AN ACT

To impose an additional tax on bonuses received from certain TARP recipients.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS.

(a) IN GENERAL.—In the case of an employee or former employee of a covered TARP recipient, the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year shall not be less than the sum of—

(1) the tax that would be determined under such chapter if the taxable income of the taxpayer for such taxable year were reduced (but not below zero) by the TARP bonus received by the taxpayer during such taxable year, plus

(2) 90 percent of the TARP bonus received by the taxpayer during such taxable year.

(b) TARP BONUS.—For purposes of this section—

(1) IN GENERAL.—The term “TARP bonus” means, with respect to any individual for any taxable year, the lesser of—

(A) the aggregate disqualified bonus payments received from covered TARP recipients during such taxable year, or

(B) the excess of—

(i) the adjusted gross income of the taxpayer for such taxable year, over

(ii) $250,000 ($125,000 in the case of a married individual filing a separate return).
(2) Disqualified bonus payment.—

(A) In general.—The term “disqualified bonus payment” means any retention payment, incentive payment, or other bonus which is in addition to any amount payable to such individual for service performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate.

(B) Exceptions.—Such term shall not include commissions, welfare or fringe benefits, or expense reimbursements.

(C) Waiver or return of payments.—Such term shall not include any amount if the employee irrevocably waives the employee’s entitlement to such payment, or the employee returns such payment to the employer, before the close of the taxable year in which such payment is due. The preceding sentence shall not apply if the employee receives any benefit from the employer in connection with the waiver or return of such payment.

(3) Reimbursement of tax treated as TARP bonus.—Any reimbursement by a covered TARP recipient of the tax imposed under subsection
(a) shall be treated as a disqualified bonus payment
to the taxpayer liable for such tax.

(c) COVERED TARP RECIPIENT.—For purposes of
this section—

(1) IN GENERAL.—The term “covered TARP
recipient” means—

(A) any person who receives after Decem-
ber 31, 2007, capital infusions under the Emer-
gency Economic Stabilization Act of 2008
which, in the aggregate, exceed $5,000,000,000,

(B) the Federal National Mortgage Asso-
ciation and the Federal Home Loan Mortgage
Corporation,

(C) any person who is a member of the
same affiliated group (as defined in section
1504 of the Internal Revenue Code of 1986, de-
termined without regard to paragraphs (2) and
(3) of subsection (b)) as a person described in
subparagraph (A) or (B), and

(D) any partnership if more than 50 per-
cent of the capital or profits interests of such
partnership are owned directly or indirectly by
one or more persons described in subparagraph
(A), (B), or (C).
(2) Exception for TARP Recipients Who Repay Assistance.—A person shall be treated as described in paragraph (1)(A) for any period only if—

(A) the excess of the aggregate amount of capital infusions described in paragraph (1)(A) with respect to such person over the amounts repaid by such person to the Federal Government with respect to such capital infusions, exceeds

(B) $5,000,000,000.

(d) Other Definitions.—Terms used in this section which are also used in the Internal Revenue Code of 1986 shall have the same meaning when used in this section as when used in such Code.

(e) Coordination With Internal Revenue Code of 1986.—Any increase in the tax imposed under chapter 1 of the Internal Revenue Code of 1986 by reason of subsection (a) shall not be treated as a tax imposed by such chapter for purposes of determining the amount of any credit under such chapter or for purposes of section 55 of such Code.

(f) Regulations.—The Secretary of the Treasury, or the Secretary’s delegate, shall prescribe such regula-
tions or other guidance as may be necessary or appro-
priate to carry out the purposes of this section.

(g) EFFECTIVE DATE.—This section shall apply to
disqualified bonus payments received after December 31,
2008, in taxable years ending after such date.

Passed the House of Representatives March 19,
2009.

Attest:

Clerk.
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