

119TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide a tax on the assets of trusts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY (for herself, Mr. WYDEN, Mr. VAN HOLLEN, Mr. BOOKER, and Ms. ALSOBROOKS) 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 provide a tax on the assets of trusts, 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 “Fair Trusts for Fiscal
5 Responsibility Act”.

6 **SEC. 2. IMPOSITION OF TAX ON ASSETS OF TRUSTS.**

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

1 **“CHAPTER 16—TAX ON TRUST ASSETS**

 “SUBCHAPTER A—TAX IMPOSED

 “SUBCHAPTER B—TRUST WITHHOLDING CREDIT ACCOUNT

 “SUBCHAPTER C—DEFINITIONS AND OTHER RULES

2 **“Subchapter A—Tax Imposed**

 “Sec. 2901. Imposition of tax.

 “Sec. 2902. Computation of tax.

3 **“SEC. 2901. IMPOSITION OF TAX.**

4 “(a) IN GENERAL.—There is hereby imposed a tax
5 on the net value of all assets of an applicable trust held
6 on the last day of any calendar year.

7 “(b) LIMITATION.—The amount of tax imposed
8 under this chapter on any applicable trust shall not exceed
9 the excess (if any) of—

10 “(1) product of—

11 “(A) the sum of—

12 “(i) the net value of all assets of the
13 trust held as of the last day of the cal-
14 endar year, plus

15 “(ii) the balance of the trust with-
16 holding credit account (as determined
17 under section 2911) as of such day, and

18 “(B) the highest rate of tax under section
19 2001(c) on the estates of decedents dying on
20 such day, over

1 “(2) the amount determined under paragraph
2 (1)(A)(ii).

3 **“SEC. 2902. COMPUTATION OF TAX.**

4 “(a) IN GENERAL.—The tax imposed by section 2901
5 shall be equal to the sum of—

6 “(1) 0 percent of so much of the net value of
7 all assets of the trust as does not exceed the 1 per-
8 cent bracket threshold,

9 “(2) 1 percent of so much of the net value of
10 all assets of the trust in excess of the 1 percent
11 bracket threshold but not in excess of the 1.5 per-
12 cent bracket threshold,

13 “(3) 1.5 percent of so much of the net value of
14 all assets of the trust in excess of the 1.5 percent
15 bracket threshold but not in excess of the 2 percent
16 bracket threshold,

17 “(4) 2 percent of so much of the net value of
18 all assets of the trust in excess of the 2 percent
19 bracket threshold but not in excess of the 3 percent
20 bracket threshold, plus

21 “(5) 3 percent of so much of the net value of
22 all assets of the trust in excess of the 3 percent
23 bracket threshold.

24 “(b) DETERMINATION OF BRACKET THRESHOLDS.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this chapter—

3 “(A) 1 PERCENT BRACKET THRESHOLD.—
4 The 1 percent bracket threshold shall be equal
5 to the lesser of—

6 “(i) \$50,000,000, or

7 “(ii) the sum of—

8 “(I) \$0, plus

9 “(II) the lowest unused 1 percent
10 bracket amount allocated to the trust
11 from among all beneficiaries of the
12 trust.

13 “(B) 1.5 PERCENT BRACKET THRESH-
14 OLD.—The 1.5 percent bracket threshold shall
15 be equal to the lesser of—

16 “(i) \$100,000,000, or

17 “(ii) the sum of—

18 “(I) the 1 percent bracket
19 threshold, plus

20 “(II) the lowest unused 1.5 per-
21 cent bracket amount allocated to the
22 trust from among all beneficiaries of
23 the trust.

1 “(C) 2 PERCENT BRACKET THRESHOLD.—

2 The 2 percent bracket threshold shall be equal

3 to the lesser of—

4 “ (i) \$250,000,000, or

5 “ (ii) the sum of—

6 “ (I) the 1.5 percent bracket

7 threshold, plus

8 “ (II) the lowest unused 2 percent

9 bracket amount allocated to the trust

10 from among all beneficiaries of the

11 trust.

12 “(D) 3 PERCENT BRACKET THRESHOLD.—

13 The 3 percent bracket threshold shall be equal

14 to the lesser of—

15 “ (i) \$1,000,000,000, or

16 “ (ii) the sum of—

17 “ (I) the 2 percent bracket

18 threshold, plus

19 “ (II) the lowest unused 3 percent

20 bracket amount allocated to the trust

21 from among all beneficiaries of the

22 trust.

23 “(2) TREATMENT OF CORPORATIONS, PARTNER-

24 SHIPS, AND TRUSTS.—In the case of any trust all of

25 the beneficiaries of which are corporations, partner-

1 ships, or trusts (after application of the rules of
2 paragraphs (2) and (3) of section 2922(b))—

3 “(A) the 1 percent bracket threshold shall
4 be equal to the amount in effect under para-
5 graph (1)(A)(i),

6 “(B) the 1.5 percent bracket threshold
7 shall be equal to the amount in effect under
8 paragraph (1)(B)(i),

9 “(C) the 2 percent bracket threshold shall
10 be equal to the amount in effect under para-
11 graph (1)(C)(i), and

12 “(D) the 3 percent bracket threshold shall
13 be equal to the amount in effect under para-
14 graph (1)(D)(i).

