphs (1), (2), and  
2           (3) as subparagraphs (A), (B), and (C), respectively,  
3           and by moving such subparagraphs (as so redesign-  
4           nated) 2 ems to the right;

5           (2) by striking “For purposes of” and inserting  
6           the following:

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

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

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

13          “(2) ADDITIONAL REQUIREMENTS WITH RE-  
14          SPECT TO GRANTOR RETAINED ANNUITIES.—For  
15          purposes of subsection (a), in the case of an interest  
16          described in paragraph (1)(A) (determined without  
17          regard to this paragraph) which is retained by the  
18          transferor, such interest shall be treated as de-  
19          scribed in such paragraph only if—

20                  “(A) the right to receive the fixed amounts  
21                  referred to in such paragraph is for a term of  
22                  not less than 10 years and not more than the  
23                  life expectancy of the annuitant plus 10 years,

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

4           “(C) the remainder interest has a value, as  
5           determined as of the time of the transfer, which  
6           is—

7                   “(i) not less than an amount equal to  
8                   the greater of—

9                           “(I) 25 percent of the fair mar-  
10                           ket value of the property in the trust,  
11                           or

12                           “(II) \$500,000, and

13                           “(ii) not greater than the fair market  
14                           value of the property in the trust.”.

15           (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to transfers made after the date  
17 of the enactment of this Act.

18 **SEC. 8. CERTAIN TRANSFER TAX RULES APPLICABLE TO**  
19 **GRANTOR TRUSTS.**

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

23           **“CHAPTER 16—SPECIAL RULES FOR**  
24           **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

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

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

4 “(1) the value of the gross estate of the de-  
5 ceased deemed owner of such portion shall include  
6 all assets attributable to that portion at the time of  
7 the death of such owner,

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

12 “(3) if at any time during the life of the  
13 deemed owner of such portion, such owner ceases to  
14 be treated as the owner of such portion under sub-  
15 part E of part 1 of subchapter J of chapter 1, all  
16 assets attributable to such portion at such time shall  
17 be treated for purposes of chapter 12 as a transfer  
18 by gift made by the deemed owner.

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

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

23 “(2) the portion of the trust to which a person  
24 who is not the grantor is a deemed owner by reason  
25 of the rules of subpart E of part 1 of subchapter J  
26 of chapter 1, and such deemed owner engages in a

1 sale, exchange, or comparable transaction with the  
2 trust that is disregarded for purposes of subtitle A.  
3 For purposes of paragraph (2), the portion of the trust  
4 described with respect to a transaction is the portion of  
5 the trust attributable to the property received by the trust  
6 in such transaction, including all retained income there-  
7 from, appreciation thereon, and reinvestments thereof, net  
8 of the amount of consideration received by the deemed  
9 owner in such transaction.

10 “(c) EXCEPTIONS.—This section shall not apply to—

11 “(1) any trust that is includible in the gross es-  
12 tate of the deemed owner (without regard to sub-  
13 section (a)(1)), and

14 “(2) any other type of trust that the Secretary  
15 determines by regulations or other guidance does not  
16 have as a significant purpose the avoidance of trans-  
17 fer taxes.

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

22 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST  
23 MADE BY OWNER.—The amount to which subsection (a)  
24 applies shall be reduced by the value of any transfer by

1 gift by the deemed owner to the trust previously taken  
2 into account by the deemed owner under chapter 12.

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

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

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply—

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

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

17 (3) to any portion of a trust established before  
18 the date of the enactment of this Act to which sec-  
19 tion 2901(a) of the Internal Revenue Code of 1986  
20 (as added by subsection (a)) applies by reason of a  
21 transaction described in section 2901(b)(2) of such  
22 Code on or after such date.

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

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

6 “(h) ELIMINATION OF GST EXEMPTION FOR CER-  
7 TAIN TRUSTS.—

8 “(1) IN GENERAL.—

9 “(A) TRANSFERS FROM NON-QUALIFYING  
10 TRUSTS.—In the case of any generation-skip-  
11 ping transfer made from a trust that is not a  
12 qualifying trust, the inclusion ratio with respect  
13 to any property transferred in such transfer  
14 shall be 1.

15 “(B) QUALIFYING TRUST.—For purposes  
16 of this subsection, the term ‘qualifying trust’  
17 means a trust for which the date of termination  
18 of such trust is not greater than 50 years after  
19 the date on which such trust is created.

20 “(2) TRUSTS CREATED BEFORE DATE OF EN-  
21 ACTMENT.—In the case of any trust created before  
22 the date of the enactment of this subsection, such  
23 trust shall be deemed to be a qualifying trust for a  
24 period of 50 years after the date of the enactment  
25 of this subsection.

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

7           “(4) DATE OF CREATION OF POUR-OVER  
8 TRUSTS.—In the case of any generation-skipping  
9 transfer of property which involves the transfer of  
10 property from 1 trust to another trust, the date of  
11 the creation of the transferee trust shall be treated  
12 as being the earlier of—

13                   “(A) the date of the creation of such trans-  
14                   feree trust, or

15                   “(B) the date of the creation of the trans-  
16                   feror trust.

17           In the case of multiple transfers to which the pre-  
18           ceding sentence applies, the date of the creation of  
19           the transferor trust shall be determined under the  
20           preceding sentence before the application of the pre-  
21           ceding sentence to determine the date of the creation  
22           of the transferee trust.

23           “(5) REGULATIONS.—The Secretary may pre-  
24           scribe such regulations or other guidance as may be

1 necessary or appropriate to carry out this sub-  
2 section.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 10. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL**  
7 **GIFTS.**

8 (a) IN GENERAL.—Paragraph (1) of section 2503(b)  
9 of the Internal Revenue Code of 1986 is amended to read  
10 as follows:

11 “(1) IN GENERAL.—

12 “(A) LIMIT PER DONEE.—In the case of  
13 gifts made to any person by the donor during  
14 the calendar year, the first \$10,000 of such  
15 gifts to such person shall not, for purposes of  
16 subsection (a), be included in the total amount  
17 of gifts made during such year.

18 “(B) CUMULATIVE LIMIT PER DONOR.—

19 “(i) IN GENERAL.—The aggregate  
20 amount excluded under subparagraph (A)  
21 with respect to all transfers described in  
22 clause (ii) made by the donor during the  
23 calendar year shall not exceed twice the  
24 dollar amount in effect under such sub-  
25 paragraph for such calendar year.



1                   “(ii) TRANSFERS SUBJECT TO LIMITA-  
2                   TION.—The transfers described in this  
3                   clause are—

4                                 “(I) a transfer in trust,

5                                 “(II) a transfer of an interest in  
6                   a passthrough entity,

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

9                                 “(IV) any other transfer of prop-  
10                   erty that, without regard to with-  
11                   drawal, put, or other such rights in  
12                   the donee, cannot immediately be liq-  
13                   uidated by the donee.”.

14           (b) CONFORMING AMENDMENT.—Section 2503 of the  
15 Internal Revenue Code of 1986 is amended by striking  
16 subsection (c).

17           (c) REGULATIONS.—The Secretary of the Treasury,  
18 or the Secretary of the Treasury’s delegate, may prescribe  
19 such regulations or other guidance as may be necessary  
20 or appropriate to carry out the amendments made by this  
21 section.

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

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