

**AMENDMENT TO THE SENATE AMENDMENT TO
THE HOUSE AMENDMENT TO THE SENATE
AMENDMENT TO H.R. 4853**

OFFERED BY MR. LEVIN OF MICHIGAN

The House concurs in the Senate Amendment to the
House Amendment to the Senate Amendment to H.R.
4853 with the following amendment:

Strike title III and insert the following:

1 **TITLE III—TEMPORARY ESTATE**
2 **TAX RELIEF**

3 **SEC. 301. REINSTATEMENT OF ESTATE TAX; REPEAL OF**
4 **CARRYOVER BASIS.**

5 (a) IN GENERAL.—Each provision of law amended by
6 subtitle A or E of title V of the Economic Growth and
7 Tax Relief Reconciliation Act of 2001 is amended to read
8 as such provision would read if such subtitle had never
9 been enacted.

10 (b) CONFORMING AMENDMENT.—On and after Janu-
11 ary 1, 2011, paragraph (1) of section 2505(a) of the Inter-
12 nal Revenue Code of 1986 is amended to read as such
13 paragraph would read if section 521(b)(2) of the Eco-

1 nomic Growth and Tax Relief Reconciliation Act of 2001
2 had never been enacted.

3 (c) SPECIAL ELECTION WITH RESPECT TO ESTATES
4 OF DECEDENTS DYING IN 2010.—Notwithstanding sub-
5 section (a), in the case of an estate of a decedent dying
6 after December 31, 2009, and before January 1, 2011,
7 the executor (within the meaning of section 2203 of the
8 Internal Revenue Code of 1986) may elect to apply such
9 Code as though the amendments made by subsection (a)
10 do not apply with respect to chapter 11 of such Code and
11 with respect to property acquired or passing from such
12 decedent (within the meaning of section 1014(b) of such
13 Code). Such election shall be made at such time and in
14 such manner as the Secretary of the Treasury or the Sec-
15 retary's delegate shall provide. Such an election once made
16 shall be revocable only with the consent of the Secretary
17 of the Treasury or the Secretary's delegate. For purposes
18 of section 2652(a)(1) of such Code, the determination of
19 whether any property is subject to the tax imposed by such
20 chapter 11 shall be made without regard to any election
21 made under this subsection.

22 (d) EXTENSION OF TIME FOR PERFORMING CERTAIN
23 ACTS.—

24 (1) ESTATE TAX.—In the case of the estate of
25 a decedent dying after December 31, 2009, and be-

1 fore the date of the enactment of this Act, the due
2 date for—

3 (A) filing any return under section 6018 of
4 the Internal Revenue Code of 1986 (including
5 any election required to be made on such a re-
6 turn) as such section is in effect after the date
7 of the enactment of this Act without regard to
8 any election under subsection (c),

9 (B) making any payment of tax under
10 chapter 11 of such Code, and

11 (C) making any disclaimer described in
12 section 2518(b) of such Code of an interest in
13 property passing by reason of the death of such
14 decedent,

15 shall not be earlier than the date which is 9 months
16 after the date of the enactment of this Act.

17 (2) GENERATION-SKIPPING TAX.—In the case
18 of any generation-skipping transfer made after De-
19 cember 31, 2009, and before the date of the enact-
20 ment of this Act, the due date for filing any return
21 under section 2662 of the Internal Revenue Code of
22 1986 (including any election required to be made on
23 such a return) shall not be earlier than the date
24 which is 9 months after the date of the enactment
25 of this Act.

1 (e) EFFECTIVE DATE.—Except as otherwise provided
2 in this section, the amendments made by this section shall
3 apply to estates of decedents dying, and transfers made,
4 after December 31, 2009.

