

106TH CONGRESS  
1ST SESSION

# H. R. 1462

To amend the Internal Revenue Code of 1986 to provide incentives for the ownership and control of corporations by employees.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1999

Mr. ROHRABACHER (for himself, Mr. CAMPBELL, Ms. KAPTUR, Mr. KUCINICH, Mr. BILBRAY, Mrs. BONO, Mr. BOUCHER, Mr. CALVERT, Mr. CONDIT, Mr. COX, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Mr. GALLEGLY, Mr. GILCHREST, Mr. GRAHAM, Mr. HORN, Mr. HUNTER, Ms. LEE, Ms. MCKINNEY, Mr. METCALF, Mr. GARY MILLER of California, Mr. PAUL, Mr. PETERSON of Minnesota, Mr. POMBO, Mr. RADANOVICH, Mr. ROGAN, Mr. ROYCE, Mr. SANDERS, Mr. SOUDER, Mr. SHADEGG, Mr. TANCREDO, Mr. WELDON of Florida, Mr. WICKER, and Mr. WALSH) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for the ownership and control of corporations by employees.

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 “Employee Ownership  
5 Act of 1999”.

1 **SEC. 2. OWNERSHIP POLICY FOR THE UNITED STATES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) there is considerable evidence that em-  
4 ployee-owned and employee-controlled corporations  
5 are more productive and provide more wealth to  
6 their employees than corporations not so owned, and

7 (2) the workplace experience of employee-owned  
8 and employee-controlled corporations is proven to  
9 foster greater appreciation of the economic system of  
10 the United States that relies on ownership of private  
11 property and capitalism.

12 (b) POLICY.—It is the policy of the United States  
13 that by the year 2010, 30 percent of all United States  
14 corporations are owned and controlled by employees of the  
15 corporations.

16 **SEC. 3. TAX INCENTIVES RELATING TO EMPLOYEE-OWNED**  
17 **AND EMPLOYEE-CONTROLLED CORPORA-**  
18 **TIONS.**

19 (a) TRUST OF EMPLOYEE-OWNED AND EMPLOYEE-  
20 CONTROLLED CORPORATION EXEMPT FROM TAX-  
21 ATION.—

22 (1) IN GENERAL.—Section 501(c) of the Inter-  
23 nal Revenue Code of 1986 (relating to list of exempt  
24 organizations) is amended by adding at the end the  
25 following new paragraph:

1           “(28)(A) employee-owned and employee-con-  
2           trolled corporation trust.

3           “(B) For purposes of subparagraph (A), the  
4           term ‘employee-owned and employee-controlled cor-  
5           poration trust’ means a trust which has as its pri-  
6           mary assets the employer securities (within the  
7           meaning of section 409(l)) of an employee-owned  
8           and employee-controlled corporation.

9           (2) EMPLOYEE-OWNED AND EMPLOYEE-CON-  
10          TROLLED CORPORATION DEFINED.—Subsection (a)  
11          of section 7701 of such Code (relating to definitions)  
12          is amended by adding at the end the following new  
13          paragraph:

14          “(47) EMPLOYEE-OWNED AND EMPLOYEE-CON-  
15          TROLLED CORPORATION.—The term ‘employee-  
16          owned and employee-controlled corporation’ means a  
17          corporation in which—

18                 “(A) more than 50 percent of the voting  
19                 stock of such corporation is held by a trust for  
20                 the benefit of the employees of that corporation,

21                 “(B) in all matters requiring the vote of  
22                 stock, including the election of the board of di-  
23                 rectors of the corporation, the trustee of such  
24                 trust is obligated to vote the stock held in trust  
25                 and allocated to participants in the trust in the

1 manner in which the participants direct, on the  
2 basis of 1-employee 1-vote, and to vote any  
3 stock not so allocated as if it were so allocated,

4 “(C) at least 25 employees of such cor-  
5 poration are participants in and beneficiaries of  
6 such trust,

7 “(D) a minimum of 90 percent of the em-  
8 ployees who work at least 1,000 hours annually  
9 for such corporation are participants in such  
10 trust, and

11 “(E) the trustee administers such trust for  
12 the benefit of the employees of such corporation  
13 and complies with all requirements of this title  
14 relating to employee stock ownership plans (as  
15 defined in section 4975(e)(7)) pertaining to  
16 independent appraisal of shares not readily  
17 tradable and distribution of those shares.”.

