

115TH CONGRESS  
2D SESSION

# S. 3766

To establish American opportunity accounts, to modify estate and gift tax rules, to reform the taxation of capital income, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2018

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

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## A BILL

To establish American opportunity accounts, to modify estate and gift tax rules, to reform the taxation of capital income, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Opportunity Accounts Act”.

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

Sec. 1. Short title; table of contents.

### TITLE I—AMERICAN OPPORTUNITY ACCOUNTS

Sec. 101. Definitions.

Sec. 102. American Opportunity Fund.

- Sec. 103. AO accounts.  
 Sec. 104. Assignment, alienation, and treatment of deceased individuals.  
 Sec. 105. Rules governing AO accounts relating to investment, accounting, and reporting.  
 Sec. 106. American Opportunity Fund Board.  
 Sec. 107. Fiduciary responsibilities.  
 Sec. 108. Accounts disregarded in determining eligibility for Federal benefits.  
 Sec. 109. Reports.  
 Sec. 110. Programs for promoting financial capability.  
 Sec. 111. Tax treatment.

## TITLE II—REVENUE PROVISIONS

### Subtitle A—Estate and Gift Tax Provisions

- Sec. 201. Modification of estate tax rate and basic exclusion amount.  
 Sec. 202. Required minimum 10-year term, etc., for grantor retained annuity trusts.  
 Sec. 203. Certain transfer tax rules applicable to grantor trusts.  
 Sec. 204. Simplifying gift tax exclusion for annual gifts.  
 Sec. 205. Modification of rules for value of certain farm real property.

### Subtitle B—Reform of Taxation of Capital Income

- Sec. 211. Increase in capital gains rate.  
 Sec. 212. Deemed realization of capital gains at time of gift or death.  
 Sec. 213. Exclusion of certain amounts of realized capital gain.  
 Sec. 214. Extension of time for payment of tax.  
 Sec. 215. Waiver of penalty for underpayment of estimated tax.  
 Sec. 216. Effective date.

# 1                   **TITLE I—AMERICAN** 2                   **OPPORTUNITY ACCOUNTS**

## 3 **SEC. 101. DEFINITIONS.**

4           For purposes of this title—

5                   (1) **AMERICAN OPPORTUNITY FUND.**—The term  
 6           “American Opportunity Fund” means the fund es-  
 7           tablished under section 102.

8                   (2) **AO ACCOUNT.**—The term “AO account”  
 9           means an American opportunity account established  
 10           under section 103.

1           (3) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Treasury or the Secretary’s del-  
3           egate.

4           (4) AMERICAN OPPORTUNITY FUND BOARD.—  
5           The term “American Opportunity Fund Board”  
6           means the board established pursuant to section  
7           106.

8           (5) EXECUTIVE DIRECTOR.—The term “Execu-  
9           tive Director” means the executive director ap-  
10          pointed pursuant to section 106.

11 **SEC. 102. AMERICAN OPPORTUNITY FUND.**

12          (a) ESTABLISHMENT.—There is established in the  
13          Treasury of the United States a fund to be known as the  
14          “American Opportunity Fund”.

15          (b) AMOUNTS HELD BY FUND.—The American Op-  
16          portunity Fund consists of the sum of all amounts paid  
17          into the Fund under this title, increased by the total net  
18          earnings from investments of sums held in the Fund or  
19          reduced by the total net losses from investments of sums  
20          held in the Fund, and reduced by the total amount of pay-  
21          ments made from the Fund (including payments for ad-  
22          ministrative expenses).

23          (c) USE OF FUND.—

1           (1) IN GENERAL.—The sums in the American  
2 Opportunity Fund are appropriated and shall re-  
3 main available without fiscal year limitation—

4           (A) to make contributions to AO accounts;

5           (B) to invest under section 105;

6           (C) to make distributions in accordance  
7 with this title;

8           (D) to pay the administrative expenses of  
9 carrying out this title; and

10          (E) to purchase insurance as provided in  
11 section 107(c)(2).

12          (2) EXCLUSIVE PURPOSES.—The sums in the  
13 American Opportunity Fund shall not be appro-  
14 priated for any purpose other than the purposes  
15 specified in this section and may not be used for any  
16 other purpose.

17          (d) TRANSFERS TO AMERICAN OPPORTUNITY  
18 FUND.—The Secretary shall make transfers from the gen-  
19 eral fund of the Treasury to the American Opportunity  
20 Fund as follows:

21           (1) INITIAL CONTRIBUTION FOR ELIGIBLE INDI-  
22 VIDUALS BORN AFTER DECEMBER 31, 2018.—Upon  
23 receipt of a certification under section 103(b)(2)  
24 with respect to an individual born after December

1 31, 2018, the Secretary shall transfer \$1,000 to the  
 2 AO account of the individual.

3 (2) ANNUAL CONTRIBUTIONS.—

4 (A) IN GENERAL.—Each year which occurs  
 5 after the year in which an AO account is estab-  
 6 lished for an eligible individual and before the  
 7 year the eligible individual attains the age of  
 8 18, the Secretary shall transfer the annual con-  
 9 tribution amount to the AO account of the indi-  
 10 vidual.

11 (B) ANNUAL CONTRIBUTION AMOUNT.—

12 The annual contribution amount shall be the  
 13 amount such that the annual contribution  
 14 amount for any taxpayer whose household in-  
 15 come is within an income tier specified in the  
 16 following table shall decrease, on a sliding scale  
 17 in a linear manner, from the initial amount to  
 18 the final amount specified in such table for  
 19 such income tier:

In the case of household income (expressed as a percent of the poverty line) within the following income tier:	The initial amount is—	The final amount is—
Up to 100 percent .....	\$2,000	\$2,000
100 percent up to 125 percent .....	2,000	1,500
125 percent up to 175 percent .....	1,500	1,000
175 percent up to 225 percent .....	1,000	500
225 percent up to 325 percent .....	500	250
325 percent up to 500 percent .....	250	0
500 percent or more .....	0	0

1 (C) APPLICABLE HOUSEHOLD INCOME;  
2 POVERTY LINE.—For purposes of this para-  
3 graph—

4 (i) APPLICABLE HOUSEHOLD IN-  
5 COME.—The term “applicable household  
6 income” means household income (as de-  
7 fined in section 36B(d) of the Internal  
8 Revenue Code of 1986), except that—

9 (I) with respect to any calendar  
10 year, the Secretary shall use the in-  
11 come of the most recent taxable year  
12 for which information is available; and

13 (II) in determining household in-  
14 come the Secretary shall aggregate  
15 the income of married individuals fil-  
16 ing separate tax returns.

