

113TH CONGRESS
1ST SESSION

S. 410

To amend the Internal Revenue Code of 1986 to impose a tax on certain trading transactions.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2013

Mr. HARKIN (for himself, Mr. WHITEHOUSE, and Mr. SANDERS) 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 a tax on certain trading transactions.

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 “Wall Street Trading
5 and Speculators Tax Act”.

6 **SEC. 2. TRANSACTION TAX.**

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

1 **“Subchapter C—Tax on Trading Transactions**

“Sec. 4475. Tax on trading transactions.

2 **“SEC. 4475. TAX ON TRADING TRANSACTIONS.**

3 “(a) IMPOSITION OF TAX.—There is hereby imposed
4 a tax on each covered transaction with respect to any secu-
5 rity.

6 “(b) RATE OF TAX.—The tax imposed under sub-
7 section (a) with respect to any covered transaction shall
8 be 0.03 percent of the specified base amount with respect
9 to such covered transaction.

10 “(c) SPECIFIED BASE AMOUNT.—For purposes of
11 this section, the term ‘specified base amount’ means—

12 “(1) except as provided in paragraph (2), the
13 fair market value of the security (determined as of
14 the time of the covered transaction), and

15 “(2) in the case of any payment described in
16 subsection (h), the amount of such payment.

17 “(d) COVERED TRANSACTION.—For purposes of this
18 section, the term ‘covered transaction’ means—

19 “(1) except as provided in paragraph (2), any
20 purchase if—

21 “(A) such purchase occurs or is cleared on
22 a facility located in the United States, or

23 “(B) the purchaser or seller is a United
24 States person, and

1 “(2) any transaction with respect to a security
 2 described in subparagraph (D), (E), or (F) of sub-
 3 section (e)(1), if—

4 “(A) such security is traded or cleared on
 5 a facility located in the United States, or

6 “(B) any party with rights under such se-
 7 curity is a United States person.

8 “(e) SECURITY AND OTHER DEFINITIONS.—For pur-
 9 poses of this section—

10 “(1) IN GENERAL.—The term ‘security’
 11 means—

12 “(A) any share of stock in a corporation,

13 “(B) any partnership or beneficial owner-
 14 ship interest in a partnership or trust,

15 “(C) any note, bond, debenture, or other
 16 evidence of indebtedness,

17 “(D) any evidence of an interest in, or a
 18 derivative financial instrument with respect to,
 19 any security or securities described in subpara-
 20 graph (A), (B), or (C),

21 “(E) any derivative financial instrument
 22 with respect to any currency or commodity, and

23 “(F) any notional principal contract.

24 “(2) DERIVATIVE FINANCIAL INSTRUMENT.—

25 The term ‘derivative financial instrument’ includes

any option, forward contract, futures contract, or
any similar financial instrument.

“(3) NOTIONAL PRINCIPAL CONTRACT.—Except
as otherwise provided by the Secretary, the term ‘no-
tional principal contract’ means any financial instru-
ment which requires two or more payments at speci-
fied intervals calculated by reference to a specified
index upon one or more notional principal amounts.
An amount shall not fail to be treated as a payment
described in the preceding sentence merely because
such amount is fixed on one date and paid or other-
wise taken into account on a different date.

“(4) SPECIFIED INDEX.—The term ‘specified
index’ means any 1 or more of any combination of—

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

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

“(C) any index based on any objectively
determinable information (including the occur-
rence or nonoccurrence of any event) which is
not within the control of any of the parties to
the instrument and is not unique to any of the
parties’ circumstances, and

“(D) any other index as the Secretary may
prescribe.

“(5) TREATMENT OF EXCHANGES.—

1 “(A) IN GENERAL.—An exchange shall be
2 treated as the sale of the property transferred
3 and a purchase of the property received by each
4 party to the exchange.

5 “(B) CERTAIN DEEMED EXCHANGES.—In
6 the case of a distribution treated as an ex-
7 change for stock under section 302 or 331, the
8 corporation making such distribution shall be
9 treated as having purchased such stock for pur-
10 poses of this section.

