

105TH CONGRESS
2D SESSION

S. 2231

To amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 1998

Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes.

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 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “International Tax Simplification for American Competi-
7 tiveness Act of 1998”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 101. Avoidance of multiple inclusions in section 304 transactions involving foreign corporations.

Sec. 102. Exemption for active financing income.

Sec. 103. Study of proper treatment of European Union under same country exceptions.

Sec. 104. Expansion of de minimis rule under subpart F.

Sec. 105. Subpart F earnings and profits determined under generally accepted accounting principles.

Sec. 106. Clarification of treatment of pipeline transportation income.

Sec. 107. Subpart F treatment of income from transmission of high voltage electricity.

Sec. 108. Look-through treatment for sales of partnership interests.

Sec. 109. Effective date.

TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDIT

Sec. 201. Extension of period to which excess foreign taxes may be carried.

Sec. 202. Recharacterization of overall domestic loss.

Sec. 203. Special rules relating to financial services income.

Sec. 204. Foreign tax credit treatment of dividends from noncontrolled section 902 corporations.

Sec. 205. Application of look-thru rules to foreign tax credit.

Sec. 206. Ordering rules for foreign tax credit carryovers.

Sec. 207. Repeal of limitation of foreign tax credit under alternative minimum tax.

TITLE III—OTHER PROVISIONS

Sec. 301. Deduction for dividends received from certain foreign corporations.

Sec. 302. Application of uniform capitalization rules to foreign persons.

Sec. 303. Treatment of military property of foreign sales corporations.

Sec. 304. United States property not to include certain assets acquired by dealers in ordinary course of trade or business.

Sec. 305. Treatment of dividends received from certain regulated investment companies.

Sec. 306. Regulatory authority to exclude certain preliminary agreements from definition of intangible property.

Sec. 307. Airline mileage awards to certain foreign persons.

Sec. 308. Repeal of reduction of subpart F income of export trade corporations.
 Sec. 309. Study of interest allocation.

1 TITLE I—TREATMENT OF CON- 2 TROLLED FOREIGN COR- 3 PORATIONS

4 SEC. 101. AVOIDANCE OF MULTIPLE INCLUSIONS IN SEC- 5 TION 304 TRANSACTIONS INVOLVING FOR- 6 EIGN CORPORATIONS.

7 (a) IN GENERAL.—Subsection (b) of section 304 is
 8 amended by adding at the end the following new para-
 9 graph:

10 “(6) AVOIDANCE OF MULTIPLE INCLUSIONS,
 11 ETC.—In the case of any acquisition to which sub-
 12 section (a) applies in which the acquiring corpora-
 13 tion or the issuing corporation is a foreign corpora-
 14 tion, the Secretary shall prescribe such regulations
 15 as are appropriate in order to eliminate a multiple
 16 inclusion of any item in income by reason of this
 17 subpart and to provide appropriate basis adjust-
 18 ments (including modifications to the application of
 19 sections 959 and 961).”

20 (b) CONFORMING AMENDMENT.—Paragraph (5) of
 21 section 304(b) is amended by striking subparagraph (B)
 22 and by redesignating subparagraph (C) as subparagraph
 23 (B).

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect as if included in the amend-
 3 ments made by section 1013 of the Taxpayer Relief Act
 4 of 1997.

5 **SEC. 102. EXEMPTION FOR ACTIVE FINANCING INCOME.**

6 (a) EXEMPTION FROM FOREIGN PERSONAL HOLD-
 7 ING COMPANY INCOME.—Section 954 of the Internal Rev-
 8 enue Code of 1986 (as amended by subsection (d)) is
 9 amended by adding at the end the following new sub-
 10 section:

11 “(h) SPECIAL RULE FOR INCOME DERIVED IN THE
 12 ACTIVE CONDUCT OF INSURANCE BUSINESSES AND
 13 BANKING, FINANCING, OR SIMILAR BUSINESSES.—

14 “(1) IN GENERAL.—For purposes of subsection
 15 (c)(1), foreign personal holding company income
 16 shall not include income which is—

17 “(A) derived in the active conduct by a
 18 controlled foreign corporation of a banking, fi-
 19 nancing, or similar business, but only if—

20 “(i) the corporation is predominantly
 21 engaged in the active conduct of such busi-
 22 ness, and

23 “(ii) such income is derived from
 24 transactions—

1 “(I) with customers located with-
2 in the country under the laws of
3 which the corporation is created or or-
4 ganized, or

5 “(II) with customers not de-
6 scribed in subclause (I), but only if
7 employees of the corporation which
8 are located in the country under the
9 laws of which the corporation is cre-
10 ated or organized (or in the case of a
11 qualified business unit described in
12 section 989(a) which both maintains
13 its principal office and conducts sub-
14 stantial business activity in a country,
15 employees of such unit which are lo-
16 cated in such country) materially par-
17 ticipate in such transaction,

18 “(B) received from a customer by a con-
19 trolled foreign corporation which is a qualifying
20 insurance company for the issuing or reinsuring
21 of any insurance or annuity contract, but only
22 if the customer is located in the country under
23 the laws of which the controlled foreign cor-
24 poration is created or organized,

“(C) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from the investments made by a qualifying insurance company of its reserves or of 80 percent of its unearned premiums (as both are determined in the manner prescribed under paragraph (4)), or

“(D) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from investments made by a qualifying insurance company of an amount of its assets equal to—

“(i) in the case of property, casualty, or health insurance contracts, one-third of its premiums earned on such insurance contracts during the taxable year (as defined in section 832(b)(4)), and

“(ii) in the case of life insurance or annuity contracts, 10 percent of the reserves described in subparagraph (B) for such contracts.

Subparagraphs (C) and (D) shall not apply to income allocable to any contract to which subparagraph (B) does not apply (determined after applying paragraph (6)(D)(ii)).

1 “(2) PREDOMINANTLY ENGAGED.—For pur-
2 poses of paragraph (1)(A), a controlled foreign cor-
3 poration shall be deemed predominantly engaged in
4 the active conduct of a banking, financing, or similar
5 business only if—

6 “(A) more than 70 percent of its gross in-
7 come is derived from such business from trans-
8 actions described in subclause (I) or (II) of
9 paragraph (1)(A)(ii), or

10 “(B) the corporation is—

11 “(i) engaged in the active conduct of
12 a banking business and is an institution li-
13 censed to do business as a bank in the
14 United States (or is any other corporation
15 not so licensed which is specified by the
16 Secretary in regulations), or

17 “(ii) engaged in the active conduct of
18 a securities business and is registered as a
19 securities broker or dealer under section
20 15(a) of the Securities Exchange Act of
21 1934 or is registered as a Government se-
22 curities broker or dealer under section
23 15C(a) of such Act (or is any other cor-
24 poration not so registered which is speci-
25 fied by the Secretary in regulations).

