

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to realize gains from property at the time of death, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

Mr. VAN HOLLEN 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 realize gains from property at the time of death, 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 “Sensible Taxation and  
5 Equity Promotion Act of 2021”.

6 **SEC. 2. REALIZATION OF GAINS AT TIME OF GIFT OR**  
7 **DEATH.**

8 (a) TREATMENT AS SALE.—

9 (1) IN GENERAL.—Part IV of subchapter P of  
10 chapter 1 of the Internal Revenue Code of 1986 is



1                   “(II) such property is distributed  
2                   to any person other than the owner,  
3                   or

4                   “(III) the property would no  
5                   longer be included in the owner’s  
6                   gross estate under chapter 11, or and

7                   “(ii) shall be treated as transferred by  
8                   the owner upon the death of the owner.

9                   “(C) EXCEPTION.—Subparagraph (A)(i)  
10                  shall not apply to property if such property  
11                  would not be included in the gross estate of the  
12                  transferor immediately after the transfer.

13                  “(2) NONGRANTOR TRUSTS.—In the case of  
14                  any trust not described in paragraph (1)—

15                  “(A) all property held by such trust shall  
16                  be treated as sold for fair market value on the  
17                  last day of the taxable year ending 21 years  
18                  after latest of—

19                         “(i) December 31, 2005,

20                         “(ii) the date such trust was estab-  
21                         lished, or

22                         “(iii) the last date on which such  
23                         property was treated as sold by reason of  
24                         this subsection, and

1           “(B) proper adjustment shall be made in  
2           the amount of any gain or loss subsequently re-  
3           alized for gain or loss taken into account under  
4           subparagraph (A).

5           “(c) EXCEPTIONS AND OTHER SPECIAL RULES.—

6           “(1) TANGIBLE PROPERTY.—This section shall  
7           not apply to any tangible personal property other  
8           than a collectible (as defined in section 408(m) with-  
9           out regard to paragraph (3) thereof) which is not  
10          held—

11           “(A) in connection with a trade or busi-  
12          ness, or

13           “(B) for any purpose described in section  
14          212.

15          “(2) SPOUSAL EXCEPTION.—

16           “(A) IN GENERAL.—Subsections (a) and  
17          (b)(1)(B) shall not apply to any transfer if such  
18          transfer—

19           “(i) is made to the spouse or surviving  
20          spouse of the transferor, or

21           “(ii) is a transfer of qualified terminal  
22          interest property or of property to which  
23          section 2056(b)(5) or 2523(e) applies.

24          “(B) CERTAIN REMAINDER INTERESTS  
25          TREATED AS TRANSFERRED BY SPOUSE.—Prop-

1           erty described in subparagraph (A)(ii) shall be  
2           treated as sold by the spouse or surviving  
3           spouse on the earlier of the date of the dispo-  
4           sition of such property by such spouse or sur-  
5           viving spouse or the date of the death of such  
6           spouse or surviving spouse.

7           “(C) QUALIFIED TERMINAL INTEREST  
8           PROPERTY.—For purposes of this paragraph,  
9           the term ‘qualified terminal interest property’  
10          means any property described in section  
11          2056(b)(7) or 2523(f)(2).

12          “(D) DISALLOWANCE OF SPOUSAL EXCEP-  
13          TION WHERE SPOUSE OR SURVIVING SPOUSE  
14          NOT UNITED STATES CITIZEN OR LONG-TERM  
15          RESIDENT.—

16               “(i) IN GENERAL.—Subparagraph (A)  
17               shall not apply if the spouse or surviving  
18               spouse of the decedent is not a citizen or  
19               long-term resident of the United States.

20               “(ii) LONG-TERM RESIDENT.—For  
21               purposes of clause (i), the term ‘long-term  
22               resident’ means any individual (other than  
23               a citizen of the United States) who is a  
24               lawful permanent resident of the United  
25               States—

1                   “(I) for the taxable year in which  
2                   the transfer described in subsection  
3                   (a) or (b)(1) occurs, and

4                   “(II) in at least 8 taxable years  
5                   during the period of 15 taxable years  
6                   ending with the taxable year during  
7                   which the transfer described in sub-  
8                   section (a) or (b)(1) occurs.

9                   For purposes of the preceding sentence, an  
10                   individual shall not be treated as a lawful  
11                   permanent resident for any taxable year if  
12                   such individual is treated as a resident of  
13                   a foreign country for the taxable year  
14                   under the provisions of a tax treaty be-  
15                   tween the United States and the foreign  
16                   country and does not waive the benefits of  
17                   such treaty applicable to residents of the  
18                   foreign country.

