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114TH CONGRESS
2D SESSION

H. R. 5745

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

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2016

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

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A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Putting Main Street FIRST Act’’ or as the ‘‘Putting Main Street FIRST: Finishing Irresponsible Reckless Speculative Trading Act’’.

SEC. 2. TRANSACTION TAX.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 is amended by inserting after subchapter B the following new subchapter:

"Subchapter C—Tax on Trading Transactions

"SEC. 4475. TAX ON TRADING TRANSACTIONS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each covered transaction with respect to any security.

"(b) RATE OF TAX.—The tax imposed under subsection (a) with respect to any covered transaction shall be 0.03 percent of the specified base amount with respect to such covered transaction.

"(c) SPECIFIED BASE AMOUNT.—For purposes of this section, the term 'specified base amount' means—

"(1) except as provided in paragraph (2), the fair market value of a security (determined as of the time of the covered transaction), and

"(2) in the case of any payment with respect to a derivative, the amount of such payment.

"(d) COVERED TRANSACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered transaction' means—

"(A) except as provided in subparagraph (B), any purchase if—

"(i) such purchase occurs on, or is subject to the rules of, a qualified board or exchange located in the United States, or

"(ii) the purchaser or seller is a United States person, and

"(B) any transaction with respect to a derivative if—

"(i) such derivative is traded on, or is subject to the rules of, a qualified board or exchange located in the United States, or

"(ii) any party with rights under such derivative is a United States person.

"(2) EXCEPTIONS FROM TAX.—

"(A) EXCEPTION FOR INITIAL ISSUES.—No tax shall be imposed under subsection (a) on any covered transaction with respect to the initial issuance of any security described in subparagraph (A), (B), or (C) of subsection (e)(1).

"(B) EXCEPTION FOR CERTAIN TRADED SHORT-TERM INDEBTEDNESS.—A note, bond, debenture, or other evidence of indebtedness which—

"(i) is traded on, or is subject to the rules of, a qualified board or exchange located in the United States, and ''(ii) has a fixed maturity of not more than 100 days,

shall not be treated as described in subsection (e)(1)(C).

''(e) DEFINITIONS.—For purposes of this section—

''(1) SECURITY.—The term 'security' means—

''(A) any share of stock in a corporation,

''(B) any partnership or beneficial ownership interest in a partnership or trust,

''(C) any note, bond, debenture, or other evidence of indebtedness, and

''(D) any derivative.

''(2) DERIVATIVE.—

''(A) IN GENERAL.—The term 'derivative' means any contract (including any option, forward contract, futures contract, short position, swap, or similar contract) the value of which, or any payment or other transfer with respect to which, is (directly or indirectly) determined by reference to one or more of the following:

''(i) Any security described in subparagraph (A), (B), or (C) of paragraph (1).

"(ii) Any commodity which is actively traded (within the meaning of section 1092(d)(1)).

"(iii) Any currency.

"(iv) Any rate, price, amount, index, formula, or algorithm.

"(v) Any other item as the Secretary may prescribe.

Such term shall not include any item described in clauses (i) through (v).

"(B) EXCEPTIONS FROM TREATMENT AS DERIVATIVES.—

"(i) SECURITIES LENDING, SALE-REPURCHASE, AND SIMILAR FINANCING TRANSACTIONS.—To the extent provided by the Secretary, the term 'derivative' shall not include the right to the return of the same or substantially identical securities transferred in a securities lending transaction, sale-repurchase transaction, or similar financing transaction.

"(ii) INSURANCE CONTRACTS, ANNUITIES, AND ENDOWMENTS.—The term 'derivative' shall not include any insurance, annuity, or endowment contract issued by an insurance company to which subchapter L applies (or issued by any foreign corporation to which such subchapter would apply if such foreign corporation were a domestic corporation).

"(3) QUALIFIED BOARD OR EXCHANGE.—The term 'qualified board or exchange' has the meaning given such term by section 1256(g)(7).

"(f) BY WHOM PAID.—

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

"(A) in the case of a transaction which occurs on, or is subject to the rules of, a qualified board or exchange located in the United States, such qualified board or exchange, and

"(B) in the case of a purchase not described in subparagraph (A) which is executed by a broker (as defined in section 6045(c)(1)) which is a United States person, such broker.