1 “(3) PRINCIPLES FOR DETERMINING INSUR-
 2 ANCE INCOME.—Except as provided by the Sec-
 3 retary, for purposes of subparagraphs (C) and (D)
 4 of paragraph (1)—

5 “(A) in the case of any contract which is
 6 a separate account-type contract (including any
 7 variable contract not meeting the requirements
 8 of section 817), income credited under such
 9 contract shall be allocable only to such contract,
 10 and

11 “(B) income not allocable under subpara-
 12 graph (A) shall be allocated ratably among con-
 13 tracts not described in subparagraph (A).

14 “(4) METHODS FOR DETERMINING UNEARNED
 15 PREMIUMS AND RESERVES.—For purposes of para-
 16 graph (1)(C)—

17 “(A) PROPERTY AND CASUALTY CON-
 18 TRACTS.—The unearned premiums and reserves
 19 of a qualifying insurance company with respect
 20 to property, casualty, or health insurance con-
 21 tracts shall be determined using the same meth-
 22 ods and interest rates which would be used if
 23 such company were subject to tax under sub-
 24 chapter L.

1 “(B) LIFE INSURANCE AND ANNUITY CON-
 2 TRACTS.—The amount of the reserve of a quali-
 3 fying insurance company for any life insurance
 4 or annuity contract shall be equal to the greater
 5 of—

6 “(i) the net surrender value of such
 7 contract (as defined in section
 8 807(e)(1)(A)), or

9 “(ii) the reserve determined under
 10 paragraph (5).

11 “(C) LIMITATION ON RESERVES.—In no
 12 event shall the reserve determined under this
 13 paragraph for any contract as of any time ex-
 14 ceed the amount which would be taken into ac-
 15 count with respect to such contract as of such
 16 time in determining foreign statement reserves
 17 (less any catastrophe, deficiency, or similar re-
 18 serves).

19 “(5) AMOUNT OF RESERVE.—The amount of
 20 the reserve determined under this paragraph with
 21 respect to any contract shall be determined in the
 22 same manner as it would be determined if the quali-
 23 fying insurance company were subject to tax under
 24 subchapter L, except that in applying such sub-
 25 chapter—

1 “(A) the interest rate determined for the
 2 foreign country in which such company is cre-
 3 ated or organized and which, except as provided
 4 by the Secretary, is calculated in the same man-
 5 ner as the Federal mid-term rate under section
 6 1274(d) shall be substituted for the applicable
 7 Federal interest rate,

8 “(B) the highest assumed interest rate
 9 permitted to be used in determining foreign
 10 statement reserves shall be substituted for the
 11 prevailing State assumed interest rate, and

12 “(C) tables for mortality and morbidity
 13 which reasonably reflect the current mortality
 14 and morbidity risks in the foreign country shall
 15 be substituted for the mortality and morbidity
 16 tables otherwise used for such subchapter.

17 “(6) DEFINITIONS.—For purposes of this sub-
 18 section—

19 “(A) QUALIFYING INSURANCE COMPANY.—
 20 The term ‘qualifying insurance company’ means
 21 any entity which—

22 “(i) is subject to regulation as an in-
 23 surance company by the country under the
 24 laws of which the entity is created or orga-
 25 nized, and

1 “(ii) is engaged in the active conduct
2 of an insurance business and would be sub-
3 ject to tax under subchapter L if it were
4 a domestic corporation.

5 “(B) LIFE INSURANCE OR ANNUITY CON-
6 TRACT.—For purposes of this section and sec-
7 tion 953, the determination of whether a con-
8 tract issued by a controlled foreign corporation
9 is a life insurance contract or an annuity con-
10 tract shall be made without regard to sections
11 72(s), 101(f), 817(h), and 7702 if—

12 “(i) such contract is regulated as a
13 life insurance or annuity contract by the
14 country under the laws of which the cor-
15 poration is created or organized, and

16 “(ii) no policyholder, insured, annu-
17 itant, or beneficiary with respect to the
18 contract is a United States person.

19 “(C) NONCANCELLABLE ACCIDENT AND
20 HEALTH INSURANCE CONTRACTS.—A
21 noncancellable accident and health insurance
22 contract shall be treated for purposes of this
23 subsection in the same manner as a life insur-
24 ance contract except that paragraph (4)(B)(i)
25 shall not apply.

1 “(D) LOCATED.—

2 “(i) IN GENERAL.—The determination
3 of where a customer is located shall be
4 made under rules prescribed by the Sec-
5 retary.

6 “(ii) SPECIAL RULE FOR QUALIFIED
7 BUSINESS UNITS.—Gross income derived
8 by a corporation’s qualified business unit
9 (within the meaning of section 989(a))
10 from transactions with customers which
11 are located in the country in which the
12 qualified business unit both maintains its
13 principal office and conducts substantial
14 business activity shall be treated as derived
15 from transactions with customers which
16 are located within the country under the
17 laws of which the controlled foreign cor-
18 poration is created or organized.

19 “(E) CUSTOMER.—

20 “(i) IN GENERAL.—The term ‘cus-
21 tomer’ means, with respect to any con-
22 trolled foreign corporation, any person
23 which has a customer relationship with
24 such corporation.

1 “(ii) SPECIAL RULES RELATING TO
2 INSURANCE.—For purposes of paragraph
3 (1)(B)—

4 “(I) except as provided in regula-
5 tions, the customer shall be the in-
6 sured under the insurance or annuity
7 contract, and

8 “(II) income received from a re-
9 lated person (as defined in subsection
10 (d)(3)) for a policy of reinsurance
11 shall not be treated as income re-
12 ceived from a customer unless the pre-
13 mium would have qualified under
14 paragraph (1)(B) if the controlled for-
15 eign corporation had received the pre-
16 mium directly from the party first in-
17 sured by the customer.

18 “(iii) EXCEPTION FOR RELATED, ETC.
19 PERSONS.—A person who is a related per-
20 son (as defined in subsection (d)(3)), an
21 officer, a director, or an employee with re-
22 spect to any controlled foreign corporation
23 shall not be treated as a customer with re-
24 spect to any transaction if a principal pur-
25 pose of such transaction is to satisfy any

1 requirement of this subsection or with re-
 2 spect to any transaction described in para-
 3 graph (1)(A)(ii)(II).

