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.

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IN THE SENATE OF THE UNITED STATES

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

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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:
“SEC. 139J. DE MINIMIS GAIN FROM SALE OR EXCHANGE OF VIRTUAL CURRENCY.

(a) In General.—Subject to subsection (b), gross income shall not include gain from the sale or exchange of virtual currency, unless the sale or exchange is for—

“(1) cash or cash equivalents,

“(2) any property used by the taxpayer in the active conduct of a trade or business, or

“(3) any property held by the taxpayer for the production of income (as described in section 212(2)).

(b) Limitation.—

“(1) In General.—Subsection (a) shall not apply in the case of any sale or exchange for which—

“(A) the total value of such sale or exchange exceeds $50, or

“(B) the total gain which would otherwise be recognized with respect to such sale or exchange exceeds $50.

“(2) Aggregation Rule.—For purposes of this subsection, all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as one sale or exchange.
“(c) VIRTUAL CURRENCY.—For purposes of this section, the term ‘virtual currency’ means a digital representation of value which—

“(1) functions as a unit of account, a store of value, or a medium of exchange, and

“(2) is not a representation of the United States dollar or any foreign currency.

“(d) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2023, the dollar amount in subsection (b)(1) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2022’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $10.”.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 139I the following new item:

“Sec. 139J. De minimis gain from sale or exchange of virtual currency.”.
(c) Effective Date.—The amendments made by this section shall apply with respect to transactions entered into after December 31, 2022.