

114TH CONGRESS
2D SESSION

H. R. 5076

To amend the Internal Revenue Code of 1986 to ensure that pass-through businesses do not pay tax at a higher rate than corporations.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2016

Mr. BUCHANAN (for himself, Mr. BOUSTANY, and Mr. SESSIONS) 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 ensure that pass-through businesses do not pay tax at a higher rate than corporations.

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 “Main Street Fairness
5 Act”.

6 **SEC. 2. BUSINESS INCOME OF PASS-THROUGH ENTITIES**
7 **AND INDIVIDUALS.**

8 (a) QUALIFIED BUSINESS INCOME TAXED AT COR-
9 PORATE RATE.—Section 1 of the Internal Revenue Code
10 of 1986 is amended by redesignating subsection (i) as sub-

1 jection (j) and by inserting after subsection (h) the fol-
2 lowing:

3 “(i) QUALIFIED BUSINESS INCOME.—

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

8 “(A) a tax computed at the rates and in
9 the same manner as if this subsection had not
10 been enacted on the greater of—

11 “(i) taxable income reduced by the
12 sum of net capital gain plus qualified busi-
13 ness income, or

14 “(ii) the amount determined under
15 clause (i) plus so much of qualified busi-
16 ness income that, when added together,
17 would not be taxed at a rate greater than
18 the maximum rate in effect under section
19 11(b),

20 “(B) tax on qualified business income re-
21 duced by the amount of qualified business in-
22 come on which a tax is determined under sub-
23 paragraph (A) (if any), determined under sec-
24 tion 11 for the taxable year by treating quali-

1 fied business income as taxable income of a cor-
2 poration, plus

3 “(C) a tax on net capital gain, computed
4 as if subsection (h) imposed a tax on net capital
5 gain.

6 “(2) QUALIFIED BUSINESS INCOME DEFINED.—

7 For purposes of this subsection—

8 “(A) QUALIFIED BUSINESS INCOME.—The
9 term ‘qualified business income’ means all items
10 of income, deduction, loss, or credit properly at-
11 tributable to the taxpayer from the active con-
12 duct of a trade or business in which—

13 “(i) in the case of a partnership, the
14 taxpayer holds a capital or profits interest,

15 “(ii) in the case of an S corporation,
16 the taxpayer is a shareholder,

17 “(iii) in the case of a sole proprietor-
18 ship or an entity otherwise disregarded as
19 separate from its sole owner, the taxpayer
20 is the sole owner, and

21 “(iv) in the case of a trust or estate,
22 the taxpayer is a beneficiary.

23 “(B) NET CAPITAL GAIN.—Such term shall
24 not include any item taken into account in de-
25 termining net capital gain.

1 “(C) EXCEPTION FOR FINANCIAL SERV-
2 ICES INCOME OF PARTNERSHIPS.—In the case
3 of a taxpayer who holds a capital or profits in-
4 terest in a partnership, such term does not in-
5 clude financial services income (as defined in
6 section 904(d)(2)(D)).

7 “(3) LIMITATION.—Paragraph (1) shall only
8 apply to a taxable year in which the maximum rate
9 of tax under this section exceeds the maximum rate
10 of tax under section 11.

11 “(4) NET CAPITAL GAIN.—For purposes of this
12 subsection, the term ‘net capital gain’ has the mean-
13 ing given to such term by subsection (h).

14 “(5) REGULATIONS.—The Secretary shall issue
15 such regulations or other guidance as may be nec-
16 essary to carry out the purposes of this subsection.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

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