

115TH CONGRESS
1ST SESSION

H. R. 399

To amend the Internal Revenue Code of 1986 to expand the denial of deduction for certain excessive employee remuneration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2017

Mr. DOGGETT (for himself, Mr. BEYER, Mr. BRADY of Pennsylvania, Ms. BROWNLEY of California, Mr. CICILLINE, Mr. CONYERS, Mr. CUMMINGS, Mr. DEFazio, Ms. DELAURO, Mr. ELLISON, Mr. GALLEG0, Mr. GARAMENDI, Mr. GRIJALVA, Mr. HASTINGS, Mr. HIGGINS of New York, Mr. LANGEVIN, Ms. LEE, Mr. TED LIEU of California, Mr. LIPINSKI, Mr. LOEBSACK, Mr. LOWENTHAL, Mr. SEAN PATRICK MALONEY of New York, Mr. MCGOVERN, Ms. MOORE, Mrs. NAPOLITANO, Ms. NORTON, Mr. PAYNE, Mr. POCAN, Mr. PRICE of North Carolina, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Mr. SERRANO, Ms. SLAUGHTER, Mr. TONKO, Ms. TSONGAS, Ms. VELÁZQUEZ, Mr. VISCLOSKY, Mrs. WATSON COLEMAN, Mr. YARMUTH, Mr. RASKIN, Ms. KAPTUR, Mr. DESAULNIER, and Mr. HUFFMAN) 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 expand the denial of deduction for certain excessive employee remuneration, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stop Subsidizing Mul-
3 timillion Dollar Corporate Bonuses Act”.

4 **SEC. 2. EXPANSION OF DENIAL OF DEDUCTION FOR CER-**
5 **TAIN EXCESSIVE EMPLOYEE REMUNERA-**
6 **TION.**

7 (a) APPLICATION TO ALL CURRENT AND FORMER
8 EMPLOYEES.—

9 (1) IN GENERAL.—Section 162(m) of the Inter-
10 nal Revenue Code of 1986 is amended—

11 (A) by striking “covered employee” each
12 place it appears in paragraphs (1) and (4) and
13 inserting “covered individual”, and

14 (B) by striking “such employee” each
15 place it appears in subparagraphs (A) and (G)
16 of paragraph (4) and inserting “such indi-
17 vidual”.

18 (2) COVERED INDIVIDUAL.—Paragraph (3) of
19 section 162(m) of such Code is amended to read as
20 follows:

21 “(3) COVERED INDIVIDUAL.—For purposes of
22 this subsection, the term ‘covered individual’ means
23 any individual who is an officer, director, or em-
24 ployee of the taxpayer or a former officer, director,
25 or employee of the taxpayer.”.

26 (3) CONFORMING AMENDMENTS.—

(A) Section 48D(b)(3)(A) of such Code is amended by inserting “(as in effect for taxable years beginning before January 1, 2018)” after “section 162(m)(3)”.

(B) Section 409A(b)(3)(D)(ii) of such Code is amended by inserting “(as in effect for taxable years beginning before January 1, 2018)” after “section 162(m)(3)”.

(b) EXPANSION OF APPLICABLE EMPLOYEE REMUNERATION.—

(1) ELIMINATION OF EXCEPTION FOR COMMISSION-BASED PAY.—

(A) IN GENERAL.—Paragraph (4) of section 162(m) of such Code, as amended by subsection (a), is amended by striking subparagraph (B) and by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(B) CONFORMING AMENDMENTS.—

(i) Section 162(m)(5) of such Code is amended—

(I) by striking “subparagraphs (B), (C), and (D) thereof” in subparagraph (E) and inserting “subparagraphs (B) and (C) thereof”, and

1 (II) by striking “subparagraphs
 2 (F) and (G)” in subparagraph (G)
 3 and inserting “subparagraphs (E) and
 4 (F)”.

5 (ii) Section 162(m)(6) of such Code is
 6 amended—

7 (I) by striking “subparagraphs
 8 (B), (C), and (D) thereof” in sub-
 9 paragraph (D) and inserting “sub-
 10 paragraphs (B) and (C) thereof”, and

11 (II) by striking “subparagraphs
 12 (F) and (G)” in subparagraph (G)
 13 and inserting “subparagraphs (E) and
 14 (F)”.

15 (2) INCLUSION OF PERFORMANCE-BASED COM-
 16 PENSATION.—

17 (A) IN GENERAL.—Paragraph (4) of sec-
 18 tion 162(m) of the Internal Revenue Code of
 19 1986, as amended by subsection (a) and para-
 20 graph (1) of this subsection, is amended by
 21 striking subparagraph (B) and redesignating
 22 subparagraphs (C) through (F) as subpara-
 23 graphs (B) through (E), respectively.

24 (B) CONFORMING AMENDMENTS.—

1 (i) Section 162(m)(5) of such Code,
2 as amended by paragraph (1), is amend-
3 ed—

4 (I) by striking “subparagraphs
5 (B) and (C) thereof” in subparagraph
6 (E) and inserting “subparagraph (B)
7 thereof”, and

8 (II) by striking “subparagraphs
9 (E) and (F)” in subparagraph (G)
10 and inserting “subparagraphs (D) and
11 (E)”.

12 (ii) Section 162(m)(6) of such Code,
13 as amended by paragraph (1), is amend-
14 ed—

15 (I) by striking “subparagraphs
16 (B) and (C) thereof” in subparagraph
17 (D) and inserting “subparagraph (B)
18 thereof”, and

19 (II) by striking “subparagraphs
20 (E) and (F)” in subparagraph (G)
21 and inserting “subparagraphs (D) and
22 (E)”.

23 (c) EXPANSION OF APPLICABLE EMPLOYER.—Para-
24 graph (2) of section 162(m) of the Internal Revenue Code
25 of 1986 is amended to read as follows:

1 “(2) PUBLICLY HELD CORPORATION.—For pur-
 2 poses of this subsection, the term ‘publicly held cor-
 3 poration’ means any corporation which is an issuer
 4 (as defined in section 3 of the Securities Exchange
 5 Act of 1934 (15 U.S.C. 78c))—

6 “(A) the securities of which are registered
 7 under section 12 of such Act (15 U.S.C. 78l),
 8 or

9 “(B) that is required to file reports under
 10 section 15(d) of such Act (15 U.S.C. 780(d)).”.

11 (d) REGULATORY AUTHORITY.—

12 (1) IN GENERAL.—Section 162(m) of the Inter-
 13 nal Revenue Code of 1986 is amended by adding at
 14 the end the following new paragraph:

15 “(7) REGULATIONS.—The Secretary may pre-
 16 scribe such guidance, rules, or regulations, including
 17 with respect to reporting, as are necessary to carry
 18 out the purposes of this subsection.”.

19 (2) CONFORMING AMENDMENT.—Paragraph (6)
 20 of section 162(m) of such Code is amended by strik-
 21 ing subparagraph (H).

22 (e) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to taxable years beginning after
 24 December 31, 2017.

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