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111TH CONGRESS
2D SESSION

H. R. 6323

To exempt gain from the sale of certain C corporation stock from the capital gains rate increase resulting from the sunset of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

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

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A BILL

To exempt gain from the sale of certain C corporation stock from the capital gains rate increase resulting from the sunset of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

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

SECTION 1. EXEMPTION FROM CAPITAL GAINS RATE INCREASE FOR QUALIFIED GAIN FROM SALE OR EXCHANGE OF QUALIFIED CORPORATE STOCK.

(a) IN GENERAL.—Any increase in capital gains rates resulting from section 303 of the Jobs and Growth

Tax Relief Reconciliation Act of 2003 shall not apply to any qualified gain from the sale or exchange of qualified corporate stock held by the taxpayer for more than 5 years.

(b) QUALIFIED CORPORATE STOCK.—For purposes of this section, the term ''qualified corporate stock'' means any stock in a C corporation (as defined in section 1361(a)(2) of the Internal Revenue Code of 1986), if—

(1) as of the date of sale and during substantially all of the taxpayer's holding period for such stock, such corporation has a principal place of business in the United States and meets the active business requirements of section 1202(e) of such Code,

(2) for at least two years preceding the date of sale, such corporation has paid for at least 60 percent of each full time employee's health insurance coverage, and

(3) for at least two years preceding the date of sale, such corporation has contributed to a defined contribution plan in a manner that meets the safe harbor non-discrimination requirements under section 401(k)(12) of such Code.

(c) QUALIFIED GAIN.—For purposes of this section, the term ''qualified gain'' means any gain from the sale of stock constituting more than 50 percent of the total voting power of all classes entitled to vote and more than 50 percent of the total value of stock of such corporation, if—

(1) during the applicable period, an amount equal to at least 5 percent of the sales proceeds is transferred to or for the benefit of eligible employees of the corporation, and

(2) without taking into account the amount transferred under paragraph (1), the aggregate amount paid as compensation and benefits to eligible employees of the corporation during each year of the applicable period is at least equal to the base amount.

(d) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means any full-time employee, other than an employee who, any time during the 2-year period preceding the date of sale, is—

(A) a key employee within the meaning of section 416(i) of such Code,

(B) an employee whose annual W–2 wages exceed $250,000, or,

(C) an employee whose principal place of employment is outside the United States.

(2) APPLICABLE PERIOD.—The term "applicable period" means the calendar year in which the sale of the qualified corporate stock occurs and the immediately preceding calendar year.

(3) BASE AMOUNT.—The term "base amount" means an amount equal to—

(A) the average annual total compensation and benefits paid to eligible employees of the corporation during the three calendar year period immediately preceding the applicable period, multiplied by

(B) the cost of living adjustment for the first year of the applicable period.

(e) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph.

(f) EFFECTIVE DATE.—This section shall apply to gain from the sale of stock in taxable years beginning after the date of the enactment of this Act and before the date that is 5 years after the date of such enactment.

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