117TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to exclude from gross income
de minimis gains from certain sales or exchanges of virtual currency,
and for other purposes.

_____

IN THE SENATE OF THE UNITED STATES

_____

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

_____

A BILL

To amend the Internal Revenue Code of 1986 to exclude
from gross income de minimis gains from certain sales
or exchanges of virtual currency, 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.**

4   This Act may be cited as the "Virtual Currency Tax

5 Fairness Act".

6 **SEC. 2. VIRTUAL CURRENCY.**

7   (a) IN GENERAL.—Part III of subchapter B of chap-

8 ter 1 of the Internal Revenue Code of 1986 is amended

9 by inserting after section 139I the following new section:

1 **"SEC. 139J. DE MINIMIS GAIN FROM SALE OR EXCHANGE**

2   **OF VIRTUAL CURRENCY.**

3   "(a) IN GENERAL.—Subject to subsection (b), gross

4 income shall not include gain from the sale or exchange

5 of virtual currency, unless the sale or exchange is for—

6   "(1) cash or cash equivalents,

7   "(2) any property used by the taxpayer in the

8   active conduct of a trade or business, or

9   "(3) any property held by the taxpayer for the

10   production of income (as described in section

11   212(2)).

12   "(b) LIMITATION.—

13   "(1) IN GENERAL.—Subsection (a) shall not

14   apply in the case of any sale or exchange for

15   which—

16   "(A) the total value of such sale or ex-

17   change exceeds $50, or

18   "(B) the total gain which would otherwise

19   be recognized with respect to such sale or ex-

20   change exceeds $50.

21   "(2) AGGREGATION RULE.—For purposes of

22   this subsection, all sales or exchanges which are part

23   of the same transaction (or a series of related trans-

24   actions) shall be treated as one sale or exchange.

1 ''(c) VIRTUAL CURRENCY.—For purposes of this sec-

2 tion, the term 'virtual currency' means a digital represen-

3 tation of value which—

4   ''(1) functions as a unit of account, a store of

5   value, or a medium of exchange, and

6   ''(2) is not a representation of the United

7   States dollar or any foreign currency.

8   ''(d) INFLATION ADJUSTMENT.—In the case of any

9 taxable year beginning in a calendar year after 2023, the

10 dollar amount in subsection (b)(1) shall be increased by

11 an amount equal to—

12   ''(1) such dollar amount, multiplied by

13   ''(2) the cost-of-living adjustment determined

14   under section 1(f)(3) for the calendar year in which

15   the taxable year begins, determined by substituting

16   'calendar year 2022' for 'calendar year 2016' in sub-

17   paragraph (A)(ii) thereof.

18 Any increase determined under the preceding sentence

19 shall be rounded to the nearest multiple of $10.''.

20   (b) CLERICAL AMENDMENT.—The table of sections

21 for part III of subchapter B of chapter 1 of the Internal

22 Revenue Code of 1986 is amended by inserting after the

23 item relating to section 139I the following new item:

''Sec. 139J. De minimis gain from sale or exchange of virtual currency.''.

1 (c) EFFECTIVE DATE.—The amendments made by

2 this section shall apply with respect to transactions en-

3 tered into after December 31, 2022.