119th CONGRESS 1st Session

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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

Mr. SCOTT of Florida introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

- To amend the Internal Revenue Code of 1986 to deny certain green energy tax benefits to companies associated with foreign adversaries.
 - 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 "No Official Giveaways
- 5 Of Taxpayers' Income to Oppressive Nations Act" or the
- 6 "NO GOTION Act".

1	SEC. 2. DENIAL OF GREEN ENERGY TAX BENEFITS TO COM-
2	PANIES ASSOCIATED WITH FOREIGN ADVER-
3	SARIES.
4	(a) IN GENERAL.—Chapter 77 of the Internal Rev-
5	enue Code of 1986 is amended by adding at the end the
6	following new section:
7	"SEC. 7531. DENIAL OF GREEN ENERGY TAX BENEFITS TO
8	COMPANIES ASSOCIATED WITH FOREIGN AD-
9	VERSARIES.
10	"(a) IN GENERAL.—In the case of any disqualified
11	company, this title shall be applied without regard to sec-
12	tions 30C, 40, 40A, 40B, 45, 45Q, 45U, 45V, 45W, 45X,
13	45Y, 45Z, 48, 48C, 48E, 179D, 6426(c), 6426(d),
14	6426(e), and 6427(e).
15	"(b) DISQUALIFIED COMPANY.—
16	"(1) IN GENERAL.—
17	"(A) DEFINITION.—For purposes of this
18	section, the term 'disqualified company' means
19	any entity described in subparagraphs (B)
20	through (D).
21	"(B) FOREIGN ADVERSARY PARTIES.—The
22	entities described in this subparagraph consist
23	of the following:
24	"(i) The government of a foreign ad-
25	versary, any agency or government instru-
26	mentality of a foreign adversary, or any

1	entity which is directly or indirectly owned,
2	controlled, or directed by any such govern-
3	ment, agency, or government instrumen-
4	tality.
5	"(ii) Any entity organized under the
6	laws of a foreign adversary (or any polit-
7	ical subdivision thereof) or whose head-
8	quarters is located within a foreign adver-
9	sary.
10	"(C) Owned, controlled, directed, or
11	INFLUENCED BY FOREIGN ADVERSARY PAR-
12	TIES.—The entities described in this subpara-
13	graph consist of the following:
14	"(i) Any entity for which, on any date
15	during the taxable year, not less than 10
16	percent of the outstanding equity interests
17	(by value, voting, governance, board ap-
18	pointment, or similar rights or influence)
19	are held directly or indirectly by, or on be-
20	half of, 1 or more of the entities described
21	in subparagraph (B), including through in-
22	terests in co-investment vehicles, joint ven-
23	tures, or similar arrangements.
24	"(ii) Any entity which is directly or
25	indirectly controlled, directed, or materially

1	influenced by any entity described in sub-
2	paragraph (B).
3	"(iii) Any entity for which the actions,
4	management, ownership, or operations of
5	such entity are subject to the direct influ-
6	ence of an entity described in subpara-
7	graph (B).
8	"(iv) Any entity for which an interest
9	in such entity is held by an entity de-
10	scribed in subparagraph (B) (referred to in
11	this clause as the 'beneficiary firm') as a
12	derivative financial instrument or through
13	a contractual arrangement between the
14	beneficiary firm and such entity, including
15	any financial instrument or other contract
16	between the beneficiary firm and the entity
17	which seeks to replicate any financial re-
18	turn with respect to such entity or interest
19	in such entity.
20	"(D) DEBT OR OTHER ARRANGEMENTS
21	WITH FOREIGN ADVERSARY PARTIES.—
22	"(i) IN GENERAL.—An entity is de-
23	scribed in this subparagraph if, as a result
24	of any prohibited obligation or arrange-
25	ment—

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1	"(I) the actions, management, or
2	operations of such entity are subject
3	to the direct or indirect influence of 1
4	or more entities described in subpara-
5	graph (B) or (C), or
6	"(II) such entity provides a sub-
7	stantial benefit to 1 or more entities
8	described in subparagraph (B) or (C).
9	"(ii) Prohibited obligation or ar-
10	RANGEMENT.—For purposes of this sub-
11	paragraph, the term 'prohibited obligation
12	or arrangement' means any—
13	"(I) debt,
14	"(II) lease or sublease arrange-
15	ment,
16	"(III) management or operating
17	arrangement,
18	"(IV) contract manufacturing ar-
19	rangement,
20	"(V) license or sublicense agree-
21	ment, or
22	"(VI) financial derivative.
23	"(iii) Exception.—
24	"(I) IN GENERAL.—For purposes
25	of clause (i)(II), the purchase of

1	equipment or manufacturing inputs in
2	an arm's length transaction shall not,
3	in and of itself, be deemed to provide
4	a substantial benefit.
5	"(II) ARM'S LENGTH.—For pur-
6	poses of this clause, the term 'arm's
7	length' has the meaning given in sec-
8	tion 1.482–1 of title 26, Code of Fed-
9	eral Regulations.
10	"(E) Other definitions.—For purposes
11	of this paragraph—
12	"(i) Control.—The term 'control'
13	has the meaning given in section 800.208
14	of title 31, Code of Federal Regulations
15	(as in effect on the date of enactment of
16	the No Official Giveaways Of Taxpayers'
17	Income to Oppressive Nations Act).
18	"(ii) FOREIGN ADVERSARY.—The
19	term 'foreign adversary' has the meaning
20	given the term 'covered nation' in section
21	4872(d)(2) of title 10, United States Code,
22	except that such term shall also include—
23	"(I) the Republic of Cuba, and
24	"(II) the Boliverian Republic of
25	Venezuela during any period of time

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1	during which Nicholas Maduro is
2	President of the Republic.
3	"(2) Administration.—The Secretary may
4	issue such guidance as is necessary to carry out the
5	purposes of this section, including establishment of
6	rules for—
7	"(A) implementation of paragraph
8	(1)(C)(i) for determination of whether the per-
9	centage requirements with respect to out-
10	standing equity interests have been satisfied in
11	the case of an entity for which the stock of such
12	entity is traded on an established securities
13	market in the United States or any foreign
14	country, and
15	"(B) preventing entities from evading, cir-
16	cumventing, or abusing the application of the
17	requirements under this section.".
18	(b) CLERICAL AMENDMENT.—The table of sections
19	for chapter 77 of such Code is amended by adding at the
20	end the following new item:
	"Sec. 7531. Denial of green energy tax benefits to companies associated with foreign adversaries.".
21	(c) EFFECTIVE DATE.—The amendments made by
22	this section shall apply to taxable years beginning after
23	the date of the enactment of this Act.