

DECEMBER 15, 2015

RULES COMMITTEE PRINT 114-40**TEXT OF HOUSE AMENDMENT #2 TO THE SENATE
AMENDMENT TO H.R. 2029, MILITARY CON-
STRUCTION AND VETERANS AFFAIRS AND RE-
LATED AGENCIES APPROPRIATIONS ACT,
2016****[Showing the text of the Protecting Americans from Tax
Hikes Act of 2015.]**

At the end of House amendment #1, insert the fol-
lowing:

1 **DIVISION Q—PROTECTING**
2 **AMERICANS FROM TAX HIKES**
3 **ACT OF 2015**

4 **SECTION 1. SHORT TITLE, ETC.**

5 (a) SHORT TITLE.—This division may be cited as the
6 “Protecting Americans from Tax Hikes Act of 2015”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this division an
9 amendment or repeal is expressed in terms of an amend-
10 ment to, or repeal of, a section or other provision, the ref-
11 erence shall be considered to be made to a section or other
12 provision of the Internal Revenue Code of 1986.

- 1 (c) TABLE OF CONTENTS.—The table of contents for
2 this division is as follows:

DIVISION Q—PROTECTING AMERICANS FROM TAX HIKES ACT OF
2015

Sec. 1. Short title, etc.

TITLE I—EXTENDERS

Subtitle A—Permanent Extensions

PART 1—TAX RELIEF FOR FAMILIES AND INDIVIDUALS

- Sec. 101. Enhanced child tax credit made permanent.
Sec. 102. Enhanced American opportunity tax credit made permanent.
Sec. 103. Enhanced earned income tax credit made permanent.
Sec. 104. Extension and modification of deduction for certain expenses of elementary and secondary school teachers.
Sec. 105. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.
Sec. 106. Extension of deduction of State and local general sales taxes.

PART 2—INCENTIVES FOR CHARITABLE GIVING

- Sec. 111. Extension and modification of special rule for contributions of capital gain real property made for conservation purposes.
Sec. 112. Extension of tax-free distributions from individual retirement plans for charitable purposes.
Sec. 113. Extension and modification of charitable deduction for contributions of food inventory.
Sec. 114. Extension of modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 115. Extension of basis adjustment to stock of S corporations making charitable contributions of property.

PART 3—INCENTIVES FOR GROWTH, JOBS, INVESTMENT, AND INNOVATION

- Sec. 121. Extension and modification of research credit.
Sec. 122. Extension and modification of employer wage credit for employees who are active duty members of the uniformed services.
Sec. 123. Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
Sec. 124. Extension and modification of increased expensing limitations and treatment of certain real property as section 179 property.
Sec. 125. Extension of treatment of certain dividends of regulated investment companies.
Sec. 126. Extension of exclusion of 100 percent of gain on certain small business stock.
Sec. 127. Extension of reduction in S-corporation recognition period for built-in gains tax.
Sec. 128. Extension of subpart F exception for active financing income.

PART 4—INCENTIVES FOR REAL ESTATE INVESTMENT

- Sec. 131. Extension of minimum low-income housing tax credit rate for non-Federally subsidized buildings.
- Sec. 132. Extension of military housing allowance exclusion for determining whether a tenant in certain counties is low-income.
- Sec. 133. Extension of RIC qualified investment entity treatment under FIRPTA.

Subtitle B—Extensions Through 2019

- Sec. 141. Extension of new markets tax credit.
- Sec. 142. Extension and modification of work opportunity tax credit.
- Sec. 143. Extension and modification of bonus depreciation.
- Sec. 144. Extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Subtitle C—Extensions Through 2016

PART 1—TAX RELIEF FOR FAMILIES AND INDIVIDUALS

- Sec. 151. Extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness.
- Sec. 152. Extension of mortgage insurance premiums treated as qualified residence interest.
- Sec. 153. Extension of above-the-line deduction for qualified tuition and related expenses.

PART 2—INCENTIVES FOR GROWTH, JOBS, INVESTMENT, AND INNOVATION

- Sec. 161. Extension of Indian employment tax credit.
- Sec. 162. Extension and modification of railroad track maintenance credit.
- Sec. 163. Extension of mine rescue team training credit.
- Sec. 164. Extension of qualified zone academy bonds.
- Sec. 165. Extension of classification of certain race horses as 3-year property.
- Sec. 166. Extension of 7-year recovery period for motorsports entertainment complexes.
- Sec. 167. Extension and modification of accelerated depreciation for business property on an Indian reservation.
- Sec. 168. Extension of election to expense mine safety equipment.
- Sec. 169. Extension of special expensing rules for certain film and television productions; special expensing for live theatrical productions.
- Sec. 170. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 171. Extension and modification of empowerment zone tax incentives.
- Sec. 172. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 173. Extension of American Samoa economic development credit.
- Sec. 174. Moratorium on medical device excise tax.

