

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3049

To amend the Internal Revenue Code of 1986 to make the capital gains and dividends rate permanent and to provide estate tax relief and reform, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MAY 22, 2008

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

---

## A BILL

To amend the Internal Revenue Code of 1986 to make the capital gains and dividends rate permanent and to provide estate tax relief and reform, 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. CAPITAL GAINS AND DIVIDENDS RATE MADE**  
4                               **PERMANENT.**

5       The Jobs and Growth Tax Relief Reconciliation Act  
6       of 2003 is amended by striking section 303.

1 **SEC. 2. ESTATE TAX RELIEF AND REFORM AFTER 2009.**

2 (a) RESTORATION OF UNIFIED CREDIT AGAINST  
3 GIFT TAX.—Paragraph (1) of section 2505(a) of the In-  
4 ternal Revenue Code of 1986 (relating to general rule for  
5 unified credit against gift tax), after the application of  
6 subsection (f), is amended by striking “(determined as if  
7 the applicable exclusion amount were \$1,000,000)”.

8 (b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT  
9 EQUAL TO \$3,500,000.—Subsection (c) of section 2010  
10 of the Internal Revenue Code of 1986 (relating to unified  
11 credit against estate tax) is amended to read as follows:

12 “(c) APPLICABLE CREDIT AMOUNT.—

13 “(1) IN GENERAL.—For purposes of this sec-  
14 tion, the applicable credit amount is the amount of  
15 the tentative tax which would be determined under  
16 section 2001(c) if the amount with respect to which  
17 such tentative tax is to be computed were equal to  
18 the applicable exclusion amount.

19 “(2) APPLICABLE EXCLUSION AMOUNT.—

20 “(A) IN GENERAL.—For purposes of this  
21 subsection, the applicable exclusion amount is  
22 \$3,500,000.

23 “(B) INFLATION ADJUSTMENT.—In the  
24 case of any decedent dying in a calendar year  
25 after 2009, the \$3,500,000 amount in subpara-

1 graph (A) shall be increased by an amount  
2 equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-  
5 termined under section 1(f)(3) for such  
6 calendar year by substituting ‘calendar  
7 year 2008’ for ‘calendar year 1992’ in sub-  
8 paragraph (B) thereof.

9 If any amount as adjusted under the preceding  
10 sentence is not a multiple of \$10,000, such  
11 amount shall be rounded to the nearest multiple  
12 of \$10,000.”.

13 (c) FLAT ESTATE AND GIFT TAX RATES.—

14 (1) IN GENERAL.—Subsection (c) of section  
15 2001 of the Internal Revenue Code of 1986 (relating  
16 to imposition and rate of tax) is amended to read as  
17 follows:

18 “(c) TENTATIVE TAX.—The tentative tax is 15 per-  
19 cent of the amount with respect to which the tentative tax  
20 is to be computed.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Paragraphs (1) and (2) of section  
23 2102(b) of such Code are amended to read as  
24 follows:

1           “(1) IN GENERAL.—A credit in an amount that  
2 would be determined under section 2010 as the ap-  
3 plicable credit amount if the applicable exclusion  
4 amount were \$60,000 shall be allowed against the  
5 tax imposed by section 2101.

6           “(2) RESIDENTS OF POSSESSIONS OF THE  
7 UNITED STATES.—In the case of a decedent who is  
8 considered to be a ‘nonresident not a citizen of the  
9 United States’ under section 2209, the credit al-  
10 lowed under this subsection shall not be less than  
11 the proportion of the amount that would be deter-  
12 mined under section 2010 as the applicable credit  
13 amount if the applicable exclusion amount were  
14 \$175,000 which the value of that part of the dece-  
15 dent’s gross estate which at the time of the dece-  
16 dent’s death is situated in the United States bears  
17 to the value of the decedent’s entire gross estate,  
18 wherever situated.”.

19           (B) Section 2502(a) of such Code (relating  
20 to computation of tax), after the application of  
21 subsection (f), is amended by adding at the end  
22 the following flush sentence:

23 “In computing the tentative tax under section 2001(c) for  
24 purposes of this subsection, ‘the last day of the calendar  
25 year in which the gift was made’ shall be substituted for

1 ‘the date of the decedent’s death’ each place it appears  
2 in such section.”.

