

105TH CONGRESS  
1ST SESSION

# S. 835

To amend the Internal Revenue Code of 1986 with respect to the treatment of effectively connected investment income of insurance companies.

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IN THE SENATE OF THE UNITED STATES

JUNE 5, 1997

Mr. ABRAHAM (for himself and Mr. LEVIN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of effectively connected investment income of insurance companies.

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. FOREIGN COMPANIES CARRYING ON INSUR-**  
4       **ANCE BUSINESS.**

5       (a) TREATMENT OF EFFECTIVELY CONNECTED NET  
6       INVESTMENT INCOME OF INSURANCE COMPANIES.—

7               (1) IN GENERAL.—Subsection (b) of section  
8       842 of the Internal Revenue Code of 1986 is amend-  
9       ed by redesignating paragraphs (2), (3), (4), and (5)  
10      as paragraphs (6), (7), (8), and (9), respectively,

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and by striking paragraph (1) and inserting the following new paragraphs:

“(1) RECOMPUTATION OF NET INVESTMENT INCOME.—Each foreign company taxable under part I or part II of this subchapter shall recompute its effectively connected net investment income for any taxable year beginning after December 31, 1996 (hereafter in this subsection referred to as the ‘recomputed year’) by making the adjustments specified in paragraph (2) for the second succeeding taxable year (hereafter in the section referred to as the ‘adjustment year’).

“(2) ADJUSTMENTS.—

“(A) INCREASE WHERE RECOMPUTED AMOUNT GREATER.—If—

“(i) the recomputed effectively connected net investment income for the recomputed year, exceeds

“(ii) the effectively connected net investment income for such year (determined without regard to this subsection),

such excess shall increase the effectively connected net investment income for the adjustment year.

1                   “(B) DECREASE WHERE RECOMPUTED  
2                   AMOUNT LESSER.—If—

3                   “(i) the effectively connected net in-  
4                   vestment income for the recomputed year  
5                   (determined without regard to this sub-  
6                   section), exceeds

7                   “(ii) the recomputed effectively con-  
8                   nected net investment income for such  
9                   year,

10                  such excess shall reduce the effectively con-  
11                  nected net investment income for the adjust-  
12                  ment year.

13                  “(C) INTEREST ON ADJUSTMENTS.—The  
14                  foreign company shall pay (or be entitled to re-  
15                  ceive) interest in the amount which would have  
16                  been computed under chapter 67 on the under-  
17                  payment or overpayment (as the case may be)  
18                  which would have resulted if the adjustment  
19                  under subparagraph (A) or (B) (whichever ap-  
20                  plies) were made for the recomputed year.

21                  “(3) RECOMPUTED EFFECTIVELY CONNECTED  
22                  NET INVESTMENT INCOME.—For purposes of this  
23                  subsection, the term ‘recomputed effectively con-  
24                  nected net investment income’ means the greater  
25                  of—

1           “(A) the cumulative effectively connected  
 2           net investment income (determined without re-  
 3           gard to this subsection) for the recomputed  
 4           year and all preceding taxable years beginning  
 5           after December 31, 1996, or

6           “(B) the cumulative minimum effectively  
 7           connected net investment income for the recom-  
 8           puted year and such preceding taxable years,  
 9           reduced by the amount of the cumulative recom-  
 10          puted effectively connected net investment income  
 11          determined under this subsection for such preceding  
 12          taxable years.

13          “(4) MINIMUM EFFECTIVELY CONNECTED NET  
 14          INVESTMENT INCOME.—For purposes of this sub-  
 15          section, the term ‘minimum effectively connected net  
 16          investment income’ means, with respect to any tax-  
 17          able year, the product of—

18                 “(A) the required United States assets of  
 19                 the foreign company, and

20                 “(B) the domestic investment yield applica-  
 21                 ble to such company for such taxable year.

22          “(5) EFFECTIVELY CONNECTED NET INVEST-  
 23          MENT INCOME.—For purposes of this subsection, the  
 24          term ‘effectively connected net investment income’  
 25          means the net investment income which is effectively

1 connected with the conduct of an insurance business  
2 within the United States.”

3 (2) CONFORMING AMENDMENTS.—

4 (A) Paragraph (6) of section 824(b) of  
5 such Code, as redesignated by subsection (a), is  
6 amended by striking “paragraph (1)” and in-  
7 serting “paragraph (4)”.

8 (B) Paragraph (7) of section 842(b) of  
9 such Code, as redesignated by subsection (a), is  
10 amended by striking “paragraph (1)(B)” and  
11 inserting “paragraph (4)(B)”.

12 (C) Subparagraph (A) of section 842(b)(8)  
13 of such Code, as redesignated by subsection (a),  
14 is amended by striking “paragraph (1)(B)” and  
15 inserting “paragraph (4)(B)”.

16 (D) Paragraph (3) of section 842(c) of  
17 such Code is amended to read as follows:

18 “(3) ADJUSTMENT OF LIMITATION ON DEDUC-  
19 TION FOR POLICYHOLDER DIVIDENDS IN CASE OF  
20 FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—  
21 For purposes of section 809, the equity base of any  
22 foreign mutual life insurance company as of the  
23 close of any adjustment year shall be increased by  
24 the excess of—

1           “(A) the required United States assets of  
 2           the company for the second preceding taxable  
 3           year (determined under subsection (b)(6)), over

4           “(B) the mean of the assets held in the  
 5           United States during the second preceding tax-  
 6           able year.”

7           (E) Paragraph (4) of section 842(c) of  
 8           such Code is amended to read as follows:

9           “(4) DATA USED IN DETERMINING DOMESTIC  
 10          ASSET/LIABILITY PERCENTAGES AND DOMESTIC IN-  
 11          VESTMENT YIELDS.—Each domestic asset/liability  
 12          percentage, and each domestic investment yield, for  
 13          any taxable year shall be based on representative tax  
 14          return data with respect to domestic insurance com-  
 15          panies for such taxable year (or where such data is  
 16          unavailable, such representative data as the Sec-  
 17          retary considers appropriate).”

18          (b) EFFECTIVE DATE.—The amendments made by  
 19          this section shall apply to taxable years beginning after  
 20          December 31, 1996.

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