

117TH CONGRESS  
2D SESSION

# H. R. 8447

To amend the Internal Revenue Code of 1986 to impose an excise tax  
on certain investments of private colleges and universities.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2022

Mr. MURPHY of North Carolina (for himself, Mr. WENSTRUP, Mr. SMITH of  
Nebraska, Mr. SMUCKER, Mr. LAHOOD, and Mr. DUNN) introduced the  
following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to impose  
an excise tax on certain investments of private colleges  
and universities.

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 “Protecting Endow-  
5 ments from Our Adversaries Act”.

1 **SEC. 2. EXCISE TAX ON CERTAIN INVESTMENTS OF PRI-**  
2 **VATE COLLEGES AND UNIVERSITIES.**

3 (a) IN GENERAL.—Subchapter H of chapter 42 of  
4 the Internal Revenue Code of 1986 is amended by adding  
5 at the end the following new section:

6 **“SEC. 4969. EXCISE TAX ON CERTAIN INVESTMENTS OF PRI-**  
7 **VATE COLLEGES AND UNIVERSITIES.**

8 “(a) TAX ON ACQUISITION OF LISTED INVEST-  
9 MENTS.—In the case of any specified educational institu-  
10 tion which acquires (directly or indirectly through any  
11 chain of ownership) one or more listed investments during  
12 any taxable year, there is hereby imposed for such taxable  
13 year a tax equal to 50 percent of the fair market values  
14 of such investments determined as of the dates of such  
15 acquisitions.

16 “(b) TAX ON NET INCOME FROM 1-YEAR LISTED IN-  
17 VESTMENTS.—

18 “(1) IN GENERAL.—There is hereby imposed on  
19 each specified educational institution for the taxable  
20 year a tax equal to 100 percent of the excess (if  
21 any) of—

22 “(A) the sum of—

23 “(i) all income received with respect  
24 to any 1-year listed investment during such  
25 taxable year, plus

1           “(ii) all gains recognized with respect  
2           to the sale or other disposition of any 1-  
3           year listed investments during such taxable  
4           year, over

5           “(B) the sum of—

6           “(i) all deductions properly allocable  
7           to income described in subparagraph  
8           (A)(i), plus

9           “(ii) all losses recognized with respect  
10          to the sale or other disposition of any 1-  
11          year listed investments during such taxable  
12          year.

13          “(2) 1-YEAR LISTED INVESTMENT.—For pur-  
14          poses of this section, the term ‘1-year listed invest-  
15          ment’ means, as of any date, any listed investment  
16          which was a listed investment at all times during the  
17          1-year period ending on such date.

18          “(c) LISTED INVESTMENT.—For purposes of this  
19          section—

20          “(1) IN GENERAL.—The term ‘listed invest-  
21          ment’ means any specified interest with respect to  
22          any person listed on the listed persons list estab-  
23          lished and maintained by the Secretary under para-  
24          graph (2).

1           “(2) LISTED PERSONS LIST.—The Secretary  
2 shall establish (not later than 60 days after the date  
3 of the enactment of this section), update, and main-  
4 tain a list of the persons which are listed on one or  
5 more of—

6           “(A) the Entity List maintained by the  
7 Secretary of Commerce,

8           “(B) the Military End User (MEU) List  
9 maintained by the Secretary of Commerce,

10           “(C) the Unverified List maintained by the  
11 Secretary of Commerce, and

12           “(D) the list maintained by the Federal  
13 Communications Commission of equipment and  
14 services covered by section 2 of the Secure and  
15 Trusted Communications Networks Act of 2019  
16 (commonly referred to as the FCC Covered  
17 List).

18           “(3) SPECIFIED INTEREST.—The term ‘speci-  
19 fied interest’ means, with respect to any person—

20           “(A) stock or any other equity or profits  
21 interest of such person,

22           “(B) debt issued by such person, and

23           “(C) any contract or derivative with re-  
24 spect to any interest described in subparagraph  
25 (A) or (B).

