

106TH CONGRESS
1ST SESSION

H. R. 265

To amend the Internal Revenue Code of 1986 to provide for the elimination of certain foreign base company shipping income from foreign base company income.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. SHAW introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the elimination of certain foreign base company shipping income from foreign base company income.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Shipping Income Reform Act of 1999”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or a repeal of, a section or other provision, the ref-

1 erence shall be considered to be made to a section of the
2 Internal Revenue Code of 1986.

3 **SEC. 2. ELIMINATION OF CERTAIN FOREIGN BASE COM-**
4 **PANY SHIPPING INCOME FROM FOREIGN**
5 **BASE COMPANY INCOME.**

6 Subsection (b) of section 954 is amended by inserting
7 before paragraph (3) the following new paragraph:

8 “(2) EXCLUSION FOR CERTAIN SHIPPING IN-
9 COME.—

10 “(A) INCOME OF CERTAIN FOREIGN COR-
11 PORATIONS.—For purposes of subsection (a),
12 foreign base company income does not
13 include—

14 “(i) income derived from the operation
15 of a vessel registered in the Bahamas,
16 Honduras, the Republic of Liberia, the Re-
17 public of Panama, the Republic of the
18 Marshall Islands, or such other country as
19 the Secretary of Transportation certifies, if
20 the owner, operator, or a member of its
21 controlled group (as defined in subpara-
22 graph (E)(iii)) enters into an agreement
23 with the Secretary of Transportation to
24 own or operate a qualified U.S.-flag fleet

1 for at least 320 days of the taxable year;

2 or

3 “(ii) the shipping income of a con-
4 trolled foreign corporation that owns or op-
5 erates vessels that do not derive U.S.-
6 source income (other than dividend or in-
7 terest income) in the taxable year and have
8 not engaged in the carriage of any cargoes
9 in the U.S. import or export trade in that
10 period.

11 For purposes of the preceding sentence, the
12 term ‘U.S. import or export trade’ means the
13 carriage of goods or other commodities to or
14 from United States ports whether or not via
15 transshipment at a foreign port; and a charter
16 to a member of a controlled group (as defined
17 in subparagraph (E)(iii)) shall not be consid-
18 ered carriage in the U.S. import or export
19 trade.

20 “(B) INCOME OF CARIBBEAN BASIN SHIP-
21 PING CORPORATION.—For purposes of sub-
22 section (a), foreign base company income does
23 not include income derived from the operation
24 of a vessel owned by a Caribbean Basin Ship-
25 ping Corporation.

1 “(C) INAPPLICABILITY TO PETROLEUM
2 TRANSPORTATION.—The exclusions set forth in
3 subparagraphs (A) and (B) shall not apply to
4 foreign base company shipping income properly
5 allocable to any vessel engaged in the carriage
6 of petroleum or related products or byproducts
7 if the controlled group (as defined in section
8 267(f)(1) without regard to section
9 1563(b)(2)(C)) of which the taxpayer is a mem-
10 ber is engaged principally in the trade or busi-
11 ness of exploring for, or extracting, refining or
12 marketing of, petroleum or related products or
13 byproducts.

14 “(D) DEFINITION OF CARIBBEAN BASIN
15 SHIPPING CORPORATION.—For purposes of this
16 paragraph—

17 “(i) CARIBBEAN BASIN SHIPPING COR-
18 PORATION.—The term ‘Caribbean Basin
19 shipping corporation’ means a corporation
20 if, for the taxable year, at least 75 percent
21 of its foreign base company shipping in-
22 come (determined without regard to this
23 paragraph (2)) is Caribbean Basin ship-
24 ping income.

1 “(ii) CARIBBEAN BASIN SHIPPING IN-
2 COME.—The term ‘Caribbean Basin ship-
3 ping income’ means foreign base company
4 shipping income derived from or in connec-
5 tion with the operation of any non-pas-
6 senger vessel in foreign commerce within
7 any Caribbean Basin country, among Car-
8 ibbean Basin countries, or between any
9 Caribbean Basin country and the United
10 States, including that portion of any trans-
11 shipping originating or terminating in any
12 non-Caribbean Basin country that other-
13 wise satisfies these requirements.

14 “(iii) CARIBBEAN BASIN COUNTRY.—
15 The term ‘Caribbean Basin country’ means
16 any beneficiary country (as defined in sec-
17 tion 212(a)(1)(A) of the Caribbean Basin
18 Economic Recovery Act); except that such
19 term shall also include Anguilla, Colombia,
20 Mexico, the U.S. Virgin Islands and Ven-
21 ezuela.

22 “(iv) SPECIAL RULES.—For purposes
23 of determining whether a controlled foreign
24 corporation is a Caribbean Basin shipping
25 corporation, all members of the same affili-

1 ated group (within the meaning of section
2 1504(a)) shall be treated as one corpora-
3 tion, except that—

4 “(I) section 1504(a)(2) shall be
5 applied by substituting 50 percent for
6 80 percent; and

7 “(II) section 1504(b)(3) shall not
8 apply.

