

107TH CONGRESS
2D SESSION

H. R. 5103

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

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2002

Mr. LEVIN (for himself and Mr. MATSUI) 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 simplify certain rules relating to the taxation of United States businesses 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, Fairness, and Competi-
7 tiveness Act of 2002”.

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. Expansion of de minimis rule under subpart F.

Sec. 102. Look-through treatment for sales of partnership interests.

Sec. 103. Repeal of foreign personal holding company rules and foreign invest-
 ment company rules.

Sec. 104. Study of proper treatment of European Union under same country
 exceptions.

Sec. 105. 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. Application of look-thru rules to foreign tax credit.

Sec. 205. Attribution of stock ownership through partnerships to apply in de-
 termining section 902 and 960 credits.

Sec. 206. Study of whether to repeal special rules in section 907 on foreign oil
 and gas income.

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. United States property not to include certain assets acquired by deal-
 ers in ordinary course of trade or business.

Sec. 304. Treatment of certain dividends of regulated investment companies.

Sec. 305. Airline mileage awards to certain foreign persons.

Sec. 306. Election not to use average exchange rate for foreign tax paid other
 than in functional currency.

Sec. 307. Repeal of special capital gains tax on aliens present in the United
 States for 183 days or more.

Sec. 308. Repeal of withholding tax on dividends from certain foreign corpora-
 tions.

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

4 **SEC. 101. EXPANSION OF DE MINIMIS RULE UNDER SUB-**
5 **PART F.**

6 (a) IN GENERAL.—Clause (ii) of section
7 954(b)(3)(A) (relating to de minimis, etc., rules) is
8 amended by striking “\$1,000,000” and inserting
9 “\$5,000,000”.

10 (b) TECHNICAL AMENDMENTS.—

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

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

17 **SEC. 102. LOOK-THROUGH TREATMENT FOR SALES OF**
18 **PARTNERSHIP INTERESTS.**

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

22 “(4) LOOK-THROUGH RULE FOR CERTAIN
23 PARTNERSHIP SALES.—

24 “(A) IN GENERAL.—In the case of any
25 sale by a controlled foreign corporation of an

1 interest in a partnership with respect to which
 2 such corporation is a 25-percent owner, such
 3 corporation shall be treated for purposes of this
 4 subsection as selling the proportionate share of
 5 the assets of the partnership attributable to
 6 such interest.

7 “(B) 25-PERCENT OWNER.—For purposes
 8 of this paragraph, the term ‘25-percent owner’
 9 means a controlled foreign corporation which
 10 owns 25 percent or more of the capital or prof-
 11 its interest in the partnership. The constructive
 12 ownership rules of section 958(b) shall apply
 13 for purposes of the preceding sentence.”

14 (b) CONFORMING AMENDMENT.—Section
 15 954(c)(1)(B)(ii) is amended by inserting “except as pro-
 16 vided in paragraph (4),” before “which”.

17 **SEC. 103. REPEAL OF FOREIGN PERSONAL HOLDING COM-**
 18 **PANY RULES AND FOREIGN INVESTMENT**
 19 **COMPANY RULES.**

20 (a) GENERAL RULE.—The following provisions are
 21 hereby repealed:

22 (1) Part III of subchapter G of chapter 1 (re-
 23 lating to foreign personal holding companies).

24 (2) Section 1246 (relating to gain on foreign in-
 25 vestment company stock).

1 (3) Section 1247 (relating to election by foreign
2 investment companies to distribute income cur-
3 rently).

4 (b) EXEMPTION OF FOREIGN CORPORATIONS FROM
5 PERSONAL HOLDING COMPANY RULES.—

6 (1) IN GENERAL.—Subsection (c) of section
7 542 (relating to exceptions) is amended—

8 (A) by striking paragraph (5) and insert-
9 ing the following:

10 “(5) a foreign corporation,”

11 (B) by striking paragraphs (7) and (10)
12 and by redesignating paragraphs (8) and (9) as
13 paragraphs (7) and (8), respectively,

14 (C) by inserting “and” at the end of para-
15 graph (7) (as so redesignated), and

16 (D) by striking “; and” at the end of para-
17 graph (8) (as so redesignated) and inserting a
18 period.

