

117TH CONGRESS
1ST SESSION

H. R. 4962

To amend the Internal Revenue Code of 1986 to provide that the stock of certain corporations is eligible for capital gains rates only if such corporation maintains a plan for distributing equity to employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 2021

Mr. LARSON of Connecticut (for himself, Mr. PASCARELL, and Mr. SUOZZI) 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 provide that the stock of certain corporations is eligible for capital gains rates only if such corporation maintains a plan for distributing equity to employees, and for other purposes.

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 “Share Holder Alloca-
5 tion for Rewards to Employees Plan Act” or as the
6 “SHARE Plan Act”.

1 **SEC. 2. STOCK OF CERTAIN CORPORATIONS ELIGIBLE FOR**
2 **CAPITAL GAINS RATES ONLY IF CORPORA-**
3 **TION MAINTAINS PLAN FOR DISTRIBUTING**
4 **EQUITY TO EMPLOYEES.**

5 (a) IN GENERAL.—Part III of subchapter P of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

8 **“SEC. 1224. SHARE PLANS.**

9 “(a) IN GENERAL.—For purposes of section 1222,
10 stock of any corporation which is sold or exchanged during
11 any calendar year shall not be treated as held for more
12 than 1 year (regardless of the holding period of such stock
13 determined without regard to this section) unless—

14 “(1) such corporation is not a covered employer
15 for the preceding calendar year, or

16 “(2) such corporation is a SHARE corporation
17 for the preceding calendar year.

18 “(b) COVERED EMPLOYER.—For purposes of this
19 section, the term ‘covered employer’ means, with respect
20 to any calendar year—

21 “(1) any domestic corporation any class of
22 stock of which is regularly traded on an established
23 securities market as of the last day of such calendar
24 year, and

1 “(2) any other domestic corporation which em-
2 ployed on average more than 500 eligible employees
3 on business days during such calendar year.

4 Such term shall not include any S corporation.

5 “(c) SHARE CORPORATION.—For purposes of this
6 section—

7 “(1) IN GENERAL.—The term ‘SHARE cor-
8 poration’ means, with respect to any calendar year,
9 any corporation which demonstrates to the satisfac-
10 tion of the Secretary that such corporation (as of
11 the close of such calendar year) has—

12 “(A) a SHARE ratio of not less than 10
13 percent,

14 “(B) made distributions of common stock
15 of such corporation to employees of such cor-
16 poration pursuant to a SHARE plan during
17 such calendar year which in the aggregate
18 equals or exceeds 2 percent of the aggregate
19 outstanding shares of common stock of such
20 corporation (other than shares held by such cor-
21 poration), or

22 “(C) made distributions of common stock
23 of such corporation to employees of such cor-
24 poration pursuant to a SHARE plan with a fair
25 market value (determined as of the date of dis-

1 tribution of each such share) which equals or
2 exceeds the applicable dollar amount per em-
3 ployee when aggregated with all such distribu-
4 tions made during such calendar year and all
5 prior calendar years to such employee.

6 “(2) APPLICABLE DOLLAR AMOUNT.—The term
7 ‘applicable dollar amount’ means—

8 “(A) in the case of the calendar year pre-
9 ceding the first calendar year to which sub-
10 section (a) applies, \$50,000, and

11 “(B) in the case of any subsequent cal-
12 endar year, the applicable dollar amount in ef-
13 fect for the preceding calendar year increased
14 by \$50,000 (but not in excess of \$250,000).

15 “(d) SHARE RATIO.—For purposes of this section—

16 “(1) IN GENERAL.—The term ‘SHARE ratio’
17 means, with respect to any corporation for any cal-
18 endar year, the ratio (expressed as a percentage)
19 of—

20 “(A) the aggregate shares of common
21 stock of such corporation which have been
22 granted to participating employees of such cor-
23 poration pursuant to a SHARE plan during
24 such calendar year or any prior calendar year,
25 divided by

1 “(B) the aggregate outstanding shares of
2 common stock of such corporation (other than
3 shares held by such corporation).

4 “(2) TREATMENT OF CERTAIN PRIOR
5 GRANTS.—If such corporation demonstrates to the
6 satisfaction of the Secretary that, during the 10
7 years preceding the date of the enactment of this
8 section, such corporation made grants of common
9 stock to eligible employees of such corporation which
10 were not in exchange for compensation (other than
11 service as an employee), such stock shall be taken
12 into account under paragraph (1)(A).

13 “(3) TREATMENT OF CONVERTIBLE STOCK.—In
14 the case of any class of stock of any corporation
15 which may be converted to common stock, such
16 stock shall be taken into account as common stock
17 under paragraphs (1)(B) and (2) on a fully diluted
18 basis.

