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114TH CONGRESS
1ST SESSION

H. R. 2789

To amend the Internal Revenue Code of 1986 to modify S corporation shareholder and preferred stock rules with respect to banks.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2015

Mr. MARCHANT (for himself, Mrs. BLACK, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to modify S corporation shareholder and preferred stock rules with respect to banks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Capital Access for Small Business Banks Act''.

SEC. 2. S CORPORATION BANKS PERMITTED TO HAVE 500 SHAREHOLDERS.

(a) IN GENERAL.—Section 1361(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(7) BANK SHAREHOLDER LIMIT.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))), subsection (b)(1)(A) shall be applied by substituting '500 shareholders' for '100 shareholders'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2015.

SEC. 3. BANK ISSUANCE OF PREFERRED STOCK PERMITTED.

(a) IN GENERAL.—Section 1361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(h) TREATMENT OF QUALIFIED PREFERRED BANK STOCK.—

"(1) IN GENERAL.—Qualified preferred bank stock shall not be taken into account as outstanding stock of the S corporation for purposes of this subchapter (other than section 1368(g)).

"(2) QUALIFIED PREFERRED BANK STOCK.—For purposes of this subsection, the term 'qualified preferred bank stock' means stock which—

"(A) is issued by a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))), and

"(B) meets the requirements of subparagraphs (A), (B), and (C) of section 1504(a)(4).".

(b) DISTRIBUTIONS INCLUDIBLE IN SHAREHOLDER GROSS INCOME AND DEDUCTIBLE BY S CORPORATION.—Section 1368 of such Code is amended by adding at the end the following new subsection:

"(g) QUALIFIED PREFERRED BANK STOCK.—If a shareholder receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any qualified preferred bank stock (as defined in section 1361(h)), the amount of such distribution—

"(1) shall be includible in gross income of the shareholder, and

"(2) shall be deductible by the corporation for the taxable year of such corporation in which or with

which ends the taxable year in which such amount is included in the gross income of the shareholder.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

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