15 “(3) INFLATION ADJUSTMENT.—

16 “(A) IN GENERAL.—In the case of any cal-
17 endar year beginning after 2027, each of the
18 dollar amounts in subparagraphs (A)(i), (B)(i),
19 (C)(i), and (D)(i) of paragraph (1) shall be in-
20 creased by an amount equal to—

21 “(i) such dollar amount, multiplied by

22 “(ii) the cost-of-living adjustment de-
23 termined under section 1(f)(3) for such
24 calendar year, determined by substituting

1 in subparagraph (A)(ii) thereof ‘calendar
2 year 2026’ for ‘calendar year 2016’.

3 “(B) ROUNDING.—If any amount as ad-
4 justed under subparagraph (A) is not a multiple
5 of \$10,000, such dollar amount shall be round-
6 ed to the next lowest multiple of \$10,000.

7 “(c) ALLOCATION OF UNUSED BRACKET
8 AMOUNTS.—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the amount of any category
11 of unused bracket amount allocated to any trust
12 from a beneficiary shall be equal to the product of—

13 “(A) the maximum amount with respect to
14 such category as determined under paragraph
15 (3)(B), and

16 “(B) the ratio of—

17 “(i) the present value of the bene-
18 ficiary’s beneficial interest in such trust
19 (determined as provided in section
20 6039M(c)(3)), to

21 “(ii) the present value of the bene-
22 ficiary’s beneficial interest (as so deter-
23 mined) in all applicable trusts.

24 “(2) ELECTION TO ASSIGN DIFFERENT
25 AMOUNTS.—A beneficiary may elect to allocate the

1 amount of any category of unused bracket amount
2 in a different manner than provided in paragraph
3 (1), except that the aggregate amount of any cat-
4 egory of unused bracket amounts allocated to all
5 trusts for which such person is a beneficiary may
6 not exceed the maximum amount with respect to
7 such category as determined under paragraph
8 (3)(B). An election made under this section shall be
9 made at such time and in such manner as specified
10 by the Secretary in regulations.

11 “(3) CATEGORIES OF UNUSED BRACKET
12 AMOUNTS; MAXIMUM AMOUNT.—

13 “(A) CATEGORIES OF UNUSED BRACKET
14 AMOUNTS.—For purposes of this subsection,
15 the categories of unused bracket amounts are—

16 “(i) the unused 1 percent bracket
17 amount,

18 “(ii) the unused 1.5 percent bracket
19 amount,

20 “(iii) the unused 2 percent bracket
21 amount, and

22 “(iv) the unused 3 percent bracket
23 amount.

24 “(B) MAXIMUM AMOUNT.—With respect to
25 any person for any calendar year—

1 “(i) the maximum amount with re-
2 spect to the unused 1 percent bracket
3 amount shall be equal to the amount in ef-
4 fect under subsection (b)(1)(A)(i),

5 “(ii) the maximum amount with re-
6 spect to the unused 1.5 percent bracket
7 amount shall be equal to the amount in ef-
8 fect under subsection (b)(1)(B)(i),

9 “(iii) the maximum amount with re-
10 spect to the unused 2 percent bracket
11 amount shall be equal to the amount in ef-
12 fect under subsection (b)(1)(C)(i), and

13 “(iv) the maximum amount with re-
14 spect to the unused 3 percent bracket
15 amount shall be equal to the amount in ef-
16 fect under subsection (b)(1)(D)(i).

17 “(4) SPECIAL RULE FOR CERTAIN BENE-
18 FICIARIES.—

19 “(A) IN GENERAL.—In the case of any
20 beneficiary described in subparagraph (B), no
21 amount shall be allocated under this section
22 and the determination of the lowest amount al-
23 located to a trust under subparagraphs
24 (A)(ii)(II), (B)(ii)(II), (C)(ii)(II), and

1 (D)(ii)(II) of subsection (b)(1) shall be deter-
2 mined without regard to such beneficiary.

3 “(B) BENEFICIARIES DESCRIBED.—A ben-
4 efiary is described in this subparagraph if—

5 “(i) such beneficiary is an exempt
6 beneficiary, or

7 “(ii) such beneficiary is person de-
8 scribed in section 6039M(b)(2).

9 **“Subchapter B—Trust Withholding Credit**
10 **Account**

“Sec. 2911. Trust withholding credit account.

11 **“SEC. 2911. TRUST WITHHOLDING CREDIT ACCOUNT.**

12 “(a) IN GENERAL.—Under rules established by the
13 Secretary—

14 “(1) each applicable trust which is subject to a
15 tax imposed under this chapter, and

16 “(2) each beneficiary of an applicable trust who
17 receives a qualified distribution,

18 shall establish a trust withholding credit account.

19 “(b) ADDITIONS TO ACCOUNT.—

20 “(1) TRUSTS.—The balance of the trust with-
21 holding credit account for any applicable trust shall
22 be increased by the amount of tax imposed under
23 this chapter which is paid by or on behalf of the
24 trust.

1 “(2) BENEFICIARIES.—

2 “(A) IN GENERAL.—The balance of the
3 trust withholding credit account for any bene-
4 ficiary who receives a qualified distribution shall
5 be increased by the ratable share with respect
6 to such distribution.

