

117TH CONGRESS
2D SESSION

H. R. 8447

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

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2022

Mr. MURPHY of North Carolina (for himself, Mr. WENSTRUP, Mr. SMITH of
Nebraska, Mr. SMUCKER, Mr. LAHOOD, and Mr. DUNN) 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 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”.

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

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

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

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

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

18 “(1) IN GENERAL.—There is hereby imposed on
 19 each specified educational institution for the taxable
 20 year a tax equal to 100 percent of the excess (if
 21 any) of—

22 “(A) the sum of—

23 “(i) all income received with respect
 24 to any 1-year listed investment during such
 25 taxable year, plus

1 “(ii) all gains recognized with respect
2 to the sale or other disposition of any 1-
3 year listed investments during such taxable
4 year, over

5 “(B) the sum of—

6 “(i) all deductions properly allocable
7 to income described in subparagraph
8 (A)(i), plus

9 “(ii) all losses recognized with respect
10 to the sale or other disposition of any 1-
11 year listed investments during such taxable
12 year.

13 “(2) 1-YEAR LISTED INVESTMENT.—For pur-
14 poses of this section, the term ‘1-year listed invest-
15 ment’ means, as of any date, any listed investment
16 which was a listed investment at all times during the
17 1-year period ending on such date.

18 “(c) LISTED INVESTMENT.—For purposes of this
19 section—

20 “(1) IN GENERAL.—The term ‘listed invest-
21 ment’ means any specified interest with respect to
22 any person listed on the listed persons list estab-
23 lished and maintained by the Secretary under para-
24 graph (2).

1 “(2) LISTED PERSONS LIST.—The Secretary
2 shall establish (not later than 60 days after the date
3 of the enactment of this section), update, and main-
4 tain a list of the persons which are listed on one or
5 more of—

6 “(A) the Entity List maintained by the
7 Secretary of Commerce,

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

10 “(C) the Unverified List maintained by the
11 Secretary of Commerce, and

12 “(D) the list maintained by the Federal
13 Communications Commission of equipment and
14 services covered by section 2 of the Secure and
15 Trusted Communications Networks Act of 2019
16 (commonly referred to as the FCC Covered
17 List).

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

20 “(A) stock or any other equity or profits
21 interest of such person,

22 “(B) debt issued by such person, and

23 “(C) any contract or derivative with re-
24 spect to any interest described in subparagraph
25 (A) or (B).

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

2 “(A) IN GENERAL.—Any specified interest
3 acquired through a regulated investment com-
4 pany, exchange traded fund, or any other
5 pooled investment shall not fail to be treated as
6 acquired through a chain of ownership de-
7 scribed in subsection (a).

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

14 “(d) SPECIFIED EDUCATIONAL INSTITUTION.—For
15 purposes of this section—

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

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

23 “(B) the aggregate fair market value of
24 the assets of which at the end of the preceding
25 taxable year (other than those assets which are

1 used directly in carrying out the institution's
2 exempt purpose) is in excess of \$1,000,000,000.

3 “(2) TREATMENT OF RELATED ORGANIZA-
4 TIONS.—For purposes of subsections (a) and (b), as-
5 sets held by any related organization (as defined in
6 section 4968(d)(2)) with respect to an educational
7 institution shall be treated as held by such edu-
8 cational institution, except that—

9 “(A) such assets shall not be taken into
10 account with respect to more than 1 educational
11 institution, and

12 “(B) unless such organization is controlled
13 by such institution or is described in section
14 509(a)(3) with respect to such institution, as-
15 sets which are not intended or available for the
16 use or benefit of such educational institution
17 shall not be taken into account.

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

21 “(f) REGULATIONS.—The Secretary may issue such
22 regulations or other guidance as may be necessary or ap-
23 propriate to carry out the purposes of this section, includ-
24 ing regulations or other guidance providing for the proper

1 application of this section with respect to institutionally
 2 related foundations and pooled investments.”.

3 (b) CLERICAL AMENDMENTS.—

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

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

7 (2) The heading of subchapter H of chapter 42
 8 of such Code (and the item relating to such sub-
 9 chapter in the table of subchapters for such chapter)
 10 are each amended by striking “**Tax Based on In-**
 11 **vestment Income**” and inserting “**Taxes**
 12 **Based on Investments**”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as otherwise pro-
 15 vided in this subsection, the amendments made by
 16 this section shall apply to taxable years ending after
 17 the earlier of—

18 (A) the end of the first calendar year be-
 19 ginning after the date of the enactment of this
 20 Act, or

21 (B) the end of the 1-year period beginning
 22 on the date on which the Secretary of the
 23 Treasury (or the Secretary’s delegate) estab-
 24 lishes the listed persons list under section

1 4969(c)(2) of the Internal Revenue Code of
2 1986 (as added by this section).

3 (2) CERTAIN PRIOR ACQUISITIONS.—Section
4 4969(a) of the Internal Revenue Code of 1986 (as
5 added by this section) shall not apply to investments
6 acquired before the end of the calendar year referred
7 to in paragraph (1)(A).

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

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