

107TH CONGRESS
1ST SESSION

H. R. 2550

To amend the Internal Revenue Code of 1986 to provide an appropriate and permanent tax structure for investments in the Commonwealth of Puerto Rico and the possessions of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2001

Mr. CRANE (for himself, Mr. RANGEL, Mr. ACEVEDO-VILÁ, Mr. RAMSTAD, Mr. MATSUI, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. JEFFERSON, Mr. BECERRA, Mr. SENSENBRENNER, Mr. WICKER, Mr. GREEN of Wisconsin, Mrs. CHRISTENSEN, Ms. PELOSI, Mr. RAHALL, Mr. MENENDEZ, Mr. HOYER, Mr. SERRANO, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. TOWNS, Mr. CLEMENT, Mr. BRADY of Pennsylvania, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, and Mr. WELLER) 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 an appropriate and permanent tax structure for investments in the Commonwealth of Puerto Rico and the possessions of the United States, 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 (a) SHORT TITLE.—This Act may be cited as the
5 “Economic Revitalization Tax Act of 2001”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. CERTAIN INVESTMENTS IN UNITED STATES PROP-**
 8 **ERTY BY QUALIFIED CORPORATIONS.**

9 (a) IN GENERAL.—Section 956 is amended by redes-
 10 ignating subsection (e) as subsection (f) and adding the
 11 following new subsection (e):

12 “(e) SEPARATE APPLICATION OF SECTION TO QUALI-
 13 FIED CORPORATIONS.—

14 “(1) IN GENERAL.—In the case of a qualified
 15 corporation, this section shall be applied separately
 16 with respect to such corporation’s qualified income.

17 “(2) DEFINITIONS.—For purposes of this
 18 section—

19 “(A) QUALIFIED CORPORATION.—The
 20 term ‘qualified corporation’ means any foreign
 21 corporation which is a controlled foreign cor-
 22 poration and is created or organized under the
 23 laws of, or engaged in the active conduct of a
 24 trade or business within, the Commonwealth of

1 Puerto Rico or a possession of the United
2 States.

3 “(B) QUALIFIED INCOME.—The term
4 ‘qualified income’ means income earned by a
5 qualified corporation in taxable years beginning
6 after December 31, 2001, from sources outside
7 the United States, from—

8 “(i) the active conduct of a trade or
9 business within the Commonwealth of
10 Puerto Rico or a possession of the United
11 States, or

12 “(ii) the sale or exchange of substan-
13 tially all of the assets used in the active
14 conduct of such a trade or business.

15 “(C) POSSESSION.—The term ‘possession
16 of the United States’ includes the Virgin Is-
17 lands, Guam, American Samoa, and the Com-
18 monwealth of the Northern Mariana Islands.

19 “(3) TAXABLE YEARS TO WHICH SUBSECTION
20 IS APPLICABLE.—This subsection shall be applicable
21 with respect to any taxable year of a qualified cor-
22 poration beginning after December 31, 2001, for
23 which an election under section 245(d) is not in ef-
24 fect.”

1 (b) CERTAIN INVESTMENTS IN UNITED STATES
 2 PROPERTY.—Section 951(a) is amended by adding the fol-
 3 lowing new paragraph at the end thereof:

4 “(4) CERTAIN INVESTMENTS IN UNITED
 5 STATES PROPERTY.—

6 “(A) IN GENERAL.—The amount deter-
 7 mined under paragraph (1)(B) of this sub-
 8 section with respect to a qualified corporation
 9 (as defined in section 956(e)(2)(A)) shall be re-
 10 duced (but not below zero) by the lesser of—

11 “(i) 90 percent of the amount deter-
 12 mined under section 956(e) with respect to
 13 such corporation for the taxable year, or

14 “(ii) 90 percent of such corporation’s
 15 cumulative qualified income (as defined in
 16 section 956(e)(2)(B)), reduced by amounts
 17 (if any) previously allowed as a deduction
 18 under section 245(d).

19 “(B) SUCCEEDING TAXABLE YEARS.—In
 20 applying this section and section 956 to any
 21 taxable year, any amount not included in the
 22 gross income of a United States shareholder of
 23 a qualified corporation in a prior taxable year
 24 solely by reason of the application of subpara-
 25 graph (A) of this paragraph shall be treated as

1 if it had been so included in the gross income
2 of the United States shareholder in such prior
3 taxable year.”

4 **SEC. 3. DIVIDENDS RECEIVED DEDUCTION WITH RESPECT**
5 **TO CERTAIN DISTRIBUTIONS BY QUALIFIED**
6 **CORPORATIONS.**

7 Section 245 is amended by adding the following new
8 subsection at the end thereof:

9 “(d) DIVIDENDS FROM QUALIFIED CORPORA-
10 TIONS.—

11 “(1) GENERAL RULE.—In the case of a divi-
12 dend described in paragraph (2) received by a do-
13 mestic corporation from an electing qualified cor-
14 poration (as defined in section 956(e)(2)(A)), there
15 shall be allowed as a deduction an amount equal to
16 85 percent of such dividend.

17 “(2) ELIGIBLE DIVIDENDS.—Paragraph (1)
18 shall apply only to dividends which are paid out of
19 that portion of the earnings and profits of a quali-
20 fied corporation which does not exceed such corpora-
21 tion’s accumulated qualified income (as defined in
22 section 956(e)(2)(B)).

23 “(3) APPLICATION OF SECTION 316 ORDERING
24 RULE.—For purposes of this subsection, a dividend
25 shall be deemed to be made out of the most recently

1 accumulated earnings and profits of the qualified
2 corporation.

