

114TH CONGRESS
2D SESSION

H. R. 5158

To amend the Internal Revenue Code of 1986 to provide a conditional 10 percent rate of tax for certain businesses.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2016

Mr. MCKINLEY 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 provide a conditional 10 percent rate of tax for certain businesses.

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 “Make America Com-
5 petitive Act of 2016”.

6 **SEC. 2. ELECTED 10-PERCENT RATE.**

7 (a) IN GENERAL.—

8 (1) CORPORATE RATE.—Section 11(b) of the
9 Internal Revenue Code of 1986 is amended by add-
10 ing at the end the following new paragraph:

1 “(3) MAKING AMERICA COMPETITIVE AGAIN
2 RATE.—Notwithstanding paragraphs (1) and (2),
3 the amount of the tax imposed by subsection (a) on
4 the taxable income of a corporation which has in ef-
5 fect for the taxable year an election under section 5
6 of the Make America Competitive Again Act shall be
7 determined at a rate of 10 percent.”.

8 (2) INDIVIDUAL RATE.—Section 1 of such Code
9 is amended by adding at the end the following new
10 subsection:

11 “(j) MAKING AMERICA COMPETITIVE AGAIN RATE.—

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

16 “(A) a tax computed at the rates and in
17 the same manner as if this subsection had not
18 been enacted on taxable income reduced by the
19 portion of such taxable income that is attrib-
20 utable to qualified business income, plus

21 “(B) 10 percent of the portion of taxable
22 income that is attributable qualified business
23 income.

24 “(2) QUALIFIED BUSINESS INCOME.—For pur-
25 poses of this section, the term ‘qualified business in-

1 come’ means income of the individual that is derived
2 from a partnership, S corporation, or sole propri-
3 etorship which has in effect for the taxable year an
4 election under section 5 of the Make America Com-
5 petitive Again Act.

6 “(3) PORTION OF TAXABLE INCOME ATTRIB-
7 UTABLE.—For purposes of this subsection, the por-
8 tion of taxable income that is attributable to quali-
9 fied business income shall be an amount that bears
10 the same ratio to taxable income as—

11 “(A) qualified business income (reduced by
12 any deductions properly allocable thereto),
13 bears to

14 “(B) gross income (reduced by deductions
15 properly allocable thereto).

16 For purposes of the preceding sentence, the Sec-
17 retary shall by regulation prescribe methods for the
18 proper allocation of deductions.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2015.

22 **SEC. 3. ELECTED REPATRIATION OF FOREIGN EARNINGS**
23 **IN UNITED STATES.**

24 (a) IN GENERAL.—Section 965(a)(1) of the Internal
25 Revenue Code of 1986 is amended by inserting “, which

1 has in effect for the taxable year an election under section
2 5 of the Make America Competitive Again Act,” after
3 “which is a United States shareholder”.

4 (b) REPATRIATION SUBJECT TO 5-PERCENT TAX
5 RATE.—Section 965(a)(1) of such Code is amended by
6 striking “85 percent” and inserting “85.7 percent”.

7 (c) PERMANENT EXTENSION TO ELECT REPATRI-
8 ATION.—Section 965(f) of such Code is amended to read
9 as follows:

10 “(f) ELECTION.—The taxpayer may elect to apply
11 this section to any taxable year only if made on or before
12 the due date (including extensions) for filing the return
13 of tax for such taxable year.”.

14 (d) REPATRIATION INCLUDES CURRENT AND ACCU-
15 MULATED FOREIGN EARNINGS.—Section 965(b)(1) of
16 such Code is amended to read as follows:

17 “(1) IN GENERAL.—The amount of dividends
18 taken into account under subsection (a) shall not ex-
19 ceed the sum of the current and accumulated earn-
20 ings and profits described in section 959(e)(3) for
21 the year a deduction is claimed under subsection (a),
22 without diminution by reason of any distributions
23 made during the election year, for all controlled for-
24 eign corporations of the United States shareholder.”.

