

119TH CONGRESS  
1ST SESSION

# H. R. 3512

To amend the Internal Revenue Code of 1986 to establish a tax on income from litigation which is received by third-party entities that provided financing for such litigation.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2025

Mr. HERN of Oklahoma (for himself and Mr. FEENSTRA) 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 establish a tax on income from litigation which is received by third-party entities that provided financing for such litigation.

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 “Tackling Predatory  
5 Litigation Funding Act”.

1 **SEC. 2. LITIGATION FINANCING.**

2 (a) IN GENERAL.—Subtitle D of the Internal Rev-  
 3 enue Code of 1986 is amended by adding at the end the  
 4 following new chapter:

5 **“CHAPTER 50B—LITIGATION FINANCING**

“Sec. 5000E-1. Tax imposed.

“Sec. 5000E-2. Definitions.

“Sec. 5000E-3. Special rules.

6 **“SEC. 5000E-1. TAX IMPOSED.**

7 “(a) IN GENERAL.—A tax is hereby imposed for each  
 8 taxable year in an amount equal to the applicable percent-  
 9 age of any qualified litigation proceeds received by a cov-  
 10 ered party.

11 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 12 subsection (a), with respect to any taxable year, the appli-  
 13 cable percentage shall be the amount (expressed as a per-  
 14 centage) equal to the sum of—

15 “(1) the highest rate of tax imposed by section  
 16 1 for such taxable year, plus

17 “(2) 3.8 percentage points.

18 “(c) APPLICATION OF TAX FOR PASS-THRU ENTI-  
 19 TIES.—In the case of a covered party that is a partner-  
 20 ship, S corporation, or other pass-thru entity, the tax im-  
 21 posed under subsection (a) shall be applied at the entity  
 22 level.

23 **“SEC. 5000E-2. DEFINITIONS.**

24 “In this chapter—

1 “(1) CIVIL ACTION.—

2 “(A) IN GENERAL.—The term ‘civil action’  
3 means any civil action, administrative pro-  
4 ceeding, claim, or cause of action.

5 “(B) MULTIPLE ACTIONS.—The term ‘civil  
6 action’ may, unless otherwise indicated, include  
7 more than 1 civil action.

8 “(2) COVERED PARTY.—

9 “(A) IN GENERAL.—The term ‘covered  
10 party’ means, with respect to any civil action,  
11 any third party (including an individual, cor-  
12 poration, partnership, or sovereign wealth fund)  
13 to such action which—

14 “(i) receives funds pursuant to a liti-  
15 gation financing agreement, and

16 “(ii) is not an attorney representing a  
17 party to such civil action.

18 “(B) INCLUSION OF DOMESTIC AND FOR-  
19 EIGN ENTITIES.—Subparagraph (A) shall apply  
20 to any third party without regard to whether  
21 such party is created or organized in the United  
22 States or under the law of the United States or  
23 of any State.

24 “(3) LITIGATION FINANCING AGREEMENT.—

1           “(A) IN GENERAL.—The term ‘litigation  
2 financing agreement’ means, with respect to  
3 any civil action, a written agreement—

4           “(i) whereby a third party agrees to  
5 provide funds to one of the named parties  
6 or any law firm affiliated with such civil  
7 action, and

8           “(ii) which creates a direct or  
9 collateralized interest in the proceeds of  
10 such action (by settlement, verdict, judg-  
11 ment or otherwise) which—

12           “(I) is based, in whole or part,  
13 on a funding-based obligation to—

14           “(aa) such civil action,

15           “(bb) the appearing counsel,

16           “(cc) any contractual co-  
17 counsel, or

18           “(dd) the law firm of such  
19 counsel or co-counsel, and

20           “(II) is executed with—

21           “(aa) any attorney rep-  
22 resenting a party to such civil ac-  
23 tion,

24           “(bb) any co-counsel in the  
25 litigation with a contingent fee

1 interest in the representation of  
2 such party,

3 “(cc) any third party that  
4 has a collateral-based interest in  
5 the contingency fees of the coun-  
6 sel or co-counsel firm which is re-  
7 lated, in whole or part, to the  
8 fees derived from representing  
9 such party, or

10 “(dd) any named party in  
11 such civil action.

12 “(B) SUBSTANTIALLY SIMILAR AGREE-  
13 MENTS.—The term ‘litigation financing agree-  
14 ment’ shall include any contract (including any  
15 option, forward contract, futures contract, short  
16 position, swap, or similar contract) or other  
17 agreement which, as determined by the Sec-  
18 retary, is substantially similar to an agreement  
19 described in subparagraph (A).

20 “(C) EXCEPTIONS.—The term ‘litigation  
21 financing agreement’ shall not include any  
22 agreement—

23 “(i) under which the total amount of  
24 funds described in subparagraph (A)(i)

1 with respect to an individual civil action is  
2 less than \$10,000, or

3 “(ii) in which the third party de-  
4 scribed in subparagraph (A)—

5 “(I) has a right to receive pro-  
6 ceeds which are derived from, or pur-  
7 suant to, such agreement that are lim-  
8 ited to—

9 “(aa) repayment of the prin-  
10 cipal of a loan,

11 “(bb) repayment of the prin-  
12 cipal of a loan plus any interest  
13 on such loan, provided that the  
14 rate of interest does not exceed  
15 the greater of—

16 “(AA) 7 percent, or

17 “(BB) a rate equal to  
18 twice the average annual  
19 yield on 30-year United  
20 States Treasury securities  
21 (as determined for the year  
22 preceding the date on which  
23 such agreement was exe-  
24 cuted), or

1                   “(cc) reimbursement of at-  
2                   torney’s fees, or

3                   “(II) bears a relationship de-  
4                   scribed in section 267(b) to the  
5                   named party receiving the payment  
6                   described in subparagraph (A)(i).