19                   “(3) GIFTS AND BEQUESTS TO CHARITY.—

20                   “(A) TRANSFERS.—Subsections (a) and  
21                   (b)(1)(B) shall not apply to any transfer if such  
22                   transfer is made to or for the use of an organi-  
23                   zation described in section 170(c).

24                   “(B) PROPERTY HELD IN TRUST.—Sub-  
25                   section (b)(2) shall not apply to any property

1 which is set aside for the use of an organization  
2 described in section 170(e).

3 “(C) VALUATION OF CERTAIN TRANSFERS  
4 IN TRUST.—For purposes of this section, rules  
5 similar to the rules of section 2702 shall apply.

6 “(D) INCOME INTERESTS, ETC.—Subpara-  
7 graph (A) shall not apply to the value of any  
8 interest in property (other than a remainder in-  
9 terest) transferred in trust unless the interest is  
10 in the form of a guaranteed annuity or the  
11 trust instrument specifies that the interest is a  
12 fixed percentage distributed yearly of the fair  
13 market value of the trust property (to be deter-  
14 mined yearly).

15 “(4) QUALIFIED DISABILITY TRUSTS AND CEM-  
16 ETERY PERPETUAL CARE FUNDS.—Subsection (b)(2)  
17 shall not apply to any qualified disability trust (as  
18 defined in section 642(b)(2)(C)(ii)) or any cemetery  
19 perpetual care fund described in section 642(i).”.

20 (2) CLERICAL AMENDMENT.—The table of sec-  
21 tions for part IV of subchapter P of chapter 1 of  
22 such Code is amended by adding at the end the fol-  
23 lowing new item:

“Sec. 1261. Gains from certain property transferred by gift or upon death.”.

24 (b) TREATMENT OF BASIS FOR GIFTS AND BE-  
25 QUESTS TO WHICH TAX APPLIES.—

1           (1) PROPERTY ACQUIRED BY GIFT.—Subsection  
2           (a) section 1015 of the Internal Revenue Code of  
3           1986 is amended—

4                   (A) by striking “If the property” and in-  
5                   serting the following:

6                   “(1) GIFTS BEFORE JANUARY 1, 2021.—If the  
7                   property”,

8                   (B) by inserting “and before January 1,  
9                   2021” after “after December 31, 1920”, and

10                   (C) by adding at the end the following new  
11                   paragraph:

12                   “(2) GIFTS AFTER DECEMBER 31, 2020.—

13                           “(A) IN GENERAL.—If the property was  
14                           acquired by gift after December 31, 2020, the  
15                           basis shall be the value of the property taken  
16                           into account by the donor for purposes of sec-  
17                           tion 1261(a).

18                           “(B) SPECIAL RULES FOR CHARITABLE  
19                           ORGANIZATIONS.—In the case of any property  
20                           acquired by an organization described in section  
21                           170(c) by gift, subparagraph (A) shall not  
22                           apply and paragraph (1) shall be applied with-  
23                           out regard to the phrase ‘and before January 1,  
24                           2021’.”.

1           (2) PROPERTY ACQUIRED IN TRUST.—Sub-  
2           section (b) section 1015 of the Internal Revenue  
3           Code of 1986 is amended—

4                   (A) by striking “If the property” and in-  
5                   serting the following:

6                   “(1) TRANSFERS IN TRUST BEFORE JANUARY 1,  
7           2021.—If the property”;

8                   (B) by inserting “and before January 1,  
9                   2021” after “after December 31, 1920”, and

10                   (C) by adding at the end the following new  
11                   paragraph:

12                   “(2) TRANSFERS IN TRUST AFTER DECEMBER  
13           31, 2020.—

14                   “(A) IN GENERAL.—If the property was  
15                   acquired after December 31, 2020, by a trans-  
16                   fer in trust (other than by a transfer in trust  
17                   by a gift, bequest, or devise) the basis shall be  
18                   the value of the property taken into account by  
19                   the grantor for purposes of section 1261(a).

20                   “(B) SPECIAL RULES FOR CHARITABLE  
21                   ORGANIZATIONS.—In the case of any property  
22                   acquired by an organization described in section  
23                   170(c) by a transfer in trust, subparagraph (A)  
24                   shall not apply and paragraph (1) shall be ap-

1           plied without regard to the phrase ‘and before  
2           January 1, 2021’.”.