25 (e) CONFORMING AMENDMENTS.—

1 (1) Section 965(b) of such Code is amended by
2 striking paragraphs (2) and (4) and by redesignating
3 paragraph (3) as paragraph (2).

4 (2) Section 965(c) of such Code is amended by
5 striking paragraphs (1) and (2) and by redesignating
6 paragraphs (3), (4), and (5) as paragraphs
7 (1), (2), and (3), respectively.

8 (3) Section 965(c)(3) of such Code, as redesignated
9 by subparagraph (B), is amended to read as
10 follows:

11 “(3) CONTROLLED GROUPS.—All United States
12 shareholders which are members of an affiliated
13 group filing a consolidated return under section
14 1501 shall be treated as one United States shareholder.”.

16 (4) The heading for section 965 of such Code
17 is amended by striking “**TEMPORARY**”.

18 (5) The table of sections for subpart F of part
19 III of subchapter N of chapter 1 of such Code is
20 amended by striking “Temporary dividends” and inserting
21 “Dividends”.

22 (f) TRANSFERS TO HIGHWAY TRUST FUND.—Section
23 9503(f) of such Code is amended by redesignating paragraph
24 (10) as paragraph (11) and by inserting after paragraph
25 (9) the following new paragraph:

1 “(10) TRANSFER OF REVENUES FROM REPA-
2 TRIATION HOLIDAY.—There is hereby appropriated
3 to the Highway Account (as defined in subsection
4 (e)(5)(B)) in the Highway Trust Fund such
5 amounts as the Secretary from time to time esti-
6 mates are equal to the amount of revenue received
7 in the Treasury after the date of the enactment of
8 this paragraph from income taxes imposed on divi-
9 dends which are taken into account under section
10 965.”.

11 (g) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2015.

14 **SEC. 4. ELECTED WAIVER OF CERTAIN TAX EXPENDITURES.**

15 (a) DOMESTIC PRODUCTIONS ACTIVITIES DEDUC-
16 TION.—

17 (1) IN GENERAL.—Section 199 of the Internal
18 Revenue Code of 1986 is amended by adding at the
19 end the following new subsection:

20 “(e) WAIVER IN CASE OF MAKE AMERICA COMPETI-
21 TIVE AGAIN ELECTION.—Subsection (a) shall not apply
22 to a taxpayer for any taxable year for which such taxpayer
23 has in effect an election under section 5 of the Make
24 America Competitive Again Act.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to taxable years begin-
3 ning after December 31, 2015.

4 (b) LIKE-KIND EXCHANGES.—

5 (1) IN GENERAL.—Section 1031 of such Code
6 is amended by adding at the end the following new
7 subsection:

8 “(j) WAIVER IN CASE OF MAKE AMERICA COMPETI-
9 TIVE AGAIN ELECTION.—Subsection (a) shall not apply
10 to any exchange during any taxable year for which the
11 taxpayer has in effect an election under section 5 of the
12 Make America Competitive Again Act.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by this section shall apply to taxable years beginning
15 after December 31, 2015.

16 (c) INSTALLMENT SALES.—

17 (1) IN GENERAL.—Section 453 of the Internal
18 Revenue Code of 1986 is amended by adding at the
19 end the following new subsection:

20 “(m) WAIVER IN CASE OF MAKE AMERICA COMPETI-
21 TIVE AGAIN ELECTION.—

22 “(1) IN GENERAL.—Subsection (a) shall not
23 apply with respect to any taxable year for which the
24 taxpayer has in effect an election under section 5 of
25 the Make America Competitive Again Act.

1 “(2) PRIOR DISPOSITIONS.—If the taxpayer
2 makes an election under such section 5 for a taxable
3 year for which income from a disposition of property
4 in a prior taxable year would (but for this sub-
5 section) be taken into account under the installment
6 method, the remaining unrecognized income from
7 such disposition shall be recognized by the taxpayer
8 in the year of such election.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this section shall apply to taxable years beginning
11 after December 31, 2015.

