

## Calendar No. 36

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 1586**

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IN THE SENATE OF THE UNITED STATES

MARCH 19, 2009

Received and read the first time

MARCH 23, 2009

Read the second time and placed on the calendar

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**AN ACT**

To impose an additional tax on bonuses received from certain  
TARP recipients.

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. BONUSES RECEIVED FROM CERTAIN TARP RE-**  
4 **CIPIENTS.**

5 (a) IN GENERAL.—In the case of an employee or  
6 former employee of a covered TARP recipient, the tax im-  
7 posed by chapter 1 of the Internal Revenue Code of 1986  
8 for any taxable year shall not be less than the sum of—

9 (1) the tax that would be determined under  
10 such chapter if the taxable income of the taxpayer

1 for such taxable year were reduced (but not below  
2 zero) by the TARP bonus received by the taxpayer  
3 during such taxable year, plus

4 (2) 90 percent of the TARP bonus received by  
5 the taxpayer during such taxable year.

6 (b) TARP BONUS.—For purposes of this section—

7 (1) IN GENERAL.—The term “TARP bonus”  
8 means, with respect to any individual for any taxable  
9 year, the lesser of—

10 (A) the aggregate disqualified bonus pay-  
11 ments received from covered TARP recipients  
12 during such taxable year, or

13 (B) the excess of—

14 (i) the adjusted gross income of the  
15 taxpayer for such taxable year, over

16 (ii) \$250,000 (\$125,000 in the case of  
17 a married individual filing a separate re-  
18 turn).

19 (2) DISQUALIFIED BONUS PAYMENT.—

20 (A) IN GENERAL.—The term “disqualified  
21 bonus payment” means any retention payment,  
22 incentive payment, or other bonus which is in  
23 addition to any amount payable to such indi-  
24 vidual for service performed by such individual

1 at a regular hourly, daily, weekly, monthly, or  
2 similar periodic rate.

3 (B) EXCEPTIONS.—Such term shall not in-  
4 clude commissions, welfare or fringe benefits, or  
5 expense reimbursements.

6 (C) WAIVER OR RETURN OF PAYMENTS.—  
7 Such term shall not include any amount if the  
8 employee irrevocably waives the employee’s enti-  
9 tlement to such payment, or the employee re-  
10 turns such payment to the employer, before the  
11 close of the taxable year in which such payment  
12 is due. The preceding sentence shall not apply  
13 if the employee receives any benefit from the  
14 employer in connection with the waiver or re-  
15 turn of such payment.

16 (3) REIMBURSEMENT OF TAX TREATED AS  
17 TARP BONUS.—Any reimbursement by a covered  
18 TARP recipient of the tax imposed under subsection  
19 (a) shall be treated as a disqualified bonus payment  
20 to the taxpayer liable for such tax.

21 (c) COVERED TARP RECIPIENT.—For purposes of  
22 this section—

23 (1) IN GENERAL.—The term “covered TARP  
24 recipient” means—

1 (A) any person who receives after Decem-  
2 ber 31, 2007, capital infusions under the Emer-  
3 gency Economic Stabilization Act of 2008  
4 which, in the aggregate, exceed \$5,000,000,000,

5 (B) the Federal National Mortgage Asso-  
6 ciation and the Federal Home Loan Mortgage  
7 Corporation,

8 (C) any person who is a member of the  
9 same affiliated group (as defined in section  
10 1504 of the Internal Revenue Code of 1986, de-  
11 termined without regard to paragraphs (2) and  
12 (3) of subsection (b)) as a person described in  
13 subparagraph (A) or (B), and

14 (D) any partnership if more than 50 per-  
15 cent of the capital or profits interests of such  
16 partnership are owned directly or indirectly by  
17 one or more persons described in subparagraph  
18 (A), (B), or (C).

19 (2) EXCEPTION FOR TARP RECIPIENTS WHO  
20 REPAY ASSISTANCE.—A person shall be treated as  
21 described in paragraph (1)(A) for any period only  
22 if—

23 (A) the excess of the aggregate amount of  
24 capital infusions described in paragraph (1)(A)  
25 with respect to such person over the amounts

1           repaid by such person to the Federal Govern-  
2           ment with respect to such capital infusions, ex-  
3           ceeds

4                           (B) \$5,000,000,000.

5           (d) OTHER DEFINITIONS.—Terms used in this sec-  
6           tion which are also used in the Internal Revenue Code of  
7           1986 shall have the same meaning when used in this sec-  
8           tion as when used in such Code.

9           (e) COORDINATION WITH INTERNAL REVENUE CODE  
10          OF 1986.—Any increase in the tax imposed under chapter  
11          1 of the Internal Revenue Code of 1986 by reason of sub-  
12          section (a) shall not be treated as a tax imposed by such  
13          chapter for purposes of determining the amount of any  
14          credit under such chapter or for purposes of section 55  
15          of such Code.

16          (f) REGULATIONS.—The Secretary of the Treasury,  
17          or the Secretary's delegate, shall prescribe such regula-  
18          tions or other guidance as may be necessary or appro-  
19          priate to carry out the purposes of this section.

20          (g) EFFECTIVE DATE.—This section shall apply to  
21          disqualified bonus payments received after December 31,  
22          2008, in taxable years ending after such date.

          Passed the House of Representatives March 19,  
          2009.

Attest:

LORRAINE C. MILLER,

*Clerk.*

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