3           (3) PROPERTY ACQUIRED FROM A DECE-  
4           DENT.—

5                   (A) IN GENERAL.—Section 1014(a) of the  
6           Internal Revenue Code of 1986 is amended by  
7           striking paragraphs (1) through (4) and insert-  
8           ing the following:

9           “(1) in the case of property to which section  
10          1261(a) applies by reason of the decedent’s death,  
11          the value of the property taken into account by the  
12          decedent for purposes of section 1261(a), and

13          “(2) in any other case, the fair market value of  
14          the property at the date of the decedent’s death.”.

15                   (B) CONFORMING AMENDMENTS AND  
16           OTHER MODIFICATIONS.—

17                   (i) Section 1014(b) of such Code is  
18           amended—

19                           (I) by striking paragraphs (6)  
20                           and (9),

21                           (II) by redesignating paragraph  
22                           (10) as paragraph (6),

23                           (III) by inserting after paragraph  
24                           (6) (as so redesignated) the following  
25                           new paragraph:

1           “(7) Property to which section 1261(a) applies  
2           by reason of the decedent’s death.”, and

3                           (IV) by striking the last sen-  
4                           tence.

5                           (ii) Section 1014 of such Code is  
6                           amended—

7                                   (I) by striking subsections (d)  
8                                   and (e) and by redesignating sub-  
9                                   section (f) as subsection (d), and

10                                   (II) in subsection (d)(1) (as so  
11                                   redesignated), by striking “subsection  
12                                   (a)” and inserting “subsection  
13                                   (a)(2)”.

14                           (C) PROPERTY ACQUIRED FROM DECE-  
15                           DENT SPOUSES.—Section 1014 of such Code,  
16                           as amended by subparagraph (B), is amended  
17                           by adding at the end the following new sub-  
18                           section:

19           “(e) PROPERTY ACQUIRED FROM DECEDENT  
20 SPOUSES.—In the case of any property acquired from or  
21 which has passed from a decedent in a transfer described  
22 in section 1041(a)(1), the basis of such property in the  
23 hands of the transferee shall be determined under section  
24 1041(b) and not this section.”.

1           (4)    RULE    FOR    TRANSFERS    BETWEEN  
2    SPOUSES.—

3           (A)    IN GENERAL.—Section 1041(b) of the  
4    Internal Revenue Code of 1986 is amended to  
5    read as follows:

6           “(b) TRANSFEREE HAS TRANSFEROR’S BASIS.—In  
7    the case of any transfer of property described in sub-  
8    section (a), the basis of the transferee in the property shall  
9    be the adjusted basis of the transferor.”.

10          (B)    CONFORMING AMENDMENT.—Section  
11          1015(e) of such Code is amended by striking  
12          “1041(b)(2)” and inserting “1041(b)”.

13          (c)    TREATMENT OF RELATED TAXPAYERS.—

14          (1)    IN GENERAL.—Section 267(g) of such Code  
15          is amended—

16                (A) by striking “shall not apply to any  
17                transfer” and inserting “shall not apply to—  
18                “(1) any transfer”,

19                (B) by striking the period at the end and  
20                inserting “, and”, and

21                (C) by adding at the end the following new  
22                paragraph:

23                “(2) any transfer—

1           “(A) to which section 1261 (relating to  
2           gains from certain property transferred by gift  
3           or at death) applies, and

4           “(B) which is made by reason of the death  
5           of the taxpayer.”.

6           (2) CONFORMING AMENDMENT.—The heading  
7           of section 267(g) of such Code is amended by strik-  
8           ing “WITH SECTION 1041”.

9           (d) REPORTING REQUIREMENT FOR CERTAIN  
10 TRUSTS.—

11           (1) IN GENERAL.—Subpart B of chapter 3 of  
12           subchapter A of chapter 61 of the Internal Revenue  
13           Code of 1986 is amended by inserting after section  
14           6048 the following new section:

15 **“SEC. 6048A. INFORMATION WITH RESPECT TO CERTAIN**  
16 **DOMESTIC TRUSTS.**

17           “(a) IN GENERAL.—In the case of any trust de-  
18           scribed in subsection (b), the trustee shall submit to the  
19           Secretary—

20           “(1) a full and complete accounting of all trust  
21           activities and operations for the year,

22           “(2) the name, address, and TIN of the trustee,

23           “(3) the name, address, and TIN of the grant-

24           or,

1           “(4) the name, address, and TIN of each bene-  
2           ficiary of the trust, and

3           “(5) such other information as the Secretary  
4           may prescribe.

