

106TH CONGRESS
1ST SESSION

H. R. 2430

To amend the Internal Revenue Code of 1986 to provide tax treatment for foreign investment through a United States regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Mr. CRANE (for himself, Ms. DUNN, and Mr. McDERMOTT) 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 tax treatment for foreign investment through a United States regulated investment company comparable to the tax treatment for direct foreign investment and investment through a foreign mutual fund.

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Investment Competitiveness Act of 1999”.

6 (b) AMENDMENT OF 1986 CODE.—Whenever in this
7 Act an amendment or repeal is expressed in terms of an

1 amendment to, or repeal of, a section or other provision,
 2 the reference shall be considered to be made to a section
 3 or other provision of the Internal Revenue Code of 1986.

4 **SEC. 2. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
 5 **LATED INVESTMENT COMPANIES.**

6 (a) TREATMENT OF CERTAIN DIVIDENDS.—

7 (1) NONRESIDENT ALIEN INDIVIDUALS.—Sec-
 8 tion 871 (relating to tax on nonresident alien indi-
 9 viduals) is amended by redesignating subsection (k)
 10 as subsection (l) and by inserting after subsection (j)
 11 the following new subsection:

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

14 “(1) INTEREST-RELATED DIVIDENDS.—

15 “(A) IN GENERAL.—Except as provided in
 16 subparagraph (B), no tax shall be imposed
 17 under paragraph (1)(A) of subsection (a) on
 18 any interest-related dividend received from a
 19 regulated investment company.

20 “(B) EXCEPTIONS.—Subparagraph (A)
 21 shall not apply—

22 “(i) to any interest-related dividend
 23 received from a regulated investment com-
 24 pany by a person to the extent such divi-
 25 dend is attributable to interest (other than

1 interest described in subparagraph
2 (E)(i)(I) or (III) or (E)(ii)) received by
3 such company on indebtedness issued by
4 such person or by any corporation or part-
5 nership with respect to which such person
6 is a 10-percent shareholder,

7 “(ii) to any interest-related dividend
8 with respect to stock of a regulated invest-
9 ment company unless the person who
10 would otherwise be required to deduct and
11 withhold tax from such dividend under
12 chapter 3 receives a statement (which
13 meets requirements similar to the require-
14 ments of subsection (h)(5)) that the bene-
15 ficial owner of such stock is not a United
16 States person, and

17 “(iii) to any interest-related dividend
18 paid to any person within a foreign coun-
19 try (or any interest-related dividend pay-
20 ment addressed to, or for the account of,
21 persons within such foreign country) dur-
22 ing any period described in subsection
23 (h)(6) with respect to such country.

24 Clause (iii) shall not apply to any dividend with
25 respect to any stock which was acquired on or

1 before the date of the publication of the Sec-
2 retary's determination under subsection (h)(6).

3 “(C) INTEREST-RELATED DIVIDEND.—For
4 purposes of this paragraph, an interest-related
5 dividend is any dividend (or part thereof) which
6 is designated by the regulated investment com-
7 pany as an interest-related dividend in a writ-
8 ten notice mailed to its shareholders not later
9 than 60 days after the close of its taxable year.
10 If the aggregate amount so designated with re-
11 spect to a taxable year of the company (includ-
12 ing amounts so designated with respect to divi-
13 dends paid after the close of the taxable year
14 described in section 855) is greater than the
15 qualified net interest income of the company for
16 such taxable year, the portion of each distribu-
17 tion which shall be an interest-related dividend
18 shall be only that portion of the amounts so
19 designated which such qualified net interest in-
20 come bears to the aggregate amount so des-
21 ignated.

22 “(D) QUALIFIED NET INTEREST IN-
23 COME.—For purposes of subparagraph (C), the
24 term ‘qualified net interest income’ means the
25 qualified interest income of the regulated in-

1 investment company reduced by the deductions
2 properly allocable to such income.

3 “(E) QUALIFIED INTEREST INCOME.—For
4 purposes of subparagraph (D), the term ‘quali-
5 fied interest income’ means the sum of—

6 “(i) the following amounts derived by
7 the regulated investment company from
8 sources within the United States—

9 “(I) any amount includible in
10 gross income as original issue dis-
11 count (within the meaning of section
12 1273) on an obligation payable 183
13 days or less from the date of original
14 issue (without regard to the period
15 held by the company);

16 “(II) any interest includible in
17 gross income (including amounts rec-
18 ognized as ordinary income in respect
19 of original issue discount or market
20 discount or acquisition discount under
21 part V of subchapter P and such
22 other amounts as regulations may
23 provide) on an obligation which is in
24 registered form; except that this
25 clause shall not apply to any interest

