

107TH CONGRESS  
1ST SESSION

# H. R. 1493

To amend the Internal Revenue Code of 1986 to enhance the competitiveness of the United States leasing industry.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. McCRERY 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 enhance the competitiveness of the United States leasing industry.

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. TREATMENT OF EXPORT LEASES.**

4       (a) PROPERTY LEASED TO FOREIGN PERSONS.—  
5       Section 168(g)(1) of the Internal Revenue Code of 1986  
6       is amended by redesignating subparagraphs (B), (C), (D),  
7       and (E) as subparagraphs (C), (D), (E), and (F), respec-  
8       tively, and by inserting after subparagraph (A) the fol-  
9       lowing new subparagraph:

1 “(B) any tangible property leased to a for-  
 2 eign person or entity,”.

3 (b) FOREIGN PERSON OR ENTITY.—Section 168(g)  
 4 of such Code is amended by redesignating paragraphs (5),  
 5 (6), and (7) as paragraphs (6), (7), and (8), respectively,  
 6 and by inserting after paragraph (4) the following new  
 7 paragraph:

8 “(5) TANGIBLE PROPERTY LEASED TO A FOR-  
 9 EIGN PERSON OR ENTITY.—

10 “(A) TANGIBLE PROPERTY.—For purposes  
 11 of paragraph (1)(B), the term ‘tangible prop-  
 12 erty’ means any tangible property other than—

13 “(i) nonresidential real property as  
 14 defined under subsection (h)(1)(E) to the  
 15 extent it is not subject to a disqualified  
 16 lease determined under rules similar to the  
 17 rules of subsection (h)(1)(B),

18 “(ii) property used by a foreign per-  
 19 son or entity if more than 50 percent of  
 20 the gross income for the taxable year de-  
 21 rived by the foreign person or entity from  
 22 the use of such property is—

23 “(I) subject to tax under this  
 24 chapter, or

1 “(II) included under section 951  
2 in the gross income of a United States  
3 shareholder for the taxable year with  
4 or within which ends the taxable year  
5 of the controlled foreign corporation  
6 in which such income was derived,  
7 and

8 “(iii) property determined under rules  
9 similar to the rules of subsection (h)(3).

10 For purposes of clause (ii), any exclusion or ex-  
11 emption shall not apply for purposes of deter-  
12 mining the amount of the gross income so de-  
13 rived, but shall apply for purposes of deter-  
14 mining the portion of such gross income subject  
15 to tax under this chapter.

16 “(B) FOREIGN PERSON OR ENTITY.—For  
17 purposes of this paragraph and paragraph  
18 (1)(B)—

19 “(i) IN GENERAL.—The term ‘foreign  
20 person or entity’ means—

21 “(I) any foreign government, any  
22 international organization, or any  
23 agency or instrumentality of any of  
24 the foregoing, and

1 “(II) any person who is not a  
2 United States person.

3 Such term does not include any foreign  
4 partnership or other foreign pass-thru enti-  
5 ty.

6 “(ii) OTHER PASS-THRU ENTITIES;  
7 TIERED ENTITIES.—In the case of prop-  
8 erty leased to or owned by a partnership or  
9 other pass-thru entity and in the case of  
10 tiered partnerships and other entities, rules  
11 similar to the rules of paragraphs (5) and  
12 (6) of subsection (h) shall apply. For pur-  
13 poses of the preceding sentence, unless it is  
14 otherwise established to the satisfaction of  
15 the Secretary, it shall be presumed that  
16 the partners of a foreign partnership (and  
17 the beneficiaries of any other foreign pass-  
18 thru entity) are persons who are not  
19 United States persons.”

20 (c) TAX-EXEMPT ENTITY.—Section 168(h)(2)(A) of  
21 such Code is amended by adding “and” at the end of  
22 clause (i), by striking “, and” at the end of clause (ii)  
23 and inserting a period, and by striking clause (iii).

24 (d) CONFORMING AMENDMENTS.—

1           (1) Section 168(g)(6)(A) of such Code is  
2           amended by striking “paragraph (1)(D)” and insert-  
3           ing “paragraph (1)(E)”.

4           (2) Section 168(h)(2) of such Code is amended  
5           by striking subparagraphs (B) and (C) and redesign-  
6           nating subparagraphs (D) and (E) as subparagraphs  
7           (B) and (C), respectively.

8           (3) Section 168(h)(5) of such Code is amended  
9           by striking subparagraph (C).

10          (4) Section 168(h)(7) of such Code is amended  
11          by inserting “subsection (g) and ” before “this sub-  
12          section”.

13          (5) Section 168(j)(4)(B)(i) of such Code is  
14          amended by striking “subsection (g)(7)” and insert-  
15          ing “subsection (g)(8)”.

16          (6) Section 50(b)(4)(A)(ii) of such Code is  
17          amended by striking “section 168(h)(2)(C)), but  
18          only with respect to property to which section  
19          168(h)(2)(A)(iii) applies (determined after the appli-  
20          cation of section 168(h)(2)(B))” and inserting “sec-  
21          tion 168(g)(5)(B)), but only with respect to property  
22          to which section 168(g)(5) applies”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to leases entered into after the date  
3 of the enactment of this Act.

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