18 (b) NO TAX ON CORPORATE INCOME OF EMPLOYEE-  
19 OWNED AND EMPLOYEE-CONTROLLED CORPORATION.—  
20 Subsection (a) of section 11 of such Code (relating to cor-  
21 porations in general) is amended by inserting before the  
22 period at the end the following: “(other than any em-  
23 ployee-owned and employee-controlled corporation)”.

1 (c) EXCLUSION OF INCOME FROM SALE OF EM-  
 2 PLOYEE-OWNED AND EMPLOYEE-CONTROLLED CORPORA-  
 3 TION STOCK BY EMPLOYEE OWNER.—

4 (1) IN GENERAL.—Part III of subchapter B of  
 5 chapter 1 of such Code (relating to items specifically  
 6 excluded from gross income) is amended by redesign-  
 7 ating section 139 as section 140 and by inserting  
 8 after section 138 the following new section:

9 **“SEC. 139. INCOME FROM EMPLOYEE OWNER SALE OF EM-**  
 10 **PLOYER SECURITIES DISTRIBUTED FROM**  
 11 **EMPLOYEE-OWNED AND EMPLOYEE-CON-**  
 12 **TROLLED CORPORATION TRUST.**

13 “(a) IN GENERAL.—In the case of an individual,  
 14 gross income shall not include any proceeds from the  
 15 qualified sale of employer securities.

16 “(b) QUALIFIED SALE OF EMPLOYER SECURITIES.—  
 17 The term ‘qualified sale of employer securities’ means the  
 18 sale of employer securities (as defined in section 409(l))  
 19 which were distributed to a participant in the employee-  
 20 owned and employee-controlled corporation trust to—

21 “(1) an employee of the employee-owned and  
 22 employee-controlled corporation which issued such  
 23 securities,

24 “(2) such corporation, or

25 “(3) such trust.”.

1           (2) CLERICAL AMENDMENT.—The table of sec-  
 2           tions for part III of subchapter B of chapter 1 of  
 3           such Code is amended by striking the item relating  
 4           to section 139 and inserting after the item relating  
 5           to section 138 the following new items:

                  “Sec. 139. Income from employee owner sale of employer securi-  
    ties distributed from employee-owned and employee-  
    controlled corporation trust.

                  “Sec. 140. Cross references to other Acts.”.

6           (d) RECEIPT OF STOCK IN AN EMPLOYEE OWNED  
 7           AND CONTROLLED CORPORATION DURING 3-YEAR TRAN-  
 8           SITION PERIOD.—Section 83 of such Code (relating to  
 9           property transferred in connection with performance of  
 10          services) is amended by adding at the end the following  
 11          new subsection:

12          “(i) RECEIPT OF STOCK IN AN EMPLOYEE OWNED  
 13          AND CONTROLLED CORPORATION DURING 3-YEAR TRAN-  
 14          SITION PERIOD.—

15               “(1) IN GENERAL.—In the case of an employee,  
 16          this section shall not apply to the transfer in lieu of  
 17          compensation of employer securities in an employer  
 18          owned and controlled corporation during the 3-year  
 19          period beginning on the effective date of the election  
 20          of a corporation to become an employee owned and  
 21          controlled corporation.

22               “(2) EXCEPTION.—If, on the day after the end  
 23          of the 3-year period referred to in paragraph (1),

1 such corporation is not an employee owned and con-  
 2 trolled corporation, paragraph (1) shall not apply  
 3 and the following sum shall be included in the gross  
 4 income of such employee:

5 “(A) an amount equal to the fair market  
 6 value of all of such securities at the time of  
 7 transfer (determined without regard to any re-  
 8 striction other than a restriction which by its  
 9 terms will never lapse) to the employee in lieu  
 10 of compensation for such period, plus

11 “(B) an amount equal to 10 percent of the  
 12 amount determined under subparagraph (A).”.

13 (e) NO TAX ON GAIN ON SALES OR TRANSFERS TO  
 14 EMPLOYEE-OWNED AND EMPLOYEE-CONTROLLED COR-  
 15 PORATION TRUST.—

16 (1) IN GENERAL.—Part III of subchapter O of  
 17 chapter 1 of such Code (relating to common non-  
 18 taxable exchanges) is amended by adding at the end  
 19 the following new section:

20 **“SEC. 1046. SALE OF SECURITIES TO EMPLOYEE-OWNED**  
 21 **AND EMPLOYEE-CONTROLLED CORPORATION**  
 22 **TRUST.**

23 “(a) NONRECOGNITION OF GAIN.—If the taxpayer  
 24 elects the application of this section, in the case of the  
 25 sale or transfer of employer securities (as defined in sec-

tion 409(l)) to an employee-owned and employee-controlled corporation trust, gain on such sale or transfer shall not be recognized if the requirements of subsection (b) are met.