17 (ii) POVERTY LINE.—The term pov-  
18 erty line “poverty line” has the meaning  
19 given such term under section 36B(d) of  
20 the Internal Revenue Code of 1986.

21 (D) AUTHORITY TO PROVIDE TAX INFOR-  
22 MATION.—

23 (i) IN GENERAL.—Section 6103(l) of  
24 the Internal Revenue Code of 1986 is

1           amended by adding at the end the fol-  
2           lowing new paragraph:

3           “(23) DISCLOSURE OF RETURN INFORMATION  
4           TO CARRY OUT ELIGIBILITY REQUIREMENTS FOR  
5           CERTAIN PROGRAMS.—

6           “(A) IN GENERAL.—The Secretary shall  
7           disclose to officers and employees of the De-  
8           partment of Treasury or the American Oppor-  
9           tunity Fund Board return information of any  
10          taxpayer whose income is relevant in deter-  
11          mining any annual contribution to an American  
12          Opportunity Account under section 102 of the  
13          American Opportunity Accounts Act. Such re-  
14          turn information shall be limited to—

15                 “(i) taxpayer identity information  
16                 with respect to such taxpayer,

17                 “(ii) the filing status of such tax-  
18                 payer,

19                 “(iii) the number of individuals for  
20                 whom a deduction is allowed under section  
21                 151 with respect to the taxpayer (including  
22                 the taxpayer and the taxpayer’s spouse),

23                 “(iv) the modified adjusted gross in-  
24                 come (as defined in section 36B) of such  
25                 taxpayer, of any spouse of such taxpayer

1 who filed a separate return, and of each of  
2 the other individuals included under clause  
3 (iii) who are required to file a return of tax  
4 imposed by chapter 1 for the taxable year,

5 “(v) such other information as is pre-  
6 scribed by the Secretary by regulation as  
7 might indicate whether the taxpayer is eli-  
8 gible for such an annual contribution (and  
9 the amount thereof), and

10 “(vi) the taxable year with respect to  
11 which the preceding information relates or,  
12 if applicable, the fact that such informa-  
13 tion is not available.

14 “(B) RESTRICTION ON USE OF DISCLOSED  
15 INFORMATION.—Return information disclosed  
16 under subparagraph (A) may be used by offi-  
17 cers and employees of the Department of Treas-  
18 ury or the American Opportunity Fund Board  
19 for the purposes of, and to the extent necessary  
20 in establishing eligibility for, and verifying the  
21 appropriate amount of, any annual contribution  
22 described in subparagraph (A).”.

23 (ii) PROCEDURES AND RECORD-  
24 KEEPING RELATED TO DISCLOSURES.—  
25 Paragraph (4) of section 6103(p) of such



1 Code is amended by striking “or (22)”  
2 each place it appears and inserting “(22),  
3 or (23)”.

4 (E) STUDY ON INCORPORATION OF OTHER  
5 WEALTH FACTORS.—Not later than 2 years  
6 after the date of the enactment of this Act, the  
7 Comptroller General shall submit to Congress  
8 and the Secretary of Treasury a report on the  
9 feasibility and distributive impacts of a new  
10 measure for determining the amount of the an-  
11 nual contribution amount under this paragraph  
12 based on family wealth, total assets, and overall  
13 net worth. Such measure may—

14 (i) include financial assets, the value  
15 of family home, retirement accounts, busi-  
16 ness and entrepreneurial ventures, poten-  
17 tial future inheritances, and any other as-  
18 sets or debts; and

19 (ii) continue to factor in current or  
20 past income to the extent such information  
21 is useful in estimating overall household  
22 wealth.

23 (3) ADJUSTMENT FOR INFLATION.—

24 (A) IN GENERAL.—For each calendar year  
25 beginning after 2019, each of the dollar

1 amounts under paragraphs (1) and (2)(B)(i)  
2 shall be increased by such dollar amount multi-  
3 plied by the cost-of-living adjustment deter-  
4 mined under section 1(f)(3) of the Internal  
5 Revenue Code of 1986 determined by sub-  
6 stituting “calendar year 2018” for “calendar  
7 year 2016” in subparagraph (A)(ii) thereof.

8 (B) ROUNDING.—If any amount adjusted  
9 under paragraph (1) is not a multiple of \$50,  
10 such amount shall be rounded to the next low-  
11 est multiple of \$50.

12 (e) PROHIBITION ON USE OF PAYROLL TAXES TO  
13 FUND AO ACCOUNTS.—The American Opportunity Fund  
14 and AO accounts are wholly separate and unique from the  
15 Social Security system. No amount from any tax on em-  
16 ployment may be contributed to the American Opportunity  
17 Fund or AO accounts.

18 **SEC. 103. AO ACCOUNTS.**

19 (a) IN GENERAL.—

20 (1) ESTABLISHMENT.—The Executive Director  
21 shall establish in the American Opportunity Fund an  
22 account (to be known as an “American Opportunity  
23 account” or an “AO account”) for each eligible indi-  
24 vidual certified under subsection (b). Each such ac-  
25 count shall be identified to its account holder by

1 means of a unique personal identifier currently rec-  
2 ognized by the Internal Revenue Service and shall  
3 remain in the American Opportunity Fund.

4 (2) ACCOUNT BALANCE.—The balance in an ac-  
5 count holder’s AO account at any time is the excess  
6 of—

7 (A) the sum of—

8 (i) all deposits made into the Amer-  
9 ican Opportunity Fund and credited to the  
10 account under paragraph (3); and

11 (ii) the total amount of allocations  
12 made to and reductions made in the ac-  
13 count pursuant to paragraph (4); over

14 (B) the amounts paid out of the account  
15 with respect to such individual under subsection  
16 (c).

17 (3) CREDITING OF CONTRIBUTIONS.—Pursuant  
18 to regulations which shall be prescribed by the Exec-  
19 utive Director, the Executive Director shall credit to  
20 each AO account the amounts paid into the Amer-  
21 ican Opportunity Fund under section 102(d) which  
22 are attributable to the account holder of such ac-  
23 count.

24 (4) ALLOCATION OF EARNINGS AND LOSSES.—

25 The Executive Director shall allocate to each AO ac-

1 count an amount equal to the net earnings and net  
2 losses from each investment of sums in the Amer-  
3 ican Opportunity Fund which are attributable, on a  
4 pro rata basis, to sums credited to such account, re-  
5 duced by an appropriate share of the administrative  
6 expenses paid out of the net earnings, as determined  
7 by the Executive Director.

8 (b) ELIGIBLE INDIVIDUAL.—For purposes of this  
9 title—

10 (1) IN GENERAL.—The term “eligible indi-  
11 vidual” means any individual who—

12 (A) was born after December 31, 2003;

13 (B) has not yet attained the age of 18  
14 years; and

15 (C) has a valid, unique, Federal Govern-  
16 ment issued identification number recognized by  
17 the Internal Revenue Service.