19 “(4) EXCLUSION OF INCENTIVE EQUITY.—

20 “(A) IN GENERAL.—Incentive equity shall
21 not be taken into account under subparagraph
22 (A) or (B) of paragraph (1) (including any
23 stock which would otherwise be so taken into
24 account by reason of paragraph (2) or (3)).

1 “(B) INCENTIVE EQUITY.—For purposes
2 of this paragraph, the term ‘incentive equity’
3 means any restricted stock granted to an em-
4 ployee of the corporation, any stock acquired
5 pursuant to an incentive stock option granted
6 to an employee of the corporation, or any simi-
7 lar grant of stock or convertible equity.

8 “(5) TREATMENT OF FORFEITED STOCK.—In
9 the case of any stock which is forfeited (by reason
10 of a failure to vest or otherwise), such stock shall
11 not be taken into account under paragraph (1) after
12 the second calendar year following the calendar year
13 in which such stock is so forfeited.

14 “(e) SHARE PLAN.—For purposes of this section—

15 “(1) IN GENERAL.—The term ‘SHARE plan’
16 means, with respect to any corporation, a plan which
17 provides for making periodic distributions of com-
18 mon stock of such corporation to each participating
19 employee of such corporation (determined as the
20 date of each such periodic distribution).

21 “(2) PARTICIPATING EMPLOYEES.—

22 “(A) IN GENERAL.—The term ‘partici-
23 pating employee’ means, with respect to any
24 corporation, any eligible employee of such cor-

1 poration who is treated as a participating em-
2 ployee under the terms of the plan.

3 “(B) 80-PERCENT REQUIREMENT.—A plan
4 shall not be treated as a SHARE plan unless,
5 with respect to each periodic distribution made
6 under such plan, at least 80 percent of the eli-
7 gible employees of such corporation are partici-
8 pating employees with respect to such distribu-
9 tion.

10 “(3) ELIGIBLE EMPLOYEE.—The term ‘eligible
11 employee’ means, with respect to any corporation,
12 any full-time employee who is based in the United
13 States and who is not one of the 1 percent of em-
14 ployees receiving the highest annual compensation
15 from such corporation.

16 “(4) DISTRIBUTION REQUIREMENTS.—

17 “(A) IN GENERAL.—A plan shall not be
18 treated as a SHARE plan unless the distribu-
19 tions made under such plan—

20 “(i) are made without compensation
21 (other than service as an employee),

22 “(ii) may be sold or transferred with-
23 out restriction—

24 “(I) after a holding period of not
25 to exceed 3 years, and

1 “(II) during any period described
2 in subclause (I), during any hardship
3 of the employee (within the meaning
4 of section 401(k)(2)(B)(i)(IV)),

5 “(iii) except as provided in subpara-
6 graph (B), are made in equal amounts to
7 each participating employee (determined in
8 the aggregate with respect to any calendar
9 year and properly adjusted with respect
10 any employee not employed at all times
11 during such calendar year), and

12 “(iv) except in the case of a distribu-
13 tion made to an employee described in sub-
14 paragraph (C), vest immediately in the re-
15 cipient.

16 “(B) ADJUSTMENTS FOR PERIOD OF SERV-
17 ICE.—The requirement of subparagraph (A)(iii)
18 shall be treated as met if such requirement is
19 met when applied separately to groups of par-
20 ticipating employees divided (under the terms of
21 the corporation’s SHARE plan) on the basis of
22 the period for which such employees have been
23 employed by the distributing corporation.

24 “(C) PERMISSIBLE RESTRICTION ON VEST-
25 ING.—In the case of any employee employed by

1 the distributing corporation for a period of less
2 than 5 years, such employee's interest in any
3 distribution of stock under a SHARE plan shall
4 vest not later than the earlier of—

5 “(i) the date on which such employee
6 has been so employed for a period of 5
7 years, or

8 “(ii) the first date after such distribu-
9 tion on which there is a change in the con-
10 trol of such distributing corporation.

11 “(f) APPLICATION TO PARTNERSHIPS.—

12 “(1) IN GENERAL.—Rules similar to the rules
13 of this section and section 139I shall apply with re-
14 spect to any partnership.

15 “(2) EXCEPTION.—Paragraph (1) shall not
16 apply to any partnership if the principal business of
17 such partnership is the provision of legal, account-
18 ing, or medical services and such partnership is ma-
19 jority owned by licensed lawyers, accountants, or
20 medical doctors, respectively.

21 “(3) REGULATIONS.—As soon as practicable
22 after the date of the enactment of this Act, the Sec-
23 retary shall issue such regulations or other guidance
24 as may be necessary or appropriate to carry out the
25 purposes of this subsection.

