

114TH CONGRESS
2D SESSION

H. R. 5374

To amend the Internal Revenue Code of 1986 to provide a lower rate of tax on a portion of pass-through business income, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2016

Mr. HULTGREN 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 provide a lower rate of tax on a portion of pass-through business income, 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 “Bring Small Busi-
5 nesses Back Tax Reform Act”.

6 **SEC. 2. SPECIAL INDIVIDUAL RATES FOR QUALIFIED**
7 **SMALL BUSINESS INCOME.**

8 (a) IN GENERAL.—Section 1 of such Code is amend-
9 ed by adding at the end the following:

1 “(j) MAXIMUM RATE ON QUALIFIED SMALL BUSI-
2 NESS INCOME.—

3 “(1) IN GENERAL.—If a taxpayer has qualified
4 business income for any taxable year, the tax im-
5 posed by this section for such taxable year shall not
6 exceed the sum of—

7 “(A) a tax computed at the rates and in
8 the same manner as if this subsection had not
9 been enacted on taxable income reduced by
10 qualified business income,

11 “(B) 10 percent of so much of the quali-
12 fied business income of the taxpayer as does not
13 exceed \$150,000, plus

14 “(C) 20 percent of so much of the quali-
15 fied business income of the taxpayer as exceeds
16 the amount on which tax is determined under
17 subparagraph (B).

18 “(2) QUALIFIED BUSINESS INCOME.—

19 “(A) IN GENERAL.—The term ‘qualified
20 business income’ means so much of the fol-
21 lowing of the taxpayer as does not exceed
22 \$1,000,000:

23 “(i) Gross earnings derived by an in-
24 dividual from any active trade or business
25 carried on by such individual, less the de-

1 ductions allowed by the subtitle which are
2 attributable to such trade or business.

3 “(ii) The taxpayer’s distributive or
4 pro rata share qualified pass-through in-
5 come.

6 Such term shall not include any amounts, or
7 any distributive or pro rata share, attributable
8 to capital gains, interest, dividends, and royal-
9 ties.

10 “(B) QUALIFIED PASS-THROUGH IN-
11 COME.—The term ‘qualified pass-through in-
12 come’ means, in the case of a partnership or S
13 corporation, so much of the income of the part-
14 nership computed under section 703, or income
15 of the S corporation computed under section
16 1363, as does not exceed \$1,000,000 and is
17 designated as such (at such time and in such
18 form and manner as the Secretary shall pre-
19 scribe) and allocated by the partnership or S
20 corporation. Any income so designated shall be
21 allocated amongst partners or shareholders in
22 the same proportion as distributive or pro rata
23 shares of income or loss are allocated. Such
24 term shall not include any capital gains, inter-
25 est, dividends, or royalties.

1 “(3) SPECIAL RULES.—

2 “(A) MATERIAL PARTICIPATION.—Para-
3 graph (1) shall not apply with respect to any
4 income attributable to a trade or business in
5 which the taxpayer does not materially partici-
6 pate.

7 “(B) COORDINATION WITH CAPITAL
8 GAINS.—This subsection shall be applied before
9 the application of subsection (h).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2016.

13 **SEC. 3. REPEAL OF LIMITATION ON ELECTION TO EXPENSE**
14 **CERTAIN DEPRECIABLE ASSET IN CASE OF**
15 **NON-C CORP TAXPAYERS.**

16 (a) IN GENERAL.—Paragraphs (1) and (2) of section
17 179(b) of the Internal Revenue Code of 1986 are each
18 amended by striking “The” and inserting “In the case of
19 a corporation (or any partnership with a corporation as
20 a partner), the”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to taxable years beginning after
23 December 31, 2016.

