

111TH CONGRESS  
1ST SESSION

# S. 2927

To amend the Internal Revenue Code of 1986 to impose a tax on certain securities transactions to fund job creation and deficit reduction, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 23, 2009

Mr. HARKIN (for himself, Mr. SANDERS, Mr. WHITEHOUSE, and Mr. BROWN) 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 impose a tax on certain securities transactions to fund job creation and deficit reduction, 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 “Wall Street Fair Share  
5 Act”.

6 **SEC. 2. TRANSACTION TAX.**

7 (a) IN GENERAL.—Chapter 36 of the Internal Rev-  
8 enue Code of 1986 is amended by inserting after sub-  
9 chapter B the following new subchapter:

1                   **“Subchapter C—Tax on Securities**  
2                                   **Transactions**

“Sec. 4475. Tax on securities transactions.

3   **“SEC. 4475. TAX ON SECURITIES TRANSACTIONS.**

4           “(a) IMPOSITION OF TAX.—There is hereby imposed  
5 a tax on each covered transaction with respect to any secu-  
6 rity.

7           “(b) RATE OF TAX.—

8                   “(1) SECURITY.—

9                           “(A) IN GENERAL.—Except as otherwise  
10 provided in this subsection, the rate of such tax  
11 shall be equal to 0.25 percent of the fair mar-  
12 ket value of the security.

13                           “(B) DERIVATIVES.—In the case of a secu-  
14 rity described in subsection (d)(1)(D), the rate  
15 of such tax shall be equal to 0.25 percent of the  
16 fair market value of the underlying property  
17 with respect to, or the notional principal  
18 amount of, the derivative financial instrument  
19 involved in such transaction.

20                           “(C) SHORT-TERM DEBT INSTRUMENTS.—

21 In the case of a covered transaction with re-  
22 spect to a security described in subsection  
23 (d)(1)(C) which has a fixed maturity date not  
24 more than 1 year from the date of issue, the

1 rate of such tax shall be equal to 0.02 percent  
2 of the fair market value of such security.

3 “(2) HEDGING TRANSACTION.—In the case of  
4 any covered transaction which is a hedging trans-  
5 action (within the meaning of section 1221(a)(7)),  
6 subparagraphs (A) and (B) of paragraph (1) shall  
7 each be applied by substituting ‘0.02 percent’ for  
8 ‘0.25 percent’.

9 “(c) COVERED TRANSACTION.—For purposes of this  
10 section, the term ‘covered transaction’ means—

11 “(1) except as provided in paragraph (2), any  
12 purchase if—

13 “(A) such purchase occurs on a trading fa-  
14 cility located in the United States, or

15 “(B) the purchaser or seller is a United  
16 States person, or

17 “(2) any transaction with respect to a security  
18 described in subsection (d)(1)(D), if any party with  
19 rights under such security is a United States person  
20 or if such transaction is facilitated by a United  
21 States person, including a trading facility located in  
22 the United States or a broker.

23 “(d) SECURITY AND OTHER DEFINITIONS.—For pur-  
24 poses of this section—

1           “(1) IN GENERAL.—The term ‘security’  
2 means—

3           “(A) any share of stock in a corporation,

4           “(B) any partnership or beneficial owner-  
5 ship interest in a widely held or publicly traded  
6 partnership or trust,

7           “(C) any note, bond, debenture, or other  
8 evidence of indebtedness issued by a nongovern-  
9 mental entity the beneficial ownership of which  
10 is traded on an established market, or

11           “(D) any evidence of an interest in, or a  
12 derivative financial instrument in—

13           “(i) any security described in subpara-  
14 graph (A), (B), or (C),

15           “(ii) any specified index, or

16           “(iii) any other note, bond, or deben-  
17 ture issued by a nongovernmental entity.

18           “(2) DERIVATIVE FINANCIAL INSTRUMENT.—

19 The term ‘derivative financial instrument’ means  
20 any option, forward contract, short position, notional  
21 principal contract, credit default swap, or any simi-  
22 lar financial instrument.

23           “(3) SPECIFIED INDEX.—The term ‘specified  
24 index’ means any 1 or more of any combination of—

25           “(A) a fixed rate, price, or amount, or

1           “(B) a variable rate, price, or amount,  
2           which is based on any current objectively deter-  
3           minable information which is not within the control  
4           of any of the parties to the contract or instrument  
5           and is not unique to any of the parties’ cir-  
6           cumstances.

7           “(e) EXCEPTIONS TO IMPOSITION OF TAX.—

8           “(1) EXCEPTION FOR INITIAL ISSUES.—No tax  
9           shall be imposed under subsection (a) on any cov-  
10          ered transaction with respect to the initial issuance  
11          of any security described in subparagraph (A), (B),  
12          or (C) of subsection (d)(1).

13          “(2) EXCEPTION FOR RETIREMENT ACCOUNTS,  
14          ETC.—No tax shall be imposed under subsection (a)  
15          on any covered transaction with respect to any secu-  
16          rity which is held in any plan, account, or arrange-  
17          ment described in section 220, 223, 401(a), 403(a),  
18          403(b), 408, 408A, 529, or 530 (including assets  
19          held in a segregated asset account described in sec-  
20          tion 817 as part of any such plan, account, or ar-  
21          rangement).