PART 3—INCENTIVES FOR ENERGY PRODUCTION AND CONSERVATION

- Sec. 181. Extension and modification of credit for nonbusiness energy property.
- Sec. 182. Extension of credit for alternative fuel vehicle refueling property.
- Sec. 183. Extension of credit for 2-wheeled plug-in electric vehicles.
- Sec. 184. Extension of second generation biofuel producer credit.
- Sec. 185. Extension of biodiesel and renewable diesel incentives.

- Sec. 186. Extension and modification of production credit for Indian coal facilities.
- Sec. 187. Extension of credits with respect to facilities producing energy from certain renewable resources.
- Sec. 188. Extension of credit for energy-efficient new homes.
- Sec. 189. Extension of special allowance for second generation biofuel plant property.
- Sec. 190. Extension of energy efficient commercial buildings deduction.
- Sec. 191. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 192. Extension of excise tax credits relating to alternative fuels.
- Sec. 193. Extension of credit for new qualified fuel cell motor vehicles.

TITLE II—PROGRAM INTEGRITY

- Sec. 201. Modification of filing dates of returns and statements relating to employee wage information and nonemployee compensation to improve compliance.
- Sec. 202. Safe harbor for de minimis errors on information returns and payee statements.
- Sec. 203. Requirements for the issuance of ITINs.
- Sec. 204. Prevention of retroactive claims of earned income credit after issuance of social security number.
- Sec. 205. Prevention of retroactive claims of child tax credit.
- Sec. 206. Prevention of retroactive claims of American opportunity tax credit.
- Sec. 207. Procedures to reduce improper claims.
- Sec. 208. Restrictions on taxpayers who improperly claimed credits in prior year.
- Sec. 209. Treatment of credits for purposes of certain penalties.
- Sec. 210. Increase the penalty applicable to paid tax preparers who engage in willful or reckless conduct.
- Sec. 211. Employer identification number required for American opportunity tax credit.
- Sec. 212. Higher education information reporting only to include qualified tuition and related expenses actually paid.

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Family Tax Relief

- Sec. 301. Exclusion for amounts received under the Work Colleges Program.
- Sec. 302. Improvements to section 529 accounts.
- Sec. 303. Elimination of residency requirement for qualified ABLE programs.
- Sec. 304. Exclusion for wrongfully incarcerated individuals.
- Sec. 305. Clarification of special rule for certain governmental plans.
- Sec. 306. Rollovers permitted from other retirement plans into simple retirement accounts.
- Sec. 307. Technical amendment relating to rollover of certain airline payment amounts.
- Sec. 308. Treatment of early retirement distributions for nuclear materials couriers, United States Capitol Police, Supreme Court Police, and diplomatic security special agents.
- Sec. 309. Prevention of extension of tax collection period for members of the Armed Forces who are hospitalized as a result of combat zone injuries.

Subtitle B—Real Estate Investment Trusts

- Sec. 311. Restriction on tax-free spinoffs involving REITs.
- Sec. 312. Reduction in percentage limitation on assets of REIT which may be taxable REIT subsidiaries.
- Sec. 313. Prohibited transaction safe harbors.
- Sec. 314. Repeal of preferential dividend rule for publicly offered REITs.
- Sec. 315. Authority for alternative remedies to address certain REIT distribution failures.
- Sec. 316. Limitations on designation of dividends by REITs.
- Sec. 317. Debt instruments of publicly offered REITs and mortgages treated as real estate assets.
- Sec. 318. Asset and income test clarification regarding ancillary personal property.
- Sec. 319. Hedging provisions.
- Sec. 320. Modification of REIT earnings and profits calculation to avoid duplicate taxation.
- Sec. 321. Treatment of certain services provided by taxable REIT subsidiaries.
- Sec. 322. Exception from FIRPTA for certain stock of REITs.
- Sec. 323. Exception for interests held by foreign retirement or pension funds.
- Sec. 324. Increase in rate of withholding of tax on dispositions of United States real property interests.
- Sec. 325. Interests in RICs and REITs not excluded from definition of United States real property interests.
- Sec. 326. Dividends derived from RICs and REITs ineligible for deduction for United States source portion of dividends from certain foreign corporations.