5           “(b) TRUST DESCRIBED.—A trust is described in this  
6           subsection for any taxable year if—

7           “(1) the aggregate value of the assets of the  
8           trust on the last day of the taxable year exceeds  
9           \$1,000,000, or

10           “(2) the gross income of the trust for the tax-  
11           able year exceeds \$20,000.

12           “(c) EXCEPTION.—This section shall not apply to any  
13           trust for a taxable year if section 6034(b) or 6048(b) ap-  
14           plies to such trust for such taxable year.”.

15           (2) PENALTIES.—Section 6724(d)(1) of such  
16           Code is amended by striking “and” at the end of  
17           subparagraph (C)(ii), by striking the period at the  
18           end of subparagraph (D) and inserting “, and”, and  
19           by adding at the end the following new subpara-  
20           graph:

21           “(E) any information required to be sub-  
22           mitted to the Secretary under section 6048A.”.

23           (3) CLERICAL AMENDMENT.—The table of sec-  
24           tions for subpart B of chapter 3 of subchapter A of  
25           chapter 61 of such Code is amended by inserting

1 after the item relating to section 6048 the following  
2 new item:

“Sec. 6048A. Information with respect to certain domestic trusts.”.

3 (4) EFFECTIVE DATE.—The amendments made  
4 by this subsection shall apply to taxable years begin-  
5 ning after December 31, 2020.

6 **SEC. 3. EXCLUSION OF CERTAIN AMOUNTS OF REALIZED**  
7 **GAIN.**

8 (a) IN GENERAL.—Part III of subchapter B of chap-  
9 ter 1 of the Internal Revenue Code of 1986, as amended  
10 by section 111, is amended by inserting after section  
11 139H the following new section:

12 **“SEC. 139I. EXCLUSION OF GAIN FROM TRANSFERS OF CER-**  
13 **TAIN APPRECIATED ASSETS.**

14 “(a) IN GENERAL.—In the case of an individual,  
15 gross income for any taxable year ending before the date  
16 of the taxpayer’s death shall not include so much of the  
17 gain from transfers described in section 1261(a) of any  
18 property as does not exceed the excess of—

19 “(1) \$100,000, over

20 “(2) the aggregate amount excluded under this  
21 subsection for all preceding taxable years.

22 “(b) INCREASED AMOUNT FOR TAXABLE YEAR OF  
23 DEATH.—In the case of an individual, gross income for  
24 any taxable year which includes the date of the taxpayer’s  
25 death shall not include so much of the gain from transfers

1 described in section 1261(a) of any property as does not  
2 exceed the excess of—

3 “(1) \$1,000,000, over

4 “(2) the aggregate amount excluded under this  
5 subsection (a) for all preceding taxable years.

6 “(c) INFLATION ADJUSTMENTS.—

7 “(1) IN GENERAL.—In the case of any taxable  
8 year beginning after 2021, the \$100,000 amount in  
9 subsection (a)(1) and the \$1,000,000 amount in  
10 subsection (b)(1) shall each be increased by an  
11 amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-  
14 mined under section 1(f)(3) for the calendar  
15 year in which the taxable year begins, deter-  
16 mined by substituting in subparagraph (A)(ii)  
17 thereof ‘calendar year 2020’ for ‘calendar year  
18 2016’.

19 “(2) ROUNDING.—If any amount as adjusted  
20 under paragraph (1) is not a multiple of \$10,000,  
21 such dollar amount shall be rounded to the next low-  
22 est multiple of \$10,000.”.

23 (b) CLERICAL AMENDMENT.—The table of sections  
24 for part III of subchapter B of chapter 1 of such Code

1 is amended by inserting after section 139H the following  
2 new item:

“Sec. 139I. Exclusion of gain from transfers of certain appreciated assets.”.

3 **SEC. 4. DEDUCTION FOR COSTS OF APPRAISAL OF APPRE-**  
4 **CIATED ASSETS.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-  
6 ter 1 of the Internal Revenue Code of 1986 is amended  
7 by adding at the end the following new section:

8 **“SEC. 199B. APPRAISALS OF CERTAIN ASSETS.**

9 “There shall be allowed as a deduction costs paid or  
10 incurred with respect to the appraisal of any property  
11 which is treated as sold during the taxable year by reason  
12 of section 1261.”.

