

112TH CONGRESS  
2D SESSION

# S. 2059

To reduce the deficit by imposing a minimum effective tax rate for high-income taxpayers.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2012

Mr. WHITEHOUSE (for himself, Mr. AKAKA, Mr. BEGICH, Mr. LEAHY, Mr. HARKIN, Mr. BLUMENTHAL, Mr. SANDERS, Mr. SCHUMER, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To reduce the deficit by imposing a minimum effective tax rate for high-income taxpayers.

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 “Paying a Fair Share**  
5 **Act of 2012”.**

6 **SEC. 2. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS.**

7 (a) IN GENERAL.—Subchapter A of chapter 1 of the  
8 Internal Revenue Code of 1986 is amended by adding at  
9 the end the following new part:

1    **“PART VII—FAIR SHARE TAX ON HIGH-INCOME**  
 2                                   **TAXPAYERS**

“Sec. 59B. Fair share tax.

3    **“SEC. 59B. FAIR SHARE TAX.**

4           “(a) GENERAL RULE.—

5                   “(1) PHASE-IN OF TAX.—In the case of any  
 6           high-income taxpayer, there is hereby imposed for a  
 7           taxable year (in addition to any other tax imposed  
 8           by this subtitle) a tax equal to the product of—

9                           “(A) the amount determined under para-  
 10                           graph (2), and

11                           “(B) a fraction (not to exceed 1)—

12                                   “(i) the numerator of which is the ex-  
 13                                   cess of—

14   “(I) the taxpayer’s adjusted  
 15   gross income, over

16   “(II) the dollar amount in effect  
 17   under subsection (c)(1), and

18   “(ii) the denominator of which is the  
 19   dollar amount in effect under subsection  
 20   (c)(1).

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

24                           “(A) the tentative fair share tax for the  
 25                           taxable year, over

1 “(B) the excess of—

2 “(i) the sum of—

3 “(I) the regular tax liability (as  
4 defined in section 26(b)) for the tax-  
5 able year,

6 “(II) the tax imposed by section  
7 55 for the taxable year, plus

8 “(III) the payroll tax for the tax-  
9 able year, over

10 “(ii) the credits allowable under part  
11 IV of subchapter A (other than sections  
12 27(a), 31, and 34).

13 “(b) TENTATIVE FAIR SHARE TAX.—For purposes  
14 of this section—

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

17 “(A) the adjusted gross income of the tax-  
18 payer, over

19 “(B) the modified charitable contribution  
20 deduction for the taxable year.

21 “(2) MODIFIED CHARITABLE CONTRIBUTION  
22 DEDUCTION.—For purposes of paragraph (1)—

23 “(A) IN GENERAL.—The modified chari-  
24 table contribution deduction for any taxable  
25 year is an amount equal to the amount which

1 bears the same ratio to the deduction allowable  
2 under section 170 (section 642(c) in the case of  
3 a trust or estate) for such taxable year as—

4 “(i) the amount of itemized deduc-  
5 tions allowable under the regular tax (as  
6 defined in section 55) for such taxable  
7 year, determined after the application of  
8 section 68, bears to

9 “(ii) such amount, determined before  
10 the application of section 68.

11 “(B) TAXPAYER MUST ITEMIZE.—In the  
12 case of any individual who does not elect to  
13 itemize deductions for the taxable year, the  
14 modified charitable contribution deduction shall  
15 be zero.

16 “(c) HIGH-INCOME TAXPAYER.—For purposes of this  
17 section—

18 “(1) IN GENERAL.—The term ‘high-income tax-  
19 payer’ means, with respect to any taxable year, any  
20 taxpayer (other than a corporation) with an adjusted  
21 gross income for such taxable year in excess of  
22 \$1,000,000 (50 percent of such amount in the case  
23 of a married individual who files a separate return).

24 “(2) INFLATION ADJUSTMENT.—

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

5                   “(i) such dollar amount, multiplied by

6                   “(ii) the cost-of-living adjustment de-  
7                   termined under section 1(f)(3) for the cal-  
8                   endar year in which the taxable year be-  
9                   gins, determined by substituting ‘calendar  
10                  year 2012’ for ‘calendar year 1992’ in sub-  
11                  paragraph (B) thereof.

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

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

19                   “(1) the taxes imposed on the taxpayer under  
20                   sections 1401, 1411, 3101, 3201, and 3211(a) (to  
21                   the extent such taxes are attributable to the rate of  
22                   tax in effect under section 3101) with respect to  
23                   such taxable year or wages or compensation received  
24                   during the taxable year, over

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

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

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

13           (b) CONFORMING AMENDMENT.—Section 26(b)(2) of  
14 the Internal Revenue Code of 1986 is amended by redesign-  
15 ating subparagraphs (C) through (X) as subparagraphs  
16 (D) through (Y), respectively, and by inserting after sub-  
17 paragraph (B) the following new subparagraph:

18                       “(C) section 59B (relating to fair share  
19                       tax),”.

20           (c) CLERICAL AMENDMENT.—The table of parts for  
21 subchapter A of chapter 1 of the Internal Revenue Code  
22 of 1986 is amended by adding at the end the following  
23 new item:

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

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

4 **SEC. 3. SENSE OF THE SENATE REGARDING TAX REFORM.**

5 It is the sense of the Senate that—

6 (1) Congress should enact tax reform that re-  
7 peals unfair and unnecessary tax loopholes and ex-  
8 penditures, simplifies the system for millions of tax-  
9 payers and businesses (including by eliminating the  
10 alternative minimum tax for middle-class Ameri-  
11 cans), and makes sure that the wealthiest taxpayers  
12 pay a fair share; and

13 (2) this Act is an interim step that can be done  
14 quickly and serve as a floor on taxes for the highest-  
15 income taxpayers, cut the deficit by billions of dol-  
16 lars a year, and help encourage more fundamental  
17 reform of the tax system.

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