

112TH CONGRESS
1ST SESSION

S. 1787

To amend the Internal Revenue Code of 1986 to impose a tax on certain trading transactions.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2011

Mr. HARKIN (for himself, Mr. SANDERS, and Mr. BROWN of Ohio) 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 impose a tax on certain trading transactions.

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 “Wall Street Trading
5 and Speculators Tax Act”.

6 **SEC. 2. TRANSACTION TAX.**

7 (a) IN GENERAL.—Chapter 36 of the Internal Rev-
8 enue Code of 1986 is amended by inserting after sub-
9 chapter B the following new subchapter:

1 **“Subchapter C—Tax on Trading Transactions**

“Sec. 4475. Tax on trading transactions.

2 **“SEC. 4475. TAX ON TRADING TRANSACTIONS.**

3 “(a) IMPOSITION OF TAX.—There is hereby imposed
4 a tax on each covered transaction with respect to any secu-
5 rity.

6 “(b) RATE OF TAX.—The tax imposed under sub-
7 section (a) with respect to any covered transaction shall
8 be 0.03 percent of the specified base amount with respect
9 to such covered transaction.

10 “(c) SPECIFIED BASE AMOUNT.—For purposes of
11 this section, the term ‘specified base amount’ means—

12 “(1) except as provided in paragraph (2), the
13 fair market value of the security (determined as of
14 the time of the covered transaction), and

15 “(2) in the case of any payment described in
16 subsection (h), the amount of such payment.

17 “(d) COVERED TRANSACTION.—For purposes of this
18 section, the term ‘covered transaction’ means—

19 “(1) except as provided in paragraph (2), any
20 purchase if—

21 “(A) such purchase occurs or is cleared on
22 a facility located in the United States, or

23 “(B) the purchaser or seller is a United
24 States person, and

1 “(2) any transaction with respect to a security
2 described in subparagraph (D), (E), or (F) of sub-
3 section (e)(1), if—

4 “(A) such security is traded or cleared on
5 a facility located in the United States, or

6 “(B) any party with rights under such se-
7 curity is a United States person.

8 “(e) SECURITY AND OTHER DEFINITIONS.—For pur-
9 poses of this section—

10 “(1) IN GENERAL.—The term ‘security’
11 means—

12 “(A) any share of stock in a corporation,

13 “(B) any partnership or beneficial owner-
14 ship interest in a partnership or trust,

15 “(C) any note, bond, debenture, or other
16 evidence of indebtedness,

17 “(D) any evidence of an interest in, or a
18 derivative financial instrument with respect to,
19 any security or securities described in subpara-
20 graph (A), (B), or (C),

21 “(E) any derivative financial instrument
22 with respect to any currency or commodity, and

23 “(F) any other derivative financial instru-
24 ment any payment with respect to which is cal-
25 culated by reference to any specified index.

1 “(2) DERIVATIVE FINANCIAL INSTRUMENT.—

2 The term ‘derivative financial instrument’ includes
3 any option, forward contract, futures contract, no-
4 tional principal contract, or any similar financial in-
5 strument.

6 “(3) SPECIFIED INDEX.—The term ‘specified
7 index’ means any 1 or more of any combination of—

8 “(A) a fixed rate, price, or amount, or

9 “(B) a variable rate, price, or amount,

10 which is based on any current objectively deter-
11 minable information which is not within the control
12 of any of the parties to the contract or instrument
13 and is not unique to any of the parties’ cir-
14 cumstances.

15 “(4) TREATMENT OF EXCHANGES.—

16 “(A) IN GENERAL.—An exchange shall be
17 treated as the sale of the property transferred
18 and a purchase of the property received by each
19 party to the exchange.

20 “(B) CERTAIN DEEMED EXCHANGES.—In
21 the case of a distribution treated as an ex-
22 change for stock under section 302 or 331, the
23 corporation making such distribution shall be
24 treated as having purchased such stock for pur-
25 poses of this section.

1 “(f) EXCEPTIONS.—

2 “(1) EXCEPTION FOR INITIAL ISSUES.—No tax
3 shall be imposed under subsection (a) on any cov-
4 ered transaction with respect to the initial issuance
5 of any security described in subparagraph (A), (B),
6 or (C) of subsection (e)(1).

7 “(2) EXCEPTION FOR CERTAIN TRADED SHORT-
8 TERM INDEBTEDNESS.—A note, bond, debenture, or
9 other evidence of indebtedness which—

10 “(A) is traded on a trading facility located
11 in the United States, and

12 “(B) has a fixed maturity of not more
13 than 100 days,

14 shall not be treated as described in subsection
15 (e)(1)(C).

16 “(3) EXCEPTION FOR SECURITIES LENDING AR-
17 RANGEMENTS.—No tax shall be imposed under sub-
18 section (a) on any covered transaction with respect
19 to which gain or loss is not recognized by reason of
20 section 1058.

21 “(g) BY WHOM PAID.—

22 “(1) IN GENERAL.—The tax imposed by this
23 section shall be paid by—

1 “(A) in the case of a transaction which oc-
2 curs or is cleared on a facility located in the
3 United States, such facility, and

4 “(B) in the case of a purchase not de-
5 scribed in subparagraph (A) which is executed
6 by a broker (as defined in section 6045(c)(1))
7 which is a United States person, such broker.

8 “(2) SPECIAL RULES FOR DIRECT, ETC.,
9 TRANSACTIONS.—In the case of any transaction to
10 which paragraph (1) does not apply, the tax imposed
11 by this section shall be paid by—

12 “(A) in the case of a transaction described
13 in subsection (d)(1)—

14 “(i) the purchaser if the purchaser is
15 a United States person, and

16 “(ii) the seller if the purchaser is not
17 a United States person, and

18 “(B) in the case of a transaction described
19 in subsection (d)(2)—

20 “(i) the payor if the payor is a United
21 States person, and

22 “(ii) the payee if the payor is not a
23 United States person.

24 “(h) CERTAIN PAYMENTS TREATED AS SEPARATE
25 TRANSACTIONS.—Except as otherwise provided by the

1 Secretary, any payment with respect to a security de-
2 scribed in subparagraph (D), (E), or (F) of subsection
3 (e)(1) shall be treated as a separate transaction for pur-
4 poses of this section, including—

5 “(1) any net initial payment, net final or termi-
6 nating payment, or net periodical payment with re-
7 spect to a notional principal contract (or similar fi-
8 nancial instrument),

9 “(2) any payment with respect to any forward
10 contract (or similar financial instrument), and

11 “(3) any premium paid with respect to any op-
12 tion (or similar financial instrument).

13 “(i) ADMINISTRATION.—The Secretary shall carry
14 out this section in consultation with the Securities and Ex-
15 change Commission and the Commodity Futures Trading
16 Commission.

17 “(j) GUIDANCE; REGULATIONS.—The Secretary
18 shall—

19 “(1) provide guidance regarding such informa-
20 tion reporting concerning covered transactions as the
21 Secretary deems appropriate, and

22 “(2) prescribe such regulations as are necessary
23 or appropriate to prevent avoidance of the purposes
24 of this section, including the use of non-United
25 States persons in such transactions.”.

1 (b) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 36 of the Internal Revenue Code of
3 1986 is amended by inserting after the item relating to
4 subchapter B the following new item:

“Subchapter C. Tax on trading transactions.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to transactions after December 31,
7 2012.

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