

115TH CONGRESS
1ST SESSION

H. R. 1792

To amend the Internal Revenue Code of 1986 to exclude from gross income compensation received by employees consisting of qualified distributions of employer stock.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2017

Mr. ROHRABACHER (for himself and Mr. PETERSON) 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 exclude from gross income compensation received by employees consisting of qualified distributions of employer stock.

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 “Expanding Employee
5 Ownership Act of 2017”.

6 **SEC. 2. QUALIFIED STOCK DISTRIBUTIONS TO EMPLOYEES.**

7 (a) IN GENERAL.—Part II of subchapter B of chap-
8 ter 1 of the Internal Revenue Code of 1986 is amended
9 by inserting after section 83 the following new section:

1 **“SEC. 83A. QUALIFIED STOCK DISTRIBUTIONS TO EMPLOY-**
2 **EES.**

3 “(a) IN GENERAL.—If an employee elects to have this
4 section apply with respect to any qualified employee stock
5 distribution, gross income shall not include—

6 “(1) so many shares of employer securities re-
7 ceived by an individual in a qualified employee stock
8 distribution of such individual’s employer as does
9 not exceed the maximum stock amount,

10 “(2) any gain on employer securities excluded
11 from gross income under paragraph (1) if such em-
12 ployer security is held by such individual for not less
13 than 10 years, and

14 “(3) in the case of any qualified disposition of
15 an employer security which is described in para-
16 graph (2) (and which meets the holding requirement
17 of such paragraph), any gain on so much stock ac-
18 quired during the 60-day period beginning on the
19 date of such disposition as does not exceed the fair
20 market value of the employer security so disposed
21 (determined as of the time of disposition).

22 “(b) DEFINITIONS.—For purposes of this section—

23 “(1) EMPLOYER SECURITIES.—The term ‘em-
24 ployer securities’ has the meaning given such term
25 in section 409(l), except that paragraph (3) thereof
26 shall be applied by substituting ‘the date of the

1 qualified employee stock distribution’ for ‘the date of
2 the acquisition by the tax credit employee stock own-
3 ership plan’. Such term shall not include any stock
4 unless such stock has voting rights. Any employer
5 securities which are held in trust or cease to be held
6 directly by the employee shall cease to be treated as
7 employer securities and shall be treated for purposes
8 of subsection (e) as having been disposed of by the
9 employee.

10 “(2) QUALIFIED EMPLOYEE STOCK DISTRIBUTION.—The term ‘qualified employee stock distribu-
11 tion’ means a distribution by an employer of em-
12 ployer securities to employees (determined as of the
13 date of the distribution) of such employer as com-
14 pensation for services, except that there may be dis-
15 regarded any employee who (as of the date of the
16 distribution)—

18 “(A) has not attained age 18,

19 “(B) has not completed 12 months of serv-
20 ice with the employer,

21 “(C) is a nonresident alien,

22 “(D) is a citizen or resident of a foreign
23 jurisdiction (including any individual who is
24 also a citizen or resident of the United States)

1 if the distribution to such individual is prohib-
2 ited under the laws of such foreign jurisdiction,

3 “(E) holds 10 percent or more of the out-
4 standing stock of the employer, or

5 “(F) is an employee whose compensation
6 from the employer is subject to disclosure under
7 rules promulgated by the Securities and Ex-
8 change Commission.

9 “(3) MAXIMUM STOCK AMOUNT.—The term
10 ‘maximum stock amount’ means, with respect to any
11 distribution, the lowest number of employer securi-
12 ties received by any employee of the employer in
13 such distribution.

14 “(4) QUALIFIED DISPOSITION.—

15 “(A) IN GENERAL.—The term ‘qualified
16 disposition’ means, with respect to the disposi-
17 tion of any employer security described in para-
18 graph (2) of subsection (a) (and which meets
19 the holding requirement of such paragraph)
20 during any calendar year, the disposition of a
21 number of shares of such security not in excess
22 of the excess of—

23 “(i) the applicable percentage of the
24 aggregate number of shares of such secu-

1 rity received during the calendar year that
2 such security was received, over

3 “(ii) the aggregate number of shares
4 of such security taken into account under
5 this subparagraph for all prior calendar
6 years.