4 “(7) ANTI-ABUSE RULES.—For purposes of ap-
 5 plying this subsection and subsection (c)(2)(C)(ii),
 6 there shall be disregarded any item of income, gain,
 7 loss, or deduction with respect to any transaction or
 8 series of transactions one of the principal purposes
 9 of which is qualifying income or gain for the exclu-
 10 sion under this section, including—

11 “(A) any change in the method of comput-
 12 ing reserves or any other transaction or series
 13 of transactions a principal purpose of which is
 14 the acceleration or deferral of any item in order
 15 to claim the benefits of such exclusion through
 16 the application of this subsection, and

17 “(B) organizing entities to act as cus-
 18 tomers in order to satisfy any same country re-
 19 quirement under this subsection.”

20 (b) SPECIAL RULES FOR DEALERS.—Section
 21 954(c)(2)(C) of such Code is amended to read as follows:

22 “(C) EXCEPTION FOR DEALERS.—Except
 23 as provided by regulations, in the case of a reg-
 24 ular dealer in property (within the meaning of
 25 paragraph (1)(B)), forward contracts, option

1 contracts, or similar financial instruments (in-
2 cluding notional principal contracts and all in-
3 struments referenced to commodities), there
4 shall not be taken into account in computing
5 foreign personal holding income—

6 “(i) any item of income, gain, deduc-
7 tion, or loss (other than any item described
8 in subparagraph (A), (E), or (G) of para-
9 graph (1)) from any transaction (including
10 hedging transactions) entered into in the
11 ordinary course of such dealer’s trade or
12 business as such a dealer, and

13 “(ii) if such dealer is a dealer in secu-
14 rities (within the meaning of section 475),
15 any interest or dividend or equivalent
16 amount described in subparagraph (E) or
17 (G) of paragraph (1) from any transaction
18 (including any hedging transaction or
19 transaction described in section
20 956(c)(2)(J)) entered into in the ordinary
21 course of such dealer’s trade or business as
22 such a dealer in securities, but only if em-
23 ployees of the dealer which are located in
24 the country under the laws of which the
25 dealer is created or organized (or in the

1 case of a qualified business unit described
 2 in section 989(a) which both maintains its
 3 principal office and conducts substantial
 4 business activity in a country, employees of
 5 such unit which are located in such coun-
 6 try) materially participate in such trans-
 7 action.”

8 (c) EXEMPTION FROM FOREIGN BASE COMPANY
 9 SERVICES INCOME.—Paragraph (2) of section 954(e) of
 10 such Code (as amended by subsection (d)) is amended by
 11 striking “or” at the end of subparagraph (A), by striking
 12 the period at the end of subparagraph (B) and inserting
 13 “, or”, and by adding at the end the following:

14 “(C)(i) a transaction by the controlled for-
 15 eign corporation if the income from the trans-
 16 action is not foreign personal holding company
 17 income by reason of subsection (h), or

18 “(ii) a transaction by the controlled foreign
 19 corporation if subsection (c)(2)(C)(ii) applies to
 20 such transaction.”

21 (d) REPEAL OF CANCELED PROVISIONS.—Section
 22 1175 of the Taxpayer Relief Act of 1997, and the amend-
 23 ments made by such section, are hereby repealed, and the
 24 Internal Revenue Code of 1986 shall be applied and ad-

1 ministered as if such section (and amendments) had never
2 been enacted.

3 **SEC. 103. STUDY OF PROPER TREATMENT OF EUROPEAN**
4 **UNION UNDER SAME COUNTRY EXCEPTIONS.**

5 (a) STUDY.—The Secretary of the Treasury or the
6 Secretary's delegate shall conduct a study on the feasibil-
7 ity of treating all countries included in the European
8 Union as 1 country for purposes of applying the same
9 country exceptions under subpart F of part III of sub-
10 chapter N of chapter 1 of the Internal Revenue Code of
11 1986. Such study shall include consideration of methods
12 of ensuring that taxpayers are subject to a substantial ef-
13 fective rate of foreign tax in such countries if such treat-
14 ment is adopted.

15 (b) REPORT.—Not later than 6 months after the date
16 of enactment of this Act, the Secretary of the Treasury
17 shall report to the Committee on Ways and Means of the
18 House of Representatives and the Committee on Finance
19 of the Senate the results of the study conducted under
20 subsection (a), including recommendations (if any) for leg-
21 islation.

1 **SEC. 104. EXPANSION OF DE MINIMIS RULE UNDER SUB-**
 2 **PART F.**

3 (a) IN GENERAL.—Subparagraph (A) of section
 4 954(b)(3) (relating to de minimis, etc., rules) is amend-
 5 ed—

6 (1) by striking “5 percent” in clause (i) and in-
 7 serting “10 percent”, and

8 (2) by striking “\$1,000,000” in clause (ii) and
 9 inserting “\$2,000,000”.

10 (b) TECHNICAL AMENDMENTS.—

11 (1) Clause (ii) of section 864(d)(5)(A) is
 12 amended by striking “5 percent or \$1,000,000” and
 13 inserting “10 percent or \$2,000,000”.

14 (2) Clause (i) of section 881(c)(5)(A) is amend-
 15 ed by striking “5 percent or \$1,000,000” and insert-
 16 ing “10 percent or \$2,000,000”.

17 **SEC. 105. SUBPART F EARNINGS AND PROFITS DETER-**
 18 **MINED UNDER GENERALLY ACCEPTED AC-**
 19 **COUNTING PRINCIPLES.**

20 (a) IN GENERAL.—Subsection (a) of section 964 (re-
 21 lating to miscellaneous provisions) is amended by striking
 22 “rules substantially similar to those applicable to domestic
 23 corporations, under regulations prescribed by the Sec-
 24 retary” and inserting “generally accepted accounting prin-
 25 ciples in the United States”.

1 (b) **EFFECTIVE DATE.**—The amendment made by
 2 subsection (a) shall apply to distributions during, and the
 3 determination of the inclusion under section 951 of the
 4 Internal Revenue Code of 1986 with respect to, taxable
 5 years of foreign corporations beginning after December
 6 31, 1998.