7                   “(4) QUALIFIED LITIGATION PROCEEDS.—

8                   “(A) IN GENERAL.—The term ‘qualified  
9                   litigation proceeds’ means, with respect to any  
10                  taxable year, an amount equal to the realized  
11                  gains, net income, or other profit received by a  
12                  covered party during such taxable year which is  
13                  derived from, or pursuant to, any litigation fi-  
14                  nancing agreement.

15                  “(B) ANTI-NETTING.—Any gains, income,  
16                  or profit described in subparagraph (A) shall  
17                  not be reduced or offset by any ordinary or cap-  
18                  ital loss in the taxable year.

19                  “(C) PROHIBITION ON EXCLUSION OF CER-  
20                  TAIN AMOUNTS.—In determining the amount of  
21                  realized gain under subparagraph (A), amounts  
22                  described in section 104(a)(2) and 892(a)(1)  
23                  shall not be excluded.

1 **“SEC. 5000E-3. SPECIAL RULES.**

2       “(a) WITHHOLDING OF TAX ON LITIGATION PRO-  
3 CEEDS.—Any applicable person having the control, re-  
4 ceipt, or custody of any proceeds from a civil action (by  
5 settlement, judgment, or otherwise) with respect to which  
6 such person had entered into a litigation financing agree-  
7 ment shall deduct and withhold from such proceeds a tax  
8 equal to 50 percent of the applicable percentage (as deter-  
9 mined under section 5000E-1(b)) of any payments which  
10 are required to be made to a third party pursuant to such  
11 agreement.

12       “(b) APPLICABLE PERSON.—For purposes of this  
13 section, the term ‘applicable person’ means any person  
14 which—

15               “(1) is a named party in a civil action or a law  
16 firm affiliated with such civil action, and

17               “(2) has entered into a litigation financing  
18 agreement with respect to such civil action.

19       “(c) APPLICATION OF WITHHOLDING PROVISIONS.—

20               “(1) LIABILITY FOR WITHHELD TAX.—Every  
21 person required to deduct and withhold any tax  
22 under this chapter is hereby made liable for such tax  
23 and is hereby indemnified against the claims and de-  
24 mands of any person for the amount of any pay-  
25 ments made in accordance with the provisions of this  
26 chapter.

1           “(2) WITHHELD TAX AS CREDIT TO RECIPIENT  
2           OF QUALIFIED LITIGATION PROCEEDS.—Qualified  
3           litigation proceeds on which any tax is required to  
4           be withheld at the source under this chapter shall be  
5           included in the return of the recipient of such pro-  
6           ceeds, but any amount of tax so withheld shall be  
7           credited against the amount of tax as computed in  
8           such return.

9           “(3) TAX PAID BY RECIPIENT OF QUALIFIED  
10          LITIGATION PROCEEDS.—If—

11                 “(A) any person, in violation of the provi-  
12                 sions of this chapter, fails to deduct and with-  
13                 hold any tax under this chapter, and

14                 “(B) thereafter the tax against which such  
15                 tax may be credited is paid,

16           the tax so required to be deducted and withheld  
17           shall not be collected from such person, but this  
18           paragraph shall in no case relieve such person from  
19           liability for interest or any penalties or additions to  
20           the tax otherwise applicable in respect of such fail-  
21           ure to deduct and withhold.

22           “(4) REFUNDS AND CREDITS WITH RESPECT TO  
23           WITHHELD TAX.—Where there has been an overpay-  
24           ment of tax under this chapter, any refund or credit  
25           made under chapter 65 shall be made to the with-

1 holding agent unless the amount of such tax was ac-  
2 tually withheld by the withholding agent.”.

3 (b) EXCLUSION FROM DEFINITION OF CAPITAL  
4 ASSET.—Section 1221(a) of the Internal Revenue Code  
5 of 1986 is amended—

6 (1) in paragraph (7), by striking “or” at the  
7 end,

8 (2) in paragraph (8), by striking the period at  
9 the end and inserting “; or”, and

10 (3) by adding at the end the following new  
11 paragraph:

12 “(9) any financial arrangement created by, or  
13 any proceeds derived from, a litigation financing  
14 agreement (as defined under section 5000E-2).”.

15 (c) REMOVAL FROM GROSS INCOME.—Part III of  
16 subchapter B of chapter 1 of the Internal Revenue Code  
17 of 1986 is amended by inserting after section 139I the  
18 following new section:

19 **“SEC. 139J. QUALIFIED LITIGATION PROCEEDS.**

20 “Gross income shall not include any qualified litiga-  
21 tion proceeds (as defined in section 5000E-2).”.

22 (d) CLERICAL AMENDMENTS.—

23 (1) Section 7701(a)(16) of the Internal Rev-  
24 enue Code of 1986 is amended by inserting  
25 “5000E-3(c)(1),” before “1441”.

1           (2) The table of chapters for subtitle D of the  
2 Internal Revenue Code of 1986 is amended by in-  
3 sserting after the item relating to chapter 50A the  
4 following new item:

“CHAPTER 50B—LITIGATION FINANCING”.

5           (3) The table of sections for part III of sub-  
6 chapter B of chapter 1 of such Code is amended by  
7 inserting after the item relating to section 139I the  
8 following new item:

“Sec. 139J. Qualified litigation proceeds.”.

9           (e) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2025.

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