7 “(B) DISTRIBUTIONS TO CERTAIN COR-
8 PORATE SHAREHOLDERS AND PARTNERS.—

9 “(i) IN GENERAL.—For purposes of
10 this section, in the case of a qualified dis-
11 tribution to a corporation or partnership
12 with respect to which a shareholder or
13 partner is treated as a beneficiary by rea-
14 son of section 2922(b)(3)(B), such share-
15 holder or partner (as the case may be)
16 shall be treated as having directly received
17 a qualified distribution in an amount equal
18 to the applicable percentage of the amount
19 of the distribution made to such corpora-
20 tion or partnership.

21 “(ii) APPLICABLE PERCENTAGE.—For
22 purposes of this subparagraph, the applica-
23 ble percentage is the percentage of the
24 ownership interest held by such individual
25 in the corporation or partnership at the

1 time of the distribution (determined as
2 provided under section 2922(b)(3)(B)).

3 “(C) LIMITATION.—In the case of a quali-
4 fied distribution which is a direct skip from a
5 trust (within the meaning of chapter 13), the
6 amount of the increase under subparagraph (A)
7 shall be reduced by the amount of credit al-
8 lowed under section 2604(c)(2) (if any) to the
9 trust making the distribution.

10 “(c) SUBTRACTIONS.—

11 “(1) TRUSTS.—The balance of the trust with-
12 holding credit account for any applicable trust shall
13 be reduced by—

14 “(A) the ratable share with respect to any
15 qualified distribution made by the trust, and

16 “(B) in the case of a taxable termination
17 (as defined in section 2612), the sum of—

18 “(i) the amount of any credit allowed
19 under section 2604(a), plus

20 “(ii) the product of—

21 “(I) the amount determined
22 under section 2604(a)(1) with respect
23 to such taxable termination, and

1 “(A) the date such property is distributed
2 from the trust, or

3 “(B) the date of the death of such indi-
4 vidual.

5 “(e) RATABLE SHARE.—For purposes of this section,
6 the term ‘ratable share’ means, with respect to any quali-
7 fied distribution, the amount which bears the same ratio
8 to the balance of the trust withholding credit account (de-
9 termined immediately before the qualified distribution)
10 as—

11 “(1) the amount of the qualified distribution,
12 bears to

13 “(2) the net value of assets of the trust (deter-
14 mined immediately before the qualified distribution).

15 **“Subchapter C—Definitions and Other Rules**

“Sec. 2921. Determination of net value of assets.

“Sec. 2922. Other definitions and special rules.

16 **“SEC. 2921. DETERMINATION OF NET VALUE OF ASSETS.**

17 “(a) IN GENERAL.—For purposes of this chapter, the
18 term ‘net value of all assets’ means, as of any date, the
19 value of all property of the trust, real or personal, tangible
20 or intangible, wherever situated, reduced by any qualified
21 debts owed by the taxpayer.

22 “(b) VALUE OF PROPERTY.—

23 “(1) TRADABLE ASSETS.—

1 “(A) IN GENERAL.—In the case of any
2 tradable asset, the value of such asset shall be
3 the fair market value of such asset.

4 “(B) TRADABLE ASSET.—For purposes of
5 this paragraph, the term ‘tradable asset’ means
6 any asset if—

7 “(i) interests in such asset are traded
8 on an established securities market,

9 “(ii) interests in such assets are read-
10 ily tradable on a secondary market (or the
11 substantial equivalent thereof),

12 “(iii) interests in such assets are
13 available on an online or electronic plat-
14 form that regularly matches, or facilitates
15 the matching of, buyers and sellers of such
16 assets, or

17 “(iv) such asset is an asset for which
18 the Secretary determines there is a reason-
19 able basis to determine the asset’s fair
20 market value annually.

21 “(2) OTHER ASSETS.—

22 “(A) IN GENERAL.—In the case of any
23 asset which is not a tradable asset, the value of
24 such asset shall be—

1 “(i) in any case in which there has
2 been a qualified appraisal (as defined in
3 section 170(f)(11)(E)) conducted within
4 the 2-year period ending on the date the
5 value is determined for purposes of this
6 chapter, the value determined under such
7 appraisal, and

8 “(ii) in any other case, the value of
9 such property determined under such other
10 method as prescribed by the Secretary.

11 “(B) DETERMINATION WHERE NO ALTER-
12 NATIVE METHOD.—If subparagraph (A)(i) does
13 not apply and the Secretary has not prescribed
14 a method under subparagraph (A)(ii), the value
15 of such asset shall be the greater of—

16 “(i) the sum of—

17 “(I) the basis of such asset, and

18 “(II) the product of—

19 “(aa) the amount deter-
20 mined under subclause (I), and

21 “(bb) the sum of 1 percent
22 and the long-term rate deter-
23 mined under section 1274(d) for
24 the applicable month, com-
25 pounded semiannually, or

1 “(ii) the value of such property deter-
2 mined by a qualified appraisal (as defined
3 in section 170(f)(11)(E)) conducted within
4 the 5-year period ending on the date the
5 value is determined for purposes of this
6 chapter.

7 “(C) APPLICABLE MONTH.—For purposes
8 of subparagraph (B)(i)(II)—

9 “(i) IN GENERAL.—Except as pro-
10 vided in clause (ii), the term ‘applicable
11 month’ means, with respect to any asset,
12 the month in which such asset was ac-
13 quired by the taxpayer.