Subtitle C—Additional Provisions

- Sec. 331. Deductibility of charitable contributions to agricultural research organizations.
- Sec. 332. Removal of bond requirements and extending filing periods for certain taxpayers with limited excise tax liability.
- Sec. 333. Modifications to alternative tax for certain small insurance companies.
- Sec. 334. Treatment of timber gains.
- Sec. 335. Modification of definition of hard cider.
- Sec. 336. Church plan clarification.

Subtitle D—Revenue Provisions

- Sec. 341. Updated ASHRAE standards for energy efficient commercial buildings deduction.
- Sec. 342. Excise tax credit equivalency for liquified petroleum gas and liquified natural gas.
- Sec. 343. Exclusion from gross income of certain clean coal power grants to non-corporate taxpayers.
- Sec. 344. Clarification of valuation rule for early termination of certain charitable remainder unitrusts.
- Sec. 345. Prevention of transfer of certain losses from tax indifferent parties.
- Sec. 346. Treatment of certain persons as employers with respect to motion picture projects.

TITLE IV—TAX ADMINISTRATION

Subtitle A—Internal Revenue Service Reforms

- Sec. 401. Duty to ensure that Internal Revenue Service employees are familiar with and act in accord with certain taxpayer rights.
- Sec. 402. IRS employees prohibited from using personal email accounts for official business.
- Sec. 403. Release of information regarding the status of certain investigations.
- Sec. 404. Administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.
- Sec. 405. Organizations required to notify Secretary of intent to operate under 501(c)(4).
- Sec. 406. Declaratory judgments for 501(c)(4) and other exempt organizations.
- Sec. 407. Termination of employment of Internal Revenue Service employees for taking official actions for political purposes.
- Sec. 408. Gift tax not to apply to contributions to certain exempt organizations.
- Sec. 409. Extend Internal Revenue Service authority to require truncated Social Security numbers on Form W-2.
- Sec. 410. Clarification of enrolled agent credentials.
- Sec. 411. Partnership audit rules.

Subtitle B—United States Tax Court

PART 1—TAXPAYER ACCESS TO UNITED STATES TAX COURT

- Sec. 421. Filing period for interest abatement cases.
- Sec. 422. Small tax case election for interest abatement cases.
- Sec. 423. Venue for appeal of spousal relief and collection cases.
- Sec. 424. Suspension of running of period for filing petition of spousal relief and collection cases.
- Sec. 425. Application of Federal rules of evidence.

PART 2—UNITED STATES TAX COURT ADMINISTRATION

- Sec. 431. Judicial conduct and disability procedures.
- Sec. 432. Administration, judicial conference, and fees.

PART 3—CLARIFICATION RELATING TO UNITED STATES TAX COURT

- Sec. 441. Clarification relating to United States Tax Court.

TITLE V—TRADE-RELATED PROVISIONS

- Sec. 501. Modification of effective date of provisions relating to tariff classification of recreational performance outerwear.
- Sec. 502. Agreement by Asia-Pacific Economic Cooperation members to reduce rates of duty on certain environmental goods.

TITLE VI—BUDGETARY EFFECTS

- Sec. 601. Budgetary effects.

1 **SEC. 410. CLARIFICATION OF ENROLLED AGENT CREDEN-**
2 **TIALS.**

3 Section 330 of title 31, United States Code, is
4 amended—

5 (1) by redesignating subsections (b), (c), and
6 (d) as subsections (c), (d), and (e), respectively, and

7 (2) by inserting after subsection (a) the fol-
8 lowing new subsection:

9 “(b) Any enrolled agents properly licensed to practice
10 as required under rules promulgated under subsection (a)
11 shall be allowed to use the credentials or designation of
12 ‘enrolled agent’, ‘EA’, or ‘E.A.’.”

13 **SEC. 411. PARTNERSHIP AUDIT RULES.**

14 (a) CORRECTION AND CLARIFICATION TO MODIFICA-
15 TIONS TO IMPUTED UNDERPAYMENTS.—

16 (1) Section 6225(c)(4)(A)(i) is amended by
17 striking “in the case of ordinary income,”.

