

117TH CONGRESS  
2D SESSION

# H. R. 9286

To amend the Internal Revenue Code of 1986 to treat certain price protection payments as eligible rollover distributions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2022

Mr. KIND (for himself and Mr. KELLY of Pennsylvania) 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 treat certain price protection payments as eligible rollover distributions, 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. PRICE PROTECTION PAYMENTS TREATED AS**  
4 **ELIGIBLE ROLLOVER DISTRIBUTIONS.**

5 (a) IN GENERAL.—Section 402(c)(4) of the Internal  
6 Revenue Code of 1986 is amended—

7 (1) by striking “For purposes of” and insert-  
8 ing—

9 “(A) IN GENERAL.—For purposes of”,

1 (2) by striking “If all or any portion” and all  
2 that follows through the period and inserting—

3 “(B) SPECIAL RULE FOR 2020.—If all or  
4 any portion”, and

5 (3) by adding at the end the following new sub-  
6 paragraphs:

7 “(C) CERTAIN PRICE PROTECTION PAY-  
8 MENTS TREATED AS ELIGIBLE ROLLOVER DIS-  
9 TRIBUTIONS.—

10 “(i) DISTRIBUTIONS PRIOR TO 2023.—

11 In the case of a price protection payment  
12 made after December 12, 2019, with re-  
13 spect to a plan year ending before January  
14 1, 2023, such payment will be treated as  
15 an eligible rollover distribution if such pay-  
16 ment is made pursuant to a price protec-  
17 tion agreement which provides a payment  
18 to a participant (or beneficiary of such  
19 participant) who separates from service  
20 with an employer due to retirement, death  
21 or disability.

22 “(ii) DISTRIBUTIONS AFTER 2022.—In  
23 the case of a price protection payment  
24 made with respect to a plan year ending  
25 after December 31, 2022, such payment

1 will be treated as an eligible rollover dis-  
2 tribution if such payment is made pursu-  
3 ant to a price protection agreement  
4 which—

5 “(I) is offered as part of an em-  
6 ployee stock ownership plan,

7 “(II) covers any separation of  
8 service of a plan participant regard-  
9 less of the reason for such separation,  
10 and

11 “(III) pays price protection pay-  
12 ments upon commencement of plan  
13 distributions under section  
14 409(o)(1)(A)(i).

15 “(D) DEFINITIONS.—For purposes of this  
16 paragraph—

17 “(i) PRICE PROTECTION AGREE-  
18 MENT.—The term ‘price protection agree-  
19 ment’ means an agreement between an em-  
20 ployer maintaining an employee stock own-  
21 ership plan and the trustee of such plan,  
22 pursuant to which a participant or bene-  
23 ficiary receives a price protection payment  
24 for stock distributions from such plan fol-

1           lowing an exempt loan taken on by the em-  
2           ployer.

3           “(ii) PRICE PROTECTION PAYMENT.—

4           The term ‘price protection payment’ means  
5           an amount paid to a plan participant or  
6           beneficiary pursuant to a price protection  
7           agreement if such agreement provides that  
8           price protection payments will be made—

9           “(I) within a specified period of  
10          time, not to exceed the shorter of 5  
11          years or the life of an exempt loan,  
12          following the purchase of employer se-  
13          curities with such loan, and

14          “(II) in an amount equal to the  
15          excess, if any, of—

16               “(aa) the fair market value  
17               of the shares of employer securi-  
18               ties at the time of the distribu-  
19               tion determined without regard  
20               to such exempt loan, over

21               “(bb) the fair market value  
22               of the employer securities at the  
23               time of distribution.

24          “(iii) EMPLOYEE STOCK OWNERSHIP  
25          PLAN.—The term ‘employee stock owner-

1 ship plan' has the meaning given such  
2 term in section 4975(e)(7).

3 “(iv) EXEMPT LOAN.—The term ‘ex-  
4 empt loan’ means a loan described in sec-  
5 tion 4975(d)(3).”.

6 (b) PRICE PROTECTION AGREEMENTS NOT CONSID-  
7 ERED DISCRIMINATORY.—Section 401(a)(5) of such Code  
8 is amended by adding at the end the following new sub-  
9 paragraph:

10 “(H) PRICE PROTECTION AGREEMENTS.—  
11 A plan shall not be considered discriminatory  
12 within the meaning of paragraph (4) merely be-  
13 cause the plan is subject to a price protection  
14 agreement (as defined in section  
15 402(c)(4)(D)(ii)) which favors highly com-  
16 pensated employees.”.

17 (c) PRICE PROTECTION PAYMENTS NOT TAKEN  
18 INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—  
19 Section 404 of such Code is amended by adding at the  
20 end the following new subsection:

21 “(p) PRICE PROTECTION PAYMENTS NOT TAKEN  
22 INTO ACCOUNT FOR PURPOSES OF DEDUCTION LIMITS.—  
23 Price protection payments (as defined in section  
24 402(c)(4)(D)(i)) shall not be subject to any limitation con-  
25 tained in subsection (a)(3).”.

1 (d) EFFECTIVE DATES.—

2 (1) The amendments made by subsection (a)  
3 shall apply to amounts paid after December 12,  
4 2019.

5 (2) The amendments made by subsections (b)  
6 and (c) shall apply to amounts paid in plan years  
7 ending after December 31, 2022.

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