119TH CONGRESS
1ST SESSION

S. 369

To amend the Internal Revenue Code of 1986 to deny certain green energy tax benefits to companies associated with foreign adversaries.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2025

Mr. SCOTT of Florida 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 deny certain green energy tax benefits to companies associated with foreign adversaries.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Official Giveaways Of Taxpayers' Income to Oppressive Nations Act'' or the ''NO GOTION Act''.

SEC. 2. DENIAL OF GREEN ENERGY TAX BENEFITS TO COMPANIES ASSOCIATED WITH FOREIGN ADVERSARIES.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7531. DENIAL OF GREEN ENERGY TAX BENEFITS TO COMPANIES ASSOCIATED WITH FOREIGN ADVERSARIES.

"(a) IN GENERAL.—In the case of any disqualified company, this title shall be applied without regard to sections 30C, 40, 40A, 40B, 45, 45Q, 45U, 45V, 45W, 45X, 45Y, 45Z, 48, 48C, 48E, 179D, 6426(c), 6426(d), 6426(e), and 6427(e).

"(b) DISQUALIFIED COMPANY.—

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the term 'disqualified company' means any entity described in subparagraphs (B) through (D).

"(B) FOREIGN ADVERSARY PARTIES.—The entities described in this subparagraph consist of the following:

"(i) The government of a foreign adversary, any agency or government instrumentality of a foreign adversary, or any entity which is directly or indirectly owned, controlled, or directed by any such government, agency, or government instrumentality.

"(ii) Any entity organized under the laws of a foreign adversary (or any political subdivision thereof) or whose headquarters is located within a foreign adversary.

"(C) OWNED, CONTROLLED, DIRECTED, OR INFLUENCED BY FOREIGN ADVERSARY PARTIES.—The entities described in this subparagraph consist of the following:

"(i) Any entity for which, on any date during the taxable year, not less than 10 percent of the outstanding equity interests (by value, voting, governance, board appointment, or similar rights or influence) are held directly or indirectly by, or on behalf of, 1 or more of the entities described in subparagraph (B), including through interests in co-investment vehicles, joint ventures, or similar arrangements.

"(ii) Any entity which is directly or indirectly controlled, directed, or materially influenced by any entity described in subparagraph (B).

"(iii) Any entity for which the actions, management, ownership, or operations of such entity are subject to the direct influence of an entity described in subparagraph (B).

"(iv) Any entity for which an interest in such entity is held by an entity described in subparagraph (B) (referred to in this clause as the 'beneficiary firm') as a derivative financial instrument or through a contractual arrangement between the beneficiary firm and such entity, including any financial instrument or other contract between the beneficiary firm and the entity which seeks to replicate any financial return with respect to such entity or interest in such entity.

"(D) DEBT OR OTHER ARRANGEMENTS WITH FOREIGN ADVERSARY PARTIES.—

"(i) IN GENERAL.—An entity is described in this subparagraph if, as a result of any prohibited obligation or arrangement—

"(I) the actions, management, or operations of such entity are subject to the direct or indirect influence of 1 or more entities described in subparagraph (B) or (C), or

"(II) such entity provides a substantial benefit to 1 or more entities described in subparagraph (B) or (C).

"(ii) PROHIBITED OBLIGATION OR ARRANGEMENT.—For purposes of this subparagraph, the term 'prohibited obligation or arrangement' means any—

"(I) debt,

"(II) lease or sublease arrangement,

"(III) management or operating arrangement,

"(IV) contract manufacturing arrangement,

"(V) license or sublicense agreement, or

"(VI) financial derivative.

"(iii) EXCEPTION.—

"(I) IN GENERAL.—For purposes of clause (i)(II), the purchase of equipment or manufacturing inputs in an arm's length transaction shall not, in and of itself, be deemed to provide a substantial benefit.

"(II) ARM'S LENGTH.—For purposes of this clause, the term 'arm's length' has the meaning given in section 1.482–1 of title 26, Code of Federal Regulations.

"(E) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' has the meaning given in section 800.208 of title 31, Code of Federal Regulations (as in effect on the date of enactment of the No Official Giveaways Of Taxpayers' Income to Oppressive Nations Act).

"(ii) FOREIGN ADVERSARY.—The term 'foreign adversary' has the meaning given the term 'covered nation' in section 4872(d)(2) of title 10, United States Code, except that such term shall also include—

"(I) the Republic of Cuba, and

"(II) the Boliverian Republic of Venezuela during any period of time during which Nicholas Maduro is President of the Republic.

"(2) ADMINISTRATION.—The Secretary may issue such guidance as is necessary to carry out the purposes of this section, including establishment of rules for—

"(A) implementation of paragraph (1)(C)(i) for determination of whether the percentage requirements with respect to outstanding equity interests have been satisfied in the case of an entity for which the stock of such entity is traded on an established securities market in the United States or any foreign country, and

"(B) preventing entities from evading, circumventing, or abusing the application of the requirements under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7531. Denial of green energy tax benefits to companies associated with foreign adversaries.".

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

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