H. R. 1

To amend the Internal Revenue Code of 1986 to impose a minimum tax on certain wealthy taxpayers that takes into account unrealized gains.

IN THE HOUSE OF REPRESENTATIVES

Mr. Cohen introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Internal Revenue Code of 1986 to impose a minimum tax on certain wealthy taxpayers that takes into account unrealized gains.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Billionaire Minimum Income Tax Act”.

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SEC. 2. MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS.

(a) In General.—Subtitle A of the Internal Revenue Code of 1986 is amended by inserting after chapter the following new chapter:

“CHAPTER 5—MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS

Sec. 1481. Minimum tax on certain wealthy taxpayers.
Sec. 1482. Certain otherwise exempt transfers by certain wealthy taxpayers treated as taxable.

“SEC. 1481. MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS.

“(a) In General.—In the case of an applicable taxpayer, there is hereby imposed (in addition to any other tax imposed by this subtitle) for each taxable year a tax equal to the excess (if any) of—

“(1) 20 percent of the sum of—

“(A) the taxpayer’s taxable income for such taxable year, plus

“(B) the taxpayer’s net unrealized gain for such taxable year, over

“(2) the sum of—

“(A) the taxpayer’s minimum tax account balance for such taxable year, plus

“(B) the taxpayer’s regular tax liability (as defined in section 26(b)) for such taxable year.

“(b) Limitation on Minimum Tax.—The tax imposed under subsection (a) with respect to any applicable
taxpayer (other than an applicable taxpayer described in subsection (c)(1)(B)) for any taxable year shall not exceed 40 percent of the excess described in subsection (c)(1)(A) with respect to such taxpayer for such taxable year.

“(c) APPLICABLE TAXPAYER.—For purposes of this section—

“(1) IN GENERAL.—The term ‘applicable taxpayer’ means—

“(A) any individual for any taxable year if the taxpayer’s net worth for such taxable year exceeds $100,000,000 (half such amount in the case of a married individual filing a separate return), and

“(B) any trust or estate treated as an applicable taxpayer under subsection (g).

“(2) NET WORTH.—The term ‘net worth’ means, with respect to any taxpayer for any taxable year, the excess (if any), determined as of the close of such taxable year, of—

“(A) the estimated value of all assets of the taxpayer and all trust attributed assets of the taxpayer, as determined under regulations provided by the Secretary, over
“(B) all debts (and such other liabilities as
the Secretary may provide) of the taxpayer and
all trust attributed debts of the taxpayer.

“(3) TRUST ATTRIBUTED ASSETS.—The term
‘trust attributed assets’ means, with respect to any
taxpayer—

“(A) any asset of a trust which such tax-
payer is treated as owning under subpart E of
part I of subchapter J of chapter 1, and

“(B) any asset of a trust (other than a
trust which a person other than the taxpayer is
treated as owning under such subpart) that is
distributable to the taxpayer or from which in-
come is distributable to the taxpayer in whole
or in part, whether or not the taxpayer’s dis-
tribution rights are subject to a contingency,
unless that contingency is the death of another
trust beneficiary.

“(4) TRUST ATTRIBUTED DEBTS.—The term
‘trust attributed debts’ means, with respect to any
taxpayer—

“(A) any debt (and such other liabilities as
the Secretary may provide) of a trust described
in paragraph (3)(A), and
“(B) any debt (and such other liabilities as the Secretary may provide) with respect to an asset described in paragraph (3)(B) if the holders of such debt have a right to repayment which is senior to the distribution rights of the taxpayer.

“(5) GRATUITOUS TRANSFERS.—

“(A) IN GENERAL.—In the case of any asset which was transferred by the taxpayer during the 5-year period ending with the close of the taxable year for which the taxpayer’s net worth is determined (and which is not otherwise taken into account in determining such net worth), such taxpayer’s net worth (as determined for purposes of this section) shall be—

“(i) increased by the value of such transferred asset at the time of transfer,

“(ii) decreased (but not in excess of the amount of the increase under clause (i)) by the amount paid in consideration for such asset by the transferee,

“(iii) in the case of any decrease under clause (ii), increased to the extent of any liability of the transferee to the transferor or related party (as defined under
section 267(b)) of the transferor, incurred in connection with the transfer of such asset, to the extent that the right to collect such liability is not already reflected in the net wealth of the transferor, and

“(iv) increased by the value of any such transferred asset transferred with a purpose that was in substantial part to avoid tax, to the extent not already included as an increase under clause(i) or (iii).

