

113TH CONGRESS  
1ST SESSION

# H. R. 3793

To restore full military retirement benefits by closing corporate tax loopholes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2013

Mr. MAFFEI (for himself, Mr. CASTRO of Texas, Ms. SHEA-PORTER, Mr. SEAN PATRICK MALONEY of New York, Mr. RYAN of Ohio, Mr. COURTNEY, Mr. LOEBSACK, Mr. DEFazio, Ms. PINGREE of Maine, Mr. HECK of Washington, Mr. DOGGETT, Mr. LANGEVIN, Mr. BARBER, Ms. GABBARD, Mr. BUTTERFIELD, Ms. WILSON of Florida, Mr. MICHAUD, Ms. KUSTER, Mr. VELA, Mr. WALZ, Ms. WASSERMAN SCHULTZ, Mr. KILDEE, Ms. HANABUSA, Mr. PETERS of Michigan, Ms. BORDALLO, Mr. O'ROURKE, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. GRAYSON, Mr. GARAMENDI, Mr. PERLMUTTER, Mrs. BUSTOS, Ms. CASTOR of Florida, Ms. SCHWARTZ, Ms. EDWARDS, Mr. TONKO, Mr. BRALEY of Iowa, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To restore full military retirement benefits by closing  
corporate tax loopholes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military Retirement  
3 Restoration Act”.

4 **SEC. 2. REPEAL OF REDUCTIONS MADE BY BIPARTISAN**  
5 **BUDGET ACT OF 2013.**

6 Section 403 of the Bipartisan Budget Act of 2013  
7 is repealed as of the date of the enactment of such Act.

8 **SEC. 3. TREATMENT OF FOREIGN CORPORATIONS MAN-**  
9 **AGED AND CONTROLLED IN THE UNITED**  
10 **STATES AS DOMESTIC CORPORATIONS.**

11 (a) IN GENERAL.—Section 7701 of the Internal Rev-  
12 enue Code of 1986 is amended by redesignating subsection  
13 (p) as subsection (q) and by inserting after subsection (o)  
14 the following new subsection:

15 “(p) CERTAIN CORPORATIONS MANAGED AND CON-  
16 TROLLED IN THE UNITED STATES TREATED AS DOMES-  
17 TIC FOR INCOME TAX.—

18 “(1) IN GENERAL.—Notwithstanding subsection  
19 (a)(4), in the case of a corporation described in  
20 paragraph (2) if—

21 “(A) the corporation would not otherwise  
22 be treated as a domestic corporation for pur-  
23 poses of this title, but

24 “(B) the management and control of the  
25 corporation occurs, directly or indirectly, pri-  
26 marily within the United States,

1 then, solely for purposes of chapter 1 (and any other  
2 provision of this title relating to chapter 1), the cor-  
3 poration shall be treated as a domestic corporation.

4 “(2) CORPORATION DESCRIBED.—

5 “(A) IN GENERAL.—A corporation is de-  
6 scribed in this paragraph if—

7 “(i) the stock of such corporation is  
8 regularly traded on an established securi-  
9 ties market, or

10 “(ii) the aggregate gross assets of  
11 such corporation (or any predecessor there-  
12 of), including assets under management  
13 for investors, whether held directly or indi-  
14 rectly, at any time during the taxable year  
15 or any preceding taxable year is  
16 \$50,000,000 or more.

17 “(B) GENERAL EXCEPTION.—A corpora-  
18 tion shall not be treated as described in this  
19 paragraph if—

20 “(i) such corporation was treated as a  
21 corporation described in this paragraph in  
22 a preceding taxable year,

23 “(ii) such corporation—

24 “(I) is not regularly traded on an  
25 established securities market, and

1 “(II) has, and is reasonably ex-  
2 pected to continue to have, aggregate  
3 gross assets (including assets under  
4 management for investors, whether  
5 held directly or indirectly) of less than  
6 \$50,000,000, and

7 “(iii) the Secretary grants a waiver to  
8 such corporation under this subparagraph.

9 “(3) MANAGEMENT AND CONTROL.—

10 “(A) IN GENERAL.—The Secretary shall  
11 prescribe regulations for purposes of deter-  
12 mining cases in which the management and  
13 control of a corporation is to be treated as oc-  
14 ccurring primarily within the United States.

15 “(B) EXECUTIVE OFFICERS AND SENIOR  
16 MANAGEMENT.—Such regulations shall provide  
17 that—

18 “(i) the management and control of a  
19 corporation shall be treated as occurring  
20 primarily within the United States if sub-  
21 stantially all of the executive officers and  
22 senior management of the corporation who  
23 exercise day-to-day responsibility for mak-  
24 ing decisions involving strategic, financial,  
25 and operational policies of the corporation

are located primarily within the United States, and

“(ii) individuals who are not executive officers and senior management of the corporation (including individuals who are officers or employees of other corporations in the same chain of corporations as the corporation) shall be treated as executive officers and senior management if such individuals exercise the day-to-day responsibilities of the corporation described in clause (i).

“(C) CORPORATIONS PRIMARILY HOLDING INVESTMENT ASSETS.—Such regulations shall also provide that the management and control of a corporation shall be treated as occurring primarily within the United States if—

“(i) the assets of such corporation (directly or indirectly) consist primarily of assets being managed on behalf of investors, and

“(ii) decisions about how to invest the assets are made in the United States.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or

1 after the date which is 2 years after the date of the enact-  
2 ment of this Act, whether or not regulations are issued  
3 under section 7701(p)(3) of the Internal Revenue Code  
4 of 1986, as added by this section.

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