

105TH CONGRESS  
1ST SESSION

# H. R. 143

To amend the Internal Revenue Code of 1986 to provide equity to exports of software.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Ms. DUNN (for herself, Mr. MATSUI, Mr. HERGER, Mr. JEFFERSON, Mr. CRANE, Mr. NEAL of Massachusetts, Mr. MCCREY, Mr. McDERMOTT, Mr. ENGLISH of Pennsylvania, and Mr. WELLER) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide equity to exports of software.

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 “Software Export Eq-  
5 uity Act”.

6 **SEC. 2. PROVIDING EQUITY TO EXPORTS OF SOFTWARE.**

7 (a) FINDINGS.—

8 (1) In 1971, well before the emergence of the  
9 United States software industry, Congress enacted

1       legislation to encourage domestic economic activity,  
2       create jobs, and improve the balance of trade by pro-  
3       viding an incentive to export from the United States.

4           (2) Through the enactment of the Foreign  
5       Sales Corporation (FSC) statute, Congress intended  
6       to level the playing field so all United States indus-  
7       tries could compete more fairly and effectively with  
8       foreign competitors, who often receive favorable tax  
9       treatment for exports.

10          (3) In today's increasingly competitive global  
11       marketplace, one of the most important steps a  
12       United States company can take to reduce the cost  
13       of exporting and thereby increase its opportunities in  
14       the export market is to set up a FSC.

15          (4) A FSC is established by a United States  
16       corporation to obtain a corporate tax benefit on a  
17       portion of its earnings generated by the sale or lease  
18       of export property.

19          (5) The statute is carefully crafted to ensure  
20       that only the United States job creating activity  
21       (property manufactured or produced in the United  
22       States and sold or leased outside the United States)  
23       qualifies as export property eligible for FSC bene-  
24       fits.

1           (6) Today the United States software industry  
2           is an important and growing part of the United  
3           States economy; in an increasingly competitive glob-  
4           al economy, incentives to encourage firms to develop  
5           their products in the United States, and export from  
6           the United States, are more important than ever.

7           (7) The United States currently has more than  
8           2,000,000 software developers, and those numbers  
9           are growing rapidly. The United States software in-  
10          dustry is a world-wide competitor, exporting more  
11          than \$26,000,000,000 worth of software annually.  
12          United States software companies currently perform  
13          a majority of their software development work in the  
14          United States.

15          (8) As a result of a narrow Internal Revenue  
16          Service interpretation of the law, the United States  
17          software industry, which is at the cutting edge of the  
18          information age, a multitrillion dollar United States  
19          job and economic growth opportunity, does not gen-  
20          erally qualify for the FSC export incentive, which is  
21          available to virtually all United States exports.

22          (9) The global explosion of technology, driven  
23          by the Internet and the Worldwide Web, is a once  
24          in a lifetime opportunity for the United States soft-  
25          ware industry to expand its global competitiveness.

1 (b) PURPOSE.—It is the purpose of this Act to clarify  
2 that software qualifies for FSC benefits.

3 **SEC. 3. CLARIFICATION OF APPLICATION OF FOREIGN**  
4 **SALES CORPORATION RULES TO SOFTWARE.**

5 Subparagraph (B) of section 927(a)(2) of the Inter-  
6 nal Revenue Code of 1986 (relating to property excluded  
7 from eligibility as FSC export property) is amended by  
8 inserting “, and software, whether or not patented” after  
9 “for commercial or home use”.

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