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any transfer of an asset to—

“(i) an organization described in section 170(c),

“(ii) a spouse or former spouse if section 1041 applies to such transfer, or

“(iii) a spouse if both spouses are applicable taxpayers at the time of such transfer.

“(C) SPECIAL RULE REGARDING TRANSFER TO AVOID TAX.—For purposes of subparagraph (A)(iv), if one or more transfers of assets would (but for this sentence) reduce the tax im-
posed under this section and the taxpayer retains a substantial degree of control over such assets, the purpose of such transfers shall be treated as avoidance of tax unless the taxpayer shows otherwise by clear and convincing evidence.

“(d) MINIMUM TAX ACCOUNT BALANCE.—For purposes of this section, the term ‘minimum tax account balance’ means, with respect to any taxpayer for any taxable year, the excess (if any) of—

“(1) the aggregate amount of tax imposed under this section with respect to the taxpayer for all prior taxable years, over

“(2) the sum of—

“(A) the aggregate credits allowed under sections 25E and 36C with respect to the taxpayer for all prior taxable years, and

“(B) the aggregate reductions described in subsection (h)(6) with respect to the taxpayer for all prior taxable years.

“(e) NET UNREALIZED GAIN.—

“(1) IN GENERAL.—For purposes of this section, the term ‘net unrealized gain’ means, with respect to any taxpayer for any taxable year, the excess (if any) of—
“(A) the aggregate gains which would be recognized if such taxpayer sold each asset held at the close of such taxable year (including any asset described in subsection (c)(3)(A)) for such asset’s estimated value at such time, over

“(B) the aggregate losses which would be so recognized.

“(2) ESTIMATED VALUE.—For purposes of this section—

“(A) IN GENERAL.—Except as otherwise provided in this subsection, the term ‘estimated value’ means fair market value determined in such manner as the Secretary may provide.

“(B) NON-READILY TRADABLE ASSETS.—

“(i) DEFAULT METHOD.—In the absence of regulations or other guidance under clause (iii) or (iv) (and only in such absence), the estimated value of a non-readily tradable asset shall be determined by beginning with the greatest (determined after adjustment under clause (ii)) of —

“(I) the original basis amount,

“(II) the adjusted cost basis amount, or
“(III) the most recent fair market valuation amount.

“(ii) ADJUSTMENT FOR DEEMED APPRECIATION.—Each amount described in subclause (I), (II) and (III) of clause (i) shall be separately increased by a rate of appreciation equal to the sum of—

“(I) the annual rate of interest determined by the Secretary to be equivalent to the average of the 5-year constant maturity Treasury yields, as published by the Board of Governors of the Federal Reserve System, for the 5-year period ending on September 30 of the calendar year ending before the date with respect to which the estimated value is determined, plus

“(II) 2 percentage points, for the period beginning on the date with respect to which such amount relates and ending on the date with respect to which the estimated value is determined.

“(iii) REGULATIONS.—In the case of any non-readily tradable asset, the esti-
mated value of such asset shall be determined by such method as the Secretary may prescribe in regulations or other guidance. Such method may require a single valuation method with respect to any such asset or may provide one or more options for valuing any such asset and may (but is not required to) include one or more of the following:

“(I) Required formulaic valuations based on any of the original basis amount (grossed up by a formula), other adjusted cost basis amounts (potentially adjusted by a formula), most recent fair market valuation amount (grossed up by a formula), or formulaic multiple of book value or other financial statement valuation.

“(II) Any valuation method utilized with respect to illiquid taxpayers under subsection (f), including any method under the special valuation regime and the rule that a valuation may be challenged by the taxpayer
only upon a showing of clear and convincing error.

