

115TH CONGRESS
1ST SESSION

H. R. 2339

To amend the Internal Revenue Code of 1986 to modify S corporation shareholder and preferred stock rules with respect to banks.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2017

Mr. MARCHANT 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 modify S corporation shareholder and preferred stock rules with respect to banks.

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 “Capital Access for
5 Small Business Banks Act”.

6 **SEC. 2. S CORPORATION BANKS PERMITTED TO HAVE 500**
7 **SHAREHOLDERS.**

8 (a) IN GENERAL.—Section 1361(c) of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following new paragraph:

1 “(7) BANK SHAREHOLDER LIMIT.—In the case
 2 of a bank (as defined in section 581) or a depository
 3 institution holding company (as defined in section
 4 3(w)(1) of the Federal Deposit Insurance Act (12
 5 U.S.C. 1813(w)(1))), subsection (b)(1)(A) shall be
 6 applied by substituting ‘500 shareholders’ for ‘100
 7 shareholders’.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 2017.

11 **SEC. 3. BANK ISSUANCE OF PREFERRED STOCK PER-**
 12 **MITTED.**

13 (a) IN GENERAL.—Section 1361 of the Internal Rev-
 14 enue Code of 1986 is amended by adding at the end the
 15 following new subsection:

16 “(h) TREATMENT OF QUALIFIED PREFERRED BANK
 17 STOCK.—

18 “(1) IN GENERAL.—Qualified preferred bank
 19 stock shall not be taken into account as outstanding
 20 stock of the S corporation for purposes of this sub-
 21 chapter (other than subsection (b)(1)(A) and section
 22 1368(g)).

23 “(2) QUALIFIED PREFERRED BANK STOCK.—
 24 For purposes of this subsection, the term ‘qualified
 25 preferred bank stock’ means stock which—

1 “(A) is issued by a bank (as defined in sec-
 2 tion 581) or a depository institution holding
 3 company (as defined in section 3(w)(1) of the
 4 Federal Deposit Insurance Act (12 U.S.C.
 5 1813(w)(1))),

6 “(B) is not held by a person ineligible
 7 under subsection (b)(1) to be a shareholder of
 8 a small business corporation, and

9 “(C) meets the requirements of subpara-
 10 graphs (A), (B), and (C) of section
 11 1504(a)(4).”.

12 (b) DISTRIBUTIONS INCLUDIBLE IN SHAREHOLDER
 13 GROSS INCOME AND DEDUCTIBLE BY S CORPORATION.—
 14 Section 1368 of such Code is amended by adding at the
 15 end the following new subsection:

16 “(g) QUALIFIED PREFERRED BANK STOCK.—If a
 17 shareholder receives a distribution (not in part or full pay-
 18 ment in exchange for stock) from an S corporation with
 19 respect to any qualified preferred bank stock (as defined
 20 in section 1361(h))—

21 “(1) the amount of such distribution shall be
 22 includible in gross income of the shareholder, and

23 “(2) there shall be allowed as a deduction by
 24 the corporation for the taxable year of such corpora-
 25 tion in which or with which ends the taxable year in

1 which such amount is included in the gross income
2 of the shareholder an amount equal to the amount
3 which bears the same ratio to the amount of such
4 distribution as—

5 “(A) the highest rate of tax in effect for
6 the taxable year with respect to individuals for
7 qualified dividend income (as defined in section
8 1(h)(11)), over

9 “(B) the highest rate of tax in effect for
10 the taxable year with respect to individuals
11 under subsections (a), (b), (c), and (d) of sec-
12 tion 1 (after the application of subsection (i)
13 thereof).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2017.

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