

114TH CONGRESS
1ST SESSION

H. R. 2789

To amend the Internal Revenue Code of 1986 to modify S corporation shareholder and preferred stock rules with respect to banks.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2015

Mr. MARCHANT (for himself, Mrs. BLACK, and Mr. SMITH of Texas) 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 modify S corporation shareholder and preferred stock rules with respect to banks.

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 “Capital Access for
5 Small Business Banks Act”.

1 **SEC. 2. S CORPORATION BANKS PERMITTED TO HAVE 500**
2 **SHAREHOLDERS.**

3 (a) IN GENERAL.—Section 1361(c) of the Internal
4 Revenue Code of 1986 is amended by adding at the end
5 the following new paragraph:

6 “(7) BANK SHAREHOLDER LIMIT.—In the case
7 of a bank (as defined in section 581) or a depository
8 institution holding company (as defined in section
9 3(w)(1) of the Federal Deposit Insurance Act (12
10 U.S.C. 1813(w)(1))), subsection (b)(1)(A) shall be
11 applied by substituting ‘500 shareholders’ for ‘100
12 shareholders.’”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2015.

16 **SEC. 3. BANK ISSUANCE OF PREFERRED STOCK PER-**
17 **MITTED.**

18 (a) IN GENERAL.—Section 1361 of the Internal Rev-
19 enue Code of 1986 is amended by adding at the end the
20 following new subsection:

21 “(h) TREATMENT OF QUALIFIED PREFERRED BANK
22 STOCK.—

23 “(1) IN GENERAL.—Qualified preferred bank
24 stock shall not be taken into account as outstanding
25 stock of the S corporation for purposes of this sub-
26 chapter (other than section 1368(g)).

1 “(2) QUALIFIED PREFERRED BANK STOCK.—

2 For purposes of this subsection, the term ‘qualified
3 preferred bank stock’ means stock which—

4 “(A) is issued by a bank (as defined in sec-
5 tion 581) or a depository institution holding
6 company (as defined in section 3(w)(1) of the
7 Federal Deposit Insurance Act (12 U.S.C.
8 1813(w)(1))), and

9 “(B) meets the requirements of subpara-
10 graphs (A), (B), and (C) of section
11 1504(a)(4).”.

12 (b) DISTRIBUTIONS INCLUDIBLE IN SHAREHOLDER
13 GROSS INCOME AND DEDUCTIBLE BY S CORPORATION.—
14 Section 1368 of such Code is amended by adding at the
15 end the following new subsection:

16 “(g) QUALIFIED PREFERRED BANK STOCK.—If a
17 shareholder receives a distribution (not in part or full pay-
18 ment in exchange for stock) from an S corporation with
19 respect to any qualified preferred bank stock (as defined
20 in section 1361(h)), the amount of such distribution—

21 “(1) shall be includible in gross income of the
22 shareholder, and

23 “(2) shall be deductible by the corporation for
24 the taxable year of such corporation in which or with

1 which ends the taxable year in which such amount
2 is included in the gross income of the shareholder.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2015.

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