3 “(4) ELECTIONS.—

4 “(A) IN GENERAL.—An election under this
5 subsection shall be made by the qualified cor-
6 poration at such time and in such manner as
7 the Secretary shall prescribe.

8 “(B) YEARS FOR WHICH ELECTION IS EF-
9 FECTIVE.—An election under this subsection
10 shall be effective for the taxable year of the
11 qualified corporation beginning after December
12 31, 2001, for which such election is made and
13 for all succeeding taxable years of such corpora-
14 tion, unless—

15 “(i) the corporation ceases to be a
16 qualified corporation, or

17 “(ii) the corporation revokes the elec-
18 tion.

19 “(C) NEW ELECTION BY QUALIFIED COR-
20 PORATION FOLLOWING TERMINATION.—If a
21 qualified corporation has made an election
22 under this subsection and if such election has
23 been terminated under subparagraph (B), such
24 corporation (and any successor qualified cor-
25 poration) shall not be eligible to make an elec-

tion under this subsection for any taxable year before the 5th taxable year which begins after the 1st taxable year for which such termination is effective, unless the Secretary consents to such election.

“(5) COORDINATION WITH FOREIGN TAX CREDIT.—To the extent provided by the Secretary in regulations, the principles of sections 245(a)(8) and (9) shall apply to dividends described in paragraph (1) of this subsection.”

**SEC. 4. SAFE HARBOR RULE FOR CERTAIN TRANSFERS OR
LICENSES OF INTANGIBLE PROPERTY TO A
QUALIFIED CORPORATION.**

Section 367 is amended by the following new subsection at the end thereof:

“(g) SAFE HARBOR FOR CERTAIN TRANSFERS OR
LICENSES OF INTANGIBLE PROPERTY.—

“(1) GENERAL RULE.—If subsection (d)(2)(A)(ii) or section 482 is otherwise applicable to the transfer or license of qualified intangible property to an electing qualified corporation (as defined in section 956(e)(2)(A)), the requirements of subsection (d)(2)(A)(ii) or section 482, as the case may be, shall be treated as satisfied for all purposes under this subtitle, with respect to the qualified in-

1 come attributable to the qualified intangible prop-
 2 erty, for any taxable year for which the electing
 3 qualified corporation computes its qualified income
 4 (as defined in section 956(e)(2)(B)) with respect to
 5 its products or services involving the use of the
 6 qualified intangible property in accordance with the
 7 same method specified in section 936(h) (as in effect
 8 on the date of enactment of this subsection) which
 9 was used by the domestic corporation referred to in
 10 paragraph (2)(A) for its last taxable year beginning
 11 before the transfer or license to the qualified cor-
 12 poration.

13 “(2) DEFINITIONS.—For purposes of this
 14 subsection—

15 “(A) QUALIFIED INTANGIBLE PROP-
 16 PERTY.—The term ‘qualified intangible property’
 17 means any intangible property owned by a do-
 18 mestic corporation on the date of enactment of
 19 this section, but only if such property was—

20 “(i) developed or purchased by the do-
 21 mestic corporation, and

22 “(ii) used directly in the active con-
 23 duct by the domestic corporation of a trade
 24 or business for which credits were allowed
 25 under either section 30A or section 936 for

1 the taxable year within which the transfer
2 or license occurs.

3 “(B) INTANGIBLE PROPERTY.—The term
4 ‘intangible property’ means any intangible prop-
5 erty (within the meaning of subsection (d)) but
6 only if such property was used directly in con-
7 nection with a manufacturing or similar process
8 within the taxable year referred to in paragraph
9 (2)(A)(ii).

10 “(3) ELECTIONS.—

11 “(A) IN GENERAL.—An election under this
12 subsection shall be made by the qualified cor-
13 poration, in such manner as the Secretary may
14 prescribe by regulations, only before the 15th
15 day of the 3d month following the close of the
16 first taxable year of such corporation beginning
17 after December 31, 2001.

18 “(B) YEARS FOR WHICH EFFECTIVE.—An
19 election under this subsection shall apply to the
20 taxable year for which made and all subsequent
21 years unless—

22 “(i) the foreign corporation which is
23 the transferee or licensee ceases to be a
24 qualified corporation, or

1 “(ii) the Secretary consents to the
2 revocation of the election.”

3 **SEC. 5. TECHNICAL AND CONFORMING CHANGES.**

4 (a) **IMPUTED INTEREST.**—Notwithstanding any pro-
5 vision of the Internal Revenue Code of 1986, no interest
6 shall be imputed, and no original issue discount shall be
7 accrued, for any purpose under such Code with respect
8 to any obligation issued to a qualified corporation (as de-
9 fined in section 956(e)(2)(A) of such Code) as part of a
10 transaction to which section 956(e) of such Code is appli-
11 cable.

12 (b) **CONSTRUCTIVE DIVIDENDS.**—Notwithstanding
13 any provision of the Internal Revenue Code of 1986, no
14 amount of United States property held by a qualified cor-
15 poration (as defined in section 956(e) of such Code) pur-
16 suant to sections 951(a)(4) and 956(e) of such Code shall
17 be treated as a dividend for any purpose under the Code.

18 **SEC. 6. REGULATIONS.**

19 The Secretary shall prescribe such regulations as are
20 necessary or appropriate to carry out the purposes of this
21 Act.

22 **SEC. 7. EFFECTIVE DATE.**

23 The amendments made by this Act shall take effect
24 on the date of enactment of this Act.

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