To amend the Internal Revenue Code of 1986 to make investment income of certain foreign governments subject to tax.

IN THE SENATE OF THE UNITED STATES

Mr. Wyden 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 make investment income of certain foreign governments subject to tax.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ending Tax Breaks for Massive Sovereign Wealth Funds Act”.

SEC. 2. INVESTMENT INCOME OF CERTAIN FOREIGN GOV-
ERNMENTS SUBJECT TO TAX.

(a) In General.—Section 892(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:
“(4) INVESTMENT INCOME OF NON-EXEMPT FOREIGN GOVERNMENTS.—

“(A) IN GENERAL.—Paragraph (1)(A)(i) shall not apply to income from investments of a non-exempt foreign government.

“(B) NON-EXEMPT FOREIGN GOVERNMENT.—For purposes of this paragraph, the term ‘non-exempt foreign government’ means any foreign government which—

“(i) holds, directly or indirectly, more than $100,000,000,000 in assets for investment or for the production of income, and

“(ii) either—

“(I) does not have a free trade agreement in effect with the United States or an income tax treaty or convention in effect with the United States, or

“(II) is a foreign government of a covered nation (as defined in section 4872(d)(2) of title 10, United States Code).”.
(b) Regulations.—Section 892(c) of the Internal Revenue Code of 1986 is amended by inserting before the period at the end the following “, including—

“(1) regulations to prevent the avoidance of the purposes of subsection (a)(4), and

“(2) regulations relating to the types of assets taken into account under subsection (a)(4)(B)(i).”.

(c) Publication of List of Non-exempt Foreign Governments.—

(1) In general.—Not later than December 31, 2024, the Secretary of the Treasury (or the Secretary’s delegate) shall publish a list of foreign governments which are non-exempt foreign governments (as defined in section 892(a)(4) of the Internal Revenue Code of 1986, as added by this section).

(2) Updating.—The Secretary of the Treasury (or the Secretary’s delegate) shall regularly update the list published under paragraph (1).

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to income received after December 31, 2023.

(2) Delay in application for income on qualified investments.—In the case of any
qualified investment, the amendments made by this
section shall apply to income received from such in-
vestment after December 31, 2025.

(3) QUALIFIED INVESTMENT.—For purposes of
paragraph (2)—

(A) IN GENERAL.—The term “qualified in-
vestment” means, with respect to a non-exempt
foreign government, any investment made by
such government on or before the date of the
enactment of this Act the income from which
would (without regard to the amendments made
by this Act) be excluded from the gross income
of such government under section 892 of the

(B) CERTAIN LATER INVESTMENTS TREAT-
ed AS QUALIFIED INVESTMENTS.—In the case
of an investment made by a non-exempt foreign
government which would be treated as a quali-
fied investment of such government but for the
fact it was made after the date of the enact-
ment of this Act and before January 1, 2026,
such investment shall be treated as a qualified
investment if it—

(i) was made pursuant to a binding
contract which—
(I) was in effect on such date of enactment and at all times thereafter before such investment,

(II) required such investment to be made on a fixed date and in a fixed amount, and

(III) did not allow any person to delay, deny, or excuse such investment, or

(ii) is a qualified public investment.

(C) Termination of Qualified Investment Treatment.—

(i) In General.—If—

(I) a domestic corporation of which a non-exempt foreign government is a direct shareholder and which has received 1 or more qualified investments, or

(II) a domestic or foreign partnership (or similar flow-through entity) in which a non-exempt foreign government is a direct partner and which has made 1 or more qualified investments on behalf of a non-exempt foreign government,
receives an additional investment (which is not a qualified investment) from any non-exempt foreign government, then, notwithstanding paragraph (2), the amendments made by this section shall apply to income received from all the qualified investments received by the non-exempt foreign government from such domestic corporation or through such partnership (or similar flow-through entity) after the date on which such domestic corporation or partnership (or similar flow-through entity) receives such additional investment.

(ii) Determination of receipt.—

For purposes of this subparagraph, an entity described in subclause (I) or (II) of clause (i) shall be treated as having received an additional investment from a non-exempt foreign government if—

(I) it receives such investment directly from such government, or

(II) it receives such investment from a partnership (or similar flow-through entity) of which such government is a direct or indirect partner.
(iii) Certification.—For purposes of this subparagraph, an entity shall be treated as having received additional investments described in clause (i) unless, at the time of making payments of income on any qualified investment, such entity certifies (in such manner as the Secretary of the Treasury or his delegate may prescribe) that no such additional investments have been received as of such time.

(D) Qualified Public Investment.—For purposes of subparagraph (B)(ii)—

(i) In general.—The term “qualified public investment” means any investment by a non-exempt foreign government in a domestic corporation or a domestic or foreign partnership which is regularly traded on an established securities market.

(ii) Exception.—Such term shall not include—

(I) any investment in a domestic corporation on or after the date on which such non-exempt foreign government holds (directly or indirectly) 10 percent or more (by vote or value)
of the total outstanding shares of
stock in such domestic corporation,
and

(II) any investment in a domestic
or foreign partnership on or after the
date on which such non-exempt for-
eign government holds (directly or in-
directly) 10 percent or more of the
capital or profits interests of such do-
mestic partnership.

(E) OTHER TERMS.—For purposes of this
paragraph—

(i) NON-EXEMPT FOREIGN GOVERN-
MENT.—The term “non-exempt foreign
government” has the meaning given such
term under section 892(a)(4) of the Inter-
nal Revenue Code of 1986 (as added by
this section).

(ii) INVESTMENT.—The term “invest-
ment” means an investment described in
section 892(a)(1)(A)(i) of the Internal