“(iv) CERTAIN REQUIRED APPLICATIONS OF ILLIQUID TAXPAYER RULES.— The Secretary may issue regulations or other guidance which require certain taxpayers which hold one or more non-readily tradable assets to apply one or more of the rules applicable to illiquid taxpayers under paragraph (4) and subsection (h) (without regard to whether the taxpayer makes the election described in paragraph (4) or any election under subsection (h)) with respect to all or any portion of such assets. The Secretary may require calculation and payment of estimated annual taxes on such assets to the extent that the Secretary determines that doing so would best advance the goal of minimizing gaming by taxpayers.

“(v) RECAPTURE OF DEPRECIATION AND AMORTIZATION PERMITTED.—Nothing in this subsection shall be construed to prevent the determination of gains and losses for purposes of this gains and losses for purposes of this subsection with
respect to any asset on the basis of the ad-
justed basis of such asset (after taking into
account any reductions in such basis for
depreciation or amortization).

“(3) NON-READILY TRADABLE ASSET.—For
purposes of this section, the term ‘non-readily
tradable asset’ means any asset which is part of any
class of assets with respect to which the Secretary
has determined that mandatory annual valuations
are inappropriate for purposes of this section.

“(4) ILLIQUID TAXPAYERS.—

“(A) IN GENERAL.—In the case of an il-
liquid taxpayer which makes the election de-
scribed in subparagraph (B)—

“(i) the net unrealized gain of such
taxpayer shall be determined by only tak-
ing into account the unrealized gains (and
losses) on assets other than non-readily
tradable assets, and

“(ii) such taxpayer shall be subject to
the requirements of subsection (f) with re-
spect to all non-readily tradable assets held
by the taxpayer.

“(B) ILLIQUID TAXPAYER.—For purposes
of this subsection, the term ‘illiquid taxpayer’
means any taxpayer for any taxable year if the
estimated value of all assets other than non-
readily tradable assets of the taxpayer as of the
close of such taxable year does not exceed 20
percent of the taxpayer’s net worth for such
taxable year.

“(C) ELECTION.—Any election made
under this paragraph shall be made at such
time and in such manner as the Secretary may
provide and, once made with respect to any
asset, may be revoked only with the consent of
the Secretary (and subject to such requirements
as the Secretary may provide to ensure proper
taxation of gains and losses with respect to
such assets). If the Secretary determines that it
is consistent with the purposes of this section,
the Secretary may permit an illiquid taxpayer
to elect to apply this paragraph (and subsection
(f)) with respect to such portion of non-readily
tradable assets of the taxpayer as the Secretary
determines is consistent with such purposes.

“(f) UNLIQUIDATED TAX RESERVE ACCOUNTS.—
“(1) IN GENERAL.—The Secretary shall issue
regulations or other guidance under which, in the
case of any taxpayer subject to the requirements of
this subsection (including by reason of subsection(e)(2)(B)(iv) or (e)(4) or paragraph (2)(K) of this subsection), the taxpayer’s tax liability under this section, and the timing of any such liability, with respect to any non-readily tradable assets held by such taxpayer are determined on the basis of the Unliquidated Tax Reserve Account rules prescribed by the Secretary under this subsection.

“(2) UNLIQUIDATED TAX RESERVE ACCOUNT RULES.—The Unliquidated Tax Reserve Account rules prescribed by the Secretary under this subsection shall, except as otherwise provided by the Secretary, be consistent with the following:

“(A) Any taxpayer subject to this subsection shall be treated as having an Unliquidated Tax Reserve Account (hereafter in this subsection referred to as an ‘ULTRA’) which consists of the non-readily tradable assets held by such taxpayer (or, as the case may be, to the portion of such assets described in subsection (e)(2)(B)(iv) or (e)(4)(C)) (hereafter in this subsection referred to as the ‘ULTRA assets’).

