

117TH CONGRESS
1ST SESSION

S. 2758

To amend the Internal Revenue Code of 1986 to impose an excise tax on stock buybacks of publicly traded corporations.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2021

Mr. BROWN (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to impose an excise tax on stock buybacks of publicly traded corporations.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Stock Buyback Ac-
5 countability Act of 2021”.

6 SEC. 2. EXCISE TAX ON REPURCHASE OF CORPORATE
7 STOCK.

8 (a) IN GENERAL.—Subtitle D of the Internal Rev-
9 enue Code of 1986 is amended by inserting after chapter
10 36 the following new chapter:

1 **“CHAPTER 37—REPURCHASE OF**
2 **CORPORATE STOCK**

“Sec. 4501. Repurchase of corporate stock.

3 **“SEC. 4501. REPURCHASE OF CORPORATE STOCK.**

4 “(a) GENERAL RULE.—There is hereby imposed on
5 each covered corporation a tax equal to 2 percent of the
6 value of any stock of the corporation repurchased by such
7 corporation during the taxable year.

8 “(b) COVERED CORPORATION.—For purposes of this
9 section, the term ‘covered corporation’ means—

10 “(1) any domestic corporation the stock of
11 which is traded on an established securities market
12 (within the meaning of section 7704(b)(1)), and

13 “(2) any surrogate foreign corporation (as de-
14 termined under section 7874(a)(2)(B)) the stock of
15 which is traded on an established securities market
16 (within the meaning of section 7704(b)(1)).

17 “(c) REPURCHASE.—For purposes of this section—

18 “(1) IN GENERAL.—

19 “(A) IN GENERAL.—The term ‘repurchase’
20 means a redemption within the meaning of sec-
21 tion 317(b) (applied as provided in subpara-
22 graph (B)) or any similar transaction (as deter-
23 mined by the Secretary) with regard to the
24 stock of a covered corporation.

1 “(B) APPLICATION TO ECONOMICALLY
2 EQUIVALENT TRANSACTIONS.—For purposes of
3 applying section 317(b) to this section—

4 “(i) the acquisition by a corporation
5 of the right to acquire its stock, and
6 “(ii) to the extent provided by the
7 Secretary, any transaction economically
8 similar to the acquisition by a corporation
9 of its stock,

10 shall be treated in the same manner as the ac-
11 quisition by a corporation of its stock under
12 such section 317(b).

13 “(2) TREATMENT OF PURCHASES BY SPECIFIED
14 AFFILIATES.—

15 “(A) IN GENERAL.—The acquisition of
16 stock of a covered corporation by a specified af-
17 filiate of such covered corporation from a per-
18 son who is not the covered corporation or a
19 specified affiliate of such covered corporation
20 shall be treated as a repurchase of the stock of
21 the covered corporation by such covered cor-
22 poration.

23 “(B) SPECIAL RULES FOR FOREIGN-PAR-
24 ENTED DOMESTIC CORPORATIONS.—

1 “(i) IN GENERAL.—In the case of an
2 acquisition of stock of an applicable foreign
3 corporation by a specified affiliate of such
4 corporation from a person who is not the
5 applicable foreign corporation or a speci-
6 fied affiliate of such applicable foreign cor-
7 poration, for purposes of this section—

8 “(I) such specified affiliate shall
9 be treated in the same manner as a
10 covered corporation with respect to
11 such acquisition, and

12 “(II) such acquisition shall be
13 treated as a repurchase of the stock of
14 such specified affiliate by such speci-
15 fied affiliate.

16 “(ii) APPLICABLE FOREIGN CORPORA-
17 TION.—For purposes of this subparagraph,
18 the term ‘applicable foreign corporation’
19 means any foreign corporation which would
20 be treated as a covered corporation under
21 this section if it were a domestic corpora-
22 tion.

23 “(C) SPECIFIED AFFILIATE.—For pur-
24 poses of this section, the term ‘specified affil-
25 iate’ means, with respect to any corporation—

1 “(i) any domestic corporation more
2 than 50 percent of the stock of which is
3 owned (by vote or by value), directly or in-
4 directly, by such corporation, and

5 “(ii) any domestic partnership more
6 than 50 percent of the capital interests or
7 profits interests of which is held, directly
8 or indirectly, by such corporation.

9 “(3) ADJUSTMENT.—The amount of any stock
10 repurchased by a covered corporation taken into ac-
11 count under subsection (a) shall be reduced by—

12 “(A) the value of any stock newly issued
13 by the covered corporation during the taxable
14 year, and

15 “(B) the value of any stock issued to em-
16 ployees of such covered corporation during the
17 taxable year, including in response to the exer-
18 cise of an option to purchase stock of the cov-
19 ered corporation.

20 “(d) EXCEPTIONS.—Subsection (a) shall not apply—

21 “(1) to the extent that the repurchase is part
22 of a reorganization (within the meaning of section
23 368(a)) and no gain or loss is recognized under
24 chapter 1 on such repurchase by reason of such re-
25 organization,

1 “(2) in any case in which the stock repurchased
2 is, or an amount of stock equal to the value of the
3 stock repurchased is, contributed to an employer-
4 sponsored retirement plan, employee stock ownership
5 plan, or similar plan,

6 “(3) in any case in which the total value of the
7 stock repurchased during the calendar year does not
8 exceed \$1,000,000,

9 “(4) under regulations prescribed by the Sec-
10 retary, in cases in which the repurchase is by a deal-
11 er in securities in the ordinary course of business, or

12 “(5) to the extent that the repurchase is treated
13 as a dividend for purposes of this title.

14 “(e) DENIAL OF DEDUCTION.—No deduction shall be
15 allowed under any provision of this title with regard to
16 the tax imposed by this section.

17 “(f) REGULATIONS AND GUIDANCE.—The Secretary
18 shall prescribe such regulations and other guidance as are
19 necessary or appropriate to administer and to prevent the
20 avoidance of the purposes of this section, including regula-
21 tions and other guidance—

22 “(1) to prevent the abuse of the exceptions pro-
23 vided by subsection (d),

24 “(2) with respect to the identification of trans-
25 actions to which subsection (c)(1)(B)(ii) applies,

1 “(3) to address special classes of stock and pre-
2 ferred stock, and

3 “(4) for the application of the rules under sub-
4 section (c)(2).”.

5 (b) CLERICAL AMENDMENT.—The table of chapters
6 for subtitle D of the Internal Revenue Code of 1986 is
7 amended by inserting after the item relating to chapter
8 36 the following new item:

“CHAPTER 37—REPURCHASE OF CORPORATE STOCK”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to repurchases (within the meaning
11 of section 4501(c) of the Internal Revenue Code of 1986,
12 as added by this section) of stock after December 31,
13 2021.

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