1 on an obligation issued by a corpora-
2 tion or partnership if the regulated in-
3 vestment company is a 10-percent
4 shareholder in such corporation or
5 partnership, and to any interest which
6 is treated as not being portfolio inter-
7 est under the rules of subsection
8 (h)(4);

9 “(III) any interest referred to in
10 subsection (i)(2)(A) (without regard
11 to the trade or business of the regu-
12 lated investment company); and

13 “(IV) any interest-related divi-
14 dend includible in gross income with
15 respect to stock of another regulated
16 investment company; and

17 “(ii) any interest derived by the regu-
18 lated investment company from sources
19 outside the United States other than inter-
20 est that is subject to a tax imposed by a
21 foreign jurisdiction if the amount of such
22 tax is reduced (or eliminated) by a treaty
23 with the United States.

24 “(F) 10-PERCENT SHAREHOLDER.—For
25 purposes of this paragraph, the term ‘10-per-

cent shareholder' has the meaning given to such term by subsection (h)(3)(B).

“(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividend received from a regulated investment company.

“(B) EXCEPTION FOR ALIENS TAXABLE UNDER SUBSECTION (a)(2).—Subparagraph (A) shall not apply in the case of any nonresident alien individual subject to tax under subsection (a)(2).

“(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section

855) is greater than the qualified short-term gain of the company for such taxable year, the portion of each distribution which shall be a short-term capital gain dividend shall be only that portion of the amounts so designated which such qualified short-term gain bears to the aggregate amount so designated.

“(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term ‘qualified short-term gain’ means the excess of the net short-term capital gain of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year. For purposes of this subparagraph—

“(i) the net short-term capital gain of the regulated investment company shall be computed by treating any short-term capital gain dividend includible in gross income with respect to the stock of another regulated investment company as a short-term capital gain, and

“(ii) the excess of the net short-term capital gain for a taxable year over the net long-term capital loss for a taxable year (to

1 which an election under section 4982(e)(4)
2 does not apply) shall be determined with-
3 out regard to any net capital loss or net
4 short-term capital loss attributable to
5 transactions after October 31 of such year,
6 and any such net capital loss or net short-
7 term capital loss shall be treated as arising
8 on the 1st day of the next taxable year.

9 To the extent provided in regulations, clause
10 (ii) shall apply also for purposes of computing
11 the taxable income of the regulated investment
12 company.”.

13 (2) FOREIGN CORPORATIONS.—Section 881 is
14 amended by redesignating subsection (e) as sub-
15 section (f) and by inserting after subsection (d) the
16 following new subsection:

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

19 “(1) INTEREST-RELATED DIVIDENDS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), no tax shall be imposed
22 under paragraph (1) of subsection (a) on any
23 interest-related dividend (as defined in section
24 871(k)(1)) received from a regulated investment
25 company.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply—

3 “(i) to any dividend referred to in sec-
4 tion 871(k)(1)(B), and

5 “(ii) to any interest-related dividend
6 received by a controlled foreign corporation
7 (within the meaning of section 957(a)) to
8 the extent such dividend is attributable to
9 interest received by the regulated invest-
10 ment company from a person who is a re-
11 lated person (within the meaning of section
12 864(d)(4)) with respect to such controlled
13 foreign corporation.

14 “(C) TREATMENT OF DIVIDENDS RE-
15 CEIVED BY CONTROLLED FOREIGN CORPORA-
16 TIONS.—The rules of subsection (c)(5)(A) shall
17 apply to any interest-related dividend received
18 by a controlled foreign corporation (within the
19 meaning of section 957(a)) to the extent such
20 dividend is attributable to interest received by
21 the regulated investment company which is de-
22 scribed in subclause (II) of section
23 871(k)(1)(E)(i) (and not described in subclause
24 (I) or (III) thereof).

1 “(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—
2 No tax shall be imposed under paragraph (1) of sub-
3 section (a) on any short-term capital gain dividend
4 (as defined in section 871(k)(2)) received from a
5 regulated investment company.”.

6 (3) WITHHOLDING TAXES.—

7 (A) Subsection (c) of section 1441 is
8 amended by adding at the end thereof the fol-
9 lowing new paragraph:

10 “(12) CERTAIN DIVIDENDS RECEIVED FROM
11 REGULATED INVESTMENT COMPANIES.—

12 “(A) IN GENERAL.—No tax shall be re-
13 quired to be deducted and withheld under sub-
14 section (a) from any amount exempt from the
15 tax imposed by section 871(a)(1)(A) by reason
16 of section 871(k).

