## MOTION TO RECOMMIT WITH INSTRUCTIONS

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Page and Line Numbers are to Rules Committee Print dated 6-1-12

moves to recommit the bill H.R. 436 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Page 1, after line 8, insert the following:

- (b) Prohibiting Tax Benefits for Companies
   That Outsource American Jobs.—
- 3 (1) IN GENERAL.—The amendment made by
  4 subsection (a) shall not apply to any sale of a tax5 able medical device by the manufacturer, producer,
  6 or importer which outsourced American jobs during
  7 the testing period with respect to such sale.
  - (2) Determination of outsourced american jobs.—For purposes of paragraph (1), American jobs are outsourced by a manufacturer, producer, or importer, as the case may be, during a testing period if the manufacturer, producer, or importer has fewer full-time equivalent employees in the United States on the last day of the testing period.

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1	riod as compared to the first day of the testing pe-
2	riod and has an increase in the full-time equivalent
3	employees outside the United States on the last day
4	of the testing period as compared to the first day of
5	the testing period.
6	(3) Definitions and special rules.—For
7	purposes of this subsection—
8	(A) Testing Period.—The testing period
9	with respect to a sale is the calendar year in
10	which the date of sale occurs.
11	(B) Employees outside the united
12	STATES.—An employee shall be treated as em-
13	ployed by the employer outside the United
14	States whether employed directly or indirectly
15	through a controlled foreign corporation (as de-
16	fined in section 957) or a pass-through entity
17	in which the taxpayer holds at least 50 percent
18	of the capital or profits interest.
19	(C) Exception for employees sepa-
20	RATED VOLUNTARILY OR FOR CAUSE.—The
21	number of full-time equivalent employees shall
22	be determined without regard to any employee
23	separated from employment voluntarily or for
24	cause.

(4) REGULATIONS.—The Secretary shall pre-1 2 scribe such regulations or other guidance as may be 3 necessary or appropriate to carry out this subsection, including regulations or guidance on em-4 ployer aggregation, mergers and acquisitions, and 5 6 dispositions of an employer and rules regarding the payment date for taxes owed if the offshoring occurs 7 after the date of a sale. 8

Page 1, line 9, strike "(b)" and insert "(c)".

Page 2, line 1, strike "(c)" and insert "(d)".

