

117TH CONGRESS
2D SESSION

H. R. 7502

To amend the Internal Revenue Code of 1986 to adopt mark-to-market income tax rules for taxpayers with net worth above a specified threshold, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2022

Mr. BOWMAN (for himself, Mr. PASCRELL, Mr. DANNY K. DAVIS of Illinois, Ms. WILD, Ms. NORTON, Mrs. WATSON COLEMAN, Mr. CARSON, and Ms. CLARKE of New York) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to adopt mark-to-market income tax rules for taxpayers with net worth above a specified threshold, 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 “Babies over Billion-
5 aires Act of 2022”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Billionaires have disproportionately bene-
4 fitted from financial gains during the pandemic as
5 their collective net worth grew by \$1.7 trillion since
6 the beginning of the pandemic as employment for
7 low-wage workers fell by 36.7 percent at the trough
8 of the pandemic in April 2020.

9 (2) The 25 wealthiest billionaires in America
10 made \$401 billion from 2014 to 2018 and paid an
11 effective tax rate of 3.4 percent.

12 (3) The wealthiest 400 households in America
13 paid an average effective tax rate of just 8.2 percent
14 between 2010 and 2018.

15 (4) A gradual tax on the unrealized capital
16 gains of billionaires from tradable and non-tradable
17 assets could raise more than \$1 trillion over 10
18 years.

19 (5) Investing revenue from such a tax in chil-
20 dren at birth, particularly in the first 1000 days of
21 life, would support children's healthy physical devel-
22 opment, brain development, social-emotional health,
23 and long-term well-being.

24 **SEC. 3. DEEMED REALIZATION MARK-TO-MARKET RULES.**

25 (a) IMPOSITION OF TAX.—Part I of subchapter O of
26 chapter 1 of the Internal Revenue Code of 1986 is amend-

1 ed by inserting after section 1001 the following new sec-
2 tion:

3 **“SEC. 1002. DEEMED REALIZATION MARK-TO-MARKET**
4 **RULES.**

5 “(a) ANNUAL REALIZATION OF GAINS AND LOSSES
6 IN PUBLICLY TRADED ASSETS.—Except as provided in
7 subsection (c), for the purposes of section 1, 30 percent
8 by value of the publicly traded securities of each covered
9 taxpayer are deemed sold on the last day of each taxable
10 year.

11 “(b) REALIZATION OF GAINS AND LOSSES ON ALL
12 ASSETS.—Except as provided in subsection (c), in the first
13 taxable year in which a taxpayer has tax liability resulting
14 from the operation of subsection (a) and every 5 taxable
15 years thereafter (excluding any taxable year in which such
16 taxpayer is not a covered taxpayer), for the purposes of
17 section 1, 50 percent by value of such taxpayer’s assets
18 that is not a publicly traded security is deemed sold on
19 the last day of such taxable year.

20 “(c) PHASE-IN CAP.—The amount of tax liability
21 with respect to a taxpayer in a taxable year resulting from
22 the operation of subsections (a) and (b) (determined with-
23 out regard to this subsection) may not exceed 35 percent
24 of the amount by which the taxpayer’s net worth exceeds

1 the exemption amount on the last day of such taxable
2 year.

3 “(d) NET LOSSES.—Net losses shall not be recog-
4 nized as a result of this subsection except to the extent
5 that net gains were recognized by the taxpayer as a result
6 of this subsection in any prior year. Any taxpayer who
7 recognized net gains in any prior year as a result of this
8 subsection may elect to have this subsection apply in the
9 current year even if that taxpayer does not currently have
10 net assets in excess of the exemption amount.

11 “(e) COVERED TAXPAYER DEFINED.—For the pur-
12 poses of this section, the term ‘covered taxpayer’ means,
13 with respect to a taxable year, a taxpayer whose net worth
14 exceeds the exemption amount on the last day of such tax-
15 able year.

16 “(f) DEEMED LONG-TERM CAPITAL GAINS OR
17 LOSSES.—For purposes of determining the character of
18 any gain or loss with respect to any piece of property
19 deemed sold under this section, such property shall be
20 treated as a capital asset held for more than 1 year.

21 “(g) ADJUSTED BASIS.—

22 “(1) IN GENERAL.—The Secretary shall adjust
23 the taxpayer’s basis in an asset deemed sold under
24 subsection (a) or (b) as the Secretary determines ap-

1 appropriate to reflect the amount of gain or loss that
2 resulted from the operation of such subsection.

