

111TH CONGRESS
1ST SESSION

H. R. 3153

To amend the Internal Revenue Code of 1986 to impose a tax on over-the-counter derivatives transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2009

Mr. LARSON of Connecticut introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on over-the-counter derivatives transactions, 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 “Transparent Markets
5 Act of 2009”.

6 **SEC. 2. OVER-THE-COUNTER DERIVATIVES TRANSACTION**
7 **TAX.**

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

1 **“Subchapter C—Tax on Over-the-Counter**
 2 **Derivatives**

“Sec. 4475. Tax on over-the-counter derivatives.

3 **“SEC. 4475. TAX ON OVER-THE-COUNTER DERIVATIVES.**

4 “(a) IMPOSITION OF TAX.—There is hereby imposed
 5 a tax on each covered derivative transaction.

6 “(b) RATE OF TAX.—The rate of such tax shall be
 7 equal to 0.25 percent of the fair market value of the un-
 8 derlying property with respect to, or the notional principal
 9 amount of, the derivative financial instrument involved in
 10 such transaction.

11 “(c) BY WHOM PAID.—All parties to a covered deriv-
 12 ative transaction shall be jointly and severally liable for
 13 the tax imposed on such transaction by this section.

14 “(d) COVERED DERIVATIVES TRANSACTION.—For
 15 purposes of this section, the term ‘covered derivative
 16 transaction’ means becoming a party to a derivative finan-
 17 cial instrument which is not traded on (or subject to the
 18 rules of) a qualified board or exchange (as defined in sec-
 19 tion 1256(g)(7), determined without regard to subpara-
 20 graph (C) thereof).

21 “(e) DERIVATIVE FINANCIAL INSTRUMENT.—For
 22 purposes of this section—

23 “(1) IN GENERAL.—The term ‘derivative finan-
 24 cial instrument’ means any option, forward contract,

1 short position, notional principal contract, credit de-
 2 fault swap, or similar financial instrument in any—

3 “(A) share of stock in a corporation,

4 “(B) partnership or beneficial ownership
 5 interest in a widely held or publicly traded part-
 6 nership or trust,

7 “(C) note, bond, debenture, or other evi-
 8 dence of indebtedness,

9 “(D) commodity which is actively traded
 10 (within the meaning of section 1092(d)(1)),

11 “(E) any foreign currency, or

12 “(F) any specified index.

13 “(2) SPECIFIED INDEX.—The term ‘specified
 14 index’ means any one or more or any combination
 15 of—

16 “(A) a fixed rate, price, or amount, or

17 “(B) a variable rate, price, or amount

18 which is based on any current, objectively deter-
 19 minable information which is not within the control
 20 of any of the parties to the contract or instrument
 21 and is not unique to any of the parties’ cir-
 22 cumstances.

23 “(f) METHOD OF COLLECTION.—

1 “(1) IN GENERAL.—The tax imposed by sub-
2 section (a) shall be collected on the basis of an an-
3 nual return.

4 “(2) CONTENT OF RETURN.—Such return shall
5 include the following information:

6 “(A) A description of the derivative finan-
7 cial instrument involved in such transaction.

8 “(B) The parties to the covered derivatives
9 transaction (and each such party’s tax resi-
10 dence).

11 “(C) The fair market value of the under-
12 lying property with respect to, or the notional
13 principal amount of, the derivative financial in-
14 strument involved in such transaction.

15 “(D) A description of any underlying asset
16 or specified index with respect to such trans-
17 action, including a description of how each
18 party to such transaction characterizes any
19 such asset for tax purposes.

20 “(E) A description of any provision for
21 physical settlement of such transaction.

22 “(g) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary or appropriate to
24 carry out the purposes of this section, including the fol-
25 lowing:

1 “(1) Prescribing the time for filing the annual
2 return of tax imposed under subsection (a) and the
3 time for payment of such tax.

4 “(2) Excluding or including certain transactions
5 from such tax as may be consistent with the pur-
6 poses of this section.

7 “(3) Guidance for determining such tax if the
8 fair market value or notional principal amount is un-
9 clear on the face of the instrument.”.

10 (b) CLERICAL AMENDMENT.—The table of sub-
11 chapters for chapter 36 of such Code is amended by in-
12 serting after the item relating to subchapter B the fol-
13 lowing new item:

 “SUBCHAPTER C. TAX ON OVER-THE-COUNTER DERIVATIVES”.

14 (c) REPORT.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the first deadline established by the Secretary
17 of the Treasury for filing a return of the tax im-
18 posed under section 4475 of the Internal Revenue
19 Code of 1986, and each deadline for filing such re-
20 turn thereafter, the Secretary shall submit a report
21 to Congress.

22 (2) CONTENT.—Such report shall include—

23 (A) a description and a statistical analysis
24 of the information included on the returns of
25 such tax for the previous filing period, and

1 (B) a detailed analysis of the scope and
2 nature of over-the-counter derivatives markets
3 and the feasibility and advisability of regulating
4 such markets.

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to transactions entered into on or
7 after the date of the enactment of this Act.

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