7 **SEC. 106. CLARIFICATION OF TREATMENT OF PIPELINE**
 8 **TRANSPORTATION INCOME.**

9 Section 954(g)(1) (defining foreign base company oil
 10 related income) is amended by striking “or” at the end
 11 of subparagraph (A), by striking the period at the end
 12 of subparagraph (B) and inserting “, or”, and by inserting
 13 after subparagraph (B) the following new subparagraph:

14 “(C) the pipeline transportation of oil or
 15 gas within such foreign country.”

16 **SEC. 107. SUBPART F TREATMENT OF INCOME FROM**
 17 **TRANSMISSION OF HIGH VOLTAGE ELEC-**
 18 **TRICITY.**

19 Section 954(e) (relating to foreign base company
 20 services income) is amended by adding at the end the fol-
 21 lowing new paragraph:

22 “(3) **EXCEPTION FOR INCOME FROM TRANS-**
 23 **MISSION OF HIGH VOLTAGE ELECTRICITY.**—The
 24 term ‘foreign base company services income’ does
 25 not include income derived in connection with the

1 performance of services which are related to the
 2 transmission of high voltage electricity.”

3 **SEC. 108. LOOK-THROUGH TREATMENT FOR SALES OF**
 4 **PARTNERSHIP INTERESTS.**

5 (a) IN GENERAL.—Section 954(c) (defining foreign
 6 personal holding company income) is amended by adding
 7 at the end the following new paragraph:

8 “(4) LOOK-THROUGH RULE FOR CERTAIN
 9 PARTNERSHIP SALES.—

10 “(A) IN GENERAL.—In the case of any
 11 sale by a controlled foreign corporation of an
 12 interest in a partnership with respect to which
 13 such corporation is a 10-percent owner, such
 14 corporation shall be treated for purposes of this
 15 subsection as selling the proportionate share of
 16 the assets of the partnership attributable to
 17 such interest.

18 “(B) 10-PERCENT OWNER.—For purposes
 19 of this paragraph, the term ‘10-percent owner’
 20 means a controlled foreign corporation which
 21 owns 10 percent or more of the capital or prof-
 22 its interest in the partnership. The constructive
 23 ownership rules of section 958(b) shall apply
 24 for purposes of the preceding sentence.”

1 (b) CONFORMING AMENDMENT.—Section
 2 954(c)(1)(B)(ii) is amended by inserting “except as pro-
 3 vided in paragraph (4),” before “which”.

4 **SEC. 109. EFFECTIVE DATE.**

5 Except as otherwise provided in this title, the amend-
 6 ments made by this title shall apply to taxable years of
 7 controlled foreign corporations beginning after December
 8 31, 1998, and taxable years of United States shareholders
 9 with or within which such taxable years of controlled for-
 10 eign corporations end.

11 **TITLE II—PROVISIONS RELAT-**
 12 **ING TO FOREIGN TAX CREDIT**

13 **SEC. 201. EXTENSION OF PERIOD TO WHICH EXCESS FOR-**
 14 **EIGN TAXES MAY BE CARRIED.**

15 (a) GENERAL RULE.—Subsection (c) of section 904
 16 (relating to carryback and carryover of excess tax paid)
 17 is amended by striking “in the first, second, third, fourth,
 18 or fifth” and inserting “in any of the first 10”.

19 (b) EXCESS EXTRACTION TAXES.—Paragraph (1) of
 20 section 907(f) is amended by striking “in the first, second,
 21 third, fourth, or fifth” and inserting “in any of the first
 22 10”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to excess foreign taxes arising in
 25 taxable years beginning after December 31, 1998.

1 **SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC**
 2 **LOSS.**

3 (a) GENERAL RULE.—Section 904 is amended by re-
 4 designating subsections (g), (h), (i), (j), and (k) as sub-
 5 sections (h), (i), (j), (k), and (l) respectively, and by in-
 6 serting after subsection (f) the following new subsection:

7 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC
 8 LOSS.—

9 “(1) GENERAL RULE.—For purposes of this
 10 subpart, in the case of any taxpayer who sustains an
 11 overall domestic loss for any taxable year beginning
 12 after December 31, 1998, that portion of the tax-
 13 payer’s taxable income from sources within the
 14 United States for each succeeding taxable year
 15 which is equal to the lesser of—

16 “(A) the amount of such loss (to the extent
 17 not used under this paragraph in prior taxable
 18 years), or

19 “(B) 50 percent of the taxpayer’s taxable
 20 income from sources within the United States
 21 for such succeeding taxable year,
 22 shall be treated as income from sources without the
 23 United States (and not as income from sources with-
 24 in the United States).

25 “(2) OVERALL DOMESTIC LOSS DEFINED.—For
 26 purposes of this subsection and section 936—

“(A) IN GENERAL.—The term ‘overall domestic loss’ means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term ‘domestic loss’ means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

“(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term ‘overall domestic loss’ shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

“(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

“(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated

1 among and increase the income categories in
 2 proportion to the loss from sources within the
 3 United States previously allocated to those in-
 4 come categories.

5 “(B) INCOME CATEGORY.—For purposes of
 6 this paragraph, the term ‘income category’ has
 7 the meaning given to such term by subsection
 8 (f)(5)(E)(i).

9 “(4) COORDINATION WITH SUBSECTION (f).—
 10 The Secretary shall prescribe such regulations as
 11 may be necessary to coordinate the provisions of this
 12 subsection with the provisions of subsection (f).”

13 (b) CONFORMING AMENDMENT.—Subparagraph (A)
 14 of section 936(a)(2) is amended by striking “section
 15 904(f)” and inserting “subsections (f) and (g) of section
 16 904”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to losses for taxable years begin-
 19 ning after December 31, 1998.

20 **SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERV-**
 21 **ICES INCOME.**

22 (a) EXCEPTION FOR INTEREST ON CERTAIN SECURI-
 23 TIES.—Subparagraph (B) of section 904(d)(2) (relating to
 24 high withholding tax interest) is amended by redesignating

1 clause (iii) as clause (iv) and by inserting after clause (ii)
 2 the following new clause:

3 “(iii) EXCEPTION FOR INTEREST ON
 4 DEALER PROPERTY.—The term ‘high with-
 5 holding tax interest’ shall not include any
 6 interest on a security (within the meaning
 7 of section 475(c)(2)) which is received or
 8 accrued by a person that holds the security
 9 in connection with the holder’s activities as
 10 a dealer in securities (within the meaning
 11 of section 475(c)(1)).”