13 (b) DEDUCTION NOT TREATED AS MISCELLANEOUS  
14 ITEMIZED DEDUCTION.—Section 67(b) of such Code is  
15 amended by striking “, and” at the end of paragraph (11),  
16 by striking the period at the end of paragraph (12) and  
17 inserting “, and”, and by adding at the end the following  
18 new paragraph:

19 “(13) the deduction allowed under section 199B  
20 (relating to appraisals of certain assets).”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 for part VI of subchapter B of chapter 1 of such Code  
23 is amended by adding at the end the following new item:

“Sec. 199B. Appraisals of certain assets.”.

1 **SEC. 5. EXTENSION OF TIME FOR PAYMENT OF TAX.**

2 (a) EXTENSION OF TIME.—

3 (1) IN GENERAL.—Subpart B of chapter 62 of  
4 the Internal Revenue Code of 1986 is amended by  
5 adding at the end the following new section:

6 **“SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF GAINS**  
7 **ON CERTAIN ASSETS REALIZED BY REASON**  
8 **OF DEATH.**

9 “(a) 10-YEAR INSTALLMENT PAYMENT.—

10 “(1) IN GENERAL.—In the case of any gain  
11 with respect to an eligible asset that is recognized  
12 under section 1261(a) by reason of the death of the  
13 taxpayer or under section 1261(b)(2), the taxpayer  
14 (or in the case of a decedent, the person filing the  
15 final return of income tax with respect to the person  
16 recognizing such gain) may elect to pay part or all  
17 of the tax imposed on such gain in 2 or more (but  
18 not exceeding 10) equal installments.

19 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

20 If an election is made under paragraph (1), the first  
21 installment shall be paid on or before the date se-  
22 lected by the person described in paragraph (1)  
23 which is not more than 5 years after the date pre-  
24 scribed by section 6151(a) for payment of the tax,  
25 and each succeeding installment shall be paid on or  
26 before the date which is 1 year after the date pre-

1 scribed by this paragraph for payment of the pre-  
2 ceding installment.

3 “(b) ELIGIBLE ASSET.—For purposes of this section,  
4 the term ‘eligible asset’ means any property other than  
5 personal property of a type which is actively traded (within  
6 the meaning of section 1092(d)(1)).

7 “(c) PORTION OF TAX ELIGIBLE.—The amount of  
8 tax to which this section applies shall not exceed the excess  
9 of—

10 “(1) the tax computed under chapter 1 (deter-  
11 mined after application of section 1261), over

12 “(2) the tax computed under chapter 1 (deter-  
13 mined without regard to section 1261).

14 “(d) ELECTION.—Any election under subsection (a)  
15 shall be made not later than the time prescribed by section  
16 6072 for filing the return of tax imposed under chapter  
17 1 (including extensions thereof), and shall be made in such  
18 manner as the Secretary shall by regulations prescribe. If  
19 an election under subsection (a) is made, the provisions  
20 of this subtitle shall apply as though the Secretary were  
21 extending the time for payment of the tax.

22 “(e) PRORATION OF DEFICIENCY TO INSTALL-  
23 MENTS.—If an election is made under subsection (a) to  
24 pay any part of the tax imposed under chapter 1 in install-  
25 ments and a deficiency has been assessed, the deficiency

1 shall (subject to the limitation provided by subsection  
2 (a)(2)) be prorated to the installments payable under sub-  
3 section (a). The part of the deficiency so prorated to any  
4 installment the date for payment of which has not arrived  
5 shall be collected at the same time as, and as a part of,  
6 such installment. The part of the deficiency so prorated  
7 to any installment the date for payment of which has ar-  
8 rived shall be paid upon notice and demand from the Sec-  
9 retary. This subsection shall not apply if the deficiency  
10 is due to negligence, to intentional disregard of rules and  
11 regulations, or to fraud with intent to evade tax.

12       “(f) TIME FOR PAYMENT OF INTEREST.—If the time  
13 for payment of any amount of tax has been extended  
14 under this section—

15               “(1) INTEREST FOR FIRST 5 YEARS.—Interest  
16 payable under section 6601 of any unpaid portion of  
17 such amount attributable to the first 5 years after  
18 the date prescribed by section 6151(a) for payment  
19 of the tax shall be paid annually.

