

118TH CONGRESS
2D SESSION

S. 5234

To amend the Internal Revenue Code of 1986 to impose an excise tax
on certain investments of private colleges and universities.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. RICKETTS (for himself, Mr. COTTON, and Mrs. FISCHER) 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
an excise tax on certain investments of private colleges
and universities.

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 “Protecting Endow-
5 ments from Our Adversaries Act”.

6 **SEC. 2. EXCISE TAX ON CERTAIN INVESTMENTS OF PRI-**
7 **VATE COLLEGES AND UNIVERSITIES.**

8 (a) IN GENERAL.—Subchapter H of chapter 42 of
9 the Internal Revenue Code of 1986 is amended by adding
10 at the end the following new section:

1 **“SEC. 4969. EXCISE TAX ON CERTAIN INVESTMENTS OF PRI-**
 2 **VATE COLLEGES AND UNIVERSITIES.**

3 “(a) TAX ON ACQUISITION OF LISTED INVEST-
 4 MENTS.—In the case of any specified educational institu-
 5 tion which acquires (directly or indirectly through any
 6 chain of ownership) one or more listed investments during
 7 any taxable year, there is hereby imposed for such taxable
 8 year a tax equal to 50 percent of the fair market values
 9 of such investments determined as of the dates of such
 10 acquisitions.

11 “(b) TAX ON NET INCOME FROM 1-YEAR LISTED IN-
 12 VESTMENTS.—

13 “(1) IN GENERAL.—There is hereby imposed on
 14 each specified educational institution for the taxable
 15 year a tax equal to 100 percent of the excess (if
 16 any) of—

17 “(A) the sum of—

18 “(i) all income received with respect
 19 to any 1-year listed investment during such
 20 taxable year, plus

21 “(ii) all gains recognized with respect
 22 to the sale or other disposition of any 1-
 23 year listed investments during such taxable
 24 year, over

25 “(B) the sum of—

1 “(i) all deductions properly allocable
2 to income described in subparagraph
3 (A)(i), plus

4 “(ii) all losses recognized with respect
5 to the sale or other disposition of any 1-
6 year listed investments during such taxable
7 year.

8 “(2) 1-YEAR LISTED INVESTMENT.—For pur-
9 poses of this section, with respect to any income re-
10 ceived or gain or loss recognized, the term ‘1-year
11 listed investment’ means any listed investment which
12 was such a listed investment at all times during the
13 1-year period ending on the date such income was
14 received or such gain or loss was recognized.

15 “(c) LISTED INVESTMENT.—For purposes of this
16 section—

17 “(1) IN GENERAL.—The term ‘listed invest-
18 ment’ means any specified interest with respect to
19 any person listed on one or more of—

20 “(A) the Entity List maintained by the
21 Secretary of Commerce,

22 “(B) the Military End User (MEU) List
23 maintained by the Secretary of Commerce,

24 “(C) the Unverified List maintained by the
25 Secretary of Commerce, or

1 “(D) the list maintained by the Federal
 2 Communications Commission of equipment and
 3 services covered by section 2 of the Secure and
 4 Trusted Communications Networks Act of 2019
 5 (commonly referred to as the FCC Covered
 6 List).

7 “(2) LISTED PERSONS LIST.—The Secretary
 8 shall establish (not later than 60 days after the date
 9 of the enactment of this section), update, and main-
 10 tain a list of the persons which are listed on one or
 11 more of the lists described in paragraph (1).

12 “(3) SPECIFIED INTEREST.—The term ‘speci-
 13 fied interest’ means, with respect to any person—

14 “(A) stock or any other equity or profits
 15 interest of such person,

16 “(B) debt issued by such person, or

17 “(C) any contract or derivative with re-
 18 spect to any interest described in subparagraph
 19 (A) or (B).

20 “(4) INCLUSION OF CERTAIN POOLED FUNDS.—

21 “(A) IN GENERAL.—Any specified interest
 22 acquired through a regulated investment com-
 23 pany, exchange traded fund, or any other
 24 pooled investment shall not fail to be treated as

1 acquired through a chain of ownership de-
2 scribed in subsection (a).

3 “(B) CERTIFICATIONS OF POOLED
4 FUNDS.—The Secretary shall establish proce-
5 dures under which regulated investment compa-
6 nies, exchange traded funds, and other pooled
7 investments may be certified by the Secretary
8 as not holding any listed investments.

9 “(d) SPECIFIED EDUCATIONAL INSTITUTION.—For
10 purposes of this section—

11 “(1) IN GENERAL.—The term ‘specified edu-
12 cational institution’ means, with respect to any tax-
13 able year, any eligible educational institution (as de-
14 fined in section 25A(f)(2))—

15 “(A) which is not described in the first
16 sentence of section 511(a)(2)(B) (relating to
17 State colleges and universities), and

18 “(B) the aggregate fair market value of
19 the assets of which at the end of the preceding
20 taxable year (other than those assets which are
21 used directly in carrying out the institution’s
22 exempt purpose) is in excess of \$1,000,000,000.

23 “(2) TREATMENT OF RELATED ORGANIZA-
24 TIONS.—For purposes of subsections (a) and (b), as-
25 sets held by any related organization (as defined in

1 section 4968(d)(2)) with respect to an educational
 2 institution shall be treated as held by such edu-
 3 cational institution, except that—

4 “(A) such assets shall not be taken into
 5 account with respect to more than 1 educational
 6 institution, and

7 “(B) unless such organization is controlled
 8 by such institution or is described in section
 9 509(a)(3) with respect to such institution, as-
 10 sets which are not intended or available for the
 11 use or benefit of such educational institution
 12 shall not be taken into account.

13 “(e) VALUATION OF DEBT.—For purposes of sub-
 14 section (a), the fair market value of any debt shall be
 15 treated as being the principal amount of such debt.

16 “(f) REGULATIONS.—The Secretary may issue such
 17 regulations or other guidance as may be necessary or ap-
 18 propriate to carry out the purposes of this section, includ-
 19 ing regulations or other guidance providing for the proper
 20 application of this section with respect to institutionally
 21 related foundations and pooled investments.”.

22 (b) CLERICAL AMENDMENTS.—

23 (1) The table of sections for subchapter H of
 24 chapter 42 of such Code is amended by adding at
 25 the end the following new item:

“Sec. 4969. Excise tax on certain investments of private colleges and universities.”.

1 (2) The heading of subchapter H of chapter 42
2 of such Code (and the item relating to such sub-
3 chapter in the table of subchapters for such chapter)
4 are each amended by striking “**Tax Based on In-**
5 **vestment Income**” and inserting “**Taxes**
6 **Based on Investments**”.

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the amendments made by
10 this section shall apply to taxable years ending after
11 the earlier of—

12 (A) the end of the first calendar year be-
13 ginning after the date of the enactment of this
14 Act, or

15 (B) the end of the 1-year period beginning
16 on the date on which the Secretary of the
17 Treasury (or the Secretary’s delegate) estab-
18 lishes the listed persons list under section
19 4969(c)(2) of the Internal Revenue Code of
20 1986 (as added by this section).

21 (2) CERTAIN PRIOR ACQUISITIONS.—Section
22 4969(a) of the Internal Revenue Code of 1986 (as
23 added by this section) shall not apply to investments

1 acquired before the end of the calendar year referred
2 to in paragraph (1)(A).

3 (3) CERTAIN PRIOR INCOME AND GAINS.—Sec-
4 tion 4969(b) of the Internal Revenue Code of 1986
5 (as added by this section) shall not apply to income
6 received, or gains or losses recognized, before the
7 end of the 1-year period referred to in paragraph
8 (1)(B).

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