18 (2) CERTIFICATION OF ACCOUNT HOLDERS.—

19 (A) AUTOMATIC CERTIFICATION FOR CER-  
20 TAIN INDIVIDUALS BORN AFTER DECEMBER 31,  
21 2018.—On any date after December 31, 2018,  
22 on which an eligible individual is issued a social  
23 security account number under section  
24 203(c)(2) of the Social Security Act, the Com-  
25 missioner of Social Security shall certify to the

1 Executive Director and the Secretary of the  
2 Treasury the name of, and social security num-  
3 ber issued to, such eligible individual.

4 (B) OTHER INDIVIDUALS.—In the case of  
5 an eligible individual who is not certified under  
6 subparagraph (A), such individual may request  
7 the establishment an AO account under this  
8 subparagraph by application to the Executive  
9 Director, and the Executive Director shall cer-  
10 tify such individual under this subparagraph.

11 (c) RESTRICTIONS ON DISTRIBUTIONS.—

12 (1) AGE-RELATED RESTRICTIONS.—

13 (A) IN GENERAL.—Except as otherwise  
14 provided in this paragraph, no amount may be  
15 distributed from an AO account before the date  
16 on which the account holder attains the age of  
17 18.

18 (B) HIGHER EDUCATION EXPENSES.—  
19 Subparagraph (A) shall not apply to amounts  
20 paid for qualified tuition and related expenses  
21 (as defined in section 25A(f)(1) of the Internal  
22 Revenue Code of 1986) of the account holder if  
23 the account holder is an eligible student (as de-  
24 fined in section 25A(b)(3) of such Code) with  
25 respect to such expenses.

1 (C) AUTHORITY TO PROVIDE HIGHER AGE  
2 LIMIT FOR CERTAIN DISTRIBUTIONS.—The Sec-  
3 retary, in consultation with the American Op-  
4 portunity Fund Advisory Board, may by regula-  
5 tions provide for a higher age limitation with  
6 respects to distributions relating to certain cat-  
7 egories of qualified expenses if the Secretary de-  
8 termines that such higher age limitation is ap-  
9 propriate.

10 (2) USE-RELATED RESTRICTIONS.—

11 (A) IN GENERAL.—No amount may be dis-  
12 tributed from an AO account unless the account  
13 holder establishes, under rules established by  
14 the Executive Director in consultation with the  
15 American Opportunity Fund Advisory Board,  
16 that such amount shall be used for a qualified  
17 expense.

18 (B) QUALIFIED EXPENSE.—For purposes  
19 of this subsection—

20 (i) IN GENERAL.—The term “qualified  
21 expense” means expenses for any of the  
22 following:

23 (I) Education of the account  
24 holder.

1 (II) Ownership of a home by the  
2 account holder.

3 (III) Any expenses paid or in-  
4 curred on or after the date on which  
5 the account holder attains age 59 1/2.

6 (IV) Any other investment in fi-  
7 nancial assets or personal capital that  
8 provides long-term gains to wages and  
9 wealth, as established under regula-  
10 tions promulgated by the Secretary, in  
11 consultation with the Executive Direc-  
12 tor and the American Opportunity  
13 Fund Advisory Board.

14 (ii) EXCEPTION.—Such term shall not  
15 include any expense described in clause (i)  
16 which is paid to a person who does not  
17 meet such standards as are prescribed by  
18 the Secretary, in consultation with the Ex-  
19 ecutive Director and the American Oppor-  
20 tunity Fund Advisory Board.

21 (3) AMERICAN OPPORTUNITY ACCOUNT ADVI-  
22 SORY BOARD.—For purposes of this subsection, the  
23 term “American Opportunity Fund Advisory Board”  
24 means an advisory board established by the Sec-  
25 retary consisting of individuals with expertise in sav-

1       ings and asset-building, home financing, education  
2       financing, consumer financial protection, and such  
3       other areas as the Secretary may determine appro-  
4       priate.

5       **SEC. 104. ASSIGNMENT, ALIENATION, AND TREATMENT OF**  
6                                   **DECEASED INDIVIDUALS.**

7       (a) **ASSIGNMENT AND ALIENATION.**—Under regula-  
8       tions which shall be prescribed by the Executive Director,  
9       rules relating to assignment and alienation applicable  
10      under chapter 84 of title 5, United States Code, with re-  
11      spect to amounts held in accounts in the Thrift Savings  
12      Fund shall apply with respect to amounts held in AO ac-  
13      counts in the American Opportunity Fund.

14      (b) **TREATMENT OF ACCOUNTS OF DECEASED INDI-**  
15      **VIDUALS.**—In the case of a deceased account holder of an  
16      AO account which has an account balance greater than  
17      zero, upon receipt of notification of such individual's  
18      death, the Executive Director shall close the account and  
19      shall transfer the balance in such account to the AO ac-  
20      count of such account holder's surviving spouse or, if there  
21      is no such account of a surviving spouse, to the duly ap-  
22      pointed legal representative of the estate of the deceased  
23      account holder, or if there is no such representative, to  
24      the person or persons determined to be entitled thereto



1 under the laws of the domicile of the deceased account  
2 holder.

3 **SEC. 105. RULES GOVERNING AO ACCOUNTS RELATING TO**  
4 **INVESTMENT, ACCOUNTING, AND REPORT-**  
5 **ING.**

6 (a) INVESTMENT PROGRAM.—The Secretary shall es-  
7 tablish, and the American Opportunity Fund Board shall  
8 invest in debt obligations of the United States government  
9 with a term of 30 years.

10 (b) INDEPENDENT PUBLIC ACCOUNTANT.—

11 (1) IN GENERAL.—Under regulations which  
12 shall be prescribed by the Executive Director, and  
13 subject to the provisions of this title, section 8439(b)  
14 of title 5, United States Code, (relating to engage-  
15 ment of independent qualified public accountant)  
16 shall apply with respect to the American Oppor-  
17 tunity Fund and accounts maintained in such Fund  
18 in the same manner and to the same extent as such  
19 section relates to the Thrift Savings Fund and the  
20 accounts maintained in the Thrift Savings Fund.

21 (2) APPLICATION RULES.—For purposes of  
22 paragraph (1), references in such section 8439(b) to  
23 an employee, Member, former employee, or former  
24 Member shall be deemed references to an account

1 holder of an AO account in the American Oppor-  
2 tunity Fund.