5 **SEC. 302. MODIFICATIONS TO ESTATE, GIFT, AND GENERA-**
6 **TION-SKIPPING TRANSFER TAXES.**

7 (a) MODIFICATIONS TO ESTATE TAX.—

8 (1) \$3,500,000 APPLICABLE EXCLUSION
9 AMOUNT.—Subsection (c) of section 2010 is amend-
10 ed to read as follows:

11 “(c) APPLICABLE CREDIT AMOUNT.—

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

18 “(2) APPLICABLE EXCLUSION AMOUNT.—

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

22 “(B) INFLATION ADJUSTMENT.—In the
23 case of any decedent dying in a calendar year
24 after 2011, the dollar amount in subparagraph
25 (A) shall be increased by an amount equal to—

1 “(i) such dollar amount, multiplied by

2 “(ii) the cost-of-living adjustment de-
3 termined under section 1(f)(3) for such
4 calendar year by substituting ‘calendar
5 year 2010’ for ‘calendar year 1992’ in sub-
6 paragraph (B) thereof.

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

11 (2) MAXIMUM ESTATE TAX RATE EQUAL TO 45
12 PERCENT.—Subsection (c) of section 2001 is amend-
13 ed—

14 (A) by striking “Over \$1,500,000” and all
15 that follows in the table contained in paragraph
16 (1) and inserting the following:

“Over \$1,500,000	\$555,800 plus 45 percent of the excess of such amount over \$1,500,000.”,
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17 (B) by striking “(1) IN GENERAL.—”, and
18 (C) by striking paragraph (2).

19 (b) MODIFICATIONS OF GIFT TAX RATE.—

20 (1) IN GENERAL.—On and after January 1,
21 2011, subsection (a) of section 2502 is amended to
22 read as such subsection would read if section 511(d)
23 of the Economic Growth and Tax Relief Reconcili-
24 ation Act of 2001 had never been enacted.

1 (2) APPLICABLE EXCLUSION AMOUNT FOR GIFT
2 TAX.—

3 (A) INFLATION ADJUSTMENT.—Section
4 2505 is amended by adding at the end the fol-
5 lowing new subsection:

6 “(d) INFLATION ADJUSTMENT.—In the case of any
7 calendar year after 2011, the dollar amount in subsection
8 (a)(1) shall be increased by an amount equal to—

9 “(1) such dollar amount, multiplied by

10 “(2) the cost-of-living adjustment determined
11 under section 1(f)(3) for such calendar year by sub-
12 stituting ‘calendar year 2010’ for ‘calendar year
13 1992’ in subparagraph (B) thereof.

14 If any amount as adjusted under the preceding sentence
15 is not a multiple of \$10,000, such amount shall be round-
16 ed to the nearest multiple of \$10,000.”.

17 (B) EFFECTIVE DATE.—The amendment
18 made by this paragraph shall apply to calendar
19 years beginning after 2011.

20 (c) MODIFICATION OF GENERATION-SKIPPING
21 TRANSFER TAX.—In the case of any generation-skipping
22 transfer made after December 31, 2009, and before Janu-
23 ary 1, 2011, the applicable rate determined under section
24 2641(a) of the Internal Revenue Code of 1986 shall be
25 zero.

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

4 (1) ESTATE TAX.—

5 (A) IN GENERAL.—Section 2001(b)(2) is
6 amended by striking “if the provisions of sub-
7 section (c) (as in effect at the decedent’s
8 death)” and inserting “if the modifications de-
9 scribed in subsection (g)”.

10 (B) MODIFICATIONS.—Section 2001 is
11 amended by adding at the end the following
12 new subsection:

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

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

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

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

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

4 (2) GIFT TAX.—Section 2505(a) is amended by
5 adding at the end the following new flush sentence:
6 “For purposes of applying paragraph (2) for any calendar
7 year, the rates of tax in effect under section 2502(a)(2)
8 for such calendar year shall, in lieu of the rates of tax
9 in effect for preceding calendar periods, be used in deter-
10 mining the amounts allowable as a credit under this sec-
11 tion for all preceding calendar periods.”.

12 (e) CONFORMING AMENDMENT.—Section 2511 is
13 amended by striking subsection (c).

14 (f) EFFECTIVE DATE.—Except as otherwise provided
15 in this section, the amendments made by this section shall
16 apply to estates of decedents dying, generation-skipping
17 transfers, and gifts made, after December 31, 2009.

18 **SEC. 303. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.**

19 Section 901 of the Economic Growth and Tax Relief
20 Reconciliation Act of 2001 shall apply to the amendments
21 made by this title.