1 **SEC. 4. EXPANDED AVAILABILITY OF CASH ACCOUNTING**
2 **RULES AND EXCEPTION TO INVENTORY**
3 **RULES FOR CERTAIN SMALL BUSINESSES.**

4 (a) CASH ACCOUNTING PERMITTED.—

5 (1) IN GENERAL.—Section 446 of the Internal
6 Revenue Code of 1986 is amended by adding at the
7 end the following new subsection:

8 “(g) CERTAIN SMALL BUSINESS TAXPAYERS PER-
9 MITTED TO USE CASH ACCOUNTING METHOD WITHOUT
10 LIMITATION.—

11 “(1) IN GENERAL.—With respect to an eligible
12 taxpayer who uses the cash receipts and disburse-
13 ments method for any taxable year, such method
14 shall be deemed to clearly reflect income and the
15 taxpayer shall not be required to use an accrual
16 method.

17 “(2) ELIGIBLE TAXPAYER.—For purposes of
18 this subsection, a taxpayer is an eligible taxpayer
19 with respect to any taxable year if—

20 “(A) for all prior taxable years beginning
21 after December 31, 2016, the taxpayer (or any
22 predecessor) met the gross receipts test of sec-
23 tion 448(c), and

24 “(B) the taxpayer is not subject to section
25 447 or 448.”.

26 (2) EXPANSION OF GROSS RECEIPTS TEST.—

1 (A) IN GENERAL.—Paragraph (3) of sec-
 2 tion 448(b) of such Code is amended by strik-
 3 ing “\$5,000,000” in the text and in the head-
 4 ing and inserting “\$25,000,000”.

5 (B) CONFORMING AMENDMENTS.—Section
 6 448(c) of such Code is amended by striking
 7 “\$5,000,000” each place it appears in the text
 8 and in the heading of paragraph (1) and insert-
 9 ing “\$25,000,000”.

10 (3) FARMING.—

11 (A) IN GENERAL.—Section 447(d)(1) of
 12 such Code is amended by striking “\$1,000,000”
 13 and inserting “\$25,000,000”.

14 (B) CONFORMING AMENDMENT.—Section
 15 447(d)(2) of such Code is amended—

16 (i) by striking “; and” and all that
 17 follows through to the end and inserting a
 18 period, and

19 (ii) by striking “shall be applied—”
 20 and all that follows through “(i) by sub-
 21 stituting” and inserting the following:
 22 “shall be applied by substituting”.

23 (b) INVENTORY RULES.—

24 (1) IN GENERAL.—Section 471 of the Internal
 25 Revenue Code of 1986 is amended by redesignating

1 subsection (c) as subsection (d) and by inserting
2 after subsection (b) the following new subsection:

3 “(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED
4 TO USE INVENTORIES.—

5 “(1) IN GENERAL.—An eligible taxpayer (as de-
6 fined in section 446(g)(2)) shall not be required to
7 use inventories under this section for a taxable year.

8 “(2) TREATMENT OF TAXPAYERS NOT USING
9 INVENTORIES.—If an eligible taxpayer (as so de-
10 fined) does not use inventories with respect to any
11 property for a taxable year, any cost which (but for
12 paragraph (1)) would have been included by the tax-
13 payer in inventory costs shall be treated as an ex-
14 pense which is deductible for the taxable year in
15 which the property is purchased.”.

16 (2) CONFORMING AMENDMENT.—Section
17 263A(c) of such Code is amended by adding at the
18 end the following new paragraph:

19 “(7) EXCLUSION FROM INVENTORY RULES.—
20 This section shall not apply to property with respect
21 to which a taxpayer does not use inventories pursu-
22 ant to section 471(c).”.

23 (c) EFFECTIVE DATE AND SPECIAL RULES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 2016.

4 (2) CHANGE IN METHOD OF ACCOUNTING.—In
5 the case of any taxpayer changing the taxpayer’s
6 method of accounting for any taxable year under the
7 amendments made by this section—

8 (A) such change shall be treated as initi-
9 ated by the taxpayer; and

10 (B) such change shall be treated as made
11 with the consent of the Secretary of the Treas-
12 ury.

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