3 (c) CONFIDENTIALITY AND DISCLOSURE.—

4 (1) IN GENERAL.—Except as otherwise author-  
5 ized by Federal law, the American Opportunity  
6 Fund Board, the Executive Director, and any em-  
7 ployee of the American Opportunity Fund Board  
8 shall not disclose information with respect to the  
9 American Opportunity Fund or any account main-  
10 tained in such Fund.

11 (2) DISCLOSURE TO DESIGNEE OF BENE-  
12 FICIARY.—The Executive Director may, subject to  
13 such requirements and conditions as he may pre-  
14 scribe by regulations, disclose such information with  
15 respect to the AO account of the beneficiary to such  
16 person or persons as the beneficiary may designate  
17 in a request for or consent to such disclosure, or to  
18 any other person at the beneficiary's request to the  
19 extent necessary to comply with a request for infor-  
20 mation or assistance made by the beneficiary to such  
21 other person.

22 **SEC. 106. AMERICAN OPPORTUNITY FUND BOARD.**

23 (a) IN GENERAL.—There is established in the execu-  
24 tive branch of the Government an American Opportunity  
25 Fund Board.

1 (b) COMPOSITION, DUTIES, AND RESPONSIBIL-  
2 ITIES.—Subject to the provisions of this title, the following  
3 provisions shall apply with respect to the American Oppor-  
4 tunity Fund Board in the same manner and to the same  
5 extent as such provisions relate to the Federal Retirement  
6 Thrift Investment Board:

7 (1) Section 8472 of title 5, United States Code  
8 (relating to composition of Federal Retirement  
9 Thrift Investment Board).

10 (2) Section 8474 of such title (relating to Exec-  
11 utive Director).

12 (3) Section 8476 of such title (relating to ad-  
13 ministrative provisions).

14 **SEC. 107. FIDUCIARY RESPONSIBILITIES.**

15 (a) IN GENERAL.—Under regulations of the Sec-  
16 retary of Labor, the provisions of sections 8477 and 8478  
17 of title 5, United States Code, shall apply in connection  
18 with the American Opportunity Fund and the accounts  
19 maintained in such Fund in the same manner and to the  
20 same extent as such provisions apply in connection with  
21 the Thrift Savings Fund and the accounts maintained in  
22 the Thrift Savings Fund.

23 (b) INVESTIGATIVE AUTHORITY.—Any authority  
24 available to the Secretary of Labor under section 504 of  
25 the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1134) is hereby made available to the Sec-  
2 retary of Labor, and any officer designated by the Sec-  
3 retary of Labor, to determine whether any person has vio-  
4 lated, or is about to violate, any provision applicable under  
5 subsection (a).

6 (c) EXCULPATORY PROVISIONS; INSURANCE.—

7 (1) IN GENERAL.—Any provision in an agree-  
8 ment or instrument which purports to relieve a fidu-  
9 ciary from responsibility or liability for any responsi-  
10 bility, obligation, or duty under this title shall be  
11 void.

12 (2) INSURANCE.—Amounts in the American  
13 Opportunity Fund available for administrative ex-  
14 penses shall be available and may be used at the dis-  
15 cretion of the Executive Director to purchase insur-  
16 ance to cover potential liability of persons who serve  
17 in a fiduciary capacity with respect to the Fund and  
18 accounts maintained therein, without regard to  
19 whether a policy of insurance permits recourse by  
20 the insurer against the fiduciary in the case of a  
21 breach of a fiduciary obligation.

22 **SEC. 108. ACCOUNTS DISREGARDED IN DETERMINING ELI-**  
23 **GIBILITY FOR FEDERAL BENEFITS.**

24 Amounts in any AO account shall not be taken into  
25 account in determining any individual's or household's fi-

1 nancial eligibility for, or amount of, any benefit or service,  
2 paid for in whole or in part with Federal funds, including  
3 student financial aid.

4 **SEC. 109. REPORTS.**

5 (a) **REPORTS TO CONGRESS.**—The Executive Direc-  
6 tor, in consultation with the Secretary, shall annually  
7 transmit a written report to the Congress. Such report  
8 shall include—

9 (1) a detailed description of the status and op-  
10 eration of the American Opportunity Fund and the  
11 management of the AO accounts; and

12 (2) a detailed accounting of the administrative  
13 expenses in carrying out this title, including the  
14 ratio of such administrative expenses to the balance  
15 of the American Opportunity Fund and the method-  
16 ology adopted by the Executive Director for allo-  
17 cating such expenses among the AO accounts.

18 (b) **REPORTS TO ACCOUNT HOLDERS.**—The Amer-  
19 ican Opportunity Fund Board shall prescribe regulations  
20 under which each individual for whom an AO account is  
21 maintained shall be furnished with an annual statement  
22 relating to the individual's account, which shall include—

23 (1) a statement of the balance of individual's  
24 AO account;

1           (2) a projection of the account’s growth by the  
2           time the individual attains the age of 18; and

3           (3) such other information as the Secretary  
4           deems relevant.

5 **SEC. 110. PROGRAMS FOR PROMOTING FINANCIAL CAPA-**  
6 **BILITY.**

7           The Secretary of the Treasury, in coordination with  
8           the Financial Literacy and Education Commission, shall  
9           develop programs to promote the financial capability of  
10          account holders of AO accounts.

11 **SEC. 111. TAX TREATMENT.**

12          (a) CONTRIBUTIONS AND DISTRIBUTIONS.—Part III  
13          of subchapter B of chapter 1 of the Internal Revenue Code  
14          of 1986 is amended by inserting after section 139G the  
15          following new section:

16 **“SEC. 139H. CONTRIBUTIONS TO AND DISTRIBUTIONS**  
17 **FROM AO ACCOUNTS.**

18          “Gross income shall not include—

19                 “(1) any contribution credited to the AO ac-  
20                 count of the taxpayer under section 103(a)(3) of the  
21                 American Opportunity Accounts Act, and

22                 “(2) any distribution from such an AO ac-  
23                 count.”.

24          (b) TAX TREATMENT OF EARNINGS AND DISTRIBU-  
25          TIONS.—Subchapter F of chapter 1 of the Internal Rev-

1 enue Code of 1986 is amended by adding at the end the  
 2 following new part:

3 **“PART IX—AMERICAN OPPORTUNITY FUND AND**  
 4 **AO ACCOUNTS**

“Sec. 530A. American Opportunity Fund and AO accounts.

5 **“SEC. 530A. AMERICAN OPPORTUNITY FUND AND AO AC-**  
 6 **COUNTS.**

7 “(a) GENERAL RULE.—The American Opportunity  
 8 Fund and AO accounts shall be exempt from taxation  
 9 under this subtitle. Notwithstanding the preceding sen-  
 10 tence, a AO account shall be subject to the taxes imposed  
 11 by section 511 (relating to imposition of tax on unrelated  
 12 business income of charitable organizations).