14 “(ii) CERTAIN ASSETS WITH CARRY-
15 OVER BASIS.—In the case of any asset the
16 basis in the hands of the taxpayer was de-
17 termined by reference to the basis in the
18 hands of another person, the term ‘applica-
19 ble month’ means the month in which such
20 asset was acquired by such other person.

21 “(3) LIMITATION ON DISCOUNT BY REASON OF
22 FAMILY CONTROL.—

23 “(A) IN GENERAL.—For purposes of this
24 chapter, in the case of any interest in an entity
25 other than an interest which is actively traded

1 (within the meaning of section 1092), if the
2 person who transferred such interest, the trans-
3 feree, and members of the family of the trans-
4 feror and transferee have control of such entity
5 immediately before such transfer, no discount
6 shall be allowed—

7 “(i) by reason of the fact that the
8 transferor or transferee does not have con-
9 trol of such entity,

10 “(ii) by reason of the lack of market-
11 ability of the interest, or

12 “(iii) for any other reason.

13 “(B) DEFINITIONS.—In this paragraph,
14 the terms ‘control’ and ‘member of the family’
15 have the same meanings given such terms in
16 section 2704(e).

17 “(C) CONTRIBUTION.—For purposes of this
18 paragraph, the rule of section 2701(e)(3) shall
19 apply for purposes of determining the interests
20 held by any individual.

21 “(4) VALUATION RULES FOR CERTAIN NON-
22 BUSINESS ASSETS HELD BY NONTRADABLE ENTI-
23 TIES.—

24 “(A) IN GENERAL.—For purposes of this
25 chapter, in the case of any interest in an entity

1 other than an interest which is a tradable
2 asset—

3 “(i) the value of any nonbusiness as-
4 sets held by the entity with respect to such
5 interest shall be determined as if the owner
6 of the entity directly held its ratable share
7 of such nonbusiness assets (and no valu-
8 ation discount shall be allowed with respect
9 to such nonbusiness assets), and

10 “(ii) such nonbusiness assets shall not
11 be taken into account in determining the
12 value of the interest in the entity and the
13 basis of such nonbusiness assets shall not
14 be taken into account in determining the
15 basis of such interest under paragraph
16 (2)(A)(i).

17 “(B) NONBUSINESS ASSETS.—For pur-
18 poses of this paragraph—

19 “(i) IN GENERAL.—The term ‘non-
20 business asset’ means any asset other than
21 an asset which is used in the active con-
22 duct of a trade or business.

23 “(ii) PASSIVE ASSETS TREATED AS
24 NONBUSINESS ASSETS.—For purposes of

1 clause (i), a passive asset shall be treated
2 as a nonbusiness asset unless—

3 “(I) the asset is property de-
4 scribed in paragraph (1) or (4) of sec-
5 tion 1221(a) or is a hedge with re-
6 spect to such property, or

7 “(II) the asset is real property
8 used in the active conduct of 1 or
9 more real property trades or busi-
10 nesses (within the meaning of section
11 469(c)(7)(C)) in which the transferor
12 materially participates and with re-
13 spect to which the transferor meets
14 the requirements of section
15 469(c)(7)(B)(ii).

16 “(iii) MATERIAL PARTICIPATION.—
17 For purposes of clause (ii)(II), material
18 participation shall be determined under the
19 rules of section 469(h), except that section
20 469(h)(3) shall be applied without regard
21 to the limitation to farming activity.

22 “(iv) WORKING CAPITAL TREATED AS
23 USED IN TRADE OR BUSINESS.—Any asset
24 (including a passive asset) which is held as
25 a part of the reasonably required working

1 capital needs of a trade or business shall
2 be treated as used in the active conduct of
3 a trade or business.

4 “(C) PASSIVE ASSET.—For purposes of
5 this paragraph, the term ‘passive asset’ means
6 any—

7 “(i) cash or cash equivalents,

8 “(ii) stock in a corporation or any
9 other equity, profits, or capital interest in
10 any entity,

11 “(iii) evidence of indebtedness, option,
12 forward or futures contract, notional prin-
13 cipal contract, or derivative,

14 “(iv) asset described in clause (iii),
15 (iv), or (v) of section 351(e)(1)(B),

16 “(v) annuity,

17 “(vi) real property used in 1 or more
18 real property trades or businesses (as de-
19 fined in section 469(c)(7)(C)),

20 “(vii) asset (other than a patent,
21 trademark, or copyright) which produces
22 royalty income,

23 “(viii) commodity,

24 “(ix) collectible (within the meaning
25 of section 408(m)), or

1 “(x) any other asset specified in regu-
2 lations prescribed by the Secretary.

3 “(D) LOOK-THRU RULE.—

4 “(i) IN GENERAL.—If a nonbusiness
5 asset of an entity described in subpara-
6 graph (A) consists of a 10-percent interest
7 in any other entity, this paragraph shall be
8 applied by disregarding the 10-percent in-
9 terest and by treating the entity as holding
10 directly its ratable share of the assets of
11 the other entity.

12 “(ii) 10-PERCENT INTEREST.—The
13 term ‘10-percent interest’ means—

14 “(I) in the case of an interest in
15 a corporation, direct ownership of at
16 least 10 percent (by vote or value) of
17 the stock in such corporation,

18 “(II) in the case of an interest in
19 a partnership, direct ownership of at
20 least 10 percent of the capital or prof-
21 its interest in the partnership, and

22 “(III) in any other case, direct
23 ownership of at least 10 percent of
24 the beneficial interests in the entity.

