

114TH CONGRESS
1ST SESSION

H. R. 620

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2015

Mr. VAN HOLLEN (for himself, Mr. CLYBURN, Ms. DELAURO, Ms. SLAUGHTER, Mr. McDERMOTT, Ms. NORTON, Mr. BRADY of Pennsylvania, Mr. BEYER, Mr. WELCH, Mr. POCAN, Mr. LOWENTHAL, Mr. CICILLINE, Ms. CASTOR of Florida, Mr. HONDA, Mr. HASTINGS, Mrs. WATSON COLEMAN, and Mr. GRAYSON) 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.

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 “CEO–Employee Pay-
5 check Fairness Act of 2015”.

1 **SEC. 2. EXPANSION OF DENIAL OF DEDUCTION FOR CER-**
2 **TAIN EXCESSIVE EMPLOYEE REMUNERA-**
3 **TION.**

4 (a) EXPANDED APPLICATION OF DEDUCTION DE-
5 NIAL IF PAY FAIRNESS REQUIREMENT NOT MET.—Sec-
6 tion 162(m) of the Internal Revenue Code of 1986 is
7 amended by adding at the end the following new para-
8 graph:

9 “(7) SPECIAL RULE IN CASE OF COMPANIES
10 NOT MEETING PAY FAIRNESS REQUIREMENT.—

11 “(A) IN GENERAL.—In the case of a pub-
12 licly held corporation which does not meet the
13 pay fairness requirement of subparagraph (B)
14 for the taxable year—

15 “(i) no deduction shall be allowed
16 under this chapter for applicable employee
17 remuneration with respect to any employee
18 to the extent that the amount of such re-
19 muneration for the taxable year with re-
20 spect to such employee exceeds
21 \$1,000,000, and

22 “(ii) paragraph (4) shall be applied
23 without regard to subparagraphs (B), (C),
24 and (D) thereof.

25 For purposes of the preceding sentence, the
26 term ‘employee’ includes any officer or director

1 of the taxpayer and any former officer, director,
2 or employee of the taxpayer.

3 “(B) PAY FAIRNESS REQUIREMENT.—The
4 pay fairness requirement of this subparagraph
5 is satisfied if—

6 “(i)(I) the average compensation paid
7 by the taxpayer to or for all applicable
8 United States employees for the taxable
9 year, exceeds

10 “(II) the inflation and productivity
11 growth adjusted average of such compensa-
12 tion for the preceding taxable year, and

13 “(ii) the aggregate compensation paid
14 by the employer to or for all applicable
15 United States employees for the taxable
16 year is not less than the aggregate of such
17 compensation for the preceding taxable
18 year.

19 “(C) APPLICABLE UNITED STATES EM-
20 PLOYEE.—For purposes of this paragraph, the
21 term ‘applicable United States employee’
22 means, with respect to any taxable year, any
23 employee—

1 “(i) whose services with respect to the
2 employer are substantially all performed
3 within the United States, and

4 “(ii) whose compensation from the
5 employer for the taxable year does not ex-
6 ceed the dollar amount in effect under sec-
7 tion 414(q)(1)(B)(i) with respect to the
8 calendar year in which such taxable year
9 begins.

10 “(D) INFLATION AND PRODUCTIVITY
11 GROWTH ADJUSTED AVERAGE.—The inflation
12 and productivity growth adjusted average of
13 compensation under subparagraph (B)(i)(II) for
14 any taxable year shall be determined by multi-
15 plying—

16 “(i) the average of the compensation
17 paid by the taxpayer to or for all applica-
18 ble United States employees for the taxable
19 year, by

20 “(ii) the sum of the cost-of-living ad-
21 justment and the productivity adjustment
22 for the taxable year.

23 “(E) COST-OF-LIVING ADJUSTMENT.—For
24 purposes of subparagraph (D)(ii), the cost-of-
25 living adjustment for any taxable year shall be

1 the cost-of-living adjustment determined under
2 section 1(f)(3) for the calendar year in which
3 the taxable year begins, determined by sub-
4 stituting ‘the second preceding calendar year’
5 for ‘calendar year 1992’ in subparagraph (B)
6 thereof.

