

118TH CONGRESS
2D SESSION

S. 5233

To amend the Internal Revenue Code of 1986 to treat certain gains and dividends derived from counties of concern as ordinary income.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. RICKETTS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to treat certain gains and dividends derived from counties of concern as ordinary income.

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 “No Capital Gains Al-
5 lowance for American Adversaries Act”.

1 **SEC. 2. CERTAIN GAINS AND DIVIDENDS DERIVED FROM**
2 **COUNTRIES OF CONCERN TREATED AS ORDI-**
3 **NARY INCOME.**

4 (a) IN GENERAL.—Part IV of subchapter P of chap-
5 ter 1 of the Internal Revenue Code of 1986 is amended
6 by adding at the end the following new section:

7 **“SEC. 1261. GAINS DERIVED FROM COUNTRIES OF CON-**
8 **CERN TREATED AS ORDINARY INCOME.**

9 “(a) IN GENERAL.—Gain from the sale, exchange, or
10 other disposition of specified country of concern property
11 shall be treated as ordinary income. Such gain shall be
12 recognized notwithstanding any other provision of this
13 title.

14 “(b) SPECIFIED COUNTRY OF CONCERN PROP-
15 erty.—For purposes of this section:

16 “(1) IN GENERAL.—The term ‘specified country
17 of concern property’ means—

18 “(A) any registered or unregistered secu-
19 rity of a company or other entity, as determined
20 by criteria established by the Securities and Ex-
21 change Commission and the Secretary of the
22 Treasury—

23 “(i) which is incorporated or otherwise
24 organized in a country of concern,

1 “(ii) which has a majority of such
2 company or other entity’s assets or em-
3 ployees located in a country of concern,

4 “(iii) which is owned by, controlled by,
5 or subject to the jurisdiction or direction of
6 a government of a country of concern,

7 “(iv) where a majority of such com-
8 pany or other entity’s value depends on the
9 revenues, profits, market capitalization, as-
10 sets, or the value of a security (including
11 options to purchase or sell) of companies
12 or other entities described under clause (i),
13 (ii), or (iii), or

14 “(v) where such company or other en-
15 tity is controlled by any company or other
16 entity described under clause (i), (ii), or
17 (iii), and

18 “(B) any property (other than securities)
19 which is located or used in a country of con-
20 cern.

21 “(2) ADDITIONAL DEFINITIONS.—For purposes
22 of paragraph (1):

23 “(A) CONTROLLED BY.—The term ‘con-
24 trolled by’ has the meaning given that term

1 under section 230.405 of title 17, Code of Fed-
2 eral Regulations.

3 “(B) COUNTRY OF CONCERN.—The term
4 ‘country of concern’ means the People’s Repub-
5 lic of China (including Hong Kong and Macao
6 and excluding Taiwan), Russia, Belarus, Iran,
7 and North Korea.”.

8 (b) DIVIDENDS.—Section 1(h)(11)(C)(iii) of such
9 Code is amended by striking “and” at the end of subclause
10 (I), by striking the period at the end of subclause (II) and
11 inserting “, and”, and by adding at the end the following
12 new subclause:

13 “(III) any foreign corporation de-
14 scribed in section 1261(b)(1)(A) as of
15 the date on which the dividend is
16 paid.”.

17 (c) DENIAL OF STEP-UP IN BASIS AT DEATH.—Sec-
18 tion 1014(a) of such Code is amended by striking “or”
19 at the end of paragraph (3), by striking the period at the
20 end of paragraph (4) and inserting “, or”, and by adding
21 at the end the following new paragraph:

22 “(5) in the case of specified country of concern
23 property (as defined in section 1261(b)), the basis in
24 the hands of the decedent.”.

1 (d) NOTICE TO PURCHASERS.—Not later than 180
2 days after the date of the enactment of this Act, the Secu-
3 rities and Exchange Commission shall issue rules requir-
4 ing any person selling, exchanging, or otherwise disposing
5 of a security that is specified country of concern property
6 (as defined under section 1261(b) of the Internal Revenue
7 Code of 1986) to notify the other party to such sale, ex-
8 change, or disposition that any gains related to such secu-
9 rity are treated as ordinary income under the Internal
10 Revenue Code of 1986 and not treated as capital gains.

11 (e) PUBLICLY AVAILABLE LIST OF SECURITIES.—

12 (1) IN GENERAL.—The Securities and Ex-
13 change Commission shall publish on the website of
14 the Commission a list of all securities described
15 under section 1261(b)(1)(A) of the Internal Revenue
16 Code of 1986.

17 (2) REPORTING REQUIREMENTS.—The Securi-
18 ties and Exchange Commission may require such re-
19 ports as the Commission determines necessary to de-
20 termine which securities are described under section
21 1261(b)(1)(A) of the Internal Revenue Code of
22 1986.

23 (f) RULEMAKING.—Not later than 180 days after the
24 date of the enactment of this Act, the Secretary of the
25 Treasury and the Securities and Exchange Commission

1 shall issue such rules as may be necessary to implement
2 this Act and the amendments made by this Act, including
3 establishing the criteria described under section
4 1261(b)(1)(A) of the Internal Revenue Code of 1986.

5 (g) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to dispositions of property, and
7 dividends paid, on or after January 1, 2025.

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