1 “(c) QUALIFIED DEBT.—For purposes of this sec-
2 tion—

3 “(1) IN GENERAL.—The term ‘qualified debt’
4 means any debt other than any debt to a person—

5 “(A) who made a contribution to the trust,

6 “(B) who is a beneficiary of the trust, or

7 “(C) who is related (within the meaning of
8 section 267(b)) to the trust or to a person de-
9 scribed in subparagraph (A) or (B).

10 “(2) TREATMENT OF NONRECOURSE DEBT.—In
11 the case of any debt which is nonrecourse debt, the
12 amount of qualified debt shall not exceed the value
13 of the property securing such debt.

14 “(d) REGULATIONS.—Not later than 12 months after
15 the date of the enactment of this section, the Secretary
16 shall establish rules and methods for determining the
17 value of any asset for purposes of this chapter, including
18 rules for the valuation of assets that are not publicly trad-
19 ed or that do not have a readily ascertainable value.

20 **“SEC. 2922. OTHER DEFINITIONS AND SPECIAL RULES.**

21 “(a) APPLICABLE TRUST.—For purposes of this
22 chapter—

23 “(1) IN GENERAL.—The term ‘applicable trust’
24 means any trust or any portion of a trust to the ex-
25 tent that such trust or portion—

1 “(A) is a United States person described in
2 section 7701(a)(30)(E),

3 “(B) has one or more beneficiaries who are
4 United States persons described in section
5 7701(a)(30), or

6 “(C) has one or more living grantors who
7 are United States persons described in section
8 7701(a)(30)(A).

9 For purposes of this paragraph, a living person who
10 is related (determined under section 267(b), applied
11 by substituting ‘5 percent’ for ‘50 percent’ each
12 place it appears) to a grantor described in subpara-
13 graph (C) shall be treated as a person described in
14 such subparagraph.

15 “(2) EXCEPTIONS.—The term ‘applicable trust’
16 does not include—

17 “(A) a trust—

18 “(i) which is an organization de-
19 scribed in paragraphs (1) through (5) of
20 section 2055(a), or

21 “(ii) from which only transfers de-
22 scribed in section 2055(a) may be made,

23 “(B) a trust described in section 401(a)
24 and exempt from tax under section 501(a),

1 “(C) a trust used to facilitate issuance of
2 securities (as determined by the Secretary
3 under regulations),

4 “(D) a trust which—

5 “(i) has a maximum duration of less
6 than 1 year, and

7 “(ii) is organized and operated exclu-
8 sively for a commercial purpose determined
9 by the Secretary to be applicable under
10 this subsection, and

11 “(E) any trust or portion of a trust where-
12 in the power to revest absolutely in the grantor
13 title to the trust property to which such portion
14 is attributable is exercisable solely by the grant-
15 or without the approval or consent of any other
16 person.

17 “(b) DETERMINATION OF BENEFICIARIES; EXEMPT
18 BENEFICIARY.—For purposes of this chapter—

19 “(1) CONTINGENT BENEFICIARIES.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), the term ‘beneficiary’ shall
22 not include any person whose interest in an ap-
23 plicable trust is contingent on the death of an-
24 other person with an interest in such trust.

1 “(B) EXCEPTION.—The term ‘beneficiary’
2 shall include a person whose interest in an ap-
3 plicable trust is contingent on the death of an-
4 other person with an interest in such trust if—

5 “(i) there exists one or more persons
6 whose interest in such trust is not contin-
7 gent on the death of another person, and

8 “(ii) the amount of funds that may be
9 distributed to any such person are limited
10 by the trust instrument or by means other
11 than the sole discretion of the trustee.

12 “(2) TREATMENT OF BENEFICIARY TRUSTS.—If
13 a trust is the beneficiary of another trust, each trust
14 or individual which holds a beneficial interest in
15 such trust shall be treated as a beneficiary of such
16 other trust.

17 “(3) CORPORATIONS AND PARTNERSHIPS.—

18 “(A) IN GENERAL.—Except for purposes
19 of subparagraph (B), the term ‘beneficiary’
20 shall not include a corporation or a partnership.

21 “(B) TREATMENT OF 5-PERCENT OWN-
22 ERS.—

23 “(i) IN GENERAL.—The term ‘bene-
24 ficiary’ shall include—

1 “(I) any shareholder of a cor-
2 poration which is the beneficiary of an
3 applicable trust if such shareholder
4 holds 5 percent or more of the stock
5 (by vote or value) of such corporation,
6 and

7 “(II) any partner of a partner-
8 ship which is the beneficiary of an ap-
9 plicable trust if such partner owns
10 more than 5 percent of the capital or
11 profits interest in the partnership.

12 “(ii) CONSTRUCTIVE OWNERSHIP
13 RULES.—For purposes of clause (i), rules
14 similar to the rules of paragraphs (2), (3),
15 (4), and (5) of section 318(a) shall apply.

16 “(4) EXEMPT BENEFICIARY.—The term ‘ex-
17 empt beneficiary’ means any beneficiary which is an
18 organization described in section 2055(a).”.

