

114TH CONGRESS
2D SESSION

H. R. 5007

To amend the Internal Revenue Code of 1986 to exempt private foundations from the tax on excess business holdings in the case of certain philanthropic enterprises which are independently supervised, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2016

Mr. REICHERT (for himself, Mr. LARSON of Connecticut, Mr. TIBERI, Mr. NEAL, Mr. PAULSEN, Mr. HOLDING, Mr. SMITH of Missouri, Ms. ESTY, Mr. BYRNE, and Mr. HIMES) 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 exempt private foundations from the tax on excess business holdings in the case of certain philanthropic enterprises which are independently supervised, 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 “Philanthropic Enter-
5 prise Act of 2016”.

1 **SEC. 2. EXCEPTION FROM PRIVATE FOUNDATION EXCESS**
2 **BUSINESS HOLDING TAX FOR CERTAIN PHIL-**
3 **ANTHROPIC BUSINESS HOLDINGS.**

4 (a) IN GENERAL.—Section 4943 of the Internal Rev-
5 enue Code of 1986 is amended by adding at the end the
6 following new subsection:

7 “(g) EXCEPTION FOR CERTAIN PHILANTHROPIC
8 BUSINESS HOLDINGS.—

9 “(1) IN GENERAL.—Subsection (a) shall not
10 apply with respect to the holdings of a private foun-
11 dation in any business enterprise which for the tax-
12 able year meets—

13 “(A) the exclusive ownership requirements
14 of paragraph (2),

15 “(B) the all profits to charity distribution
16 requirement of paragraph (3), and

17 “(C) the independent operation require-
18 ments of paragraph (4).

19 “(2) EXCLUSIVE OWNERSHIP.—The exclusive
20 ownership requirements of this paragraph are met
21 if—

22 “(A) all ownership interests in the business
23 enterprise are held by the private foundation at
24 all times during the taxable year, and

25 “(B) all the private foundation’s ownership
26 interests in the business enterprise were ac-

1 required under the terms of a will or trust upon
2 the death of the testator or settlor, as the case
3 may be.

4 “(3) ALL PROFITS TO CHARITY.—

5 “(A) IN GENERAL.—The all profits to
6 charity distribution requirement of this para-
7 graph is met if the business enterprise, not
8 later than 120 days after the close of the tax-
9 able year, distributes an amount equal to its net
10 operating income for such taxable year to the
11 private foundation.

12 “(B) NET OPERATING INCOME.—For pur-
13 poses of this paragraph, the net operating in-
14 come of any business enterprise for any taxable
15 year is an amount equal to the gross income of
16 the business enterprise for the taxable year, re-
17 duced by the sum of—

18 “(i) the deductions allowed by chapter
19 1 for the taxable year which are directly
20 connected with the production of such in-
21 come,

22 “(ii) the tax imposed by chapter 1 on
23 the business enterprise for the taxable
24 year, and

1 “(iii) an amount for a reasonable re-
2 serve for working capital and other busi-
3 ness needs of the business enterprise.

4 “(4) INDEPENDENT OPERATION.—The inde-
5 pendent operation requirements of this paragraph
6 are met if, at all times during the taxable year—

7 “(A) no substantial contributor (as defined
8 in section 4958(c)(3)(C)) to the private founda-
9 tion, or family member of such a contributor
10 (determined under section 4958(f)(4)) is a di-
11 rector, officer, trustee, manager, employee, or
12 contractor of the business enterprise (or an in-
13 dividual having powers or responsibilities simi-
14 lar to any of the foregoing),

15 “(B) at least a majority of the board of di-
16 rectors of the private foundation are not—

17 “(i) also directors or officers of the
18 business enterprise, or

19 “(ii) members of the family (deter-
20 mined under section 4958(f)(4)) of a sub-
21 stantial contributor (as defined in section
22 4958(c)(3)(C)) to the private foundation,
23 and

24 “(C) there is no loan outstanding from the
25 business enterprise to a substantial contributor

1 (as so defined) to the private foundation or a
2 family member of such contributor (as so deter-
3 mined).

4 “(5) CERTAIN DEEMED PRIVATE FOUNDATIONS
5 EXCLUDED.—This subsection shall not apply to—

6 “(A) any fund or organization treated as a
7 private foundation for purposes of this section
8 by reason of subsection (e) or (f),

9 “(B) any trust described in section
10 4947(a)(1) (relating to charitable trusts), and

11 “(C) any trust described in section
12 4947(a)(2) (relating to split-interest trusts).”.

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

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