

118TH CONGRESS
2D SESSION

H. R. 8435

To amend the Internal Revenue Code of 1986 to treat certain price protection payments as eligible rollover distributions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2024

Mr. KELLY of Pennsylvania (for himself and Mr. BLUMENAUER) 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 treat certain price protection payments as eligible rollover distributions, 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. PRICE PROTECTION PAYMENTS TREATED AS**
4 **ELIGIBLE ROLLOVER DISTRIBUTIONS.**

5 (a) IN GENERAL.—Section 402(c)(4) of the Internal
6 Revenue Code of 1986 is amended—

7 (1) by striking “For purposes of” and insert-
8 ing—

9 “(A) IN GENERAL.—For purposes of”,

1 (2) by striking “If all or any portion” and all
2 that follows through the period and inserting—

3 “(B) SPECIAL RULE FOR 2020.—If all or
4 any portion”, and

5 (3) by adding at the end the following new sub-
6 paragraphs:

7 “(C) CERTAIN PRICE PROTECTION PAY-
8 MENTS TREATED AS ELIGIBLE ROLLOVER DIS-
9 TRIBUTIONS.—

10 “(i) DISTRIBUTIONS PRIOR TO 2025.—

11 In the case of a price protection payment
12 made after December 12, 2019, with re-
13 spect to a plan year ending before January
14 1, 2025, such payment will be treated as
15 an eligible rollover distribution if such pay-
16 ment is made pursuant to a price protec-
17 tion agreement which provides a payment
18 to a participant (or beneficiary of such
19 participant) who separates from service
20 with an employer due to retirement, death
21 or disability.

22 “(ii) DISTRIBUTIONS AFTER 2024.—In

23 the case of a price protection payment
24 made with respect to a plan year ending
25 after December 31, 2024, such payment

1 will be treated as an eligible rollover dis-
2 tribution if such payment is made pursu-
3 ant to a price protection agreement
4 which—

5 “(I) is offered as part of an em-
6 ployee stock ownership plan,

7 “(II) covers any separation of
8 service of a plan participant regard-
9 less of the reason for such separation,
10 and

11 “(III) pays price protection pay-
12 ments upon commencement of plan
13 distributions under section
14 409(o)(1)(A)(i).

15 “(D) DEFINITIONS.—For purposes of this
16 paragraph—

17 “(i) PRICE PROTECTION AGREE-
18 MENT.—The term ‘price protection agree-
19 ment’ means an agreement between an em-
20 ployer maintaining an employee stock own-
21 ership plan and the trustee of such plan,
22 pursuant to which a participant or bene-
23 ficiary receives a price protection payment
24 for stock distributions from such plan fol-

1 lowing an exempt loan taken on by the em-
2 ployer.

3 “(ii) PRICE PROTECTION PAYMENT.—

4 The term ‘price protection payment’ means
5 an amount paid to a plan participant or
6 beneficiary pursuant to a price protection
7 agreement if such agreement provides that
8 price protection payments will be made—

9 “(I) within a specified period of

10 time, not to exceed the shorter of 5
11 years or the life of an exempt loan,
12 following the purchase of employer se-
13 curities with such loan, and

14 “(II) in an amount equal to the

15 excess, if any, of—

16 “(aa) the fair market value

17 of the shares of employer securi-
18 ties at the time of the distribu-
19 tion determined without regard
20 to such exempt loan, over

21 “(bb) the fair market value

22 of the employer securities at the
23 time of distribution.

24 “(iii) EMPLOYEE STOCK OWNERSHIP

25 PLAN.—The term ‘employee stock owner-

1 ship plan’ has the meaning given such
2 term in section 4975(e)(7).

3 “(iv) EXEMPT LOAN.—The term ‘ex-
4 empt loan’ means a loan described in sec-
5 tion 4975(d)(3).”.

6 (b) PRICE PROTECTION AGREEMENTS NOT CONSID-
7 ERED DISCRIMINATORY.—Section 401(a)(5) of such Code
8 is amended by adding at the end the following new sub-
9 paragraph:

10 “(H) PRICE PROTECTION AGREEMENTS.—
11 A plan shall not be considered discriminatory
12 within the meaning of paragraph (4) merely be-
13 cause the plan is subject to a price protection
14 agreement (as defined in section
15 402(c)(4)(D)(ii)) which favors highly com-
16 pensated employees.”.

17 (c) PRICE PROTECTION PAYMENTS NOT TAKEN
18 INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—
19 Section 404 of such Code is amended by adding at the
20 end the following new subsection:

21 “(p) PRICE PROTECTION PAYMENTS NOT TAKEN
22 INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—
23 Price protection payments (as defined in section
24 402(c)(4)(D)(i)) shall not be subject to any limitation con-
25 tained in subsection (a)(3).”.

1 (d) EFFECTIVE DATES.—

2 (1) The amendments made by subsection (a)
3 shall apply to amounts paid after December 12,
4 2019.

5 (2) The amendments made by subsections (b)
6 and (c) shall apply to amounts paid in plan years
7 ending after December 31, 2024.

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