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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to require all real estate purchases by non-citizens to be reported to the Internal Revenue Service, to impose a tax on the purchase of real estate purchases by certain non-citizens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HARRIGAN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to require all real estate purchases by non-citizens to be reported to the Internal Revenue Service, to impose a tax on the purchase of real estate purchases by certain non-citizens, 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. SHORT TITLE.**

4 This Act may be cited as the “Real Estate Reci-
5 procity Act”.

1 **SEC. 2. RETURNS WITH RESPECT TO FOREIGN PERSONS**
2 **HOLDING DIRECT INVESTMENTS IN UNITED**
3 **STATES REAL PROPERTY INTERESTS.**

4 (a) **REQUIRED RETURN.**—Section 6039C(a) of the
5 Internal Revenue Code of 1986 is amended by striking
6 “To the extent provided in regulations, any” and inserting
7 “Any”.

8 (b) **DOLLAR THRESHOLD REMOVED.**—Section
9 6039C(b) of such Code is amended by striking “during
10 any calendar year if—” and all that follows through the
11 period and inserting “during any calendar year if such
12 person did not engage in a trade or business in the United
13 States at any time during such calendar year”.

14 (c) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to returns filed with respect to tax-
16 able years beginning after the date of the enactment of
17 this Act.

18 **SEC. 3. REPORT ON FOREIGN PROHIBITION OF UNITED**
19 **STATES OWNERSHIP OF REAL PROPERTY IN-**
20 **TERESTS.**

21 Not later than 60 days after the date of the enact-
22 ment of this Act, and annually thereafter, the Secretary
23 of State shall provide to the Secretary of the Treasury
24 a report describing all foreign countries that prohibit the
25 purchase or ownership of real estate by citizens of the
26 United States.

1 **SEC. 4. IMPOSITION OF TAX ON THE ACQUISITION OF**
2 **UNITED STATES REAL PROPERTY BY DIS-**
3 **QUALIFIED PERSONS.**

4 (a) IN GENERAL.—Subtitle D is amended by insert-
5 ing after chapter 50A the following new chapter:

6 **“CHAPTER 50B—ACQUISITION OF UNITED**
7 **STATES REAL PROPERTY BY DIS-**
8 **QUALIFIED PERSONS**

“Sec. 5000E. Imposition of tax on acquisition of United States real property
by disqualified persons.

9 **“SEC. 5000E. IMPOSITION OF TAX ON ACQUISITION OF**
10 **UNITED STATES REAL PROPERTY BY DIS-**
11 **QUALIFIED PERSONS.**

12 “(a) IN GENERAL.—In the case of any acquisition of
13 any United States real property by any disqualified per-
14 son, there is hereby imposed on such person a tax equal
15 to 50 percent of the amount paid for such interest.

16 “(b) DISQUALIFIED PERSON.—For purposes of this
17 section—

18 “(1) IN GENERAL.—The term ‘disqualified per-
19 son’ means—

20 “(A) any citizen of a disqualified country
21 (other than a citizen, or lawful permanent resi-
22 dent, of the United States),

23 “(B) any entity domiciled in a disqualified
24 country,

1 “(C) any disqualified country and any po-
2 litical subdivision, agency, or instrumentality
3 thereof, and

4 “(D) except as provided in paragraph (3),
5 any entity if persons described in subparagraph
6 (A), (B), or (C) (in the aggregate) 10-percent
7 control such entity.

8 “(2) DISQUALIFIED COUNTRY.—The term ‘dis-
9 qualified country’ means any country identified in
10 the report described in section 3 of the Real Estate
11 Reciprocity Act.

12 “(3) EXCEPTION FOR CERTAIN NON-CITI-
13 ZENS.—An individual shall not be treated as de-
14 scribed in paragraph (1)(A) if such individual re-
15 sides in the United States during the taxable year
16 due to—

17 “(A) diplomatic obligations, or

18 “(B) a grant of asylum by the United
19 States.