3 (d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO  
4 REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING  
5 FROM DIFFERENT TAX RATES.—

6 (1) ESTATE TAX.—

7 (A) IN GENERAL.—Section 2001(b)(2) of  
8 the Internal Revenue Code of 1986 (relating to  
9 computation of tax) is amended by striking “if  
10 the provisions of subsection (c) (as in effect at  
11 the decedent’s death)” and inserting “if the  
12 modifications described in subsection (g)”.

13 (B) MODIFICATIONS.—Section 2001 of  
14 such Code is amended by adding at the end the  
15 following new subsection:

16 “(g) MODIFICATIONS TO GIFT TAX PAYABLE TO RE-  
17 FLECT DIFFERENT TAX RATES.—For purposes of apply-  
18 ing subsection (b)(2) with respect to 1 or more gifts, the  
19 rates of tax under subsection (c) in effect at the decedent’s  
20 death shall, in lieu of the rates of tax in effect at the time  
21 of such gifts, be used both to compute—

22 “(1) the tax imposed by chapter 12 with respect  
23 to such gifts, and

24 “(2) the credit allowed against such tax under  
25 section 2505, including in computing—

1           “(A) the applicable credit amount under  
2           section 2505(a)(1), and

3           “(B) the sum of the amounts allowed as a  
4           credit for all preceding periods under section  
5           2505(a)(2).

6           For purposes of paragraph (2)(A), the applicable  
7           credit amount for any calendar year before 1998 is  
8           the amount which would be determined under sec-  
9           tion 2010(c) if the applicable exclusion amount were  
10          the dollar amount under section 6018(a)(1) for such  
11          year.”.

12          (2) GIFT TAX.—Section 2505(a) of such Code  
13          (relating to unified credit against gift tax) is amend-  
14          ed by adding at the end the following new flush sen-  
15          tence:

16         “For purposes of applying paragraph (2) for any calendar  
17         year, the rates of tax in effect under section 2502(a)(2)  
18         for such calendar year shall, in lieu of the rates of tax  
19         in effect for preceding calendar periods, be used in deter-  
20         mining the amounts allowable as a credit under this sec-  
21         tion for all preceding calendar periods.”.

22          (e) EFFECTIVE DATE.—The amendments made by  
23         this section shall apply to estates of decedents dying, gen-  
24         eration-skipping transfers, and gifts made, after Decem-  
25         ber 31, 2009.

1 (f) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

2 (1) IN GENERAL.—The following provisions of  
3 the Economic Growth and Tax Relief Reconciliation  
4 Act of 2001, and the amendments made by such  
5 provisions, are hereby repealed:

6 (A) Subtitles A and E of title V.

7 (B) Subsection (d), and so much of sub-  
8 section (f)(3) as relates to subsection (d), of  
9 section 511.

10 (C) Paragraph (2) of subsection (b), and  
11 paragraph (2) of subsection (e), of section 521.

12 The Internal Revenue Code of 1986 shall be applied  
13 as if such provisions and amendments had never  
14 been enacted.

15 (2) SUNSET NOT TO APPLY TO TITLE V OF  
16 EGTRRA.—Section 901 of the Economic Growth and  
17 Tax Relief Reconciliation Act of 2001 shall not  
18 apply to title V of such Act.

19 (3) REPEAL OF DEADWOOD.—

20 (A) Sections 2011, 2057, and 2604 of the  
21 Internal Revenue Code of 1986 are hereby re-  
22 pealed.

23 (B) The table of sections for part II of  
24 subchapter A of chapter 11 of such Code is

1 amended by striking the item relating to section  
2 2011.

3 (C) The table of sections for part IV of  
4 subchapter A of chapter 11 of such Code is  
5 amended by striking the item relating to section  
6 2057.

7 (D) The table of sections for subchapter A  
8 of chapter 13 of such Code is amended by strik-  
9 ing the item relating to section 2604.

○