12 **SEC. 5. MAKE AMERICA COMPETITIVE AGAIN ELECTION.**

13 (a) IN GENERAL.—An eligible employer shall be
14 treated as having in effect an election under this section
15 for a taxable year if such employer elects the application
16 of this section (at such time and in such form and manner
17 as the Secretary of the Treasury shall by regulation pre-
18 scribe) and meets the requirements of paragraphs (1)
19 through (4) of subsection (b).

20 (b) REQUIREMENTS FOR ELECTION.—

21 (1) HEALTH INSURANCE.—

22 (A) IN GENERAL.—The requirements of
23 this paragraph shall be treated as met for a
24 taxable year if the employer offers to each full-
25 time employee (and any dependents) the oppor-

1 tunity to enroll in a group health plan or group
2 health insurance coverage for all months ending
3 during the taxable year, unless the required
4 contribution (as defined in section
5 5000A(e)(1)(B) of the Internal Revenue Code
6 of 1986) of any such employee with respect to
7 such plan exceeds 9.5 percent of the taxpayer's
8 modified adjusted gross income.

9 (B) MODIFIED ADJUSTED GROSS IN-
10 COME.—The term “modified adjusted gross in-
11 come” means adjusted gross income increased
12 by—

13 (i) any amount excluded from gross
14 income under section 911,

15 (ii) any amount of interest received or
16 accrued by the taxpayer during the taxable
17 year which is exempt from tax, and

18 (iii) an amount equal to the portion of
19 the taxpayer's social security benefits (as
20 defined in section 86(d) of such Code)
21 which is not included in gross income
22 under section 86 for the taxable year.

23 (2) DEFINED CONTRIBUTION PLAN.—

24 (A) IN GENERAL.—The requirements of
25 this paragraph shall be treated as met for a

1 taxable year if the employer offers to all its full-
2 time employees a defined contribution plan
3 (within the meaning of section 414(i) of the In-
4 ternal Revenue Code of 1986) under which the
5 employer makes matching contributions on be-
6 half of each employee in an amount not less
7 that 50 percent of so much of elective contribu-
8 tions of the employee as do not exceed 6 per-
9 cent of compensation.

10 (B) AGE AND SERVICE EXCEPTION.—In
11 the case of an employer that maintains a quali-
12 fied plan or arrangement which excludes em-
13 ployees who have not satisfied the minimum age
14 and service requirements for participation in
15 the plan, such employee who has not satisfied
16 such requirements.

17 (3) PAY INCREASES.—

18 (A) IN GENERAL.—The requirements of
19 this paragraph shall be treated as met if the av-
20 erage increase in wages paid by the employer to
21 each applicable employee for the calendar year
22 ending with or within the taxable year, com-
23 pared with wages paid by the employer to each
24 such applicable employee for the preceding cal-
25 endar year, is at least 3 percent.

1 (B) APPLICABLE EMPLOYEE.—For pur-
2 poses of this paragraph, the term “applicable
3 employee” means, with respect to any employer,
4 a full-time employee who is not in the group
5 consisting of the top 10 percent of employees
6 when ranked on the basis of compensation paid
7 during such year.

8 (C) WAGES.—For purposes of this para-
9 graph, the term “wages” shall have the mean-
10 ing given such term by section 3121 of the In-
11 ternal Revenue Code of 1986 (determined with-
12 out regard to any dollar limitation contained in
13 such section).

14 (D) SPECIAL RULES.—

15 (i) COMMISSIONED EMPLOYEES.—In
16 the case of any employee who is paid solely
17 on a commission basis, the employer shall
18 be treated as meeting the requirements of
19 subparagraph (A) only if the employer
20 pays the employee (on a noncommission
21 basis) an amount equal to 3 percent of
22 such employees wages for the preceding
23 calendar year.

24 (ii) NEW EMPLOYEES.—An employer
25 shall not be treated as meeting the require-

1 ments of subparagraph (A) with respect to
2 any employee who was not employed by the
3 employer during the preceding calendar
4 year unless the employee's increase in
5 wages paid by the employer for the cal-
6 endar year is at least \$2,500.