“(b) REQUIREMENTS.—

“(1) IN GENERAL.—The requirements of this subsection are that—

“(A) the employee-owned and employee-controlled corporation trust acquiring such securities from the taxpayer agrees—

“(i) to hold such securities for the 3-year period beginning on the date of such transfer or sale, and

“(ii) to notify the taxpayer upon the transfer of such securities before the end of such period, and

“(B) the taxpayer agrees to the provisions of subsection (b).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply—

“(A) in a case where such securities are securities of an employee-owned and employee-controlled corporation which are distributed within such 3-year period to an employee of such corporation, and



1           “(B) in the case of the sale or transfer of  
 2           stock of an employee-owned and employee-con-  
 3           trolled corporation in connection with the sale  
 4           or reorganization of such corporation, if such  
 5           sale or reorganization is approved by the em-  
 6           ployees of such corporation in a vote held on a  
 7           1-employee 1-vote basis.

8           “(c) RECAPTURE OF TAX.—If, during any year with-  
 9           in the 3-year period referred to in subsection (b)(1), secu-  
 10          rities subject to subsection (a) are sold or transferred in  
 11          a manner that does not meet the requirements of sub-  
 12          section (b), then gain on the sale or transfer described  
 13          in subsection (a) shall be recognized for the year in which  
 14          such requirements are not met.”.

15           (2) CLERICAL AMENDMENT.—The table of sec-  
 16          tions for part III of subchapter O of chapter 1 of  
 17          such Code is amended by adding at the end the fol-  
 18          lowing new item:

“Sec. 1046. Sale of securities to employee-owned and employee-  
 controlled corporation trust.”.

19           (f) CREDIT FOR TRANSFER OF STOCK FROM ESTATE  
 20          TO EMPLOYEE-OWNED AND EMPLOYEE-CONTROLLED  
 21          CORPORATION.—

22           (1) IN GENERAL.—Part II of subchapter A of  
 23          chapter 11 of such Code (relating to credits against  
 24          tax) is amended by redesignating section 2016 as

1 section 2017 and by inserting after section 2015 the  
2 following new section:

3 **“SEC. 2016. CREDIT FOR TRANSFER OF EMPLOYEE SECURI-**  
4 **TIES FROM ESTATE TO EMPLOYEE-OWNED**  
5 **AND EMPLOYEE-CONTROLLED CORPORATION**  
6 **TRUST.**

7 “(a) GENERAL RULE.—The tax imposed by section  
8 2001 shall be credited with the amount of employer securi-  
9 ties considered to have been acquired from or to have  
10 passed from the decedent to an employee-owned and em-  
11 ployee-controlled corporation trust.

12 “(b) LIMITATION.—Such credit may not exceed the  
13 tax imposed by section 2001, reduced under this part  
14 (other than by this section).

15 “(c) VALUE OF STOCK NOT READILY TRADABLE.—  
16 No credit shall be allowed under subsection (a) in the case  
17 of employer securities which are not readily tradable on  
18 an established securities market unless the value of such  
19 employer securities is established by an independent ap-  
20 praiser. For purposes of the preceding sentence, the term  
21 ‘independent appraiser’ means any appraiser meeting re-  
22 quirements similar to the requirements of the regulations  
23 prescribed under section 170(a)(1).

24 “(d) DEFINITIONS.—For purposes of subsection  
25 (a)—

1           “(1) ACQUIRED FROM OR PASSED FROM A DE-  
 2           CEDENT.—Employer securities shall be considered to  
 3           have been acquired from or to have passed from a  
 4           decedent if the basis of such property in the hands  
 5           of the employee-owned and employee-controlled cor-  
 6           poration trust is determined under section 1014 by  
 7           reference to paragraph (1), (2), (4), or (9) of sub-  
 8           section (b) of such section.

9           “(2) EMPLOYER SECURITIES.—The term ‘em-  
 10          ployer securities’ has the meaning given such term  
 11          by section 409(l)), except that such term shall not  
 12          include any security which is not voting common  
 13          stock.”.