“(B) Except as provided in subparagraph (K)—
“(i) in the case of the first year in which a taxpayer becomes subject to this subsection and so has assets in the ULTRA, the notional interest percentage of the ULTRA shall be 20 percent (0 percent in the case of a taxpayer which elects to recognize all unrealized gains of all assets in the ULTRA upon initiation of the ULTRA), and

“(ii) at the end of the first year in which a taxpayer becomes subject to this subsection and so has assets in the ULTRA and at the end of each subsequent year during which the taxpayer continues to be subject to this subsection and have assets in the ULTRA, the notional interest percentage of the ULTRA shall be increased annually by an amount equal to the product of—

“(I) the deemed rate of return multiplied by 20 percent, multiplied by

“(II) 1 minus the notional interest percentage immediately prior to the increase.
“(C) The deemed rate of return for purposes of subparagraph (B)(ii)(I) shall be the estimated investment rate of return for the entire economy as determined by the Secretary, or if the Secretary provides that the notional interest percentage should be determined separately with respect to any class of assets, such other rate of return as the Secretary determines appropriate for such asset class.

“(D) Any sale, or other transfer, of any ULTRA asset shall be treated as a distribution from the ULTRA, except that the Secretary shall provide rules for treating transfers made in the ordinary course of a trade or business and exchanges of non-readily tradable assets as other than distributions.

“(E) Except as otherwise provided by the Secretary, an increase in debt shall be treated as a distribution from the ULTRA and any subsequent decrease in debt shall be taken into account as a reduction in distributions from the ULTRA or as a credit against tax (as the Secretary determines appropriate).

“(F) Any distribution from the ULTRA shall result in an increase in the taxable income
of the taxpayer equal to the product of the estimated value of the distribution multiplied by the notional interest percentage at the time of the distribution.

“(G) A taxpayer may elect to pay liabilities under this subsection in advance and proper credit shall be provided for any such liabilities so paid in advance upon resolution of the ULTRA.

“(H) The Secretary shall establish a special valuation regime for purposes of determining the estimated value of any distribution of a non-tradable asset from an ULTRA. Such special valuation regime shall ensure valuation accuracy, minimize the potential for under-valuation, and minimize the potential for taxpayer gaming. Such regime may include the use of appraisers employed by the Secretary, formulaic valuations, or any other method designed to ensure valuation accuracy and minimize the potential for gaming. Any estimated value determined under such special valuation regime may be challenged by the taxpayer only upon a showing of clear and convincing error. In place of the standard due process safeguards, a tax-
payers may opt to reject such special valuations (under rules and procedures to be determined by the Secretary) and instead maintain the non-tradable asset within an ULTRA.

“(I) If a taxpayer is subject to the requirements of this subsection with respect to any assets, such taxpayer shall remain subject to the requirements of this subsection (without regard to whether or not such taxpayer ceases to be an applicable taxpayer) until the ULTRA is resolved and all liabilities with respect to such ULTRA have been paid. For purposes of this subsection, an ULTRA shall be treated as resolved upon the death of the taxpayer, the distribution of all assets of the ULTRA, a determination by the Secretary that further treatment as an ULTRA is inconsistent with the purposes of this section, or a determination by the Secretary described in subparagraph (J).

“(J) If the Secretary determines, upon application by the taxpayer, that the resolution of an ULTRA is not inconsistent with the purposes of this section—
“(i) all remaining assets of such ULTRA shall be treated as distributed, and

“(ii) such ULTRA shall be treated as resolved.

“(K) Upon the resolution of the ULTRA, there shall be imposed on the taxpayer a tax (or a refund of taxes previously paid may be awarded) as determined by the Secretary by applying a retrospective formula determined by the Secretary to eliminate the entire tax advantage of deferral. Such tax shall be determined in a manner to take into account prior distributions from the ULTRA and any tax previously imposed thereon and any liability under this subsection which is paid in advance under subparagraph (G).

“(L) If, upon the death of a taxpayer, an heir of ULTRA assets elects to initiate a carry-over ULTRA for such inherited assets—

“(i) such assets shall not be taken into account under subparagraph (J) upon the resolution of the decedent’s ULTRA,

“(ii) such heir’s carry-over ULTRA shall begin with a notional interest per-
percentage equal to that of the decedent’s ULTRA at the time of death, and

“(iii) such carry-over ULTRA shall be maintained separately from any ULTRA otherwise maintained by such heir.