13 “(b) DEFINITIONS.—For purposes of this section, the  
 14 terms ‘American Opportunity Fund’ and ‘AO account’  
 15 have the meanings given such terms under title I of the  
 16 American Opportunity Accounts Act.”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) The table of sections for part III of sub-  
 19 chapter B of chapter 1 of the Internal Revenue Code  
 20 of 1986 is amended by inserting after the item re-  
 21 lated to section 139G the following new item:

“Sec. 139H. Contributions to and distributions from AO accounts.”.

1           (2) The table of parts for subchapter F of  
2           chapter 1 of such Code is amended by adding at the  
3           end the following new item:

“PART IX—AMERICAN OPPORTUNITY FUND AND AO ACCOUNTS”.

4           (d) EFFECTIVE DATE.—The amendments made by  
5           this section shall apply to taxable years beginning after  
6           December 31, 2018.

## 7       **TITLE II—REVENUE PROVISIONS**

### 8           **Subtitle A—Estate and Gift Tax**

#### 9                           **Provisions**

#### 10       **SEC. 201. MODIFICATION OF ESTATE TAX RATE AND BASIC**

#### 11                           **EXCLUSION AMOUNT.**

12           (a) PERMANENT EXTENSION OF MAXIMUM ESTATE  
13       TAX RATE AND BASIC EXCLUSION AMOUNT AS IN EF-  
14       FECT IN 2009.—

15           (1) MAXIMUM ESTATE TAX RATE.—The last  
16       row of the table contained in subsection (c) of sec-  
17       tion 2001 of the Internal Revenue Code of 1986 is  
18       amended by striking “40 percent” and inserting “45  
19       percent”.

20           (2) BASIC EXCLUSION AMOUNT.—Paragraph  
21       (3) of section 2010(e) of the Internal Revenue Code  
22       of 1986 is amended to read as follows:

23           “(3) BASIC EXCLUSION AMOUNT.—For pur-  
24       poses of this subsection, the basic exclusion amount  
25       is \$3,500,000.”.



1 (b) ADDITIONAL TAXES FOR ESTATES OVER  
 2 \$10,000,000.—The table contained in section 2001(c), as  
 3 amended by subsection (a), is amended—

4 (1) by inserting “but not over \$10,000,000”  
 5 after “Over \$1,000,000” in the last row; and

6 (2) by adding at the end the following:

“Over \$10,000,000 but not over \$50,000,000.	\$4,395,800, plus 55 percent of the excess of such amount over \$10,000,000.
Over \$50,000,000 .....	\$26,395,800, plus 65 percent of the excess of such amount over \$50,000,000.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to estates of decedents dying and  
 9 gifts made after December 31, 2018.

10 **SEC. 202. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**  
 11 **GRANTOR RETAINED ANNUITY TRUSTS.**

12 (a) IN GENERAL.—Subsection (b) of section 2702 is  
 13 amended—

14 (1) by redesignating paragraphs (1), (2), and  
 15 (3) as subparagraphs (A), (B), and (C), respectively,  
 16 and by moving such subparagraphs (as so redesign-  
 17 nated) 2 ems to the right;

18 (2) by striking “For purposes of” and inserting  
 19 the following:

20 “(1) IN GENERAL.—For purposes of”;

1           (3) by striking “paragraph (1) or (2)” in para-  
2           graph (1)(C) (as so redesignated) and inserting  
3           “subparagraph (A) or (B)”; and

4           (4) by adding at the end the following new  
5           paragraph:

6           “(2) ADDITIONAL REQUIREMENTS WITH RE-  
7           SPECT TO GRANTOR RETAINED ANNUITIES.—For  
8           purposes of subsection (a), in the case of an interest  
9           described in paragraph (1)(A) (determined without  
10          regard to this paragraph) which is retained by the  
11          transferor, such interest shall be treated as de-  
12          scribed in such paragraph only if—

13                   “(A) the right to receive the fixed amounts  
14                   referred to in such paragraph is for a term of  
15                   not less than 10 years and not more than the  
16                   life expectancy of the annuitant plus 10 years,

17                   “(B) such fixed amounts, when determined  
18                   on an annual basis, do not decrease during the  
19                   term described in subparagraph (A), and

20                   “(C) the remainder interest has a value, as  
21                   determined as of the time of the transfer, which  
22                   is—

23                                   “(i) not less than an amount equal to  
24                                   the greater of—

1                   “(I) 25 percent of the fair mar-  
 2                   ket value of the property in the trust,  
 3                   or  
 4                   “(II) \$500,000, and  
 5                   “(ii) not greater than the fair market  
 6                   value of the property in the trust.”.

7           (b) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to transfers made after the date  
 9 of the enactment of this Act.

10 **SEC. 203. CERTAIN TRANSFER TAX RULES APPLICABLE TO**  
 11 **GRANTOR TRUSTS.**

12           (a) IN GENERAL.—Subtitle B is amended by adding  
 13 at the end the following new chapter:

14           **“CHAPTER 16—SPECIAL RULES FOR**  
 15           **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

16 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

17           “(a) IN GENERAL.—In the case of any portion of a  
 18 trust to which this section applies—

19                   “(1) the value of the gross estate of the de-  
 20                   ceased deemed owner of such portion shall include  
 21                   all assets attributable to that portion at the time of  
 22                   the death of such owner,

23                   “(2) any distribution from such portion to one  
 24                   or more beneficiaries during the life of the deemed

1 owner of such portion shall be treated as a transfer  
2 by gift for purposes of chapter 12, and

3 “(3) if at any time during the life of the  
4 deemed owner of such portion, such owner ceases to  
5 be treated as the owner of such portion under sub-  
6 part E of part 1 of subchapter J of chapter 1, all  
7 assets attributable to such portion at such time shall  
8 be treated for purposes of chapter 12 as a transfer  
9 by gift made by the deemed owner.

10 “(b) PORTION OF TRUST TO WHICH SECTION AP-  
11 PLIES.—This section shall apply to—

12 “(1) the portion of a trust with respect to  
13 which the grantor is the deemed owner, and

14 “(2) the portion of the trust to which a person  
15 who is not the grantor is a deemed owner by reason  
16 of the rules of subpart E of part 1 of subchapter J  
17 of chapter 1, and such deemed owner engages in a  
18 sale, exchange, or comparable transaction with the  
19 trust that is disregarded for purposes of subtitle A.

20 For purposes of paragraph (2), the portion of the trust  
21 described with respect to a transaction is the portion of  
22 the trust attributable to the property received by the trust  
23 in such transaction, including all retained income there-  
24 from, appreciation thereon, and reinvestments thereof, net

1 of the amount of consideration received by the deemed  
2 owner in such transaction.