7 (iii) COST-OF-LIVING ADJUSTMENT.—

8 In the case of calendar years beginning
9 after December 31, 2017, the \$2,500
10 amount under clause (ii) shall be increased
11 by an amount equal to—

12 (I) such dollar amount, multi-
13 plied by

14 (II) the cost-of-living adjustment
15 determined under section 1(f)(3) for
16 the calendar year, determined by sub-
17 stituting “calendar year 2016” for
18 “calendar year 1992” in subpara-
19 graph (B) thereof.

20 (4) DEFINED BENEFIT PLAN; ADDITIONAL SO-
21 CIAL SECURITY CONTRIBUTIONS.—

22 (A) IN GENERAL.—The requirements of
23 this paragraph shall be treated as met for a
24 taxable year if, on behalf of each full-time em-
25 ployee to whom the employer does not offer a

1 defined benefit plan (within the meaning of sec-
2 tion 414(j) of the Internal Revenue Code of
3 1986), the employer makes contributions to the
4 Secretary of the Treasury in an amount equal
5 to 4.5 percent of the wages (as defined in sec-
6 tion 3121(a) of such Code) paid by the em-
7 ployer with respect to employment (as defined
8 in section 3121(b) of such Code) during the cal-
9 endar year. Such contributions shall be made at
10 the same time and in the same manner as the
11 tax imposed on the employer under section
12 3111 of such Code.

13 (B) SPECIAL RULE FOR HIGHLY COM-
14 PENSATED EMPLOYEES.—In the case of an em-
15 ployee whose wages (as defined in section
16 3121(a) of such Code, determined without re-
17 gard to any dollar limitation contained in such
18 section) paid by the employer with respect to
19 employment (as defined in section 3121(b) of
20 such Code) exceed \$500,000 for the calendar
21 year, the employer shall make contributions to
22 the Secretary of the Treasury in an amount
23 equal to 4.5 percent of such excess, of which—

24 (i) 2.5 percent of such excess shall be
25 treated for purposes of section 6 of this

1 Act as a contribution made under subpara-
2 graph (A), and

3 (ii) 2.0 percent of such excess shall be
4 transferred to the Federal Old-Age and
5 Survivors Insurance Trust Fund without
6 any corresponding increase in the primary
7 insurance amount of such individual.

8 (C) INDEPENDENT CONTRACTORS.—In the
9 case of an individual who receives remuneration
10 from another person for services provided, other
11 than as an employee, on more than 130 days
12 during the calendar year, for purposes of sub-
13 paragraph (A), for such calendar year such
14 other person shall treat such individual as an
15 employee and such remuneration shall be treat-
16 ed as wages paid with respect to employment.

17 (c) DEFINITIONS AND SPECIAL RULE.—For pur-
18 poses of this section—

19 (1) ELIGIBLE EMPLOYER.—The term “eligible
20 employer” means, with respect to any taxable year,
21 an employer which has at least 5 full-time employees
22 for the taxable year.

23 (2) FULL-TIME EMPLOYEE.—The term “full-
24 time employee” means, with respect to any month,

1 an employee who is employed on average at least 30
2 hours of service per week.

3 (3) UNITED STATES EMPLOYEES ONLY.—Sub-
4 section (b) shall be applied without regard to any
5 employees whose essential job function is outside the
6 United States.

7 (4) CONTROLLED GROUPS.—All employees who
8 are treated as employed by a single employer under
9 subsection (b), (c), (m), or (o) of section 414 shall
10 be treated as employed by a single employer.

11 (5) COLLECTIVE BARGAINING EMPLOYEES EX-
12 CLUDED.—The employer may exclude from the re-
13 quirements and determinations made under this sec-
14 tion employees subject to a collective bargaining
15 agreement.

16 **SEC. 6. ADDITIONAL SOCIAL SECURITY ACCOUNT FUND.**

17 (a) IN GENERAL.—There is established in the Treas-
18 ury of the United States a fund to be known as the “Addi-
19 tional Social Security Account Fund”.