1 “(4) INCLUSION OF CERTAIN POOLED FUNDS.—

2 “(A) IN GENERAL.—Any specified interest  
3 acquired through a regulated investment com-  
4 pany, exchange traded fund, or any other  
5 pooled investment shall not fail to be treated as  
6 acquired through a chain of ownership de-  
7 scribed in subsection (a).

8 “(B) CERTIFICATIONS OF POOLED  
9 FUNDS.—The Secretary shall establish proce-  
10 dures under which regulated investment compa-  
11 nies, exchange traded funds, and other pooled  
12 investments may be certified by the Secretary  
13 as not holding any listed investments.

14 “(d) SPECIFIED EDUCATIONAL INSTITUTION.—For  
15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘specified edu-  
17 cational institution’ means, with respect to any tax-  
18 able year, any eligible educational institution (as de-  
19 fined in section 25A(f)(2))—

20 “(A) which is not described in the first  
21 sentence of section 511(a)(2)(B) (relating to  
22 State colleges and universities), and

23 “(B) the aggregate fair market value of  
24 the assets of which at the end of the preceding  
25 taxable year (other than those assets which are

1           used directly in carrying out the institution's  
2           exempt purpose) is in excess of \$1,000,000,000.

3           “(2) TREATMENT OF RELATED ORGANIZA-  
4           TIONS.—For purposes of subsections (a) and (b), as-  
5           sets held by any related organization (as defined in  
6           section 4968(d)(2)) with respect to an educational  
7           institution shall be treated as held by such edu-  
8           cational institution, except that—

9                   “(A) such assets shall not be taken into  
10                  account with respect to more than 1 educational  
11                  institution, and

12                   “(B) unless such organization is controlled  
13                  by such institution or is described in section  
14                  509(a)(3) with respect to such institution, as-  
15                  sets which are not intended or available for the  
16                  use or benefit of such educational institution  
17                  shall not be taken into account.

18           “(e) VALUATION OF DEBT.—For purposes of sub-  
19           section (a), the fair market value of any debt shall be  
20           treated as being the principal amount of such debt.

21           “(f) REGULATIONS.—The Secretary may issue such  
22           regulations or other guidance as may be necessary or ap-  
23           propriate to carry out the purposes of this section, includ-  
24           ing regulations or other guidance providing for the proper

1 application of this section with respect to institutionally  
2 related foundations and pooled investments.”.

3 (b) CLERICAL AMENDMENTS.—

4 (1) The table of sections for subchapter H of  
5 chapter 42 of such Code is amended by adding at  
6 the end the following new item:

“Sec. 4969. Excise tax on certain investments of private colleges and univer-  
sities.”.

7 (2) The heading of subchapter H of chapter 42  
8 of such Code (and the item relating to such sub-  
9 chapter in the table of subchapters for such chapter)  
10 are each amended by striking “**Tax Based on In-**  
11 **vestment Income**” and inserting “**Taxes**  
12 **Based on Investments**”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as otherwise pro-  
15 vided in this subsection, the amendments made by  
16 this section shall apply to taxable years ending after  
17 the earlier of—

18 (A) the end of the first calendar year be-  
19 ginning after the date of the enactment of this  
20 Act, or

21 (B) the end of the 1-year period beginning  
22 on the date on which the Secretary of the  
23 Treasury (or the Secretary’s delegate) estab-  
24 lishes the listed persons list under section

1           4969(c)(2) of the Internal Revenue Code of  
2           1986 (as added by this section).

3           (2) CERTAIN PRIOR ACQUISITIONS.—Section  
4           4969(a) of the Internal Revenue Code of 1986 (as  
5           added by this section) shall not apply to investments  
6           acquired before the end of the calendar year referred  
7           to in paragraph (1)(A).

8           (3) CERTAIN PRIOR INCOME AND GAINS.—Sec-  
9           tion 4969(b) of the Internal Revenue Code of 1986  
10          (as added by this section) shall not apply to income  
11          received, or gains or losses recognized, before the  
12          end of the 1-year period referred to in paragraph  
13          (1)(B).

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