3 “(c) EXCEPTIONS.—This section shall not apply to—

4 “(1) any trust that is includible in the gross es-  
5 tate of the deemed owner (without regard to sub-  
6 section (a)(1)), and

7 “(2) any other type of trust that the Secretary  
8 determines by regulations or other guidance does not  
9 have as a significant purpose the avoidance of trans-  
10 fer taxes.

11 “(d) DEEMED OWNER DEFINED.—For purposes of  
12 this section, the term ‘deemed owner’ means any person  
13 who is treated as the owner of a portion of a trust under  
14 subpart E of part 1 of subchapter J of chapter 1.

15 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST  
16 MADE BY OWNER.—The amount to which subsection (a)  
17 applies shall be reduced by the value of any transfer by  
18 gift by the deemed owner to the trust previously taken  
19 into account by the deemed owner under chapter 12.

20 “(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-  
21 posed pursuant to subsection (a) shall be a liability of the  
22 trust.”.

23 (b) CLERICAL AMENDMENT.—The table of chapters  
24 for subtitle B is amended by adding at the end the fol-  
25 lowing new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply—

3 (1) to trusts created on or after the date of the  
4 enactment of this Act;

5 (2) to any portion of a trust established before  
6 the date of the enactment of this Act which is attrib-  
7 utable to a contribution made on or after such date;  
8 and

9 (3) to any portion of a trust established before  
10 the date of the enactment of this Act to which sec-  
11 tion 2901(a) of the Internal Revenue Code of 1986  
12 (as added by subsection (a)) applies by reason of a  
13 transaction described in section 2901(b)(2) of such  
14 Code on or after such date.

15 **SEC. 204. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL**  
16 **GIFTS.**

17 (a) IN GENERAL.—Section 2503 of the Internal Rev-  
18 enue Code of 1986 is amended—

19 (1) by striking paragraph (1) of subsection (b)  
20 and inserting the following:

21 “(1) IN GENERAL.—

22 “(A) LIMIT PER DONEE.—In the case of  
23 gifts made to any person by the donor during  
24 the calendar year, the first \$10,000 of such  
25 gifts to such person shall not, for purposes of

1 subsection (a), be included in the total amount  
 2 of gifts made during such year.

3 “(B) CUMULATIVE LIMIT PER DONOR.—

4 “(i) IN GENERAL.—The aggregate  
 5 amount excluded under subparagraph (A)  
 6 with respect to all transfers described in  
 7 clause (ii) made by the donor during the  
 8 calendar year shall not exceed \$50,000.

9 “(ii) TRANSFERS SUBJECT TO LIMITA-  
 10 TION.—The transfers described in this  
 11 clause are—

12 “(I) a transfer in trust (with the  
 13 exception of any transfer to a trust  
 14 described in section 2642(c)(2)),

15 “(II) a transfer of an interest in  
 16 a passthrough entity,

17 “(III) a transfer of an interest  
 18 subject to a prohibition on sale, and

19 “(IV) any other transfer of prop-  
 20 erty that, without regard to with-  
 21 drawal, put, or other such rights in  
 22 the donee, cannot immediately be liq-  
 23 uidated by the donee.”, and

24 (2) by striking subsection (c).

25 (b) CONFORMING AMENDMENTS.—

1           (1) Subparagraph (B) of section 529(c)(2) of  
2           the Internal Revenue Code of 1986 is amended by  
3           striking “section 2503(b)” and inserting “section  
4           2503(b)(1)(A).

5           (2) Clause (i) of section 529A(b)(2)(B) of such  
6           Code is amended by striking “section 2503(b)” and  
7           inserting “section 2503(b)(1)(A)”.

8           (3) Paragraph (2) of section 2523(i) of such  
9           Code is amended by striking “section 2503(b)” and  
10          inserting “section 2503(b)(1)(A)”.

11          (4) Subsection (c) of such Code of section 2801  
12          is amended by striking “2503(b)” and inserting  
13          “2503(b)(1)(A)”.

14          (c) REGULATIONS.—The Secretary of the Treasury,  
15          or the Secretary of the Treasury’s delegate, may prescribe  
16          such regulations or other guidance as may be necessary  
17          or appropriate to carry out the amendments made by this  
18          section.

19          (d) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to any calendar year beginning  
21          after the date of the enactment of this Act.

22          **SEC. 205. MODIFICATION OF RULES FOR VALUE OF CER-**  
23                                 **TAIN FARM REAL PROPERTY.**

24          (a) INCREASE IN LIMITATION.—



1           (1) IN GENERAL.—Paragraph (2) of section  
2           2032A(a) of the Internal Revenue Code of 1986 is  
3           amended by striking “\$750,000” and inserting  
4           “\$3,000,000”.

5           (2) INFLATION ADJUSTMENT.—Paragraph (3)  
6           of section 2032A(a) of such Code is amended—

7                   (A) by striking “1998” and inserting  
8                   “2019”;

9                   (B) by striking “\$750,000” and inserting  
10                  “\$3,000,000” in subparagraph (A); and

11                  (C) by striking “calendar year 1997” and  
12                  inserting “calendar year 2018” in subpara-  
13                  graph (B).

14           (b) QUALIFIED USE LIMITED TO FARMING PUR-  
15           POSES.—

16           (1) IN GENERAL.—Section 2032A(b)(2) is  
17           amended by striking “the devotion of the property”  
18           and all that follows and inserting “the devotion of  
19           the property to use as a farm for farming pur-  
20           poses.”.

21           (2) CONFORMING AMENDMENTS.—

22                   (A) Subsections (c)(6)(A), (h)(3), and  
23                   (i)(3) of section 2032A of the such Code are  
24                   each amended by striking “subparagraph (A) or  
25                   (B) of”.

1 (B) The heading of section 2032A of such  
2 Code (and the item relating to section 2032A in  
3 the table of sections for part III of subchapter  
4 A of chapter 11 of such Code) is amended by  
5 striking “, etc.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to estates of decedents dying, and  
8 gifts made, after December 31, 2018.

## 9 **Subtitle B—Reform of Taxation of** 10 **Capital Income**

### 11 **SEC. 211. INCREASE IN CAPITAL GAINS RATE.**

12 (a) IN GENERAL.—Section 1(h)(1)(D) of the Internal  
13 Revenue Code of 1986 is amended by striking “20 per-  
14 cent” and inserting “24.2 percent”.

15 (b) MINIMUM TAX.—Section 55(b)(3)(D) of the In-  
16 ternal Revenue Code of 1986 is amended by striking “20  
17 percent” and inserting “24.2 percent”.