20 (b) AMOUNTS HELD BY FUND.—Such Fund shall
21 consist of amounts equivalent to the sum of all amounts
22 paid under section 5(b)(4)(A) of the Make America Com-
23 petitive Again Act (and any net investment earnings at-
24 tributable thereto), less any transfer under subsection (c)
25 or any distribution permitted under this section.

1 (c) TRANSFER OF ELECTED AMOUNTS TO TRUST
2 FUND.—The Secretary of the Treasury shall transfer
3 from such Fund to the Federal Old-Age and Survivors In-
4 surance Trust Fund any amounts paid under section
5 5(b)(4)(A) with respect to which the individual on whose
6 behalf such amount were paid has elected to be so trans-
7 ferred and treated under section 215(j) of the Social Secu-
8 rity Act (42 U.S.C. 415(j)), as added by this Act. Any
9 such election shall be made at such time and in such form
10 and manner as the Secretary shall prescribe and shall be
11 irrevocable.

12 (d) MANAGEMENT OF FUND AND ACCOUNTS.—

13 (1) IN GENERAL.—The Secretary shall establish
14 an Additional Social Security Account program,
15 under which—

16 (A) amounts in the Fund (and earnings at-
17 tributable thereto) shall be separately accounted
18 for and held for the exclusive benefit of each in-
19 dividual on whose behalf such amounts were
20 contributed, and

21 (B) distributions may be made by such in-
22 dividuals under rules prescribed by the Sec-
23 retary similar to the rules applicable to a quali-
24 fied cash or deferred arrangements (within the

1 meaning of section 401(k) of the Internal Rev-
2 enue Code of 1986).

3 (e) TAX TREATMENT OF FUND.—

4 (1) IN GENERAL.—For purposes of the Internal
5 Revenue Code of 1986, the Additional Social Secu-
6 rity Account Fund shall be treated as a trust de-
7 scribed in section 401(a) of such Code which is ex-
8 empt from taxation under section 501(a) of such
9 Code, and any distribution from the Fund under the
10 Additional Social Security Account program shall be
11 treated in the same manner as a distribution from
12 such a trust.

13 (2) NO DISTRIBUTIONS DURING FIRST 10 YEARS
14 OF FUND.—No distributions may be made from the
15 Fund earlier than 10 years after the date of the en-
16 actment of this Act.

17 (3) ROLLOVERS PROHIBITED.—An eligible roll-
18 over distribution (as defined in section 402(c)(4) of
19 such Code) shall not include any amount distributed
20 from the Additional Social Security Account.

21 (f) INVESTMENT OF FUND.—The Secretary shall ap-
22 point a Board, which shall provide for the investment of
23 amounts which are held on behalf of individuals in the Ad-
24 ditional Social Security Account Fund. The Board shall
25 provide by regulation for the prudent direction of invest-

1 ments of such amounts by such individuals in conservative
2 and age appropriate options.

3 (g) TRANSFER AT DEATH.—Individuals may des-
4 ignate one or more beneficiaries (under such rules as the
5 Secretary shall prescribe) to provide for disposition at
6 death of any remaining amounts in the Fund held on such
7 individual’s behalf.

8 **SEC. 7. INCREASE OF PRIMARY INSURANCE AMOUNT AS A**
9 **RESULT OF CERTAIN EMPLOYER CONTRIBU-**
10 **TIONS.**

11 Section 215 of the Social Security Act (42 U.S.C.
12 415) is amended by adding at the end the following:

13 “(j)(1) In the case of an individual on whose behalf
14 of contributions have been made under section 5(b)(4)(A)
15 of the Make America Competitive Act of 2016, and who
16 has made an election under section 6(c) of such Act with
17 respect to such contributions, the primary insurance
18 amount of such individual otherwise determined under this
19 section (without regard to this subsection) shall be com-
20 puted or recomputed, for months beginning after each
21 such contribution, by increasing such primary insurance
22 amount as specified under paragraph (2).

1 “(2) The increase specified under this paragraph
2 shall be determined under regulations issued by the Com-
3 missioner of Social Security.”.

○