17 “(B) SPECIAL RULE.—For purposes of
18 subparagraph (A), clause (i) of section
19 871(k)(1)(B) shall not apply to any dividend
20 unless the regulated investment company knows
21 that such dividend is a dividend referred to in
22 such clause. A similar rule shall apply with re-
23 spect to the exception contained in section
24 871(k)(2)(B).”.

1 (B) Subsection (a) of section 1442 is
2 amended—

3 (i) by striking “and the reference in
4 section 1441(c)(10)” and inserting “the
5 reference in section 1441(c)(10)”, and

6 (ii) by inserting before the period at
7 the end thereof the following: “, and the
8 references in section 1441(c)(12) to sec-
9 tions 871(a) and 871(k) shall be treated as
10 referring to sections 881(a) and 881(e)
11 (except that for purposes of applying sub-
12 paragraph (A) of section 1441(c)(12), as
13 so modified, clause (ii) of section
14 881(e)(1)(B) shall not apply to any divi-
15 dend unless the regulated investment com-
16 pany knows that such dividend is a divi-
17 dend referred to in such clause)”.

18 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-
19 TAIN REGULATED INVESTMENT COMPANIES.—Section
20 2105 (relating to property without the United States for
21 estate tax purposes) is amended by adding at the end
22 thereof the following new subsection:

23 “(d) STOCK IN A REGULATED INVESTMENT COM-
24 PANY.—

1 “(1) IN GENERAL.—For purposes of this sub-
2 chapter, stock in a regulated investment company
3 (as defined in section 851) owned by a nonresident
4 not a citizen of the United States shall not be
5 deemed property within the United States in the
6 proportion that, at the end of the quarter of such in-
7 vestment company’s taxable year immediately pre-
8 ceding the decedent’s date of death (or at such other
9 time as the Secretary may designate in regulations),
10 the assets of the investment company that were
11 qualifying assets with respect to the decedent bore
12 to the total assets of the investment company.

13 “(2) QUALIFYING ASSETS.—For purposes of
14 this subsection, qualifying assets with respect to a
15 decedent are assets that, if owned directly by the de-
16 cedent, would have been—

17 “(A) amounts, deposits, or debt obligations
18 described in subsection (b) of this section,

19 “(B) debt obligations described in the last
20 sentence of section 2104(c), or

21 “(C) other property not within the United
22 States.”.

23 (c) TREATMENT OF REGULATED INVESTMENT COM-
24 PANIES UNDER SECTION 897.—

1 (1) Paragraph (1) of section 897(h) is amended
2 by striking “REIT” each place it appears and in-
3 serting “qualified investment entity”.

4 (2) Paragraphs (2) and (3) of section 897(h)
5 are amended to read as follows:

6 “(2) SALE OF STOCK IN DOMESTICALLY-CON-
7 TROLLED ENTITY NOT TAXED.—The term ‘United
8 States real property interest’ does not include any
9 interest in a domestically-controlled qualified invest-
10 ment entity.

11 “(3) DISTRIBUTIONS BY DOMESTICALLY-CON-
12 TROLLED QUALIFIED INVESTMENT ENTITIES.—In
13 the case of a domestically-controlled qualified invest-
14 ment entity, rules similar to the rules of subsection
15 (d) shall apply to the foreign ownership percentage
16 of any gain.”.

17 (3) Subparagraphs (A) and (B) of section
18 897(h)(4) are amended to read as follows:

19 “(A) QUALIFIED INVESTMENT ENTITY.—
20 The term ‘qualified investment entity’ means
21 any real estate investment trust and any regu-
22 lated investment company.

23 “(B) DOMESTICALLY-CONTROLLED.—The
24 term ‘domestically-controlled qualified invest-
25 ment entity’ means any qualified investment en-

1 tity in which at all times during the testing pe-
2 riod less than 50 percent in value of the stock
3 was held directly or indirectly by foreign per-
4 sons.”.

5 (4) Subparagraphs (C) and (D) of section
6 897(h)(4) are each amended by striking “REIT”
7 and inserting “qualified investment entity”.

8 (5) The subsection heading for subsection (h) of
9 section 897 is amended by striking “REITS” and
10 inserting “CERTAIN INVESTMENT ENTITIES”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the amendments made by
14 this section shall apply to dividends with respect to
15 taxable years of regulated investment companies be-
16 ginning after the date of the enactment of this Act.

17 (2) ESTATE TAX TREATMENT.—The amend-
18 ment made by subsection (b) shall apply to estates
19 of decedents dying after the date of the enactment
20 of this Act.

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