20               “(2) INTEREST FOR PERIODS AFTER FIRST 5  
21 YEARS.—Interest payable under section 6601 on any  
22 unpaid portion of such amount attributable to any  
23 period after the 5-year period referred to in para-  
24 graph (1) shall be paid annually at the same time

1 as, and as a part of, each installment payment of  
2 the tax.

3 “(3) INTEREST IN THE CASE OF CERTAIN DEFICI-  
4 CIENCIES.—In the case of a deficiency to which sub-  
5 section (e) applies which is assessed after the close  
6 of the 5-year period referred to in paragraph (1), in-  
7 terest attributable to such 5-year period, and inter-  
8 est assigned under paragraph (2) to any installment  
9 the date for payment of which has arrived on or be-  
10 fore the date of the assessment of the deficiency,  
11 shall be paid upon notice and demand from the Sec-  
12 retary.

13 “(4) SELECTION OF SHORTER PERIOD.—If the  
14 person described in subsection (a)(1) has selected a  
15 period shorter than 5 years under subsection (a)(2),  
16 such shorter period shall be substituted for 5 years  
17 in paragraphs (1), (2), and (3) of this subsection.

18 “(g) ACCELERATION OF PAYMENT.—

19 “(1) IN GENERAL.—If, at any time after the  
20 date on which the gain on an eligible asset was rec-  
21 ognized under section 1261—

22 “(A) any portion of an interest in such eli-  
23 gible asset is distributed, sold, exchanged, or  
24 otherwise disposed of, or

1           “(B) nonrecourse indebtedness is secured  
2           in whole or in part by a portion of such eligible  
3           capitol asset,  
4           then the extension of time for payment of tax pro-  
5           vided in subsection (a) shall cease to apply with re-  
6           spect to such portion of the interest in such eligible  
7           capitol asset, and the unpaid portion of the tax pay-  
8           able in installments shall be paid upon notice and  
9           demand from the Secretary.

10           “(2) FAILURE TO MAKE PAYMENT OF PRIN-  
11           CIPAL OR INTEREST.—

12           “(A) IN GENERAL.—Except as provided in  
13           subparagraph (B), if any payment of principal  
14           or interest under this section is not paid on or  
15           before the date fixed for its payment by this  
16           section (including any extension of time), the  
17           unpaid portion of the tax payable in install-  
18           ments shall be paid upon notice and demand  
19           from the Secretary.

20           “(B) PAYMENT WITHIN 6 MONTHS.—If  
21           any payment of principal or interest under this  
22           section is not paid on or before the date deter-  
23           mined under subparagraph (A) but is paid  
24           within 6 months of such date—

1                   “(i) the provisions of subparagraph  
2                   (A) shall not apply with respect to such  
3                   payment,

4                   “(ii) the provisions of section 6601(k)  
5                   shall not apply with respect to the deter-  
6                   mination of interest on such payment, and

7                   “(iii) there is imposed a penalty in an  
8                   amount equal to the product of—

9                                 “(I) 5 percent of the amount of  
10                                such payment, multiplied by

11                               “(II) the number of months (or  
12                                fractions thereof) after such date and  
13                                before payment is made.

14                   The penalty imposed under clause (iii)  
15                   shall be treated in the same manner as a  
16                   penalty imposed under subchapter B of  
17                   chapter 68

18                   “(h) REGULATIONS.—The Secretary shall prescribe  
19                   such regulations as may be necessary to the application  
20                   of this section.

21                   “(i) CROSS REFERENCES.—

22                               “(1) SECURITY.—For authority of the Sec-  
23                   retary to require security in the case of an extension  
24                   under this section, see section 6165.



1 regulations prescribe) and files the agreement referred to  
2 in subsection (c), the deferred amount (plus any interest,  
3 additional amount, addition to tax, assessable penalty, and  
4 costs attributable to the deferred amount) shall be a lien  
5 in favor of the United States on any section 6168 lien  
6 property.

7 “(b) SECTION 6168 LIEN PROPERTY.—

8 “(1) IN GENERAL.—For purposes of this sec-  
9 tion, the term ‘section 6168 lien property’ means in-  
10 terests in an eligible asset with respect to which an  
11 election has been made under section 6168 to the  
12 extent such interests—

13 “(A) can be expected to survive the defer-  
14 ral period, and

15 “(B) are designated in the agreement re-  
16 ferred to in subsection (c).