9 “(E) DEFINITION OF QUALIFIED U.S.-FLAG
10 FLEET.—For purposes of this paragraph—

11 “(i) QUALIFIED U.S.-FLAG FLEET.—
12 The term ‘qualified U.S. flag fleet’ means
13 a fleet of four or more U.S.-flag cargo ves-
14 sels or two or more U.S.-flag passenger
15 vessels, each such vessel having a dead-
16 weight tonnage of not less than 10,000
17 deadweight tons and, in the case of a pas-
18 senger vessel, having berth or stateroom
19 accommodations for at least 275 pas-
20 sengers, for which a member of the con-
21 trolled group of which the controlled for-
22 eign corporation is a member is the owner
23 (or demise charterer) and which vessels
24 have been placed in service and operated
25 for at least 320 days in the preceding tax-

1 able year with days during which the vessel
2 is drydocked or undergoing survey, inspec-
3 tion or repair considered to be days on
4 which the vessel is operated;

5 “(ii) U.S.-FLAG VESSEL.—The term
6 ‘U.S.-flag vessel’ means any vessel which is
7 documented under the laws of the United
8 States and is subject to the provisions of
9 section 8103 of title 46, United States
10 Code, relating to manning by citizens of
11 the United States.

12 “(iii) CONTROLLED GROUP.—The
13 term ‘controlled group’ has the meaning
14 given such term by section 1563(a) except
15 that—

16 “(I) section 1563(a) shall be ap-
17 plied by substituting 50 percent for
18 80 percent; and

19 “(II) section 1563(b)(2)(C) shall
20 not apply.

21 “(iv) SPECIAL RULES.—In determin-
22 ing the qualified U.S.-flag fleet of a con-
23 trolled group—

24 “(I) if a U.S.-flag vessel which is
25 part of a qualified U.S.-flag fleet is

1 destroyed by casualty or purchased by
2 requisition pursuant to section 1242
3 of title 46, United States Code, it may
4 continue to be included in such quali-
5 fied U.S.-flag fleet during the replace-
6 ment period, but only if a member of
7 the controlled group is or becomes the
8 owner (or demise charterer) of a re-
9 placement U.S.-flag vessel which is
10 placed in service (and not retired from
11 service) within the replacement period;
12 and

13 “(II) if a member of the con-
14 trolled group owns (directly or indi-
15 rectly) at least 25 percent (by value)
16 of the stock of another corporation, or
17 at least 25 percent of the interest in
18 the capital or profits of a partnership,
19 such member shall be treated as if it
20 were the owner (or demise charterer)
21 of its proportionate share of the U.S.
22 flag vessels of which such corporation
23 or partnership is the owner (or demise
24 charterer).

1 “(v) REPLACEMENT PERIOD.—The
2 term ‘replacement period’ means the period
3 beginning on the date on which the cas-
4 ualty or purchase by requisition occurs and
5 ending on the earlier of the date—

6 “(I) on which a replacement
7 U.S.-flag vessel is placed in service, or

8 “(II) which is four years after
9 the close of the taxable year in which
10 the casualty or purchase by requis-
11 tion occurs.

12 “(vi) REPLACEMENT U.S.-FLAG VES-
13 SEL.—The term ‘replacement U.S.-flag
14 vessel’ means a U.S. flag vessel for which
15 a member of the controlled group has en-
16 tered into a binding contract for the pur-
17 chase or construction of such vessel during
18 the period—

19 “(I) beginning on the day follow-
20 ing the date on which there is a loss
21 by casualty or purchase by requisition
22 pursuant to section 1242 of title 46,
23 United States Code, of a vessel in-
24 cluded in such controlled group’s
25 qualified U.S.-flag fleet, and

1 “(II) ending on the date which is
2 two years after the date of such cas-
3 ualty or such purchase, but only if
4 such U.S.-flag vessel would be in-
5 cluded in the controlled group’s quali-
6 fied U.S.-flag fleet when it is placed
7 in service.”

8 **SEC. 3. REINVESTMENT IN U.S.-FLAG SHIPS.**

9 Paragraph (2) of section 956(c) is amended—

10 (1) by striking “and” at the end of subpara-
11 graph (J), by striking the period at the end of sub-
12 paragraph (K) and inserting “; and”, and by insert-
13 ing after subparagraph (K) the following new sub-
14 paragraph:

15 “(L) any amount of funds loaned to a
16 United States person for the acquisition, con-
17 struction, or reconstruction of a vessel docu-
18 mented under the laws of the United States.”,
19 and

20 (2) by adding at the end the following new
21 flush sentence:

22 “Any interest payable on indebtedness described in
23 (L) shall be free from U.S. income tax withholding
24 under sections 1441 and 1442 if such interest is
25 paid to an individual resident in or corporation or

1 other entity organized under the laws of The Baha-
2 mas, Honduras, the Republic of Liberia, the Repub-
3 lic of Panama, the Republic of the Marshall Islands,
4 or such other country as the Secretary of Transpor-
5 tation certifies.”

6 **SEC. 4. EFFECTIVE DATE.**

7 The amendments made by this Act shall apply to tax-
8 able years beginning after the date of enactment of this
9 Act.

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