22          “(3) EXCEPTION FOR CERTAIN MUTUAL FUND  
23          TRANSACTIONS.—No tax shall be imposed under  
24          subsection (a) on any covered transaction—

1           “(A) with respect to the purchase of any  
2 interest in a regulated investment company (as  
3 defined in section 851) which issues only stock  
4 which is redeemable on the demand of the stock  
5 holder,

6           “(B) by a regulated investment company  
7 (as so defined) which is 100 percent owned by  
8 1 or more plans, accounts, or arrangements de-  
9 scribed in paragraph (2), and

10           “(C) to the extent such tax is properly al-  
11 locable to any class of shares of a regulated in-  
12 vestment company (as so defined) which is 100  
13 percent owned by 1 or more plans, accounts, or  
14 arrangements described in paragraph (2).

15           “(f) BY WHOM PAID.—

16           “(1) IN GENERAL.—The tax imposed by this  
17 section shall be paid by—

18           “(A) in the case of a transaction which oc-  
19 curs on a trading facility located in the United  
20 States, such trading facility,

21           “(B) in the case of a transaction not de-  
22 scribed in subparagraph (A) which is executed  
23 by a broker, such broker,

24           “(C) in the case of a transaction not de-  
25 scribed in subparagraph (A) or (B), with re-

1           spect to a security described in section  
2           (d)(1)(D), the party identified by the Secretary,  
3           or

4                   “(D) in any other case, the purchaser with  
5           respect to the transaction.

6           “(2) WITHHOLDING IF PURCHASER IS NOT A  
7           UNITED STATES PERSON.—See section 1447 for  
8           withholding by seller if purchaser is a foreign per-  
9           son.

10          “(g) ADMINISTRATION.—The Secretary shall carry  
11       out this section in consultation with the Securities and Ex-  
12       change Commission and the Commodity Futures Trading  
13       Commission.

14          “(h) GUIDANCE; REGULATIONS.—The Secretary  
15       shall—

16                   “(1) provide guidance regarding such informa-  
17       tion reporting concerning covered transactions as the  
18       Secretary deems appropriate, and

19                   “(2) prescribe such regulations as are necessary  
20       or appropriate to prevent avoidance of the purposes  
21       of this section, including the use of non-United  
22       States persons in such transactions or the improper  
23       allocation of taxes to classes of shares described in  
24       subsection (e)(3)(C).”.

1 (b) CREDIT FOR FIRST \$100,000 OF STOCK TRANS-  
2 ACTIONS PER YEAR.—Subpart C of part IV of subchapter  
3 A of chapter 1 of such Code is amended by inserting after  
4 section 36A the following new section:

5 **“SEC. 36B. CREDIT FOR SECURITIES TRANSACTION TAXES.**

6 “(a) ALLOWANCE OF CREDIT.—In the case of any  
7 individual who is a purchaser with respect to a covered  
8 transaction, there shall be allowed as a credit against the  
9 tax imposed by this subtitle for the taxable year an  
10 amount equal to the lesser of—

11 “(1) the aggregate amount of tax imposed  
12 under section 4475 on covered transactions during  
13 the taxable year with respect to which the taxpayer  
14 is the purchaser, or

15 “(2) \$250 (\$125 in the case of a married indi-  
16 vidual filing a separate return).

17 “(b) DEFINITIONS.—For purposes of this section,  
18 any term used in this section which is also used in section  
19 4475 shall have the same meaning as when used in section  
20 4475.”.

21 (c) WITHHOLDING.—Subchapter A of chapter 3 of  
22 such Code is amended by adding at the end the following  
23 new section:

1 **“SEC. 1447. WITHHOLDING ON SECURITIES TRANSACTIONS.**

2       “(a) IN GENERAL.—In the case of any outbound se-  
3 curities transaction, except as provided in subsection (b),  
4 the transferor shall deduct and withhold a tax equal to  
5 the tax imposed under section 4475 with respect to such  
6 transaction.

7       “(b) DERIVATIVES.—In the case of any outbound se-  
8 curities transaction with respect to a security described  
9 in section 4475(d)(1)(D), the party identified by the Sec-  
10 retary shall so deduct and withhold.

11       “(c) OUTBOUND SECURITIES TRANSACTION.—For  
12 purposes of this section, the term ‘outbound securities  
13 transaction’ means any covered transaction to which sec-  
14 tion 4475(a) applies if—

15               “(1) such transaction does not occur on a trad-  
16 ing facility located in the United States, and

17               “(2) the purchaser with respect to such trans-  
18 action is not a United States person.”.

19       (d) CONFORMING AMENDMENTS.—

20               (1) Section 6211(b)(4)(A) of such Code is  
21 amended by inserting “36B,” after “36A,”.

22               (2) Section 1324(b)(2) of title 31, United  
23 States Code, is amended by inserting “36B,” after  
24 “36A,”.

25       (e) CLERICAL AMENDMENTS.—

1           (1) The table of subchapters for chapter 36 of  
2           the Internal Revenue Code of 1986 is amended by  
3           inserting after the item relating to subchapter B the  
4           following new item:

“Subchapter C. Tax on securities transactions.”.

5           (2) The table of sections for subchapter A of  
6           chapter 3 of such Code is amended by adding at the  
7           end the following new item:

“Sec. 1447. Withholding on securities transactions.”.

8           (3) The table of sections for subpart C of part  
9           IV of subchapter A of chapter 1 of such Code is  
10          amended by inserting after the item relating to sec-  
11          tion 36A the following new item:

“Sec. 36B. Credit for securities transaction taxes.”.

12          (f) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to transactions occurring after De-  
14          cember 31, 2010.

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