11 “(f) EXCEPTIONS.—

12 “(1) EXCEPTION FOR INITIAL ISSUES.—No tax
13 shall be imposed under subsection (a) on any cov-
14 ered transaction with respect to the initial issuance
15 of any security described in subparagraph (A), (B),
16 or (C) of subsection (e)(1).

17 “(2) EXCEPTION FOR CERTAIN TRADED SHORT-
18 TERM INDEBTEDNESS.—A note, bond, debenture, or
19 other evidence of indebtedness which—

20 “(A) is traded on a trading facility located
21 in the United States, and

22 “(B) has a fixed maturity of not more
23 than 100 days,
24 shall not be treated as described in subsection
25 (e)(1)(C).

1 “(3) EXCEPTION FOR SECURITIES LENDING AR-
 2 RANGEMENTS.—No tax shall be imposed under sub-
 3 section (a) on any covered transaction with respect
 4 to which gain or loss is not recognized by reason of
 5 section 1058.

6 “(g) BY WHOM PAID.—

7 “(1) IN GENERAL.—The tax imposed by this
 8 section shall be paid by—

9 “(A) in the case of a transaction which oc-
 10 curs or is cleared on a facility located in the
 11 United States, such facility, and

12 “(B) in the case of a purchase not de-
 13 scribed in subparagraph (A) which is executed
 14 by a broker (as defined in section 6045(c)(1))
 15 which is a United States person, such broker.

16 “(2) SPECIAL RULES FOR DIRECT, ETC.,
 17 TRANSACTIONS.—In the case of any transaction to
 18 which paragraph (1) does not apply, the tax imposed
 19 by this section shall be paid by—

20 “(A) in the case of a transaction described
 21 in subsection (d)(1)—

22 “(i) the purchaser if the purchaser is
 23 a United States person, and

24 “(ii) the seller if the purchaser is not
 25 a United States person, and

1 “(B) in the case of a transaction described
2 in subsection (d)(2)—

3 “(i) the payor if the payor is a United
4 States person, and

5 “(ii) the payee if the payor is not a
6 United States person.

7 “(h) CERTAIN PAYMENTS TREATED AS SEPARATE
8 TRANSACTIONS.—Except as otherwise provided by the
9 Secretary, any payment with respect to a security de-
10 scribed in subparagraph (D), (E), or (F) of subsection
11 (e)(1) shall be treated as a separate transaction for pur-
12 poses of this section, including—

13 “(1) any net initial payment, net final or termi-
14 nating payment, or net periodical payment with re-
15 spect to a notional principal contract (or similar fi-
16 nancial instrument),

17 “(2) any payment with respect to any forward
18 contract (or similar financial instrument), and

19 “(3) any premium paid with respect to any op-
20 tion (or similar financial instrument).

21 “(i) APPLICATION TO TRANSACTIONS BY CON-
22 TROLLED FOREIGN CORPORATIONS.—

23 “(1) IN GENERAL.—For purposes of this sec-
24 tion, a controlled foreign corporation shall be treated
25 as a United States person.

1 “(2) SPECIAL RULES FOR PAYMENT OF TAX ON
 2 DIRECT, ETC., TRANSACTIONS.—In the case of any
 3 transaction which is a covered transaction solely by
 4 reason of paragraph (1) and which is not described
 5 in subsection (g)(1)—

6 “(A) PAYMENT BY UNITED STATES SHARE-
 7 HOLDERS.—Any tax which would (but for this
 8 paragraph) be payable under subsection (g)(2)
 9 by the controlled foreign corporation shall, in
 10 lieu thereof, be paid by the United States
 11 shareholders of such controlled foreign corpora-
 12 tion as provided in subparagraph (B).

13 “(B) PRO RATA SHARES.—Each such
 14 United States shareholder shall pay the same
 15 proportion of such tax as—

16 “(i) the stock which such United
 17 States shareholder owns (within the mean-
 18 ing of section 958(a)) in such controlled
 19 foreign corporation, bears to

20 “(ii) the stock so owned by all United
 21 States shareholders in such controlled for-
 22 eign corporation.