20 “(4) EXCEPTION FOR CERTAIN PUBLICLY
21 TRADED CORPORATIONS.—

22 “(A) IN GENERAL.—An entity shall not be
23 treated as described in paragraph (1)(D) if—

24 “(i) such entity is a specified publicly
25 traded corporation, or

1 “(ii) specified publicly traded corpora-
2 tions (in the aggregate) control such enti-
3 ty.

4 “(B) SPECIFIED PUBLICLY TRADED COR-
5 PORATION.—

6 “(i) IN GENERAL.—The term ‘speci-
7 fied publicly traded corporation’ means any
8 corporation if—

9 “(I) the stock of such corporation
10 is regularly traded on an established
11 securities market located in the
12 United States, and

13 “(II) specified disqualified per-
14 sons do not (in the aggregate) control
15 such corporation.

16 “(ii) SPECIFIED DISQUALIFIED PER-
17 SONS.—The term ‘specified disqualified
18 persons’ means, with respect to any cor-
19 poration referred to in clause (i), any per-
20 son which—

21 “(I) is described in subparagraph
22 (A), (B), or (C) of paragraph (1), and

23 “(II) 10-percent controls such
24 corporation.

1 “(c) PRORATED TAX ON ACQUISITIONS BY ENTITIES
2 NOT MORE THAN 50 PERCENT CONTROLLED BY DIS-
3 QUALIFIED PERSONS.—

4 “(1) IN GENERAL.—In the case of any disquali-
5 fied person described in subsection (b)(1)(D) with
6 respect to which persons described in subparagraphs
7 (A), (B), or (C) of subsection (b)(1) do not (in the
8 aggregate) control such disqualified person, sub-
9 section (a) shall be applied by substituting ‘the ap-
10 plicable percentage of the amount’ for ‘the amount’.

11 “(2) APPLICABLE PERCENTAGE.—For purposes
12 of this section, the term ‘applicable percentage’
13 means, with respect to any disqualified person to
14 which paragraph (1) applies, the highest percentage
15 which could be substituted for ‘50 percent’ both
16 places it appears in section 954(d)(3) without caus-
17 ing persons described in subparagraph (A), (B), or
18 (C) of subsection (b)(1) (in the aggregate) to control
19 (determined by taking into account such substi-
20 tution) such disqualified person.

21 “(d) CONTROL.—For purposes of this section—

22 “(1) IN GENERAL.—The term ‘control’ has the
23 meaning given such term under section 954(d)(3),
24 determined by treating the rules of section 958(a)(2)

1 as applying to both foreign and domestic corpora-
2 tions, partnerships, trusts, and estates.

3 “(2) 10-PERCENT CONTROL.—The term ‘10-
4 percent control’ means control (as defined in para-
5 graph (1)), determined by substituting ‘10 percent’
6 for ‘50 percent’ both places it appears in section
7 954(d)(3).

8 “(e) UNITED STATES REAL PROPERTY.—The term
9 ‘United States real property’ has the meaning which would
10 be given the term ‘United States real property interest’
11 by section 897(c) if—

12 “(1) paragraph (1)(A)(ii) were applied by sub-
13 stituting ‘such corporation was not a United States
14 real property holding corporation at the time of ac-
15 quisition’ for ‘such corporation’ and all that follows,

16 “(2) paragraph (1)(B) did not apply, and

17 “(3) paragraph (3) were applied by substituting
18 ‘at the time of acquisition’ for ‘at some time during
19 the shorter of the periods described in paragraph
20 (1)(A)(ii)’.”.

21 (b) REPORTING REQUIREMENTS.—

22 (1) IN GENERAL.—Subpart B of part III of
23 subchapter A of chapter 61 is amended by adding at
24 the end the following new section:

1 **“SEC. 6050AA. RETURNS RELATING TO ACQUISITION OF**
2 **UNITED STATES REAL PROPERTY BY DIS-**
3 **QUALIFIED PERSONS.**

4 “(a) IN GENERAL.—The required reporting person,
5 with respect to any acquisition of any United States real
6 property by a presumptively disqualified person to which
7 section 5000E(a) applies, shall make a return at such time
8 as the Secretary may provide setting forth—

9 “(1) the name, address, and TIN of such pre-
10 sumptively disqualified person,

11 “(2) a description of such United States real
12 property (including the street address, if applicable),
13 and

14 “(3) the amount paid for such United States
15 real property.