1 “(g) PUBLICATION BY TREASURY.—The Secretary
2 shall make publicly available with respect to each calendar
3 year—

4 “(1) a list of corporations which the Secretary
5 has identified as covered corporations,

6 “(2) a list of corporations which the Secretary
7 has identified as SHARE corporations, and

8 “(3) a list of corporations described in para-
9 graph (1) which are not described in paragraph (2).

10 “(h) DETERMINATION OF CORPORATE EARNINGS
11 AND PROFITS.—Distributions of stock under a SHARE
12 plan shall not be taken into account in determining the
13 earnings and profits of the distributing corporation.

14 “(i) AGGREGATION RULES.—In the case of any con-
15 trolled group (within the meaning of section 1563(a))—

16 “(1) such group shall be treated as a single cor-
17 poration for purposes of applying subsection (b)(2),
18 and

19 “(2) the Secretary may issue such regulations
20 or other guidance as the Secretary determines to be
21 appropriate for purposes of applying the provisions
22 of this section to such group, including regulations
23 or other guidance that coordinates or consolidates
24 the SHARE plans of the corporations in such group
25 or allows or requires employees of any corporation in

1 such group to receive stock of another corporation in
2 such group pursuant to such SHARE plans.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for part III of subchapter P of chapter 1 of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new item:

“Sec. 1224. SHARE plans.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to stock sold or exchanged in cal-
9 endar years beginning more than 1 year after the date
10 of the enactment of this Act.

11 **SEC. 3. DISTRIBUTIONS OF STOCK ISSUED UNDER SHARE**
12 **PLANS EXCLUDED FROM GROSS INCOME.**

13 (a) IN GENERAL.—Part III of subchapter B of chap-
14 ter 1 of the Internal Revenue Code of 1986 is amended
15 by inserting after section 139H the following new section:

16 **“SEC. 139I. SHARE PLAN DISTRIBUTIONS.**

17 “(a) IN GENERAL.—Gross income shall not include
18 any SHARE plan stock received by an employee under a
19 SHARE plan.

20 “(b) EXCLUSION OF CERTAIN GAIN.—

21 “(1) IN GENERAL.—In the case of the disposi-
22 tion during any taxable year by any employee or
23 former employee of SHARE plan stock received by
24 such employee under a SHARE plan, so much of the
25 taxpayer’s net SHARE plan stock gain as does not

1 exceed the taxpayer's eligible expenses shall not be
2 recognized.

3 “(2) NET SHARE PLAN STOCK GAIN.—For pur-
4 poses of this subsection, the term ‘net SHARE plan
5 stock gain’ means, with respect to any taxpayer for
6 any taxable year, the excess of—

7 “(A) the aggregate gains from the dispo-
8 sition of SHARE plan stock during such taxable
9 year, over

10 “(B) the aggregate losses from such dis-
11 positions.

12 “(3) ELIGIBLE EXPENSES.—For purposes of
13 this section—

14 “(A) IN GENERAL.—The term ‘eligible ex-
15 penses’ means, with respect to any taxpayer for
16 any taxable year, amounts paid by such tax-
17 payer during such taxable year for—

18 “(i) principal or interest on any quali-
19 fied education loan (within the meaning of
20 section 221),

21 “(ii) medical care, not compensated
22 for by insurance or otherwise, for the tax-
23 payer, the taxpayer's spouse, or depend-
24 ents (as defined in section 152, determined

1 without regard to subsections (b)(1),
2 (b)(2), and (d)(1)(B) thereof, and

3 “(iii) principal or interest on indebted-
4 ness secured by the principal residence
5 (within the meaning of section 121) of the
6 taxpayer.

7 “(B) DENIAL OF DOUBLE BENEFIT.—No
8 deduction or credit shall be allowed under this
9 title with respect to any expense taken into ac-
10 count in determining the amount excluded from
11 gross income under this subsection.

12 “(c) DEFINITIONS RELATED TO SHARE PLANS.—
13 For purposes of this section—

14 “(1) SHARE PLAN.—The term ‘SHARE plan’
15 has the meaning given such term in section 1224.

16 “(2) SHARE PLAN STOCK.—The term
17 ‘SHARE plan stock’ means, with respect to any em-
18 ployee, stock received by such employee under a
19 SHARE plan.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for part III of subchapter B of chapter 1 of the Internal
22 Revenue Code of 1986 is amended by inserting after the
23 item relating to section 139H the following new item:

“Sec. 139I. SHARE plan distributions.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to stock received in calendar years

- 1 beginning after the date of the enactment of this Act, in
- 2 taxable years ending after the beginning of the first such
- 3 calendar year.

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