

113TH CONGRESS
1ST SESSION

S. _____

To restore full military retirement benefits by closing corporate tax loopholes.

IN THE SENATE OF THE UNITED STATES

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To restore full military retirement benefits by closing corporate tax loopholes.

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 “Military Retirement
5 Restoration Act”.

6 **SEC. 2. REPEAL OF REDUCTIONS MADE BY BIPARTISAN**
7 **BUDGET ACT OF 2013.**

8 Section 403 of the Bipartisan Budget Act of 2013
9 is repealed as of the date of the enactment of such Act.

1 **SEC. 3. TREATMENT OF FOREIGN CORPORATIONS MAN-**
2 **AGED AND CONTROLLED IN THE UNITED**
3 **STATES AS DOMESTIC CORPORATIONS.**

4 (a) IN GENERAL.—Section 7701 of the Internal Rev-
5 enue Code of 1986 is amended by redesignating subsection
6 (p) as subsection (q) and by inserting after subsection (o)
7 the following new subsection:

8 “(p) CERTAIN CORPORATIONS MANAGED AND CON-
9 TROLLED IN THE UNITED STATES TREATED AS DOMES-
10 TIC FOR INCOME TAX.—

11 “(1) IN GENERAL.—Notwithstanding subsection
12 (a)(4), in the case of a corporation described in
13 paragraph (2) if—

14 “(A) the corporation would not otherwise
15 be treated as a domestic corporation for pur-
16 poses of this title, but

17 “(B) the management and control of the
18 corporation occurs, directly or indirectly, pri-
19 marily within the United States,

20 then, solely for purposes of chapter 1 (and any other
21 provision of this title relating to chapter 1), the cor-
22 poration shall be treated as a domestic corporation.

23 “(2) CORPORATION DESCRIBED.—

24 “(A) IN GENERAL.—A corporation is de-
25 scribed in this paragraph if—

1 “(i) the stock of such corporation is
2 regularly traded on an established securi-
3 ties market, or

4 “(ii) the aggregate gross assets of
5 such corporation (or any predecessor there-
6 of), including assets under management
7 for investors, whether held directly or indi-
8 rectly, at any time during the taxable year
9 or any preceding taxable year is
10 \$50,000,000 or more.

11 “(B) GENERAL EXCEPTION.—A corpora-
12 tion shall not be treated as described in this
13 paragraph if—

14 “(i) such corporation was treated as a
15 corporation described in this paragraph in
16 a preceding taxable year,

17 “(ii) such corporation—

18 “(I) is not regularly traded on an
19 established securities market, and

20 “(II) has, and is reasonably ex-
21 pected to continue to have, aggregate
22 gross assets (including assets under
23 management for investors, whether
24 held directly or indirectly) of less than
25 \$50,000,000, and

1 “(iii) the Secretary grants a waiver to
2 such corporation under this subparagraph.

3 “(3) MANAGEMENT AND CONTROL.—

4 “(A) IN GENERAL.—The Secretary shall
5 prescribe regulations for purposes of deter-
6 mining cases in which the management and
7 control of a corporation is to be treated as oc-
8 curring primarily within the United States.

9 “(B) EXECUTIVE OFFICERS AND SENIOR
10 MANAGEMENT.—Such regulations shall provide
11 that—

12 “(i) the management and control of a
13 corporation shall be treated as occurring
14 primarily within the United States if sub-
15 stantially all of the executive officers and
16 senior management of the corporation who
17 exercise day-to-day responsibility for mak-
18 ing decisions involving strategic, financial,
19 and operational policies of the corporation
20 are located primarily within the United
21 States, and

22 “(ii) individuals who are not executive
23 officers and senior management of the cor-
24 poration (including individuals who are of-
25 ficers or employees of other corporations in

1 the same chain of corporations as the cor-
2 poration) shall be treated as executive offi-
3 cers and senior management if such indi-
4 viduals exercise the day-to-day responsibil-
5 ities of the corporation described in clause
6 (i).

7 “(C) CORPORATIONS PRIMARILY HOLDING
8 INVESTMENT ASSETS.—Such regulations shall
9 also provide that the management and control
10 of a corporation shall be treated as occurring
11 primarily within the United States if—

12 “(i) the assets of such corporation (di-
13 rectly or indirectly) consist primarily of as-
14 sets being managed on behalf of investors,
15 and

16 “(ii) decisions about how to invest the
17 assets are made in the United States.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning on or
20 after the date which is 2 years after the date of the enact-
21 ment of this Act, whether or not regulations are issued
22 under section 7701(p)(3) of the Internal Revenue Code
23 of 1986, as added by this section.