12 (b) FINANCIAL SERVICES INCOME IN EXCESS OF 80
 13 PERCENT OF GROSS INCOME.—Subparagraph (C) of sec-
 14 tion 904(d)(2) (relating to financial services income) is
 15 amended by adding at the end the following new clause:

16 “(iv) INCOME EXCEEDING 80 PERCENT
 17 OF GROSS INCOME.—If the financial serv-
 18 ices income (as defined by clause (i)) of
 19 any person exceeds 80 percent of gross in-
 20 come, the entire gross income for the tax-
 21 able year shall be treated as financial serv-
 22 ices income.”

23 (c) EXCEPTION FOR INCOME ON DEALER PROP-
 24 erty.—Subsection 904(g) is amended by redesignating

1 paragraph (11) as paragraph (12) and by adding after
 2 paragraph (10) the following new paragraph:

3 “(11) EXCEPTION FOR INCOME ON DEALER
 4 PROPERTY.—Paragraph (1) shall not apply to any
 5 amount derived from a United States-owned foreign
 6 corporation that is derived from income on a secu-
 7 rity (within the meaning of section 475(c)(2)) which
 8 is received or accrued by a person that holds the se-
 9 curity in connection with the holder’s activities as a
 10 dealer in securities (within the meaning of section
 11 475(c)(1)).”

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by
 14 this section shall apply to taxable years beginning
 15 after December 31, 1998.

16 (2) DEEMED PAID CREDITS.—In the case of
 17 any credit under section 901 of the Internal Revenue
 18 Code of 1986 by reason of section 902 or 960 of
 19 such Code, the amendments made by this section
 20 shall apply to taxable years of foreign corporations
 21 beginning after December 31, 1998, and to taxable
 22 years of United States shareholders in such corpora-
 23 tions with or within which such taxable years of for-
 24 eign corporations end.

1 **SEC. 204. FOREIGN TAX CREDIT TREATMENT OF DIVI-**
 2 **DENDS FROM NONCONTROLLED SECTION 902**
 3 **CORPORATIONS.**

4 (a) LOOK-THRU RULES TO APPLY TO DIVIDENDS
 5 ATTRIBUTABLE TO POST-1998 EARNINGS.—Section
 6 904(d)(4)(B)(ii) (defining applicable dividend) is amended
 7 by striking “2002” and inserting “1998”.

8 (b) SEPARATE BASKET ONLY TO APPLY TO PRE-
 9 1999 EARNINGS.—Each of the following provisions are
 10 amended by striking “2003” and inserting “1999”:

11 (1) Section 904(d)(1)(E).

12 (2) Section 904(d)(2)(C)(iii)(II).

13 (3) Section 904(d)(2)(D).

14 (c) COORDINATION WITH TAXPAYER RELIEF ACT.—
 15 Section 1105(c) of the Taxpayer Relief Act of 1997 is
 16 amended by striking “2002” and inserting “1998”.

17 (d) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 1998.

20 **SEC. 205. APPLICATION OF LOOK-THRU RULES TO FOREIGN**
 21 **TAX CREDIT.**

22 (a) INTEREST, RENTS, AND ROYALTIES.—

23 (1) NONCONTROLLED SECTION 902 CORPORA-
 24 TION.—Section 904(d)(4)(A) is amended to read as
 25 follows:

1 “(A) IN GENERAL.—For purposes of this
2 subsection—

3 “(i) any applicable dividend shall be
4 treated as income in a separate category in
5 proportion to the ratio of—

6 “(I) the portion of the earnings
7 and profits described in subparagraph
8 (B)(ii) attributable to income in such
9 category, to

10 “(II) the total amount of such
11 earnings and profits, and

12 “(ii) any interest, rent, or royalty
13 which is received or accrued from a non-
14 controlled section 902 corporation with re-
15 spect to the taxpayer shall be treated as
16 income in a separate category to the extent
17 it is properly allocable (under regulations
18 prescribed by the Secretary) to income of
19 such corporation in such category.”

20 (2) PARTNERSHIPS.—Section 904(d)(6)(C) is
21 amended—

22 (A) by inserting “or (4)(A)(ii)” after
23 “paragraph (3)(C)”, and

1 (B) by inserting “or noncontrolled section
 2 902 corporations, whichever is applicable” after
 3 “controlled foreign corporations”.

4 (3) CONFORMING AMENDMENT.—The heading
 5 for section 904(d)(4) is amended by inserting “, in-
 6 terest, rents, or royalties” after “dividends”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 1998.

10 **SEC. 206. ORDERING RULES FOR FOREIGN TAX CREDIT**
 11 **CARRYOVERS.**

12 (a) IN GENERAL.—Section 904(c) (relating to
 13 carryback and carryover of excess tax paid), as amended
 14 by section 201, is amended to read as follows:

15 “(c) CARRYBACK AND CARRYOVER OF EXCESS TAX
 16 PAID.—

17 “(1) IN GENERAL.—If the sum of—

18 “(A) the foreign tax credit carryovers
 19 under this subsection to a taxable year, plus

20 “(B) the amount of all taxes paid to for-
 21 eign countries or possessions of the United
 22 States for the taxable year and for which the
 23 taxpayer elects to have the benefits of this sub-
 24 part apply,

1 exceeds the limitation under subsection (a), such ex-
 2 cess shall be a foreign tax credit carryback to each
 3 of the 2 preceding taxable years and a foreign tax
 4 credit carryforward to each of the 10 following tax-
 5 able years.

6 “(2) ORDERING RULES.—For purposes of any
 7 provision of the title where it is necessary to ascer-
 8 tain the extent to which the credits to which this
 9 subpart applies are used in a taxable year or as a
 10 carryback or carryforward, such taxes shall be treat-
 11 ed as used—

12 “(A) first from carryovers to such taxable
 13 year,

14 “(B) then from credits arising in such tax-
 15 able year, and

16 “(C) finally from carrybacks to such tax-
 17 able year.

18 “(3) LIMITATIONS ON CARRYOVERS.—

19 “(A) CREDIT ONLY.—A credit may be car-
 20 ried to a taxable year under this subsection only
 21 if the taxpayer chooses for such taxable year to
 22 have the benefits of this subpart apply to taxes
 23 paid or accrued to foreign countries or any pos-
 24 sessions of the United States. Any amount so

1 carried may be availed of only as a credit and
 2 not a deduction.

