

114TH CONGRESS
1ST SESSION

H. R. 2788

To amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2015

Mr. REICHERT (for himself and Mr. KIND) 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 for S corporation reform, 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, REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the “S
5 Corporation Modernization Act of 2015”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. REDUCED RECOGNITION PERIOD FOR BUILT-IN**
4 **GAINS MADE PERMANENT.**

5 (a) IN GENERAL.—Section 1374(d)(7) is amended to
6 read as follows:

7 “(7) RECOGNITION PERIOD.—The term ‘rec-
8 ognition period’ means the 5-year period beginning
9 with the 1st day of the 1st taxable year for which
10 the corporation was an S corporation. For purposes
11 of applying this section to any amount includible in
12 income by reason of distributions to shareholders
13 pursuant to section 593(e), the preceding sentence
14 shall be applied without regard to the duration of
15 the recognition period in effect on the date of such
16 distribution.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section—

19 (1) shall apply for purposes of determining the
20 recognition period with respect to 1st days referred
21 to in section 1374(d)(7) of the Internal Revenue
22 Code of 1986 occurring before, on, or after January
23 1, 2015, but

1 (2) shall not apply for purposes of determining
2 the tax imposed by section 1374 of such Code for
3 taxable years ending before such date.

4 **SEC. 3. REPEAL OF EXCESSIVE PASSIVE INVESTMENT IN-**
5 **COME AS A TERMINATION EVENT.**

6 Section 1362(d)(3) is amended by adding at the end
7 the following new subparagraph:

8 “(D) **TERMINATION.**—This paragraph
9 shall not apply to taxable years beginning after
10 December 31, 2014.”.

11 **SEC. 4. MODIFICATIONS TO PASSIVE INCOME RULES.**

12 (a) **INCREASED LIMIT.**—

13 (1) **IN GENERAL.**—Section 1375(a)(2) is
14 amended by striking “25 percent” and inserting “60
15 percent”.

16 (2) **CONFORMING AMENDMENTS.**—

17 (A) Section 26(b)(2)(J) is amended by
18 striking “25 percent” and inserting “60 per-
19 cent”.

20 (B) Section 1375(b)(1)(A)(i) is amended
21 by striking “25 percent” and inserting “60 per-
22 cent”.

23 (C) The heading for section 1375 is
24 amended by striking “**25 PERCENT**” and in-
25 serting “**60 PERCENT**”.

1 (D) The table of sections for part III of
2 subchapter S of chapter 1 is amended by strik-
3 ing “25 percent” in the item relating to section
4 1375 and inserting “60 percent”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2014.

8 **SEC. 5. EXPANSION OF QUALIFYING BENEFICIARIES OF AN**
9 **ELECTING SMALL BUSINESS TRUST.**

10 (a) NO LOOK THROUGH FOR ELIGIBILITY PUR-
11 POSES.—Section 1361(c)(2)(B)(v) is amended by adding
12 at the end the following new sentence: “This clause shall
13 not apply for purposes of subsection (b)(1)(C).”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on January 1, 2015.

16 **SEC. 6. EXPANSION OF S CORPORATION ELIGIBLE SHARE-**
17 **HOLDERS TO INCLUDE IRAS.**

18 (a) IN GENERAL.—Section 1361(c)(2)(A)(vi) is
19 amended to read as follows:

20 “(vi) A trust which constitutes an in-
21 dividual retirement account under section
22 408(a), including one designated as a Roth
23 IRA under section 408A.”.

24 (b) SALE OF STOCK IN IRA RELATING TO S COR-
25 PORATION ELECTION EXEMPT FROM PROHIBITED

1 TRANSACTION RULES.—Section 4975(d)(16) is amended
2 to read as follows:

3 “(16) a sale of stock held by a trust which con-
4 stitutes an individual retirement account under sec-
5 tion 408(a) to the individual for whose benefit such
6 account is established if—

7 “(A) such sale is pursuant to an election
8 under section 1362(a) by the issuer of such
9 stock,

10 “(B) such sale is for fair market value at
11 the time of sale (as established by an inde-
12 pendent appraiser) and the terms of the sale
13 are otherwise at least as favorable to such trust
14 as the terms that would apply on a sale to an
15 unrelated party,

16 “(C) such trust does not pay any commis-
17 sions, costs, or other expenses in connection
18 with the sale, and

19 “(D) the stock is sold in a single trans-
20 action for cash not later than 120 days after
21 the S corporation election is made.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on January 1, 2015.

1 **SEC. 7. ALLOWANCE OF DEDUCTION FOR CHARITABLE**
2 **CONTRIBUTIONS FOR ELECTING SMALL BUSI-**
3 **NESS TRUSTS.**

4 (a) **IN GENERAL.**—Section 641(c)(2)(C) is amended
5 by adding at the end the following new sentence: “The
6 deduction for charitable contributions allowed under
7 clause (i) shall be determined without regard to section
8 642(c), and the limitations imposed by section 170(b)(1)
9 on the amount of the deduction shall be applied to the
10 electing small business trust as if it were an individual.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **SEC. 8. PERMANENT RULE REGARDING BASIS ADJUST-**
15 **MENT TO STOCK OF S CORPORATIONS MAK-**
16 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
17 **ERTY.**

18 (a) **IN GENERAL.**—Section 1367(a)(2) is amended by
19 striking the last sentence.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 this section shall apply to contributions made in taxable
22 years beginning after December 31, 2014.

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