14          (2) CLERICAL AMENDMENT.—The table of sec-  
 15          tions for part II of subchapter A of chapter 11 of  
 16          such Code (relating to credits against tax) is amend-  
 17          ed by striking the item relating to section 2016 and  
 18          adding at the end the following new items:

            “Sec. 2016. Credit for transfer of employee securities from estate  
   to employee-owned and employee-controlled cor-  
   poration trust.

            “Sec. 2017. Recovery of taxes claimed as credit.”.

19          (g) EFFECTIVE DATE.—

20               (1) IN GENERAL.—Except as provided in para-  
 21               graph (2), the amendments made by this section  
 22               shall apply to taxable years beginning after the date  
 23               of the enactment of this Act.

1           (2) CREDIT FOR TRANSFER OF STOCK FROM  
2       ESTATE TO EMPLOYEE-OWNED AND EMPLOYEE-CON-  
3       TROLLED CORPORATION.—The amendments made  
4       subsection (f) shall apply to estates of decedents  
5       dying after the date of the enactment of this Act.

6   **SEC. 4. STUDY OF GOVERNMENT POLICIES AFFECTING EM-**  
7                   **PLOYEE-OWNED       AND       EMPLOYEE-CON-**  
8                   **TROLLED CORPORATIONS.**

9       The Comptroller General of the United States shall—  
10           (1) conduct a study of all Federal Government  
11       regulations and policies that might impact the cre-  
12       ation and operation of an employee-owned and em-  
13       ployee-controlled corporation as defined in section  
14       7701(a)(47) of the Internal Revenue Code of 1986,  
15           (2) identify those regulations and policies that  
16       are barriers to employee ownership and control of  
17       such a corporation, and  
18           (3) not later than one year after the date of the  
19       enactment of this Act, submit a report on the find-  
20       ings of such study, together with such recommenda-  
21       tions as the Comptroller General determines appro-  
22       prium, to the Congress.

1 **SEC. 5. PRESIDENTIAL COMMISSION ON EMPLOYEE OWN-**  
2 **ERSHIP.**

3 (a) ESTABLISHMENT.—Not later than one year after  
4 the date of the enactment of this Act, the President shall  
5 establish a commission to be known as the “Presidential  
6 Commission on Employee Ownership” (hereafter in this  
7 section referred to as the “Commission”).

8 (b) DUTIES AND REPORT.—The Commission shall—

9 (1) conduct a study concerning all issues that  
10 affect ownership of businesses in the United States,  
11 with a primary focus on the issues that affect em-  
12 ployee ownership of such businesses, and

13 (2) not later than two years after the date of  
14 its establishment, submit a final report to the Presi-  
15 dent and the Congress which includes the findings  
16 and recommendations of the Commission.

17 (c) MEMBERSHIP.—The Commission shall be com-  
18 posed of 15 members appointed by the President as fol-  
19 lows:

20 (1) Three individuals, each of whom is an em-  
21 ployee of a corporation that has at least 50 percent  
22 of its voting stock in a trust for the benefit of em-  
23 ployees and who is not an officer or senior manager  
24 of that corporation.

25 (2) Three individuals, each of whom is an em-  
26 ployee of a corporation that has at least 50 percent

1 of its voting stock in a trust for the benefit of em-  
2 ployees and who is an officer or senior manager of  
3 that corporation.

4 (3) Three individuals, each of whom is a pro-  
5 fessor employed by an institution of higher learning.

6 (4) Three individuals, each of whom is em-  
7 ployed by a not-for-profit entity that has as its pri-  
8 mary mission issues arising from employee owner-  
9 ship of businesses.

10 (5) The Secretary of Labor, or his designee, the  
11 Secretary of the Treasury, or his designee, and the  
12 Director of the Office of Management and Budget,  
13 or his designee.

14 (d) STAFF.—The Commission shall have such num-  
15 ber of staff as the President shall determine, except that  
16 such staff shall include not less than five full-time employ-  
17 ees.

18 (e) GIFTS AND BEQUESTS.—The Commission may  
19 accept, use, and dispose of gifts or bequests or services  
20 or personal property for the purpose of aiding or facili-  
21 tating the work of the Commission. Gifts or bequests of  
22 money and proceeds from sales of other property received  
23 as gifts or bequests shall be deposited in the Treasury and

- 1 shall be available for disbursement upon order of the Com-
- 2 mission.