7 “(B) APPLICABLE PERCENTAGE.—For
8 purposes of clause (i), the applicable percentage
9 is, with respect to any calendar year following
10 the calendar year in which such security was re-
11 ceived, the percentage determined in accordance
12 with the following table:

“In the case of:	The applicable percentage is:
The first through tenth such calendar years	0 percent
The eleventh such calendar year	10 percent
The twelfth such calendar year	20 percent
The thirteenth such calendar year	30 percent
The fourteenth such calendar year	40 percent
The fifteenth such calendar year	50 percent
The sixteenth such calendar year	60 percent
The seventeenth such calendar year	70 percent
The eighteenth such calendar year	80 percent
The nineteenth such calendar year	90 percent
Any subsequent calendar year	100 percent.

13 “(c) EMPLOYMENT TAXES.—Amounts excluded from
14 gross income under subsection (a)(1) shall not be taken
15 into account as wages for purposes of chapters 21, 22,
16 23, 23A, and 24.

17 “(d) COORDINATION WITH SECTION 83.—In the case
18 of a transfer of employer securities to which subsection
19 (a)(1) applies—

1 “(1) IN GENERAL.—Section 83 shall not apply.

2 “(2) DEDUCTION BY EMPLOYER.—There shall
3 be allowed as a deduction under section 162, to the
4 person for whom were performed the services in con-
5 nection with which such securities were transferred,
6 an amount equal to the fair market value of such se-
7 curities (determined as of the time of such transfer).
8 Such deduction shall be allowed for the taxable year
9 which includes the date of such transfer.

10 “(e) RECAPTURE IF STOCK DISPOSED DURING RE-
11 QUIRED HOLDING PERIOD.—If an amount is excluded
12 from gross income under subsection (a)(1) with respect
13 to any employer security and the individual disposes of
14 such security at any time during the 5-year period begin-
15 ning on the date that such individual received such secu-
16 rity—

17 “(1) the gross income of such individual for the
18 taxable year which includes the date of such disposi-
19 tion shall be increased by the amount so excluded,
20 and

21 “(2) the tax imposed by this chapter for such
22 taxable year shall be increased by the sum of the
23 amounts of tax which would have been imposed
24 under subchapters A and B of chapters 21 and 22

1 if subsection (c) had not applied with respect to such
2 amount.

3 For purposes of this title and the Social Security Act, any
4 increase in tax under paragraph (2) shall be treated as
5 imposed under the provision of chapter 21 or 22 with re-
6 spect to which such increase relates.

7 “(f) BASIS OF STOCK EQUAL TO FAIR MARKET
8 VALUE AT TIME OF TRANSFER.—Notwithstanding section
9 1012, in the case of a transfer of employer securities to
10 which subsection (a)(1) applies, the basis of such securi-
11 ties in the hands of the transferee immediately after such
12 transfer shall be equal to the fair market value of such
13 securities (determined as of the time of such transfer).

14 “(g) AGGREGATION RULE.—Two or more persons
15 who are treated as a single employer under subsection (b),
16 (c), (m), or (o) of section 414 shall be treated as a single
17 employer for purposes of this section.

18 “(h) ELECTION.—The election under subsection (a)
19 shall be made at such time and in such manner as the
20 Secretary may prescribe. Once made, such election may
21 be revoked only with the consent of the Secretary.

22 “(i) REGULATIONS.—The Secretary shall issue such
23 regulations or other guidance as may be necessary or ap-
24 propriate to carry out this section, including regulations
25 or other guidance which—

1 “(1) provide for the application of this section
2 to stock options,

3 “(2) provide mechanisms by which to satisfy
4 the requirements of this section in the event that an
5 employee is inadvertently excluded from a distribu-
6 tion of employer securities (including a case where
7 a service provider is treated as not an employee by
8 the employer, but is determined to be an employee),
9 and

10 “(3) require such reporting under sections 6045
11 and 6051 with respect to transfers of stock to which
12 subsection (a) applies as the Secretary determines to
13 be necessary or appropriate to carry out this sec-
14 tion.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for such part is amended by inserting after the item relat-
17 ing to section 83 the following new item:

“Sec. 83A. Qualified stock distributions to employees.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to stock received by employees
20 after the date of the enactment of this Act.

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