18 (c) CONFORMING AMENDMENTS.—The following pro-  
19 visions are each amended by striking “20 percent” and  
20 inserting “20.4 percent”:

21 (1) Section 531 of the Internal Revenue Code  
22 of 1986.

23 (2) Section 541 of the Internal Revenue Code  
24 of 1986.

1           (3) Section 1445(e)(1) of the Internal Revenue  
2 Code of 1986.

3           (4) Section 1445(e)(6) of the Internal Revenue  
4 Code of 1986.

5           (5) The second sentence of section  
6 7518(g)(6)(A) of the Internal Revenue Code of  
7 1986.

8           (6) Section 53511(f)(2) of title 46, United  
9 States Code.

10 (d) EFFECTIVE DATES.—

11           (1) IN GENERAL.—Except as otherwise pro-  
12 vided, the amendments made by this section shall  
13 apply to taxable years beginning after December 31,  
14 2018.

15           (2) WITHHOLDING.—The amendments made by  
16 paragraphs (3) and (4) of subsection (c) shall apply  
17 to amounts paid on or after January 1, 2019.

18 **SEC. 212. DEEMED REALIZATION OF CAPITAL GAINS AT**

19 **TIME OF GIFT OR DEATH.**

20 (a) TREATMENT AS SALE.—

21           (1) IN GENERAL.—Part IV of subchapter P of  
22 chapter 1 of the Internal Revenue Code of 1986 is  
23 amended by adding at the end the following new sec-  
24 tion:

1 **“SEC. 1261. GAINS FROM CERTAIN PROPERTY TRANS-**  
 2 **FERRED BY GIFT OR AT DEATH.**

3 “(a) IN GENERAL.—Any capital asset which is trans-  
 4 ferred by gift or upon death shall be treated as sold for  
 5 its fair market value on the date of such gift, death, or  
 6 transfer.

7 “(b) EXCEPTIONS.—

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

12 “(2) SPOUSAL EXCEPTION.—This section shall  
 13 not apply to any transfer if such transfer is made  
 14 to the spouse or surviving spouse of the transferor.

15 “(3) GIFTS TO CHARITY.—This section shall  
 16 not apply to any transfer if such transfer is made  
 17 to an organization described in section 170(c).”.

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

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

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

1           (1) ELIMINATION OF CARRYOVER BASIS FOR  
2 GIFTS.—Subsection (a) section 1015 of the Internal  
3 Revenue Code of 1986 is amended—

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

6           “(1) GIFTS BEFORE JANUARY 1, 2019.—If the  
7 property”;

8           (B) by inserting “and before January 1,  
9 2019” after “after December 31, 1920”; and

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

12          “(2) GIFTS AFTER DECEMBER 31, 2018.—

13           “(A) IN GENERAL.—If the property was  
14 acquired by gift after December 31, 2016, the  
15 basis shall be the fair market value of such  
16 property at the time of the gift.

17           “(B) SPECIAL RULES FOR CHARITABLE  
18 ORGANIZATIONS.—In the case of any property  
19 acquired by an organization described in section  
20 170(c) by gift, subparagraph (A) shall not  
21 apply and paragraph (1) shall be applied with-  
22 out regard to the phrase ‘and before January 1,  
23 2019’.”.

1           (2) PROPERTY ACQUIRED FROM DECEDENT  
2           SPOUSES.—Section 1014 of such Code is amended  
3           by adding at the end the following new subsection:

4           “(g) PROPERTY ACQUIRED FROM DECEDENT  
5           SPOUSES.—In the case of any property acquired from or  
6           which has passed from a decedent in a transfer described  
7           in section 1041(a)(1), the basis of such property in the  
8           hands of the transferee shall be determined under section  
9           1041(b) and not this section.”.

10           (3) RULE FOR TRANSFERS BETWEEN  
11           SPOUSES.—

12                   (A) IN GENERAL.—Section 1041(b) of the  
13           Internal Revenue Code of 1986 is amended to  
14           read as follows:

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

19                   (B) CONFORMING AMENDMENT.—Section  
20           1015(e) of such Code is amended by striking  
21           “1041(b)(2)” and inserting “1041(b)”.

22           **SEC. 213. EXCLUSION OF CERTAIN AMOUNTS OF REALIZED**  
23                   **CAPITAL GAIN.**

24           (a) IN GENERAL.—Part III of subchapter B of chap-  
25           ter 1 of the Internal Revenue Code of 1986, as amended

1 by section 111, is amended by inserting after section  
2 139H the following new section:

3 **“SEC. 139I. EXCLUSION GAIN FROM TRANSFERS OF APPRE-**  
4 **CIATED ASSETS AT DEATH.**

5 “(a) IN GENERAL.—Gross income shall not include  
6 so much of the aggregate gain from transfers at death  
7 described in 1261(a) of any capital asset as does not ex-  
8 ceed \$100,000.

9 “(b) SPECIAL RULES FOR REAL PROPERTY USED  
10 FOR FARMING.—

11 “(1) IN GENERAL.—

12 “(A) APPLICATION OF SECTION.—In the  
13 case of qualified real property—

14 “(i) subsection (a) shall be applied  
15 separately to such qualified real property  
16 and other property, and

17 “(ii) in applying subsection (a) to  
18 such qualified real property, ‘the applicable  
19 amount’ shall be substituted for  
20 ‘\$100,000’.

21 “(B) APPLICABLE AMOUNT.—For purposes  
22 of subparagraph (A), the applicable amount is  
23 an amount equal to the sum of—

24 “(i) \$1,000,000, plus

1           “(ii) the excess (not less than zero) of  
2           the amount in effect under subsection (a)  
3           over the aggregate amount of gain from  
4           transfers at death described in section  
5           1261(a) of capital assets other than quali-  
6           fied real property.

7           “(2) IMPOSITION OF ADDITIONAL TAX.—

8           “(A) IN GENERAL.—The Secretary shall,  
9           by regulations, provide for recapturing the ben-  
10          efit under any exclusion allowable under para-  
11          graph (1) with respect to any qualified real  
12          property if, within 10 years after the decedent’s  
13          death and before the death of the qualified  
14          heir—

15               “(i) the qualified heir disposes of any  
16               interest in qualified real property (other  
17               than by a disposition to a member of his  
18               family), or

19               “(ii) the qualified heir ceases to use  
20               for the qualified use the qualified real  
21               property which was acquired (or passed)  
22               from the decedent.

23           “(B) LIABILITY.—The benefit recaptured  
24          under subparagraph (A) shall be recaptured  
25          from the qualified heir.



1           “(3) DEFINITIONS.—Any term used in this sub-  
2           section which is also used in section 2032A shall  
3           have the meaning given such term under section  
4           2032A.