“(g) TREATMENT OF TRUSTS AND ESTATES AS APPLICABLE TAXPAYERS.—For purposes of this chapter—

“(1) IN GENERAL.—Any trust (other than a trust the assets of which are treated as owned by another taxpayer under subpart E of part I of subchapter J of chapter 1) or applicable estate shall be treated as an applicable taxpayer for purposes of this chapter if any assets of the trust are trust attributed assets with respect to any applicable taxpayer.

“(2) APPLICABLE ESTATE.—An estate is an applicable estate beginning with the third taxable year following the date of death of the decedent if the decedent was an applicable taxpayer for any taxable year ending during the 5-year period ending on the date of the decedent’s death.

“(3) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—

“(A) IN GENERAL.—If paragraph (1) applies to a trust for a transferor or beneficiary’s
taxable year, and paragraph (1) would have applied to the trust for any of the preceding 10 taxable years (other than years prior to the effective date of this section) but for the fact that in such year or years there was no United States beneficiary for any portion of the trust, then the transferor shall be treated as having income for the taxable year equal to—

“(i) the aggregate increases in the tax imposed under this title for each such prior taxable year (beginning after the date of the enactment of this chapter) which would have occurred if paragraph (1) had applied to such trust for such year, plus

“(ii) interest on such increase determined with respect to each such taxable year determined at the underpayment rate.

“(B) NO LIVING TRANSFEROR.—In the event that subparagraph (A) would apply, but for the fact that there is no living transferor, then each beneficiary of such trust, other than a contingent beneficiary, shall be treated as having income for the taxable year equal to—

“(i) the aggregate increases in the tax imposed under this title for each such prior
taxable year (beginning after the date of
the enactment of this chapter) which would
have occurred if paragraph (1) had applied
to such trust, but only to the extent of
such increases in tax which would have oc-
curred with respect to such portion of trust
assets as are distributable to the bene-
ficiary, or such portion of trust income as
is distributable to the beneficiary (whether
or not such assets or income are so distrib-
uted), plus

“(ii) interest on such increase deter-
mined with respect to each such taxable
year determined at the underpayment rate.

“(C) CONTINGENT BENEFICIARIES.—In
the event that no tax is imposed on a bene-
ficiary under subparagraph (B) because such
beneficiary is contingent, then in the first tax-
able year in which such beneficiary is no longer
contingent, such beneficiary shall be treated as
having income for the taxable year equal to the
amount that would have been imposed under
subparagraph (B), plus interest on such in-
crease determined with respect to each such
taxable year determined at the underpayment
rate, but in no case will such tax and interest
be imposed with respect to any portion of trust
assets or income previously subject to tax under
this section.

“(D) CONTINGENT.—For purposes of this
paragraph, a beneficiary’s interest in a trust
shall be treated as contingent if (and only if)
such interest depends on the outcome of uncer-
tain future events (other than the discretion of
the trustee to determine the timing of the dis-
tribution of income).

“(h) ELECTION TO PAY LIABILITY IN INSTALL-
MENTS.—

“(1) IN GENERAL.—A taxpayer may elect to
pay the tax imposed under subsection (a) or (g) for
any taxable year in 5 equal annual installments (in
the case of the taxpayer’s first taxable year begin-
ning in 2023, 9 equal annual installments).

“(2) DATE FOR PAYMENT OF INSTALLMENTS.—
If an election is made under paragraph (1), the first
installment shall be paid on or before the due date
(determined without regard to any extension of time
for filing the return) for the return of tax for the
taxable year described in subsection (a) and each
succeeding installment shall be paid on or before the
due date (as so determined) for the return of tax for
the taxable year following the taxable year with re-
spect to which the preceding installment was made.

