II

117TH CONGRESS
1ST SESSION

S. 2715

To amend the Internal Revenue Code of 1986 to modify the rules for constructive ownership with respect to real estate investment trusts.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2021

Mr. MENENDEZ (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to modify the rules for constructive ownership with respect to real estate investment trusts.

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

SECTION 1. MODIFICATION OF REIT CONSTRUCTIVE OWNERSHIP RULES.

(a) IN GENERAL.—Section 856(d)(5) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

"(C) except as otherwise provided by the Secretary, stock, assets, and net profits constructively owned by a partnership, estate, trust, or corporation by reason of the application of section 318(a)(3) (after application of subparagraphs (A) and (B)) shall not be considered as owned by it for purposes of again applying such section in order to make another person the constructive owner of such stock, assets, or net profits.

Subparagraph (C) shall not prevent any person from being the constructive owner of stock, assets, or net profits of any person as the result of any other application of section 318(a) (as modified by this paragraph).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(c) NO INFERENCE.—Nothing in this Act or the amendments made by this Act shall be construed to create any inference with respect to the proper application of section 318 of the Internal Revenue Code of 1986 to cases other than cases to which such amendments apply.

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