

117TH CONGRESS  
2D SESSION

# S. 5125

To amend the Internal Revenue Code of 1986 to reform the application of family attribution rules for purposes of retirement plans.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2022

Mr. KELLY (for himself and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to reform the application of family attribution rules for purposes of retirement plans.

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 “Family Attribution  
5 Modernization Act”.

6 **SEC. 2. REFORM OF FAMILY ATTRIBUTION RULE.**

7 (a) IN GENERAL.—Section 414 of the Internal Rev-  
8 enue Code of 1986 is amended—

9 (1) in subsection (b)—

1 (A) by striking “For purposes of” and in-  
2 serting the following:

3 “(1) IN GENERAL.—For purposes of”, and

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

6 “(2) SPECIAL RULES FOR APPLYING FAMILY  
7 ATTRIBUTION.—For purposes of applying the attri-  
8 bution rules under section 1563 with respect to  
9 paragraph (1), the following rules apply:

10 “(A) Community property laws shall be  
11 disregarded for purposes of determining owner-  
12 ship.

13 “(B) Except as provided by the Secretary,  
14 stock of an individual not attributed under sec-  
15 tion 1563(e)(5) to such individual’s spouse shall  
16 not be attributed to such spouse by reason of  
17 1563(e)(6)(A).

18 “(C) Except as provided by the Secretary,  
19 in the case of stock in different corporations  
20 that is attributed to a child under section  
21 1563(e)(6)(A) from each parent, and is not at-  
22 tributed to such parents as spouses under sec-  
23 tion 1563(e)(5), such attribution to the child  
24 shall not by itself result in such corporations  
25 being members of the same controlled group.

1           “(3) PLAN SHALL NOT FAIL TO BE TREATED AS  
2           SATISFYING THIS SECTION.—If application of para-  
3           graph (2) causes two or more entities to be a con-  
4           trolled group, or an affiliated service group, or to no  
5           longer be in a controlled group or an affiliated serv-  
6           ice group, such change shall be treated as a trans-  
7           action to which section 410(b)(6)(C) applies.”, and  
8           (2) in subsection (m)(6)(B), by striking “apply”  
9           and inserting “apply, except that community prop-  
10          erty laws shall be disregarded for purposes of deter-  
11          mining ownership”.

12          (b) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to plan years beginning on or after  
14          the date of the enactment of this section.

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