3 “(B) LIMITATION TO APPLY.—The amount
 4 of the credit carryforward or carryback to a
 5 taxable year (the ‘carryover year’) from a tax-
 6 able year under this subsection shall not exceed
 7 the excess (if any) of—

8 “(i) the limitation under subsection
 9 (a) for the carryover year, over

10 “(ii) the sum of—

11 “(I) the credits arising in the
 12 carryover year, plus

13 “(II) carryforwards and
 14 carrybacks to the carryover year from
 15 taxable years earlier than the taxable
 16 year from which the credit is being
 17 carried (whether or not the taxpayer
 18 chooses to have the benefits of this
 19 subpart apply with respect to such
 20 earlier taxable year).”

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section applies to taxable years beginning after De-
 23 cember 31, 1998.

1 **SEC. 207. REPEAL OF LIMITATION OF FOREIGN TAX CREDIT**
 2 **UNDER ALTERNATIVE MINIMUM TAX.**

3 (a) IN GENERAL.—Section 59(a) (relating to alter-
 4 native minimum tax foreign tax credit) is amended by
 5 striking paragraph (2) and by redesignating paragraphs
 6 (3) and (4) as paragraphs (2) and (3), respectively.

7 (b) CONFORMING AMENDMENT.—Section
 8 53(d)(1)(B)(i)(II) is amended by striking “and if section
 9 59(a)(2) did not apply”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 1998.

13 **TITLE III—OTHER PROVISIONS**

14 **SEC. 301. DEDUCTION FOR DIVIDENDS RECEIVED FROM**
 15 **CERTAIN FOREIGN CORPORATIONS.**

16 (a) CONSTRUCTIVE OWNERSHIP RULES TO APPLY IN
 17 DETERMINING 80-PERCENT OWNERSHIP.—Section 245
 18 (a)(5) (relating to post-1986 undistributed U.S. earnings)
 19 is amended by adding at the end the following flush sen-
 20 tence:

21 “Section 318(a) shall apply for purposes of subpara-
 22 graph (B).”

23 (b) DIVIDENDS TO INCLUDE SUBPART F DISTRIBU-
 24 TIONS.—Section 245(a) is amended by adding at the end
 25 the following new paragraph:

1 “(12) SUBPART F INCLUSIONS TREATED AS
 2 DIVIDENDS.—For purposes of this subsection, the
 3 term ‘dividend’ shall include any amount the tax-
 4 payer is required to include in gross income for the
 5 taxable year under section 951(a).”

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 1998.

9 **SEC. 302. APPLICATION OF UNIFORM CAPITALIZATION**
 10 **RULES TO FOREIGN PERSONS.**

11 (a) IN GENERAL.—Section 263A(c) (relating to ex-
 12 ceptions) is amended by adding at the end the following
 13 new paragraph:

14 “(7) FOREIGN PERSONS.—This section shall
 15 apply to any taxpayer who is not a United States
 16 person only for purposes of applying sections
 17 871(b)(1) and 882(a)(1).”

18 (b) EFFECTIVE DATE.—The amendment made by
 19 subsection (a) shall apply to taxable years beginning after
 20 December 31, 1998. Section 481 of the Internal Revenue
 21 Code of 1986 shall not apply to any change in a method
 22 of accounting by reason of such amendment.

1 **SEC. 303. TREATMENT OF MILITARY PROPERTY OF FOR-**
 2 **EIGN SALES CORPORATIONS.**

3 (a) IN GENERAL.—Section 923(a) (defining exempt
 4 foreign trade income) is amended by striking paragraph
 5 (5) and by redesignating paragraph (6) as paragraph (5).

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 1998.

9 **SEC. 304. UNITED STATES PROPERTY NOT TO INCLUDE**
 10 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**
 11 **ORDINARY COURSE OF TRADE OR BUSINESS.**

12 (a) IN GENERAL.—Section 956(c)(2) is amended by
 13 striking “and” at the end of subparagraph (J), by striking
 14 the period at the end of subparagraph (K) and inserting
 15 “; and”, and by adding at the end the following new sub-
 16 paragraph:

17 “(L) securities acquired and held by a con-
 18 trolled foreign corporation in the ordinary
 19 course of its business as a dealer in securities
 20 if (i) the dealer accounts for the securities as
 21 securities held primarily for sale to customers
 22 in the ordinary course of business, and (ii) the
 23 dealer disposes of the securities (or they mature
 24 while held by the dealer) within a period con-
 25 sistent with the holding of securities for sale to
 26 customers in the ordinary course of business.”

1 (b) CONFORMING AMENDMENT.—Section 956(c)(2)
 2 is amended by striking “and (K)” in the last sentence and
 3 inserting “, (K), and (L)”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years of foreign corpora-
 6 tions beginning after December 31, 1998, and to taxable
 7 years of United States shareholders or with or within
 8 which such taxable years of foreign corporations end.

9 **SEC. 305. TREATMENT OF DIVIDENDS RECEIVED FROM**
 10 **CERTAIN REGULATED INVESTMENT COMPA-**
 11 **NIES.**

12 (a) NONRESIDENT ALIEN INDIVIDUALS.—Section
 13 871 (relating to tax on nonresident alien individuals) is
 14 amended by redesignating subsection (k) as subsection (l)
 15 and by inserting after subsection (j) the following new sub-
 16 section:

17 “(k) EXEMPTION FOR DIVIDENDS OF CERTAIN REG-
 18 ULATED INVESTMENT COMPANIES.—

19 “(1) IN GENERAL.—Except as provided in para-
 20 graph (2), no tax shall be imposed under paragraph
 21 (1)(A) of subsection (a) on any qualifying dividend
 22 received from a regulated investment company which
 23 satisfies the requirements of paragraph (3) for the
 24 taxable year to which the dividend relates.

1 “(2) EXCEPTIONS.—Paragraph (1) shall not
2 apply—

3 “(A) to any dividend received from a regu-
4 lated investment company by a person if such
5 company holds at any time during the year in-
6 debtedness issued by such person or by any cor-
7 poration or partnership with respect to which
8 such person is a 10-percent shareholder,

9 “(B) to any dividend received from a regu-
10 lated investment company unless the person
11 who would otherwise be required to deduct and
12 withhold tax from such dividend under chapter
13 3 receives a statement (which meets require-
14 ments similar to the requirements of subsection
15 (h)(5)) that the beneficial owner of such stock
16 is not a United States person,

17 “(C) to any dividend received from a regu-
18 lated investment company by any person sub-
19 ject to tax under subsection (a)(2), and

20 “(D) to any dividend received from a regu-
21 lated investment company by any person within
22 a foreign country (or any dividend payment ad-
23 dressed to, or for the account of, persons within
24 such foreign country) during any period de-

1 scribed in subsection (h)(6) with respect to such
2 country.

