

105TH CONGRESS  
2D SESSION

# H. R. 3730

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1998

Mr. SHAW (for himself and Mr. JEFFERSON) 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 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 1997”.

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 954(b) is amended by inserting the follow-  
7 ing paragraph (2):

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 in-  
13 clude—

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’ shall mean  
13 the carriage of goods or other commodities to  
14 or 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.

“(C) INAPPLICABILITY TO PETROLEUM TRANSPORTATION.—The exclusions set forth in subparagraphs (A) and (B) shall not apply to foreign base company shipping income properly allocable to any vessel engaged in the carriage of petroleum or related products or byproducts if the controlled group (as defined in section 267(f)(1) without regard to section 1563(b)(2)(C)) of which the taxpayer is a member is engaged principally in the trade or business of exploring for, or extracting, refining or marketing of, petroleum or related products or byproducts.

“(D) DEFINITION OF CARIBBEAN BASIN SHIPPING CORPORATION.—For purposes of this section—

“(i) CARIBBEAN BASIN SHIPPING CORPORATION.—The term ‘Caribbean Basin shipping corporation’ means a corporation if, for the taxable year, at least 75 percent of its foreign base company shipping income (determined without regard to this paragraph (2)) is Caribbean Basin shipping 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-  
8ibbean 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-  
21ezuela.

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 section—

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 (a) REINVESTMENT IN U.S.-FLAG SHIPS.—Sub-  
 10 section 956(c)(2) is amended by inserting at the end  
 11 thereof the following:

12 “(J) any amount of funds loaned to a  
 13 United States person for the acquisition, con-  
 14 struction, or reconstruction of a vessel docu-  
 15 mented under the laws of the United States.

16 Any interest payable on indebtedness described in  
 17 (J) shall be free from U.S. income tax withholding  
 18 under sections 1441 and 1442 if such interest is  
 19 paid to an individual resident in or corporation or  
 20 other entity organized under the laws of The Baha-  
 21 mas, Honduras, the Republic of Liberia, the Repub-  
 22 lic of Panama, the Republic of the Marshall Islands,  
 23 or such other country as the Secretary of Transpor-  
 24 tation certifies.”

25 (b) CONFORMING AMENDMENTS.—

1           (1) Section 956(c)(2)(H) is amended by delet-  
2       ing “; and” and inserting in lieu thereof “;”.

3           (2) Section 956(c)(2)(I) is amended by deleting  
4       the period at the end thereof and inserting “; and”  
5       in lieu thereof.

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

7       The amendments made by this Act are effective for  
8       taxable years beginning after the date of enactment of this  
9       Act.

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