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

"(A) in the case of a transaction described in subsection (d)(1)(A)—

"(i) the purchaser if the purchaser is a United States person, and

"(ii) the seller if the purchaser is not a United States person, and

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

"(i) the payor if the payor is a United States person, and

"(ii) the payee if the payor is not a United States person.

"(g) TREATMENT OF EXCHANGES AND PAYMENTS WITH RESPECT TO DERIVATIVES.—For purposes of this section—

"(1) TREATMENT OF EXCHANGES.—

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

"(B) CERTAIN DEEMED EXCHANGES.—In the case of a distribution treated as an exchange for stock under section 302 or 331, the corporation making such distribution shall be treated as having purchased such stock for purposes of this section.

"(2) PAYMENTS WITH RESPECT TO DERIVATIVES TREATED AS SEPARATE TRANSACTIONS.—Except as otherwise provided by the Secretary, any payment with respect any derivative shall be treated as a separate transaction for purposes of this section.

"(h) APPLICATION TO TRANSACTIONS BY CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this section, a controlled foreign corporation shall be treated as a United States person.

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

"(A) PAYMENT BY UNITED STATES SHAREHOLDERS.—Any tax which would (but for this paragraph) be payable under subsection (f)(2) by the controlled foreign corporation shall, in lieu thereof, be paid by the United States shareholders of such controlled foreign corporation as provided in subparagraph (B).

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

"(i) the stock which such United States shareholder owns (within the meaning of section 958(a)) in such controlled foreign corporation, bears to

"(ii) the stock so owned by all United States shareholders in such controlled foreign corporation.

"(C) DEFINITIONS.—For purposes of this subsection, the terms 'United States shareholder' and 'controlled foreign corporation' have the meanings given such terms in sections 951(b) and 957(a), respectively.

"(i) ADMINISTRATION.—The Secretary shall carry out this section in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission.

"(j) GUIDANCE; REGULATIONS.—The Secretary shall—

"(1) provide guidance regarding such information reporting concerning covered transactions as the Secretary deems appropriate, and

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

(b) CREDIT WITH RESPECT TO CERTAIN TAX-FAVORED ACCOUNTS TO OFFSET TRANSACTION TAX.—Subpart C of part IV of subchapter A of chapter 1 of such Code is amended by inserting after section 36B the following new section:

"SEC. 36C. OFFSET FOR TRANSACTION TAX WITH RESPECT TO CERTAIN TAX-FAVORED ACCOUNTS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 0.03 percent of the qualified tax-favored account contributions of the taxpayer for the taxable year.

"(b) QUALIFIED TAX-FAVORED ACCOUNT CONTRIBUTIONS.—For purposes of this section, the term 'qualified tax-favored account contributions' means, with respect to any taxable year, the sum of—

"(1) with respect to qualified retirement plans (as defined in section 4974(c)) of the taxpayer, the amount contributed to such plans for such taxable year to the extent that such contributions are allowable as a deduction or are excludable from gross income (or, in the case of a Roth IRA (as defined in section 408A(b)), the amount contributed),

"(2) with respect to Archer MSAs of the taxpayer, the amount allowed as a deduction under section 220 for such taxable year,

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

"(4) with respect to qualified tuition programs (as defined in section 529), qualified ABLE programs (as defined in section 529A), and Coverdell education savings accounts (as defined in section 530), with respect to which the taxpayer is the designated beneficiary (or, in the case of a designated beneficiary with respect to whom another taxpayer is allowed a deduction under section 151, such other taxpayer in lieu of such designated beneficiary), the amount contributed for such taxable year.".

(c) INFORMATION REPORTING WITH RESPECT TO CONTROLLED FOREIGN CORPORATIONS.—Section 6038(a)(1)(B) of such Code is amended by inserting "and transactions which are covered transactions for purposes of section 4475 by reason of the application of section 4475(h)(1) to such corporation" before the semicolon at the end.

(d) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ", 36C" after "36B".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before the item relating to section 37 the following new item:

"Sec. 36C. Offset for transaction tax on contributions to certain tax-favored accounts.".

(3) The table of subchapters for chapter 36 of such Code is amended by inserting after the item relating to subchapter B the following new item:

"Subchapter C. Tax on trading transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after December 31, 2017.

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