5           “(c) INFLATION ADJUSTMENT.—

6           “(1) IN GENERAL.—In the case of any taxable  
7           year beginning after 2019, the \$100,000 amount in  
8           subsection (a) and the \$1,000,000 in subsection  
9           (b)(1)(B)(i) shall each be increased by an amount  
10          equal to—

11                   “(A) such dollar amount, multiplied by

12                   “(B) the cost-of-living adjustment deter-  
13                   mined under section 1(f)(3) for the calendar  
14                   year in which the taxable year begins, deter-  
15                   mined by substituting in subparagraph (A)(ii)  
16                   thereof ‘calendar year 2018’ for ‘calendar year  
17                   2016’.

18           “(2) ROUNDING.—

19                   “(A) IN GENERAL.—If the dollar amount  
20                   in subsection (a), after being increased under  
21                   paragraph (1), is not a multiple of \$10,000,  
22                   such dollar amount shall be rounded to the next  
23                   lowest multiple of \$10,000.

24                   “(B) QUALIFIED REAL PROPERTY.—If the  
25                   dollar amount in subsection (b)(1)(B)(i), after

1 being increased under paragraph (1), is not a  
 2 multiple of \$100,000, such amount shall be  
 3 rounded to the next lowest multiple of  
 4 \$100,000.”.

5 (b) CLERICAL AMENDMENT.—The table of sections  
 6 for part III of subchapter B of chapter 1 of such Code  
 7 is amended by inserting after section 139H the following  
 8 new item:

“Sec. 139I. Exclusion gain from transfers of appreciated assets by gift or at  
 death.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 December 31, 2018.

12 **SEC. 214. EXTENSION OF TIME FOR PAYMENT OF TAX.**

13 (a) EXTENSION OF TIME.—

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

17 **“SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF CAP-**  
 18 **ITAL GAINS ON CERTAIN ASSETS REALIZED**  
 19 **BY REASON OF DEATH.**

20 “(a) 15-YEAR INSTALLMENT PAYMENT.—

21 “(1) IN GENERAL.—In the case of any gain  
 22 with respect to an eligible capital asset that is recog-  
 23 nized under section 1261 by reason of the death of  
 24 the taxpayer, the taxpayer may elect to pay part or

1 all of tax imposed on such gain in 2 or more (but  
2 not exceeding 15) equal installments.

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

4 If an election is made under paragraph (1), the first  
5 installment shall be paid not later than the date on  
6 which the tax for the taxable year in which the gain  
7 described in paragraph (1) occurs is due, and each  
8 succeeding installment shall be paid on or before the  
9 date which is 1 year after the date prescribed by this  
10 paragraph for payment of the preceding installment.

11 “(b) ELIGIBLE CAPITAL ASSET.—For purposes of  
12 this section, the term ‘eligible capital asset’ means any  
13 capital asset other than personal property of a type which  
14 is actively traded (within the meaning of section  
15 1092(d)(1)).

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

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

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

23 “(d) ELECTION.—Any election under subsection (a)  
24 shall be made not later than the time prescribed by section  
25 6072 for filing the return of tax imposed under chapter

1 1 (including extensions thereof), and shall be made in such  
2 manner as the Secretary shall by regulations prescribe. If  
3 an election under subsection (a) is made, the provisions  
4 of this subtitle shall apply as though the Secretary were  
5 extending the time for payment of the tax.

6 “(e) PRORATION OF DEFICIENCY TO INSTALL-  
7 MENTS.—If an election is made under subsection (a) to  
8 pay any part of the tax imposed under chapter 1 in install-  
9 ments and a deficiency has been assessed, the deficiency  
10 shall (subject to the limitation provided by subsection  
11 (a)(2)) be prorated to the installments payable under sub-  
12 section (a). The part of the deficiency so prorated to any  
13 installment the date for payment of which has not arrived  
14 shall be collected at the same time as, and as a part of,  
15 such installment. The part of the deficiency so prorated  
16 to any installment the date for payment of which has ar-  
17 rived shall be paid upon notice and demand from the Sec-  
18 retary. This subsection shall not apply if the deficiency  
19 is due to negligence, to intentional disregard of rules and  
20 regulations, or to fraud with intent to evade tax.

21 “(f) TIME FOR PAYMENT OF INTEREST.—If the time  
22 for payment of any amount of tax has been extended  
23 under this section, interest payable under section 6601 on  
24 any unpaid portion shall be paid annually at the same time  
25 as, and as part of, each installment payment of the tax.

1       “(g) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary to the application  
3 of this section.

4       “(h) CROSS REFERENCES.—

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

8           “(2) INTEREST.—For provisions relating to in-  
9 terest on tax payable in installments under this sec-  
10 tion, see subsection (k) of section 6601.”.

11           (2) CLERICAL AMENDMENT.—The table of sec-  
12 tions for subpart B of chapter 62 is amended by  
13 adding at the end the following new item:

“Sec. 6168. Extension of time for payment of capital gains on certain assets  
realized by reason of death.”.

14           (b) INTEREST.—Section 6601 of the Internal Rev-  
15 enue Code of 1986 is amended by redesignating subsection  
16 (k) as subsection (l) and by inserting after subsection (j)  
17 the following new subsection:

18           “(k) SPECIAL RATE FOR TAX EXTENDED UNDER  
19 SECTION 6168.—If the time for payment of an amount  
20 of tax imposed by chapter 11 is extended as provided in  
21 section 6168, in lieu of the annual rate provided by sub-  
22 section (a), interest shall be paid at a rate equal to 45  
23 percent of the annual rate provided by subsection (a). For  
24 purposes of this subsection, the amount of any deficiency

1 which is prorated to installments payable under section  
2 6168 shall be treated as an amount of tax payable in in-  
3 stallments under such section.”.

4 **SEC. 215. WAIVER OF PENALTY FOR UNDERPAYMENT OF**  
5 **ESTIMATED TAX.**

6 Section 6654(e)(3) of the Internal Revenue Code of  
7 1986 is amended by adding at the end the following new  
8 subparagraph:

9 “(C) CAPITAL GAINS PAYABLE UPON  
10 DEATH.—No addition to tax shall be imposed  
11 under subsection (a) with respect to any under-  
12 payment if the taxpayer died during the taxable  
13 year and the Secretary determines that the  
14 amount of the underpayment is due to capital  
15 gains that were realized by reason of section  
16 1261.”.

17 **SEC. 216. EFFECTIVE DATE.**

18 Except as otherwise provided, the amendments made  
19 by this subtitle shall apply to transfers after December  
20 31, 2018, in taxable years beginning after such date.

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