23 “(C) DEFINITIONS.—For purposes of this
 24 subsection, the terms ‘United States share-
 25 holder’ and ‘controlled foreign corporation’ have

1 the meanings given such terms in sections
 2 951(b) and 957(a), respectively.

3 “(j) ADMINISTRATION.—The Secretary shall carry
 4 out this section in consultation with the Securities and Ex-
 5 change Commission and the Commodity Futures Trading
 6 Commission.

7 “(k) GUIDANCE; REGULATIONS.—The Secretary
 8 shall—

9 “(1) provide guidance regarding such informa-
 10 tion reporting concerning covered transactions as the
 11 Secretary deems appropriate, and

12 “(2) prescribe such regulations as are necessary
 13 or appropriate to prevent avoidance of the purposes
 14 of this section, including the use of non-United
 15 States persons in such transactions.”.

16 (b) CREDIT WITH RESPECT TO CERTAIN TAX-FA-
 17 VORED ACCOUNTS TO OFFSET TRANSACTION TAX.—

18 (1) IN GENERAL.—Subpart C of part IV of sub-
 19 chapter A of chapter 1 of such Code is amended by
 20 inserting after section 36B the following new sec-
 21 tion:

22 **“SEC. 36C. OFFSET FOR TRANSACTION TAX WITH RESPECT**
 23 **TO CERTAIN TAX-FAVORED ACCOUNTS.**

24 “(a) IN GENERAL.—There shall be allowed as a cred-
 25 it against the tax imposed by this subtitle for the taxable

1 year an amount equal to 0.03 percent of the qualified tax-
 2 favored account contributions of the taxpayer for the tax-
 3 able year.

4 “(b) QUALIFIED TAX-FAVORED ACCOUNT CON-
 5 TRIBUTIONS.—For purposes of this section, the term
 6 ‘qualified tax-favored account contributions’ means, with
 7 respect to any taxable year, the sum of—

8 “(1) with respect to qualified retirement plans
 9 (as defined in section 4974(c)) of the taxpayer, the
 10 amount contributed to such plans for such taxable
 11 year to the extent that such contributions are allow-
 12 able as a deduction or are excludable from gross in-
 13 come (or, in the case of a Roth IRA (as defined in
 14 section 408A(b)), the amount contributed),

15 “(2) with respect to Archer MSAs of the tax-
 16 payer, the amount allowed as a deduction under sec-
 17 tion 220 for such taxable year,

18 “(3) with respect to health savings accounts of
 19 the taxpayer, the amount allowed as a deduction
 20 under section 223 for such taxable year, plus

21 “(4) with respect to qualified tuition programs
 22 (as defined in section 529) and Coverdell education
 23 savings accounts (as defined in section 530) with re-
 24 spect to which the taxpayer is the designated bene-
 25 ficiary (or, in the case of a designated beneficiary

1 with respect to whom another taxpayer is allowed a
 2 deduction under section 151, such other taxpayer in
 3 lieu of such designated beneficiary), the amount con-
 4 tributed for such taxable year.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Section 1324(b)(2) of title 31, United
 7 States Code, is amended by inserting “, 36C”
 8 after “36B”.

9 (B) The table of sections for subpart C of
 10 part IV of subchapter A of chapter 1 of the In-
 11 ternal Revenue Code of 1986 is amended by in-
 12 serting before the item relating to section 37
 13 the following new item:

“Sec. 36C. Offset for transaction tax on contributions to certain tax-favored ac-
 counts.”.

14 (c) INFORMATION REPORTING WITH RESPECT TO
 15 CONTROLLED FOREIGN CORPORATIONS.—Subparagraph
 16 (B) of section 6038(a)(1) is amended by inserting “and
 17 transactions which are covered transactions for purposes
 18 of section 4475 by reason of the application of section
 19 4475(i)(1) to such corporation” before the semicolon at
 20 the end.

21 (d) CLERICAL AMENDMENT.—The table of sub-
 22 chapters for chapter 36 of the Internal Revenue Code of

1 1986 is amended by inserting after the item relating to
2 subchapter B the following new item:

“Subchapter C. Tax on trading transactions.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to transactions after December 31,
5 2013.

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