17 “(2) MAXIMUM VALUE OF REQUIRED PROP-  
18 erty.—The maximum value of the property which  
19 the Secretary may require as section 6168 lien prop-  
20 erty with respect to any eligible asset shall be a  
21 value which is not greater than the sum of—

22 “(A) the deferred amount, and

23 “(B) the required interest amount.

24 For purposes of the preceding sentence, the value of  
25 any property shall be determined as of the date pre-

1 scribed by section 6151(a) for payment of the tax  
2 imposed by chapter 1 and shall be determined by  
3 taking into account any encumbrance.

4 “(3) PARTIAL SUBSTITUTION OF BOND FOR  
5 LIEN.—If the value required as section 6168 lien  
6 property pursuant to paragraph (2) exceeds the  
7 value of the interests in property covered by the  
8 agreement referred to in subsection (c), the Sec-  
9 retary may accept bond in an amount equal to such  
10 excess conditioned on the payment of the amount ex-  
11 tended in accordance with the terms of such exten-  
12 sion.

13 “(c) AGREEMENT.—The agreement referred to in  
14 this subsection is—

15 “(1) in the case of a taxpayer who is a trustee  
16 making an election with respect to eligible assets  
17 recognized under section 1261(b)(2), a written  
18 agreement signed by such trustee, and

19 “(2) in the case of a decedent with respect to  
20 whom eligible assets are recognized under section  
21 1261(a) by reason of death, a written agreement  
22 signed by each person in being who has an interest  
23 (whether or not in possession) in any property des-  
24 ignated in such agreement—

1           “(A) consenting to the creation of the lien  
2           under this section with respect to such prop-  
3           erty, and

4           “(B) designating a responsible person who  
5           shall be the agent for the person described in  
6           section 6168(a) and for the persons who have  
7           consented to the creation of the lien in dealings  
8           with the Secretary on matters arising under  
9           section 6168 or this section.

10       “(d) SPECIAL RULES.—

11           “(1) REQUIREMENT THAT LIEN BE FILED.—  
12       The lien imposed by this section shall not be valid  
13       as against any purchaser, holder of a security inter-  
14       est, mechanic’s lien, or judgment lien creditor until  
15       notice thereof which meets the requirements of sec-  
16       tion 6323(f) has been filed by the Secretary. Such  
17       notice shall not be required to be refiled.

18           “(2) PERIOD OF LIEN.—The lien imposed by  
19       this section shall arise at the time notice is filed pur-  
20       suant to paragraph (1) and shall continue until the  
21       liability for the deferred amount is satisfied or be-  
22       comes unenforceable by reason of lapse of time.

23           “(3) PRIORITIES.—Even though notice of a lien  
24       imposed by this section has been filed as provided in

1 paragraph (1), such lien shall not be valid to the ex-  
2 tent provided in section 6323(b).

3 “(4) LIEN TO BE IN LIEU OF SECTION 6321  
4 LIEN.—If there is a lien under this section on any  
5 property, there shall not be any lien under section  
6 6321 on such property.

7 “(5) ADDITIONAL LIEN PROPERTY REQUIRED  
8 IN CERTAIN CASES.—If at any time the value of the  
9 property covered by the agreement is less than the  
10 unpaid portion of the deferred amount and the re-  
11 quired interest amount, the Secretary may require  
12 the addition of property to the agreement (but he  
13 may not require under this paragraph that the value  
14 of the property covered by the agreement exceed  
15 such unpaid portion). If property having the re-  
16 quired value is not added to the property covered by  
17 the agreement (or if other security equal to the re-  
18 quired value is not furnished) within 90 days after  
19 notice and demand therefor by the Secretary, the  
20 failure to comply with the preceding sentence shall  
21 be treated as an act accelerating payment of the in-  
22 stallments under section 6168(g).

23 “(6) LIEN TO BE IN LIEU OF BOND.—The Sec-  
24 retary may not require under section 6165 the fur-  
25 nishing of any bond for the payment of any tax to

1 which an agreement which meets the requirements  
2 of subsection (c) applies.

3 “(e) DEFINITIONS.—For purposes of this section—

4 “(1) DEFERRED AMOUNT.—The term ‘deferred  
5 amount’ means, with respect to any eligible asset,  
6 the aggregate amount deferred under section 6168  
7 (determined as of the date prescribed by section  
8 6151(a) for payment of the tax imposed by chapter  
9 1).