19 (b) INFORMATION REPORTING.—

20 (1) IN GENERAL.—Subpart A of part III of
21 subchapter A of chapter 61 of the Internal Revenue
22 Code of 1986 is amended by inserting after section
23 6039L the following new section:

1 **“SEC. 6039M. INFORMATION WITH RESPECT TO TRUST**
2 **ASSET TAX.**

3 “(a) STATEMENT OF NET ASSETS.—Not later than
4 April 1 of each calendar year, every applicable trust shall
5 file with the Secretary a statement setting forth—

6 “(1) the name and taxpayer identification num-
7 ber of such trust,

8 “(2) the net value of assets of such trust as of
9 the last day of the preceding calendar year,

10 “(3) the name and taxpayer identification num-
11 ber of each beneficiary of such trust, and

12 “(4) the present value of the beneficial interests
13 in the trust of each such beneficiary as of the last
14 day of the preceding calendar year.

15 “(b) ALLOCATION OF UNUSED BRACKET AMOUNT.—

16 “(1) IN GENERAL.—Not later than June 1 of
17 each calendar year, each beneficiary of an applicable
18 trust shall submit to the Secretary a statement set-
19 ting forth—

20 “(A) the name and taxpayer identification
21 number of such beneficiary,

22 “(B) the name and taxpayer identification
23 number of each applicable trust of which such
24 individual is a beneficiary, and

25 “(C) the amount of—

1 “(i) the unused 1 percent bracket
2 amount allocated to each such trust under
3 section 2902(c),

4 “(ii) the unused 1.5 percent bracket
5 amount allocated to each such trust under
6 section 2902(c),

7 “(iii) the unused 2 percent bracket
8 amount allocated to each such trust under
9 section 2902(c), and

10 “(iv) the unused 3 percent bracket
11 amount allocated to each trust under sec-
12 tion 2902(c).

13 “(2) EXCEPTION.—Paragraph (1) shall not
14 apply to any person if the aggregate present value
15 of beneficial interests in all trusts with respect to
16 which such person is a beneficiary is less than
17 \$250,000.

18 “(3) COPIES TO TRUSTS.—Each beneficiary re-
19 quired to submit a statement under paragraph (1)
20 shall (on or before the day on which the statement
21 was required to be filed) furnish to each applicable
22 trust identified on the statement the information re-
23 quired under paragraph (1) with respect to such ap-
24 plicable trust.

1 “(c) DEFINITIONS AND OTHER RULES.—For pur-
2 poses of this section—

3 “(1) APPLICABLE TRUST.—The term ‘applica-
4 ble trust’ has the meaning given such term under
5 chapter 16.

6 “(2) BENEFICIARY.—The term ‘beneficiary’ has
7 the meaning given such term under section 2922(b).

8 “(3) PRESENT VALUE OF BENEFICIAL INTER-
9 ESTS.—The present value of a person’s beneficial in-
10 terest in a trust shall be determined in proportion to
11 the actuarial interest of such person in such trust.”.

12 (2) PENALTIES.—

13 (A) INITIAL STATEMENTS.—Section
14 6724(d)(1) of such Code is amended by striking
15 “and” at the end of subparagraph (B), by
16 striking “and” at the end of subparagraph (C),
17 by striking the period at the end of subpara-
18 graph (D) and inserting “, and”, and by insert-
19 ing after subparagraph (D) the following new
20 subparagraph:

21 “(E) any statement required to be filed
22 under subsection (a) or (b)(1) of section
23 6039M.”.

24 (B) COPIES.—Section 6724(d)(2) of such
25 Code is amended by striking “or” at the end of

1 subparagraph (NN), by striking the period at
2 the end of subparagraph (OO) and inserting “,
3 or”, and by inserting after subparagraph (OO)
4 the following new subparagraph:

5 “(PP) section 6039M(b)(3).”.

6 (3) CLERICAL AMENDMENT.—The table of sec-
7 tions for subpart A of part III of subchapter A of
8 chapter 61 of such Code is amended by inserting
9 after the item relating to section 6039L the fol-
10 lowing new item:

 “Sec. 6039M. Information with respect to trust asset tax.”.

11 (c) NO DEDUCTION FROM INCOME TAXES.—Section
12 275 of the Internal Revenue Code of 1986 is amended by
13 inserting after paragraph (6) the following new paragraph:

14 “(7) Taxes imposed by chapter 16.”.

15 (d) CLERICAL AMENDMENT.—The table of chapters
16 for the Internal Revenue Code of 1986 is amended by in-
17 serting after the item relating to chapter 15 the following
18 new item:

 “CHAPTER 16—TAX ON TRUST ASSETS”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to calendar years beginning after
21 December 31, 2026.

22 **SEC. 3. COORDINATION WITH ESTATE AND GENERATION-**
23 **SKIPPING AND ESTATE TAXES.**

24 (a) TAX ON GENERATION-SKIPPING TRANSFERS.—

1 (1) GROSS-UP OF TAXABLE AMOUNT.—Sub-
2 chapter C of chapter 13 of the Internal Revenue
3 Code of 1986 is amended by adding at the end the
4 following new section:

5 **“SEC. 2625. GROSS UP OF TAXABLE AMOUNT TO INCLUDE**
6 **ADDITIONS TO TRUST WITHHOLDING CREDIT**
7 **ACCOUNT.**

8 “The taxable amount shall be increased—

9 “(1) in the case of a taxable termination, by the
10 amount which bears the same ratio to the balance of
11 the trust withholding credit account of the trust in-
12 volved (determined under section 2911 immediately
13 before the taxable termination) as—

14 “(A) the taxable amount (determined with-
15 out regard to this section), bears to

16 “(B) the net value of assets of such trust
17 (determined under chapter 16 immediately be-
18 fore such taxable distribution), and

19 “(2) in the case of a taxable distribution or a
20 direct skip from a trust, by the amount which bears
21 the same ratio to the balance of the trust with-
22 holding credit account of the trust from which the
23 taxable distribution or direct skip, as the case may
24 be, was made (determined under section 2911 imme-
25 diately before the taxable distribution) as—

1 “(A) the taxable amount (determined with-
2 out regard to this section), bears to

3 “(B) the net value of assets of such trust
4 (determined under chapter 16 immediately be-
5 fore such taxable distribution).”.