3 “(2) COST RECOVERY.—Adjustments to a tax-
4 payer’s basis in an asset made under paragraph (1)
5 shall not be included in such taxpayer’s basis in such
6 asset for the purposes of sections 167(c), 168, 179,
7 or 197.

8 “(h) PAYMENT SCHEDULE.—

9 “(1) IN GENERAL.—A taxpayer may elect to
10 pay a tax liability, increased by the deferral charge
11 determined in paragraph (2), resulting from the op-
12 eration of subsection (b) in 5 equal, annual install-
13 ments beginning in the taxable year in which this
14 section takes effect.

15 “(2) DEFERRAL CHARGE.—The deferral charge
16 determined in this paragraph is equal to the amount
17 that the Secretary determines is a conservative esti-
18 mate of the cost to the United States of permitting
19 a taxpayer to make an election under paragraph (1).

20 “(i) EXEMPTION AMOUNT.—For the purposes of this
21 section, the term ‘exemption amount’ means
22 \$100,000,000.

23 “(j) DETERMINATION OF VALUATION.—

24 “(1) REGULATIONS.—Not later than 1 year
25 after the date of the enactment of this section, the

1 Secretary shall issue regulations for determining the
2 net worth of a taxpayer and the deemed sale-price
3 valuations of each asset of a taxpayer for the pur-
4 poses of this section. Such regulations may require
5 the use of formulaic valuation approaches for des-
6 ignated assets, including formulaic approaches based
7 on proxies for determining presumptive valuations,
8 formulaic approaches based on prospective adjust-
9 ments from purchase prices or other prior events, or
10 formulaic approaches based on retrospectively add-
11 ing deferral charges based on eventual sale prices or
12 other specified later events indicative of valuation.

13 “(2) RULE IN THE ABSENCE OF REGULA-
14 TION.—If the Secretary has not issued regulations
15 under paragraph (1), the fair market value of each
16 asset owned by the taxpayer shall be the price at
17 which such asset would change hands between a will-
18 ing buyer and a willing seller, neither being under
19 any compulsion to buy or to sell, and both having
20 reasonable knowledge of relevant facts. The value of
21 a particular asset shall not be the price that a forced
22 sale of the property would produce. Further, the fair
23 market value of an asset shall not be the sale price
24 in a market other than that in which such item is
25 most commonly sold to the public, taking into ac-

1 count the location of the item wherever appropriate.
2 In the case of an asset which is generally obtained
3 by the public in the retail market, the fair market
4 value of such an asset shall be the price at which
5 such item or a comparable item would be sold at re-
6 tail.

7 “(3) LIMITATION.—For purposes of this sub-
8 section, any feature of an asset that was added with
9 the intent, and has the effect, of reducing the value
10 of the asset shall be disregarded, and no valuation
11 or other discount shall be taken into account if it
12 would have the effect of reducing the value of a pro
13 rata economic interest in an asset below the pro rata
14 portion of the value of the entire asset.

15 “(4) EXCEPTION WITH RESPECT TO CERTAIN
16 ASSETS TAKEN INTO ACCOUNT IN DETERMINING
17 NET WORTH.—Notwithstanding the preceding provi-
18 sions of this subsection, if the Secretary has not
19 issued regulations under paragraph (1) specifying
20 otherwise, for purposes of determining the tax-
21 payer’s net worth for purposes of this section with
22 respect to any taxable year after the first taxable
23 year with respect to which subsection (b) applies to
24 the taxpayer, the taxpayer may value assets that are
25 not publicly traded securities at the value of such

1 asset that the taxpayer most recently reported for
2 purposes of subsection (b).

3 “(k) INFORMATION REPORTING.—The Secretary
4 shall, not later than 1 year after the date of the enactment
5 of this section, issue regulations—

6 “(1) requiring such persons as the Secretary
7 determines appropriate to report such information to
8 the Secretary as the Secretary determines necessary
9 to carry out this section, and

10 “(2) prohibiting such conduct as the Secretary
11 determines appropriate to prevent a taxpayer from
12 avoiding the requirements of this paragraph.

13 “(l) AUDIT REQUIRED.—The Secretary shall, with
14 respect to each taxable year, audit each covered taxpayer
15 and each taxpayer who was a covered taxpayer in any of
16 the 3 preceding taxable years.

