

ENDING TAX BREAKS FOR PRIVATE PRISONS ACT



WHAT IS THE ENDING TAX BREAKS FOR PRIVATE PRISONS ACT OF 2016?

S. 3247 (Wyden) amends the Internal Revenue Code of 1986, 26 USC § 856, to exclude corporations that directly or indirectly operate, manage, or provide services at a prison facility from the definition of a tax-able REIT subsidiary. If passed, private prison companies—as currently organized—would no longer qualify as REITs.

WHAT IS A REIT?

A REIT, or Real Estate Investment Trust, is a company that owns or finances income-producing real estate. Congress created REITs in 1960 to make real estate investments accessible to middle class Americans. REITs are exempt from the 35% corporate income tax, and instead pay out 90% of their taxable income as dividends to shareholders at the end of each year.¹

WHAT IS THE PROBLEM?

The number of people incarcerated in private prisons rose 1600% between 1990 and 2009, and in 2015 prison corporations brought in nearly \$4 billion in income from taxpayer dollars.² Studies and lawsuits have linked the private prison industry to detainee deaths, mistreatment and abuse.³ The private prison industry profits from increased incarceration of people of color, immigrants, and the poor—including the detention of families in Southern Texas.



In 2013, the two largest private prison companies, GEO Group and Corrections Corp of America, received REIT status, exempting them from the 35% corporate income tax. In 2015 alone, CCA and GEO avoided paying over \$113 million in taxes.⁴ These companies' income is from incarcerating people, not from real estate, yet their and their investors' assured profits have skyrocketed since qualifying as REITs. CCA and GEO have spent millions lobbying Congress and making campaign contributions to protect their profits, including maintaining this tax loophole.

WHAT ARE OUR GOALS?

Ending taxpayer subsidies for private prisons is part of a larger necessary effort to end private prisons entirely, and to end the criminalization and hyper-incarceration of communities of color and immigrants in the United States. Congress should except private prison companies from 26 USC § 856 by passing the Ending Tax Breaks for Private Prisons Act. The United States government should not be giving private prison companies tax breaks for incarcerating and detaining men, women and children.

The Prison Divestment Campaign will continue to imagine a better world by divesting from all prisons, and every level of policing and criminalization and reinvesting our resources into the housing, healthcare, education and community based safety strategies that would actually make us safe.

¹ <https://www.reit.com/investing/investing-reits/taxes-and-reit-investment>

² Corrections Corp of America and GEO Group 2015 Annual Shareholder Reports, SEC filing 10-K

³ <https://www.aclu.org/files/assets/2010-11-16-WalnutGroveComplaint.pdf>

⁴ SEC filing 10-K for CCA and GEO, for 2015