16 “(b) STATEMENT TO BE FURNISHED TO PRESUMP-
17 TIVELY DISQUALIFIED PERSON.—Every person required
18 to make a return under subsection (a) shall furnish, at
19 such time as the Secretary may provide, to each presump-
20 tively disqualified person whose name is required to be set
21 forth in such return a written statement showing—

22 “(1) the name and address of the information
23 contact of the required reporting person, and

24 “(2) the information described in paragraphs
25 (1), (2), and (3) of subsection (a) which relates to
26 such disqualified person.

1 “(c) REQUIRED REPORTING PERSON.—For purposes
2 of this section, the term ‘required reporting person’
3 means, with respect to any acquisition of any United
4 States real property—

5 “(1) the person (including any attorney or title
6 company) responsible for closing the transaction in
7 which such United States real property is acquired,
8 or

9 “(2) if no one is responsible for closing such
10 transaction (or in such other cases as the Secretary
11 may provide), the transferor of such United States
12 real property.

13 “(d) PRESUMPTIVELY DISQUALIFIED PERSON.—For
14 purposes of this section, the term ‘presumptively disquali-
15 fied person’ means any person unless such person fur-
16 nishes to the required reporting person an affidavit by the
17 such person stating, under penalty of perjury, that such
18 person is not a disqualified person (as defined in section
19 5000E(b)).

20 “(e) REQUIREMENT TO REQUEST AFFIDAVIT.—If the
21 required reporting person, with respect to any acquisition
22 of any United States real property, has not, as of the time
23 of such acquisition, been furnished the affidavit described
24 in subsection (d) by the acquirer of such interest, such
25 required reporting person shall furnish to such acquirer,

1 at such time, a written statement informing such acquirer
2 of the required reporting person's obligation to make the
3 return described in subsection (a) with respect to such ac-
4 quisition and including such other information as the Sec-
5 retary may require.

6 “(f) UNITED STATES REAL PROPERTY.—For pur-
7 poses of this section, the term ‘United States real prop-
8 erty’ has the meaning given such term in section 5000E.”.

9 (2) PENALTIES.—Section 6724(d) is amend-
10 ed—

11 (A) in paragraph (1)(B), by striking “or”
12 at the end of clause (xxvii), by striking “and”
13 at the end of clause (xxviii) and inserting “or”,
14 and by adding at the end the following new
15 clause:

16 “(xxix) section 6050AA(a) (relating to
17 returns relating to acquisition of United
18 States real property by disqualified per-
19 sons), and”, and

20 (B) in paragraph (2), by striking “or” at
21 the end of subparagraph (KK), by striking the
22 period at the end of subparagraph (LL) and in-
23 serting “, or”, and by inserting after subpara-
24 graph (LL) the following new subparagraph:

1 “(MM) subsection (b) or (e) of section
2 6055AA (relating to statements relating to ac-
3 quisition of United States real property by dis-
4 qualified persons).”.

5 (c) CLERICAL AMENDMENTS.—

6 (1) The table of chapters for subtitle D is
7 amended by inserting after the item relating to
8 chapter 50A the following new item:

 “CHAPTER 50B. ACQUISITION OF UNITED STATES REAL PROPERTY BY
 DISQUALIFIED PERSONS.”.

9 (2) The table of sections for subpart B of part
10 III of subchapter A of chapter 61 is amended by
11 adding at the end the following new item:

 “Sec. 6050AA. Returns relating to acquisition of United States real property
 by disqualified persons.”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to acquisitions in taxable years be-
14 ginning after the date of the enactment of this Act.