6 (2) CREDIT FOR TRUST WITHHOLDING
7 TAXES.—Subchapter A of chapter 13 of the Internal
8 Revenue Code of 1986 is amended by adding at the
9 end the following new section:

10 **“SEC. 2604. CREDIT FOR PREVIOUSLY PAID TRUST ASSET**
11 **TAXES.**

12 “(a) TAXABLE TERMINATIONS.—In the case of a tax-
13 able termination, there shall be allowed a credit against
14 the tax imposed by section 2601 an amount equal to the
15 product of—

16 “(1) the amount which bears the same ratio to
17 the balance of the trust withholding credit account
18 of the trust involved (determined under section 2911
19 as of the time of the taxable termination) as—

20 “(A) the taxable amount (determined with-
21 out regard to section 2625), bears to

22 “(B) the net value of assets of the trust
23 (determined under chapter 16 as of the date of
24 the taxable termination), and

25 “(2) the inclusion ratio.

1 “(b) TAXABLE DISTRIBUTIONS.—In the case of a
2 taxable distribution, there shall be allowed a credit against
3 the tax imposed by section 2601 an amount equal to the
4 product of—

5 “(1) the amount which bears the same ratio to
6 the balance of the trust withholding credit account
7 of the transferee involved (determined under section
8 2911 immediately after the time of the taxable dis-
9 tribution) as—

10 “(A) the taxable amount (determined with-
11 out regard to section 2625), bears to

12 “(B) the net value of assets of the trust
13 (determined under chapter 16 as of the time of
14 the taxable distribution), and

15 “(2) the inclusion ratio.

16 “(c) DIRECT SKIPS.—

17 “(1) IN GENERAL.—In the case of a direct skip,
18 there shall be allowed a credit against the tax im-
19 posed by section 2601 an amount equal to the lesser
20 of—

21 “(A) the product of—

22 “(i) the balance of the trust with-
23 holding credit account of the person liable
24 for such tax (determined under section

1 2911 immediately before the time of the
2 direct skip), and

3 “ (ii) the inclusion ratio, or

4 “ (B) the amount of tax so imposed.

5 “(2) DIRECT SKIPS FROM A TRUST.—In the
6 case of a direct skip from a trust, the amount of the
7 credit determined under this subsection shall not ex-
8 ceed the product of—

9 “ (A) the amount which bears the same
10 ratio to the balance of the trust withholding
11 credit account of the trust involved (determined
12 under section 2911 immediately before the time
13 of the direct skip) as—

14 “ (i) the taxable amount (determined
15 without regard to section 2625), bears to

16 “ (ii) the net value of assets of the
17 trust (determined under chapter 16 as of
18 the time of the direct skip), and

19 “ (B) the inclusion ratio.”.

20 (3) CLERICAL AMENDMENTS.—

21 (A) The table of sections for subchapter A
22 of chapter 13 of such Code is amended by add-
23 ing at the end the following new item:

“Sec. 2604. Credit for previously paid trust asset taxes.”.

1 (B) The table of sections for subchapter A
2 of chapter 13 of such Code is amended by add-
3 ing at the end the following new item:

“Sec. 2625. Gross up of taxable amount to include additions to trust with-
holding credit account.”.

4 (b) ESTATE TAX.—

5 (1) GROSS UP OF TAX.—

6 (A) CITIZENS AND RESIDENTS.—Part III
7 of subchapter A of chapter 11 of the Internal
8 Revenue Code of 1986 is amended by adding at
9 the end the following new section:

10 **“SEC. 2047. TRUST WITHHOLDING CREDIT ACCOUNT BAL-**
11 **ANCE.**

12 “The gross estate shall include the balance of the
13 trust withholding credit account (determined under sec-
14 tion 2911) of the decedent.”.

15 (B) NONRESIDENTS NOT CITIZENS.—Sec-
16 tion 2103 of such Code is amended by adding
17 at the end the following new sentence: “For
18 purposes of this section, the balance of the
19 trust withholding credit account shall be treated
20 as situated in the United States.”.

21 (2) CREDIT FOR PREVIOUSLY PAID TRUST
22 WITHHOLDING TAXES.—

23 (A) ESTATES OF CITIZENS AND RESI-
24 DENTS.—Part II of subchapter A of chapter 11

1 of the Internal Revenue Code of 1986 is
2 amended by adding at the end the following
3 new section:

4 **“SEC. 2017. CREDIT FOR PREVIOUSLY PAID TRUST ASSET**
5 **TAXES.**

6 “There shall be allowed as a credit against the tax
7 imposed by section 2001 an amount equal to the balance
8 of the trust withholding credit account (determined under
9 section 2911) of the decedent.”.

