

115TH CONGRESS
1ST SESSION

S. 1618

To amend the Internal Revenue Code of 1986 for purposes of the tax on private foundation excess business holdings to treat as outstanding any employee-owned stock purchased by a business enterprise pursuant to certain employee stock ownership retirement plans.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2017

Ms. STABENOW 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 for purposes of the tax on private foundation excess business holdings to treat as outstanding any employee-owned stock purchased by a business enterprise pursuant to certain employee stock ownership retirement plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CERTAIN PURCHASES OF EMPLOYEE-OWNED**
 2 **STOCK DISREGARDED FOR PURPOSES OF**
 3 **FOUNDATION TAX ON EXCESS BUSINESS**
 4 **HOLDINGS.**

5 (a) IN GENERAL.—Section 4943(c)(4)(A) of the In-
 6 ternal Revenue Code of 1986 is amended by adding at the
 7 end the following new clause:

8 “(v) For purposes of clause (i), subpara-
 9 graph (D), and paragraph (2), any voting stock
 10 which—

11 “(I) is not readily tradable on an es-
 12 tablished securities market,

13 “(II) is purchased by the business en-
 14 terprise on or after January 1, 2005, from
 15 an employee stock ownership plan (as de-
 16 fined in section 4975(e)(7)) in which em-
 17 ployees of such business enterprise partici-
 18 pate, in connection with a distribution
 19 from such plan, and

20 “(III) is held by the business enter-
 21 prise as treasury stock, cancelled, or re-
 22 tired,

23 shall be treated as outstanding voting stock, but
 24 only to the extent so treating such stock would
 25 not result in permitted holdings exceeding 49
 26 percent (determined without regard to this

1 clause). The preceding sentence shall not apply
2 with respect to the purchase of stock from a
3 plan during the 10-year period beginning on the
4 date the plan is established.”.

5 (b) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall apply to taxable years ending after
8 the date of the enactment of this Act and to pur-
9 chases by a business enterprise of voting stock in
10 taxable years beginning before, on, or after the date
11 of the enactment of this Act.

12 (2) SPECIAL RULE FOR GRANDFATHERED
13 FOUNDATIONS IN CASE OF DECREASE IN OWNER-
14 SHIP BY REASON OF PRE-ENACTMENT PUR-
15 CHASES.—Section 4943(c)(4)(A)(ii) of the Internal
16 Revenue Code of 1986 shall not apply with respect
17 to any decrease in the percentage of holdings in a
18 business enterprise by reason of the application of
19 section 4943(c)(4)(A)(v) of such Code (as added by
20 this section).

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