“(3) ACCELERATION OF PAYMENT.—

“(A) IN GENERAL.—If there is an addition
to tax for failure to timely pay any installment
required under this subsection (other than by
reason of a timely election made under para-
graph (5)), a bankruptcy of the taxpayer (in-
cluding in a title 11 or similar case), or any
similar circumstance, then the unpaid portion
of all remaining installments shall be due on
the date of such event (or in the case of a title
11 or similar case, the day before the petition
is filed).

“(B) PAYMENT WITHIN 6 MONTHS.—In
the case of the payment of any installment re-
quired under this subsection during the 6-
month period beginning on the due date of such
installment, subparagraph (A) shall not apply
and rules similar to the rules of section
6166(g)(3)(B) shall apply.

“(4) PRORATION OF DEFICIENCY TO INSTALL-
MENTS.—If an election is made under paragraph (1)
to pay tax imposed under subsection (a) in install-
ments and a deficiency has been assessed with respect to such tax, the deficiency shall be prorated to the installments payable under paragraph (1). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(5) Election.—Any election under paragraph (1) shall be made at such time and in such manner as the Secretary shall provide.

“(6) Reduction of installment payments to extent minimum account balance is in excess of expected recognized gain.—If the minimum account balance of the taxpayer for any taxable year (reduced by the amount of any credit allowed under section 25E for such taxable year) exceeds 20 percent of the taxpayer’s net unrealized gain for such taxable year, such excess shall be applied to reduce the amount of any installment pay-
ments of the taxpayer the date for payment of which has not yet arrived (without regard to the taxable year to which such installment payment relates). Any reduction under the preceding sentence shall be applied to installment payments on a last-due, first-reduced basis.

“(i) INFORMATION REPORTING.—The Secretary shall, not later than 1 year after the date of the enactment of this section, issue regulations—

“(1) requiring such persons as the Secretary determines appropriate to file a return with the Secretary which include such information as the Secretary determines necessary to carry out this section, including the provision of applicable financial statements (within the meaning of section 451(b)), other financial or accounting statements, insurance valuations, or similar documents, and

“(2) requiring persons required to file returns under paragraph (1) to furnish statements to such other persons as the Secretary determines appropriate which contain all or a portion of the information contained in such return.

“(j) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes this section and sec-
tions 25E and 36C, including regulations or other guidance to—

“(1) require reporting of basis and estimated value of assets, aggregated by asset class or otherwise, held by the applicable taxpayer, and liabilities of the applicable taxpayer, as of the close of the taxable year, in such manner as the Secretary may provide,

“(2) discourage applicable taxpayers from inappropriately converting assets into assets which are non-readily tradable assets,

“(3) treat assets held directly or indirectly by the applicable taxpayer as held by the applicable taxpayer,

“(4) in such circumstances as the Secretary determines there is a reasonable risk of an intent to avoid tax, treat assets owned or controlled by persons related to the applicable taxpayer as owned by the applicable taxpayer,

“(5) provide for the application of such sections with respect to married individuals, including rules with respect to—

“(A) individuals whose marital or joint return filing status changes, and
“(B) the transfer of an individual’s minimum tax account balance to the individual’s spouse or otherwise upon the death of such individual,

“(6) provide that the tax imposed under this section shall not be taken into account in determining the amount of any required payment of estimated tax or in satisfying the safe harbor to avoid a penalty for the underpayment of estimated tax, and

“(7) if the Secretary determines appropriate to carry out the purposes of this section, provide for the separate application of such sections with respect to different classes of assets.

“(k) Standards for Making Certain Determinations.—For purposes of making any determination described in subsection (e)(2)(A), (e)(2)(B)(iii), (e)(3), (f)(2)(C), or (f)(2)(D), the Secretary shall balance the goals of ensuring valuation accuracy, minimizing the potential for taxpayer gaming, and avoiding unduly excessive compliance and administrative costs.
“SEC. 1482. CERTAIN OTHERWISE EXEMPT TRANSFERS BY CERTAIN WEALTHY TAXPAYERS TREATED AS TAXABLE.