10 (B) ESTATES OF NONRESIDENTS NOT CITI-
11 ZENS.—Section 2102(a) of the Internal Rev-
12 enue Code of 1986 is amended by striking
13 “2012 and 2013 (relating to gift tax and tax on
14 prior transfers)” and inserting “2012, 2013,
15 and 2017”.

16 (C) REFUNDS OF UNUSED CREDITS.—Sec-
17 tion 6401(b) of the Internal Revenue Code of
18 1986 is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(3) ESTATE TAX CREDIT FOR PREVIOUSLY
21 PAID TRUST ASSET TAXES.—

22 “(A) CITIZENS AND RESIDENTS.—If the
23 amount allowable as credit under section 2017
24 exceeds the tax imposed under section 2001 (re-
25 duced by the amount of credits allowed under

1 sections 2010 through 2016), the amount of
2 such excess shall be considered an overpayment.

3 “(B) NONRESIDENTS NOT CITIZENS.—If
4 the amount determined in accordance with sec-
5 tion 2017 and allowable as a credit under sec-
6 tion 2102 exceeds the tax imposed under sec-
7 tion 2011 (reduced by the amount determined
8 in accordance with sections 2012 and 2013 and
9 allowed as a credit under section 2102), the
10 amount of such excess shall be considered an
11 overpayment.”.

12 (3) CLERICAL AMENDMENTS.—

13 (A) The table of sections for subchapter A
14 of chapter 13 of such Code is amended by add-
15 ing at the end the following new item:

“Sec. 2017. Credit for previously paid trust asset taxes.”.

16 (B) The table of sections for subchapter A
17 of chapter 13 of such Code is amended by add-
18 ing at the end the following new item:

“Sec. 2047. Trust withholding credit account balance.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to transfers made in calendar years
21 beginning after, and decedents dying after, December 31,
22 2026.

1 **SEC. 4. PAYMENT OF TAXES OF GRANTOR TRUSTS.**

2 (a) IN GENERAL.—Section 2503 of the Internal Rev-
3 enue Code of 1986 is amended—

4 (1) in subsection (a), by striking “The term”
5 and inserting “Subject to subsection (d), the term”
6 and

7 (2) by inserting after subsection (c) the fol-
8 lowing:

9 “(d) PAYMENT OF TAX ON INCOME OF GRANTOR
10 TRUST.—

11 “(1) IN GENERAL.—Notwithstanding sub-
12 sections (b) and (e), an amount equal to the applica-
13 ble taxes paid with respect to an applicable grantor
14 trust for any calendar year by a person who is the
15 deemed owner of such trust (or portion thereof)
16 shall be treated for purposes of this subtitle as a
17 taxable gift made during such calendar year.

18 “(2) APPLICABLE GRANTOR TRUST.—For pur-
19 poses of this subsection, the term ‘applicable grantor
20 trust’ means any trustor portion of a trust—

21 “(A) with respect to which the taxpayer is
22 considered an owner under subpart E of part I
23 of subchapter J of chapter 1, and

24 “(B) which is not fully revocable by the
25 taxpayer.

1 “(3) APPLICABLE TAXES.—For purposes of this
2 subsection, the term ‘applicable taxes’ means, with
3 respect to any applicable grantor trust—

4 “(A) taxes paid on income, and

5 “(B) taxes paid on the value of assets of
6 the trust.

7 “(4) REIMBURSEMENT BY TRUST.—Paragraph
8 (1) shall not apply with respect to any amount paid
9 by the deemed owner for any calendar year which is
10 reimbursed by the applicable grantor trust during
11 such calendar year.

12 “(5) DATE OF GIFT.—In the case of any
13 amount treated for purposes of this subtitle as a
14 taxable gift pursuant to paragraph (1), such gift
15 shall be deemed to have occurred on the earlier of—

16 “(A) December 31 of the calendar year for
17 which the tax is paid by the person who is the
18 deemed owner,

19 “(B) the day before the date of the death
20 of such person, or

21 “(C) the date on which such person re-
22 nounces any right of reimbursement by the ap-
23 plicable grantor trust with respect to the cal-
24 endar year for which the tax is paid by such
25 person.

1 “(6) DEEMED OWNER.—For purposes of this
2 subsection, the term ‘deemed owner’ has the same
3 meaning given such term under section 1062(c).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 2522 of the Internal Revenue Code
6 of 1986 is amended—

7 (A) by redesignating subsection (f) as sub-
8 section (g), and

9 (B) by inserting after subsection (e) the
10 following new subsection:

11 “(f) DENIAL OF DEDUCTION FOR PAYMENT OF TAX
12 ON INCOME OF GRANTOR TRUST.—No deduction shall be
13 allowed under this section for any amount which is treated
14 as a gift by reason of section 2503(d).”.

15 (2) Section 2523 of such Code is amended by
16 adding at the end the following new subsection:

17 “(j) DENIAL OF DEDUCTION FOR PAYMENT OF TAX
18 ON INCOME OF GRANTOR TRUST.—No deduction shall be
19 allowed under this section for any amount which is treated
20 as a gift by reason of section 2503(d).”.

21 (c) EFFECTIVE DATES.—The amendments made by
22 this section shall apply to amounts paid or incurred after
23 the date of the enactment of this Act.