3 Subparagraph (D) shall not apply to any dividend
4 with respect to any stock which was acquired on or
5 before the date of the publication of the Secretary's
6 determination under subsection (h)(6).

7 “(3) ELIGIBLE REGULATED INVESTMENT COM-
8 PANIES.—A regulated investment company satisfies
9 the requirements of this paragraph for a taxable
10 year if—

11 “(A) the company satisfies the require-
12 ments of section 852(a) for the taxable year,
13 and

14 “(B) the company is a publicly offered reg-
15 ulated investment company (within the meaning
16 of section 67(c)(2)(B)).

17 “(4) QUALIFYING DIVIDEND.—

18 “(A) IN GENERAL.—For purposes of para-
19 graph (1), a dividend is a qualifying dividend
20 if—

21 “(i) 95 percent of the company's gross
22 income for the qualifying dividend meas-
23 urement period consists of income from
24 permitted assets; and

1 “(ii) the company treats the dividend
2 as exempt from any requirement to deduct
3 and withhold tax under section 1441 or
4 1442.

5 “(B) QUALIFYING DIVIDEND MEASURE-
6 MENT PERIOD.—For purposes of this para-
7 graph, the term ‘qualifying dividend measure-
8 ment period’ means the 12-month period ending
9 with the last day of the second month preceding
10 the month in which the dividend is paid.

11 “(C) PERMITTED ASSETS.—For purposes
12 of this paragraph, and except as provided in
13 subparagraph (D), the term ‘permitted assets’
14 means—

15 “(i) debt instruments,

16 “(ii) cash and cash equivalents,

17 “(iii) hedges and guarantees of debt
18 instruments held or to be acquired by the
19 company,

20 “(iv) contracts to acquire debt instru-
21 ments,

22 “(v) other interests (including options
23 and forward contracts) with respect to
24 debt instruments,

1 “(vi) stock of a regulated investment
 2 company satisfying the requirements of
 3 paragraph (3), and

4 “(vii) such other assets as the Sec-
 5 retary may by regulations prescribe.

6 Income with respect to stock of a regulated in-
 7 vestment company described in clause (vi) shall
 8 be treated as income from permitted assets only
 9 to the extent of qualifying dividends received
 10 from such company and gain on the sale or ex-
 11 change of stock in such company which is rec-
 12 ognized in a month with respect to which such
 13 company satisfies the requirements for payment
 14 of a qualifying dividend.

15 “(D) EXCEPTIONS.—The term ‘permitted
 16 asset’ shall not include—

17 “(i) any obligation issued by a cor-
 18 poration or partnership in which the com-
 19 pany is a 10-percent shareholder,

20 “(ii) any obligation bearing interest
 21 which is treated as not being portfolio in-
 22 terest under the rules of subsection (h)(4),

23 “(iii) any obligation bearing interest
 24 or producing gain subject to a tax imposed
 25 by a foreign jurisdiction if the amount of

1 such tax is reduced (or eliminated) by a
2 treaty with the United States,

3 “(iv) any United States real property
4 interest (as defined in section 897(c)),

5 “(v) any notional principal contract
6 with respect to any obligation described in
7 clauses (i) through (iv), and

8 “(vi) such other assets as the Sec-
9 retary may by regulations prescribe.

10 “(E) ANTIABUSE RULE.—A dividend shall
11 not be treated as a qualifying dividend if—

12 “(i) the company has a principal pur-
13 pose of using this subsection to avoid the
14 provisions of paragraph (1)(A) of sub-
15 section (a) with respect to such dividend
16 and such dividend is attributable to income
17 other than income from permitted assets,
18 and

19 “(ii) the amount of such dividend is
20 substantial in relation to the amount of the
21 company’s income from permitted assets
22 for the qualifying dividend measurement
23 period.

24 “(5) 10-PERCENT SHAREHOLDER.—For pur-
25 poses of this subsection, the term ‘10-percent share-

1 holder' has the meaning given to such term by sub-
 2 section (h)(3)(B).

3 “(6) REGULATIONS.—The Secretary may pre-
 4 scribe such regulations as may be necessary or ap-
 5 propriate to carry out the purposes of this sub-
 6 section, including regulations to prevent avoidance of
 7 the tax imposed by paragraph (1)(A) of subsection
 8 (a) through arrangements, structures, or trans-
 9 actions that are inconsistent with the purposes of
 10 this subsection.”

11 (b) FOREIGN CORPORATIONS.—Section 881 is
 12 amended by redesignating subsection (e) as subsection (f)
 13 and by inserting after subsection (d) the following new
 14 subsection:

15 “(e) TAX NOT TO APPLY TO DIVIDENDS OF CERTAIN
 16 REGULATED INVESTMENT COMPANIES.—

17 “(1) IN GENERAL.—Except as provided in para-
 18 graph (2), no tax shall be imposed under paragraph
 19 (1) of subsection (a) on any qualifying dividend (as
 20 defined in section 871(k)(4)) received from a regu-
 21 lated investment company which satisfies the re-
 22 quirements of section 871(k)(3).

23 “(2) EXCEPTION.—Paragraph (1) shall not
 24 apply—

1 “(A) to any dividend to which section
2 871(k)(2) applies, and

3 “(B) to any dividend received by a con-
4 trolled foreign corporation (within the meaning
5 of section 957(a)) if the regulated investment
6 company holds at any time during the taxable
7 year any obligation issued by a person who is
8 a related person (within the meaning of section
9 864(d)(4)) with respect to such controlled for-
10 eign corporation.

11 “(3) TREATMENT OF DIVIDENDS RECEIVED BY
12 CONTROLLED FOREIGN CORPORATIONS.—The rules
13 of subsection (c)(5)(A) shall apply to any dividend
14 described in paragraph (1) which is received by a
15 controlled foreign corporation (within the meaning of
16 section 957(a)).”

17 (c) WITHHOLDING TAXES.—

18 (1) Subsection (c) of section 1441 is amended
19 by adding at the end the following new paragraph:

20 “(12) DIVIDENDS RECEIVED FROM CERTAIN
21 REGULATED INVESTMENT COMPANIES.—

22 “(A) IN GENERAL.—No tax shall be re-
23 quired to be deducted and withheld under sub-
24 section (a) from any amount exempt from the

1 tax imposed by section 871(a)(1)(A) by reason
2 of section 871(k).