“(a) In General.—Notwithstanding any other provision of this title, in the case of any specified transfer by a covered taxpayer, gain shall be recognized by such covered taxpayer in an amount equal to the excess (if any) of the estimated value (as defined in section 1481(e)(2)) of the property transferred over the adjusted basis of such property.

“(b) Specified Transfer.—For purposes of this section, the term ‘specified transfer’ means any gift, charitable contribution, bequest, or other transfer upon death.

“(c) Covered Taxpayer.—For purposes of this section, the term ‘covered taxpayer’ means, with respect to any taxable year, any taxpayer which is an applicable taxpayer for such taxable year or was an applicable taxpayer for any of the 10 taxable years immediately preceding such taxable year.

“(d) Regulations.—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including regulations or other guidance that provide for exceptions with respect to—
“(1) transfers which are de minimis or which otherwise do not pose a risk of circumventing the purposes of this chapter, and

“(2) taxpayers which do not pose such a risk.”.

(b) CREDIT AGAINST TAXES ON RECOGNIZED GAINS.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

“SEC. 25E. MINIMUM TAX ON CERTAIN WEALTHY TAX-PAYERS CREDITED AGAINST RECOGNIZED GAINS.

“In the case of an individual (including any estate or trust), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

“(1) the taxpayer’s minimum tax account balance (as defined in section 1481) for such taxable year determined, in the case of any tax imposed under section 1481 with respect to which an election is made under such section to pay such tax in installments, by only taking into account so much of such tax as has been paid as of the close of such taxable year, and

“(2) the excess (if any) of—
“(A) the taxpayer’s regular tax (as defined in section 26(b)) for such taxable year, over
“(B) the amount which would be determined under subparagraph (A) if the taxpayer did not recognize any gain or loss for such taxable year.”.

(c) REFUND OF EXCESS MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 36B the following new section:

“SEC. 36C. CREDIT FOR EXCESS MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS.

“In the case of an individual (including any estate or trust), there shall be allowed as a credit against the tax imposed by this subtitle for any taxable year an amount equal to the excess (if any) of—
“(1) the amount described in section 25E(1) for such taxable year, over
“(2) the sum of—
“(A) 20 percent of the taxpayer’s net unrealized gain (as defined in section 1481) for such taxable year,
“(B) the aggregate credits allowed under section 25E for such taxable year and all prior taxable years, and
“(C) the aggregate reductions determined under section 1481(h)(6) for such taxable year and all prior taxable years.”.

(d) Penalties for Failure to Report.—

(1) Returns.—Section 6724(d)(1)(D) of the Internal Revenue Code of 1986 is amended by inserting “1481(i)(1) or” before “6055”.

(2) Statements.—Section 6724(d)(2) of such Code is amended—

(A) in subparagraph (II), by striking “or” at the end,

(B) in the first subparagraph (JJ), by striking the period at the end and inserting a comma,

(C) in the second subparagraph (JJ)—

(i) by redesignating such subparagraph as subparagraph (KK), and

(ii) by striking the period at the end and inserting “, or”, and

(D) by adding at the end the following new subparagraph:
“(LL) section 1481(i)(2) (relating to statements relating to minimum tax on certain wealthy taxpayers).”.

(e) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by inserting “36C,” after “36B,”.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “36C,” after “36B,”.

(3) The table of chapters for subtitle A of the Internal Revenue Code of 1986 is amended by inserting after the item relating to chapter 4 the following new item:

“CHAPTER 5. MINIMUM TAX ON CERTAIN WEALTHY TAXPAYERS.”.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

“Sec. 25E. Minimum tax on certain wealthy taxpayers credited against recognized gains.”.

(5) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 36B the following new item:

“Sec. 36C. Credit for excess minimum tax on certain wealthy taxpayers.”.
(f) **Sense of Congress Regarding State Residency Rules.**—It is the sense of Congress that the taxation by the several States of extreme wealth is in the public interest and that silence on the part of Congress shall not be construed to impose any barrier to the use of reasonable residency rules, including such rules that apportion a tax on deemed sales or extreme wealth over no more than five years, by the several States or the District of Columbia.

(g) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.