10 “(2) REQUIRED INTEREST AMOUNT.—The term  
11 ‘required interest amount’ means, with respect to  
12 any eligible asset, the aggregate amount of interest  
13 which will be payable over the first 4 years of the  
14 deferral period with respect to the deferred amount  
15 (determined as of the date prescribed by section  
16 6151(a) for the payment of the tax imposed by  
17 chapter 1).

18 “(3) DEFERRAL PERIOD.—The term ‘deferral  
19 period’ means, with respect to any eligible asset, the  
20 period for which the payment of tax is deferred pur-  
21 suant to the election under section 6168.

22 “(4) APPLICATION OF DEFINITIONS IN CASE OF  
23 DEFICIENCIES.—In the case of a deficiency, a sepa-  
24 rate deferred amount, required interest amount, and  
25 deferral period shall be determined as of the due

1 date of the first installment after the deficiency is  
2 prorated to installments under section 6168.

3 “(5) ELIGIBLE ASSET.—The term ‘eligible  
4 asset’ has the meaning given such term under sec-  
5 tion 6168.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-  
7 tions for part II of subchapter C of chapter 64 of  
8 such Code is amended by inserting after the item re-  
9 lated to section 6324B the following new item:

“Sec. 6324C. Special lien for taxes deferred under section 6168.”.

10 (c) SUSPENSION OF PERIOD OF LIMITATION.—Sec-  
11 tion 6503 of the Internal Revenue Code of 1986 is amend-  
12 ed by redesignating subsection (k) as subsection (l) and  
13 by inserting after subsection (j) the following new sub-  
14 section:

15 “(k) EXTENSION OF TIME FOR PAYMENT OF GAINS  
16 ON CERTAIN ASSETS REALIZED BY REASON OF DEATH.—  
17 The running of the period of limitations for collection of  
18 the tax attributable to an eligible asset (within the mean-  
19 ing of section 6168) with respect to which an election has  
20 been made under section 6168 shall be suspended for the  
21 period of any extension of time for payment under section  
22 6168.”.

23 (d) INTEREST.—Section 6601 of the Internal Rev-  
24 enue Code of 1986 is amended by redesignating subsection

1 (k) as subsection (l) and by inserting after subsection (j)  
2 the following new subsection:

3       “(k) SPECIAL RATE FOR TAX EXTENDED UNDER  
4 SECTION 6168.—If the time for payment of an amount  
5 of tax imposed by chapter 1 is extended as provided in  
6 section 6168, in lieu of the annual rate provided by sub-  
7 section (a), interest shall be paid at a rate equal to 45  
8 percent of the annual rate provided by subsection (a). For  
9 purposes of this subsection, the amount of any deficiency  
10 which is prorated to installments payable under section  
11 6168 shall be treated as an amount of tax payable in in-  
12 stallments under such section.”.

13       (e) LIMITATION FOR DEDUCTION ON INTEREST.—  
14 Section 2053(c)(1) of the Internal Revenue Code of 1986  
15 is amended by adding at the end the following new sub-  
16 paragraph:

17               “(E) SECTION 6168 INTEREST.—No deduc-  
18               tion shall be allowed under this section for any  
19               interest payable under section 6601 on any un-  
20               paid portion of the tax imposed by chapter 1  
21               for the period during which an extension of  
22               time for payment of such tax is in effect under  
23               section 6168.”.

1 **SEC. 6. WAIVER OF PENALTY FOR UNDERPAYMENT OF ES-**  
2 **TIMATED TAX.**

3 Section 6654(e)(3) of the Internal Revenue Code of  
4 1986 is amended by adding at the end the following new  
5 subparagraph:

6 “(C) GAINS PAYABLE UPON DEATH.—In  
7 the case of a taxpayer who died during the tax-  
8 able year, no addition to tax shall be imposed  
9 under subsection (a) with respect to any under-  
10 payment to the extent that the Secretary deter-  
11 mines that the amount of the underpayment is  
12 due to gains that were realized by reason of  
13 section 1261.”.

14 **SEC. 7. EFFECTIVE DATE.**

15 Except as otherwise provided, the amendments made  
16 by this Act shall apply to transfers after December 31,  
17 2020, in taxable years beginning after such date.

18 **SEC. 8. SEVERABILITY.**

19 If any provision of this Act or amendment made by  
20 this Act, or the application of a provision or amendment  
21 to any person or circumstance, is held to be unconstitu-  
22 tional, the remainder of this Act and amendments made  
23 by this Act, and the application of the provisions and  
24 amendment to any person or circumstance, shall not be  
25 affected by the holding.