17 “(m) PENALTIES.—

18 “(1) APPLICABILITY.—Except as provided in
19 paragraph (5), a taxpayer that has tax liability as a
20 result of the operation of this section with an under-
21 statement of tax shall be subject to the penalty de-
22 scribed in paragraph (2) if the amount of such un-
23 derstatement for a taxable year exceeds the greater
24 of—

25 “(A) \$1,000,000, or

1 “(B) 20 percent of the tax shown on an
2 original return or shown on an amended return
3 filed on or before the original or extended due
4 date of the return for the taxable year.

5 “(2) PENALTY DESCRIBED.—The penalty de-
6 scribed in this paragraph is an amount equal to—

7 “(A) 20 percent of the understatement of
8 tax, or

9 “(B) in the case of an understatement that
10 is substantially the result of a failure to fulfill
11 a requirement to report an asset, 40 percent of
12 such understatement.

13 “(3) COORDINATION WITH OTHER PEN-
14 ALTIES.—The penalty imposed by paragraph (1) is
15 in addition to any other penalties imposed on such
16 understatement.

17 “(4) LIMITATION ON REFUND OR CREDIT.—The
18 Secretary may not refund or issue a credit with re-
19 spect to a penalty imposed under paragraph (1) un-
20 less such refund or credit is attributable to the Sec-
21 retary’s miscalculation of the amount of such pen-
22 alty.

23 “(5) EXCEPTIONS.—The Secretary may not im-
24 pose a penalty under paragraph (1) if the under-
25 statement is the result of—

1 “(A) a change in law after the earlier of—

2 “(i) the date the taxpayer files a re-
3 turn for the applicable taxable year, or

4 “(ii) the extended due date for the re-
5 turn of the taxpayer for the applicable tax-
6 able year, or

7 “(B) the taxpayer’s reasonable reliance on
8 a formal legal ruling issued by the Secretary.”.

9 (b) COMPREHENSIVE PLAN FOR ENHANCED EN-
10 FORCEMENT OF REPORTING ON CERTAIN FOREIGN AC-
11 COUNTS.—Not later than 180 days after the date of the
12 enactment of this Act, the Secretary shall submit to Con-
13 gress a comprehensive plan for managing efforts to lever-
14 age data collected under chapter 4 of the Internal Revenue
15 Code of 1986 in agency compliance efforts. Such plan
16 shall include an evaluation of the extent to which actions
17 being undertaken as of the date of the enactment of this
18 Act for the enforcement of the requirements of such chap-
19 ter improve voluntary compliance and address noncompli-
20 ance with such requirements.

21 (c) CONFORMING AMENDMENT.—The table of sec-
22 tions for part I of subchapter O of chapter 1 of the Inter-
23 nal Revenue Code of 1986 is amended by adding at the
24 end the following new item:

“Sec. 1002. Deemed realization mark-to-market rules.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of enactment of this Act.

4 (e) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the taxation by the several States of extreme
6 wealth is in the public interest and that silence on the
7 part of Congress shall not be construed to impose any bar-
8 rier to the use of reasonable residency rules, including
9 such rules that apportion a tax on deemed sales or extreme
10 wealth over no more than five years, by the several States
11 or the District of Columbia.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are hereby authorized to be appropriated to the Secretary
14 of the Treasury such sums as may be necessary to carry
15 out this section and the amendments by this section.

16 **SEC. 4. FAMILY INVESTMENT TRUST FUND.**

17 (a) IN GENERAL.—Subchapter A of Chapter 98 of
18 the Internal Revenue Code of 1986 is amended by adding
19 at the end the following new section:

20 **“SEC. 9512. FAMILY INVESTMENT TRUST FUND.**

21 **“(a) CREATION OF TRUST FUND.—**There is hereby
22 established in the Treasury of the United States a trust
23 fund to be known as the Family Investment Trust Fund,
24 consisting of such amounts as may be appropriated or

1 credited to such Trust Fund as provided in this section
2 or section 9602(b).

3 “(b) TRANSFER TO TRUST FUND OF AMOUNTS
4 EQUIVALENT TO CERTAIN TAXES.—There are hereby ap-
5 propriated to the Family Investment Trust Fund amounts
6 equivalent to the taxes received in the Treasury as a result
7 of the operation of section 1002.

8 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
9 in the Family Investment Trust Fund shall be available,
10 as provided by appropriation Acts, in equal amounts to
11 the Secretary of Education and the Secretary of Health
12 and Human Services for programs relating to supporting
13 family well-being and the development of children.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for subchapter A of chapter 98 of such Code is amended
16 by adding at the end the following new item:

“Sec. 9512. Family Investment Trust Fund.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this Act shall apply to amounts received after the date
19 of the enactment of this Act.

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