18 (2) Section 6225(c) is amended by redesignig-
19 nating paragraphs (5) through (7) as paragraphs
20 (6) through (8), respectively, and by inserting after
21 paragraph (4) the following new paragraph:

22 “(5) CERTAIN PASSIVE LOSSES OF PUBLICLY
23 TRADED PARTNERSHIPS.—

24 “(A) IN GENERAL.—In the case of a pub-
25 licly traded partnership (as defined in section
26 469(k)(2)), such procedures shall provide—

1 “(i) for determining the imputed un-
2 derpayment without regard to the portion
3 thereof that the partnership demonstrates
4 is attributable to a net decrease in a speci-
5 fied passive activity loss which is allocable
6 to a specified partner, and

7 “(ii) for the partnership to take such
8 net decrease into account as an adjustment
9 in the adjustment year with respect to the
10 specified partners to which such net de-
11 crease relates.

12 “(B) SPECIFIED PASSIVE ACTIVITY
13 LOSS.—For purposes of this paragraph, the
14 term ‘specified passive activity loss’ means, with
15 respect to any specified partner of such publicly
16 traded partnership, the lesser of—

17 “(i) the passive activity loss of such
18 partner which is separately determined
19 with respect to such partnership under sec-
20 tion 469(k) with respect to such partner’s
21 taxable year in which or with which the re-
22 viewed year of such partnership ends, or

23 “(ii) such passive activity loss so de-
24 termined with respect to such partner’s

1 taxable year in which or with which the ad-
2 justment year of such partnership ends.

3 “(C) SPECIFIED PARTNER.—For purposes
4 of this paragraph, the term ‘specified partner’
5 means any person if such person—

6 “(i) is a partner of the publicly traded
7 partnership referred to in subparagraph
8 (A),

9 “(ii) is described in section 469(a)(2),
10 and

11 “(iii) has a specified passive activity
12 loss with respect to such publicly traded
13 partnership,

14 with respect to each taxable year of such person
15 which is during the period beginning with the
16 taxable year of such person in which or with
17 which the reviewed year of such publicly traded
18 partnership ends and ending with the taxable
19 year of such person in which or with which the
20 adjustment year of such publicly traded part-
21 nership ends.”.

22 (b) CORRECTION AND CLARIFICATION TO JUDICIAL
23 REVIEW OF PARTNERSHIP ADJUSTMENT .—

24 (1) Section 6226 is amended by adding at the
25 end the following new subsection:

1 “(d) JUDICIAL REVIEW.—For the time period within
2 which a partnership may file a petition for a readjustment,
3 see section 6234(a).”.

4 (2) Subsections (a)(3), (b)(1), and (d) of sec-
5 tion 6234 are each amended by striking “the Claims
6 Court” and inserting “the Court of Federal Claims”.

7 (3) The heading for section 6234(b) is amended
8 by striking “CLAIMS COURT” and inserting “COURT
9 OF FEDERAL CLAIMS”.

10 (c) CORRECTION AND CLARIFICATION TO PERIOD OF
11 LIMITATIONS ON MAKING ADJUSTMENTS.—

12 (1) Section 6235(a)(2) is amended by striking
13 “paragraph (4)” and inserting “paragraph (7)”.

14 (2) Section 6235(a)(3) is amended by striking
15 “270 days” and inserting “330 days (plus the num-
16 ber of days of any extension consented to by the
17 Secretary under section 6225(c)(7)”.

18 (d) TECHNICAL AMENDMENT.—Section 6031(b) is
19 amended by striking the last sentence and inserting the
20 following: “Except as provided in the procedures under
21 section 6225(c), with respect to statements under section
22 6226, or as otherwise provided by the Secretary, informa-
23 tion required to be furnished by the partnership under this
24 subsection may not be amended after the due date of the

1 return under subsection (a) to which such information re-
2 lates.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect as if included in section 1101
5 of the Bipartisan Budget Act of 2015.

6 **Subtitle B—United States Tax** 7 **Court**

8 **PART 1—TAXPAYER ACCESS TO UNITED STATES**

9 **TAX COURT**

10 **SEC. 421. FILING PERIOD FOR INTEREST ABATEMENT** 11 **CASES.**

12 (a) IN GENERAL.—Subsection (h) of section 6404 is
13 amended—

14 (1) by striking “REVIEW OF DENIAL” in the
15 heading and inserting “JUDICIAL REVIEW”, and

16 (2) by striking “if such action is brought” and
17 all that follows in paragraph (1) and inserting “if
18 such action is brought—

19 “(A) at any time after the earlier of—

20 “(i) the date of the mailing of the
21 Secretary’s final determination not to
22 abate such interest, or

23 “(ii) the date which is 180 days after
24 the date of the filing with the Secretary (in
25 such form as the Secretary may prescribe)