3 “(B) SPECIAL RULE.—For purposes of
4 subparagraph (A), subparagraphs (A) and (C)
5 of section 871(k)(2) shall not apply to any divi-
6 dend unless the regulated investment company
7 knows, or has reason to know, that such divi-
8 dend is a dividend referred to in either of such
9 subparagraphs.”

10 (2) Subsection (a) of section 1442 is amend-
11 ed—

12 (A) by striking “and the reference in sec-
13 tion 1441(c)(10)” and inserting “the reference
14 in section 1441(c)(10)”, and

15 (B) by inserting before the period at the
16 end the following: “, and the references in sec-
17 tion 1441(c)(12) to sections 871(a) and 871(k),
18 respectively, shall be treated as referring to sec-
19 tions 881(a) and 881(e), respectively (except
20 that for purposes of applying subparagraph (A)
21 of section 1441(c)(12), as so modified, subpara-
22 graph (B) of section 881(e)(2) shall not apply
23 to any dividend unless the regulated investment
24 company knows, or has reason to know, that

1 such dividend is a dividend referred to in such
2 clause)”.
3

4 (d) ESTATE TAX TREATMENT OF INTEREST IN CER-
5 TAIN REGULATED INVESTMENT COMPANIES.—Section
6 2105 (relating to property without the United States for
7 estate tax purposes) is amended by adding at the end the
8 following new subsection:

9 “(d) STOCK IN A RIC.—

10 “(1) IN GENERAL.—For purposes of this sub-
11 chapter, stock in a regulated investment company
12 (as defined in section 851) owned by a nonresident
13 not a citizen of the United States shall not be
14 deemed property within the United States if—

15 “(A) such investment company satisfies
16 the gross income requirement of section
17 871(k)(4)(A)(i) with respect to the qualifying
18 dividend measurement period for the month in
19 which the decedent’s death occurs, and

20 “(B) such investment company satisfies
21 the requirements of section 871(k)(3) for the
22 company’s taxable year during which the dece-
23 dent’s date of death occurs.

24 “(2) ANTIABUSE RULE.—Paragraph (1) shall
25 not apply if the company is formed or availed of
with a principal purpose of avoiding tax with respect

1 to assets held by the company which would be prop-
 2 erty within the United States if held directly by a
 3 nonresident.”

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
 6 graph (2), the amendments made by this section
 7 shall apply to dividends with respect to taxable years
 8 of regulated investment companies beginning after
 9 the date of the enactment of this Act.

10 (2) ESTATE TAX TREATMENT.—The amend-
 11 ments made by subsection (d) shall apply to estates
 12 of decedents dying in taxable years of regulated in-
 13 vestment companies beginning after the date of the
 14 enactment of this Act.

15 **SEC. 306. REGULATORY AUTHORITY TO EXCLUDE CERTAIN**
 16 **PRELIMINARY AGREEMENTS FROM DEFINI-**
 17 **TION OF INTANGIBLE PROPERTY.**

18 (a) IN GENERAL.—Section 936(h)(3)(B) (defining
 19 intangible property is amended by adding at the end the
 20 following new sentence: “The Secretary shall by regulation
 21 provide that such term shall not include any preliminary
 22 agreement which is not legally enforceable.”

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall apply to agreements entered into after
 25 the date of the enactment of this Act.

1 **SEC. 307. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN**
 2 **PERSONS.**

3 (a) IN GENERAL.—The last sentence of section
 4 4261(e)(3)(C) is amended by inserting “and mileage
 5 awards which are issued to individuals whose mailing ad-
 6 dresses on record with the person providing the air trans-
 7 portation are outside the United States” before the period
 8 at the end thereof.

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall apply to amounts paid, and benefits pro-
 11 vided, after December 31, 1998.

12 **SEC. 308. REPEAL OF REDUCTION OF SUBPART F INCOME**
 13 **OF EXPORT TRADE CORPORATIONS.**

14 (a) IN GENERAL.—Subpart G of part III of sub-
 15 chapter N of chapter 1 (relating to export trade corpora-
 16 tions) is repealed.

17 (b) TREATMENT OF CERTAIN ACTUAL DISTRIBUTU-
 18 TIONS.—

19 (1) IN GENERAL.—For purposes of applying the
 20 Internal Revenue Code of 1986 with respect to ac-
 21 tual distributions of export trade income made after
 22 December 31, 1986, by an export trade corporation
 23 or former export trade corporation that was an ex-
 24 port trade corporation on December 31, 1986, any
 25 export trade income shall be treated as previously

1 taxed income within the meaning of section 959 of
2 such Code.

3 (2) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) EXPORT TRADE CORPORATION.—The
6 term “export trade corporation” has the mean-
7 ing given such term by section 971(a) of the In-
8 ternal Revenue Code of 1986 (as in effect be-
9 fore the amendment made by subsection (a)).

10 (B) EXPORT TRADE INCOME.—The term
11 “export trade income” has the meaning given
12 such term by section 971(a) of the Internal
13 Revenue Code of 1986 (as so in effect).

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 865(e)(2)(A) is amended by striking
16 the last sentence.

17 (2) Section 1297(b)(2)(D) is amended by strik-
18 ing “or export trade income of an export trade cor-
19 poration (as defined in section 971)”.

20 (3) The table of parts for part III of subchapter
21 N of chapter 1 is amended by striking the item re-
22 lating to subpart G.

23 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendment made by
 2 subsection (a) shall take effect on the date of enact-
 3 ment of this Act.

4 (2) DISTRIBUTIONS.—The amendment made by
 5 subsection (b) shall take effect as if included in the
 6 amendments made by section 1235 of the Tax Re-
 7 form Act of 1986.

8 **SEC. 309. STUDY OF INTEREST ALLOCATION.**

9 (a) STUDY.—The Secretary of the Treasury or the
 10 Secretary's delegate shall conduct a study of the rules
 11 under section 864(e) of the Internal Revenue Code of
 12 1986 for allocating interest expense of members of an af-
 13 filiated group. Such study shall include an analysis of the
 14 effect of such rules, including the effects such rules have
 15 on different industries.

16 (b) REPORT.—Not later than 6 months after the date
 17 of enactment of this Act, the Secretary of the Treasury
 18 shall report to the Committee on Ways and Means of the
 19 House of Representatives and the Committee on Finance
 20 of the Senate the results of the study conducted under
 21 subsection (a), including recommendations (if any) for leg-
 22 islation.

○