7 “(F) PRODUCTIVITY ADJUSTMENT.—For
8 purposes of subparagraph (D)(ii)—

9 “(i) IN GENERAL.—The productivity
10 adjustment for the taxable year shall be an
11 amount (expressed as a percentage) equal
12 to the average annual increase in the busi-
13 ness productivity index for the period be-
14 ginning with calendar year 2000 and end-
15 ing with the calendar year preceding the
16 calendar year in which the taxable year be-
17 gins.

18 “(ii) BUSINESS PRODUCTIVITY
19 INDEX.—The term ‘business productivity
20 index’ means the nonfarm business produc-
21 tivity index published by the Bureau of
22 Labor Statistics as adjusted by the Sec-
23 retary to account for depreciation.

24 “(G) COMPENSATION.—For purposes of
25 this subparagraph, the term ‘compensation’

1 means, with respect to any employee, the sum
2 of—

3 “(i) the employee’s wages on which
4 the tax under section 3101(b) is imposed,
5 plus

6 “(ii) any amount described in para-
7 graph (9), (11), (12), or (14) of section
8 6051(a) with respect to the employee.

9 “(H) AGGREGATION RULES.—Rules simi-
10 lar to the rules of paragraph (5)(B)(iii) shall
11 apply for purposes of this paragraph.

12 “(I) REGULATIONS.—The Secretary may
13 prescribe such regulations as are necessary to
14 carry out the purposes of this paragraph, in-
15 cluding adjustments to the pay fairness require-
16 ments of subparagraph (B)—

17 “(i) to prevent avoidance of this para-
18 graph through changes in the composition
19 of the taxpayer’s workforce, and

20 “(ii) to account for significant, non-
21 tax-motivated changes in the size and com-
22 position of the taxpayer’s workforce (in-
23 cluding mergers, spinoffs, or changes in
24 the occupational composition of a tax-
25 payer’s workforce).”.

1 (b) MODIFICATION OF DEFINITION OF COVERED EM-
2 PLOYEES.—

3 (1) IN GENERAL.—Paragraph (3) of section
4 162(m) of such Code is amended—

5 (A) in subparagraph (A), by striking “as
6 of the close of the taxable year, such employee
7 is the chief executive officer of the taxpayer or”
8 and inserting “such employee is the chief execu-
9 tive officer or the chief financial officer of the
10 taxpayer at any time during the taxable year,
11 or was”,

12 (B) in subparagraph (B) by striking
13 “(other than the chief executive officer)” and
14 inserting “(other than any individual described
15 in subparagraph (A))”, and

16 (C) by striking “or” at the end of subpara-
17 graph (A), by striking the period at the end of
18 subparagraph (B) and inserting “, or”, and by
19 adding at the end the following:

20 “(C) was a covered employee of the tax-
21 payer (or any predecessor) for any preceding
22 taxable year beginning after December 31,
23 2014.”.

1 (2) TECHNICAL AMENDMENT.—Section
2 162(m)(3)(B) of such Code is amended by striking
3 “4 highest” and inserting “3 highest”.

4 (c) APPLICABLE EMPLOYEE REMUNERATION PAID
5 TO BENEFICIARIES, ETC.—Paragraph (4) of section
6 162(m) of such Code is amended by adding at the end
7 the following new subparagraph:

8 “(H) SPECIAL RULE FOR REMUNERATION
9 PAID TO BENEFICIARIES, ETC.—Remuneration
10 shall not fail to be applicable employee remun-
11 eration merely because it is includible in the
12 income of, or paid to, a person other than the
13 covered employee, including after the death of
14 the covered employee.”.

15 (d) EXPANSION OF APPLICABLE EMPLOYER TO IN-
16 CLUDE NON-LISTED PUBLIC COMPANIES.—Paragraph
17 (2) of section 162(m) of such Code is amended to read
18 as follows:

19 “(2) PUBLICLY HELD CORPORATION.—For pur-
20 poses of this subsection, the term ‘publicly held cor-
21 poration’ means any corporation which is an issuer
22 (as defined in section 3 of the Securities Exchange
23 Act of 1934)—

24 “(A) that has a class of securities reg-
25 istered under section 12 of such Act, or

1 “(B) that is required to file reports under
2 section 15(d) of such Act.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

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