

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

# H. R. 5333

To amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2012

Ms. BERKLEY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, 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

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## A BILL

To amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes, 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, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Middle Class Tax Fairness Act of 2012”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—PERMANENT EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES

Sec. 101. Permanent extension of deduction of State and local general sales taxes.

TITLE II—REVENUE OFFSETS

Subtitle A—Fair Share Tax on High-Income Taxpayers

Sec. 201. Fair share tax on high-income taxpayers.

Subtitle B—Miscellaneous

Sec. 211. Deficit reduction.

Sec. 212. Budgetary effects.

1 **TITLE I—PERMANENT EXTEN-**  
2 **SION OF DEDUCTION OF**  
3 **STATE AND LOCAL GENERAL**  
4 **SALES TAXES**

5 **SEC. 101. PERMANENT EXTENSION OF DEDUCTION OF**  
6 **STATE AND LOCAL GENERAL SALES TAXES.**

7 (a) IN GENERAL.—Subparagraph (I) of section  
8 164(b)(5) of the Internal Revenue Code of 1986 is amend-  
9 ed by striking “, and before January 1, 2012”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall apply to taxable years beginning after  
12 December 31, 2011.



1                   “(ii) the denominator of which is the  
2                   dollar amount in effect under subsection  
3                   (c)(1).

4                   “(2) AMOUNT OF TAX.—The amount of tax de-  
5                   termined under this paragraph is an amount equal  
6                   to the excess (if any) of—

7                   “(A) the tentative fair share tax for the  
8                   taxable year, over

9                   “(B) the excess of—

10                   “(i) the sum of—

11                   “(I) the regular tax liability (as  
12                   defined in section 26(b)) for the tax-  
13                   able year,

14                   “(II) the tax imposed by section  
15                   55 for the taxable year, plus

16                   “(III) the payroll tax for the tax-  
17                   able year, over

18                   “(ii) the credits allowable under part  
19                   IV of subchapter A (other than sections  
20                   27(a), 31, and 34).

21                   “(b) TENTATIVE FAIR SHARE TAX.—For purposes  
22 of this section—

23                   “(1) IN GENERAL.—The tentative fair share tax  
24                   for the taxable year is 30 percent of the excess of—

1           “(A) the adjusted gross income of the tax-  
2 payer, over

3           “(B) the modified charitable contribution  
4 deduction for the taxable year.

5           “(2) MODIFIED CHARITABLE CONTRIBUTION  
6 DEDUCTION.—For purposes of paragraph (1)—

7           “(A) IN GENERAL.—The modified chari-  
8 table contribution deduction for any taxable  
9 year is an amount equal to the amount which  
10 bears the same ratio to the deduction allowable  
11 under section 170 (section 642(c) in the case of  
12 a trust or estate) for such taxable year as—

13           “(i) the amount of itemized deduc-  
14 tions allowable under the regular tax (as  
15 defined in section 55) for such taxable  
16 year, determined after the application of  
17 section 68, bears to

18           “(ii) such amount, determined before  
19 the application of section 68.

20           “(B) TAXPAYER MUST ITEMIZE.—In the  
21 case of any individual who does not elect to  
22 itemize deductions for the taxable year, the  
23 modified charitable contribution deduction shall  
24 be zero.

1       “(c) HIGH-INCOME TAXPAYER.—For purposes of this  
2 section—

3           “(1) IN GENERAL.—The term ‘high-income tax-  
4 payer’ means, with respect to any taxable year, any  
5 taxpayer (other than a corporation) with an adjusted  
6 gross income for such taxable year in excess of  
7 \$1,000,000 (50 percent of such amount in the case  
8 of a married individual who files a separate return).

9           “(2) INFLATION ADJUSTMENT.—

10           “(A) IN GENERAL.—In the case of a tax-  
11 able year beginning after 2013, the \$1,000,000  
12 amount under paragraph (1) shall be increased  
13 by an amount equal to—

14                   “(i) such dollar amount, multiplied by

15                   “(ii) the cost-of-living adjustment de-  
16 termined under section 1(f)(3) for the cal-  
17 endar year in which the taxable year be-  
18 gins, determined by substituting ‘calendar  
19 year 2012’ for ‘calendar year 1992’ in sub-  
20 paragraph (B) thereof.

21           “(B) ROUNDING.—If any amount as ad-  
22 justed under subparagraph (A) is not a multiple  
23 of \$10,000, such amount shall be rounded to  
24 the next lowest multiple of \$10,000.

1       “(d) PAYROLL TAX.—For purposes of this section,  
2 the payroll tax for any taxable year is an amount equal  
3 to the excess of—

4               “(1) the taxes imposed on the taxpayer under  
5 sections 1401, 1411, 3101, 3201, and 3211(a) (to  
6 the extent such taxes are attributable to the rate of  
7 tax in effect under section 3101) with respect to  
8 such taxable year or wages or compensation received  
9 during the taxable year, over

10              “(2) the deduction allowable under section  
11 164(f) for such taxable year.

12       “(e) SPECIAL RULE FOR ESTATES AND TRUSTS.—  
13 For purposes of this section, in the case of an estate or  
14 trust, adjusted gross income shall be computed in the  
15 manner described in section 67(e).

16       “(f) NOT TREATED AS TAX IMPOSED BY THIS CHAP-  
17 TER FOR CERTAIN PURPOSES.—The tax imposed under  
18 this section shall not be treated as tax imposed by this  
19 chapter for purposes of determining the amount of any  
20 credit under this chapter (other than the credit allowed  
21 under section 27(a)) or for purposes of section 55.”.

22       (b) CONFORMING AMENDMENT.—Section 26(b)(2) of  
23 the Internal Revenue Code of 1986 is amended by redesignig-  
24 nating subparagraphs (C) through (X) as subparagraphs

1 (D) through (Y), respectively, and by inserting after sub-  
2 paragraph (B) the following new subparagraph:

3                   “(C) section 59B (relating to fair share  
4 tax),”.

5           (c) CLERICAL AMENDMENT.—The table of parts for  
6 subchapter A of chapter 1 of the Internal Revenue Code  
7 of 1986 is amended by adding at the end the following  
8 new item:

                  “PART VII. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS”.

9           (d) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2012.

## 12                   **Subtitle B—Miscellaneous**

### 13           **SEC. 211. DEFICIT REDUCTION.**

14           The net amount of any savings realized as a result  
15 of the enactment of this Act and the amendments made  
16 by this Act (after any expenditures authorized by this Act  
17 and the amendments made by this Act) shall be deposited  
18 in the Treasury and used for Federal budget deficit reduc-  
19 tion or, if there is no Federal budget deficit, for reducing  
20 the Federal debt in such manner as the Secretary of the  
21 Treasury considers appropriate.

### 22           **SEC. 212. BUDGETARY EFFECTS.**

23           The budgetary effects of this Act, for the purpose of  
24 complying with the Statutory Pay-As-You-Go Act of 2010,  
25 shall be determined by reference to the latest statement



1 titled “Budgetary Effects of PAYGO Legislation” for this  
2 Act, submitted for printing in the Congressional Record  
3 by the Chairman of the House Budget Committee, pro-  
4 vided that such statement has been submitted prior to the  
5 vote on passage.

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