19 (2) TREATMENT OF INCOME FROM PERSONAL
20 SERVICE CONTRACTS.—Paragraph (1) of section
21 954(c) is amended by adding at the end the fol-
22 lowing new subparagraph:

23 “(H) PERSONAL SERVICE CONTRACTS.—

24 “(i) Amounts received under a con-
25 tract under which the corporation is to fur-

1 nish personal services; if some person other
2 than the corporation has the right to des-
3 ignate (by name or by description) the in-
4 dividual who is to perform the services, or
5 if the individual who is to perform the
6 services is designated (by name or by de-
7 scription) in the contract; and

8 “(ii) amounts received from the sale
9 or other disposition of such a contract.

10 This subparagraph shall apply with respect to
11 amounts received for services under a particular
12 contract only if at some time during the taxable
13 year 25 percent or more in value of the out-
14 standing stock of the corporation is owned, di-
15 rectly or indirectly, by or for the individual who
16 has performed, is to perform, or may be des-
17 ignated (by name or by description) as the one
18 to perform, such services.”

19 (c) CONFORMING AMENDMENTS.—

20 (1) Paragraph (2) of section 171(c) is
21 amended—

22 (A) by striking “, or by a foreign personal
23 holding company, as defined in section 552”,
24 and

1 (B) by striking “, or a foreign personal
2 holding company”.

3 (2) Paragraph (2) of section 245(a) is amended
4 by striking “foreign personal holding company or”

5 (3) Section 312 is amended by striking sub-
6 section (j).

7 (4) Subsection (m) of section 312 is amended
8 by striking “, a foreign investment company (within
9 the meaning of section 1246(b)), or a foreign per-
10 sonal holding company (within the meaning of sec-
11 tion 552)”.

12 (5) Subsection (e) of section 443 is amended by
13 striking paragraph (3) and by redesignating para-
14 graphs (4) and (5) as paragraphs (3) and (4), re-
15 spectively.

16 (6) Subparagraph (B) of section 465(c)(7) is
17 amended to by adding “or” at the end of clause (i),
18 by striking clause (ii), and by redesignating clause
19 (iii) as clause (ii).

20 (7) Paragraph (1) of section 543(b) is amended
21 by inserting “and” at the end of subparagraph (A),
22 by striking “, and” at the end of subparagraph (B)
23 and inserting a period, and by striking subparagraph
24 (C).

1 (8) Paragraph (1) of section 562(b) is amended
2 by striking “or a foreign personal holding company
3 described in section 552”.

4 (9) Section 563 is amended—

5 (A) by striking subsection (c),

6 (B) by redesignating subsection (d) as sub-
7 section (c), and

8 (C) by striking “subsection (a), (b), or (c)”
9 in subsection (c) (as so redesignated) and in-
10 serting “subsection (a) or (b)”.

11 (10) Subsection (d) of section 751 is amended
12 by adding “and” at the end of paragraph (2), by
13 striking paragraph (3), by redesignating paragraph
14 (4) as paragraph (3), and by striking “paragraph
15 (1), (2), or (3)” in paragraph (3) (as so redesign-
16 ated) and inserting paragraph (1) or (2)”.

17 (11) Paragraph (2) of section 864(d) is amend-
18 ed by striking subparagraph (A) and by redesign-
19 ating subparagraphs (B) and (C) as subparagraphs
20 (A) and (B), respectively.

21 (12)(A) Subparagraph (A) of section 898(b)(1)
22 is amended to read as follows:

23 “(A) which is treated as a controlled for-
24 eign corporation for any purpose under subpart
25 F of part III of this subchapter, and”.

1 (B) Subparagraph (B) of section 898(b)(2) is
2 amended by striking “and sections 551(f) and 554,
3 whichever are applicable,”.

4 (C) Paragraph (3) of section 898(b) is amended
5 to read as follows:

6 “(3) UNITED STATES SHAREHOLDER.—The
7 term ‘United States shareholder’ has the meaning
8 given to such term by section 951(b), except that, in
9 the case of a foreign corporation having related per-
10 son insurance income (as defined in section
11 953(c)(2)), the Secretary may treat any person as a
12 United States shareholder for purposes of this sec-
13 tion if such person is treated as a United States
14 shareholder under section 953(c)(1).”

15 (D) Subsection (c) of section 898 is amended to
16 read as follows:

17 “(c) DETERMINATION OF REQUIRED YEAR.—

18 “(1) IN GENERAL.—The required year is—

19 “(A) the majority U.S. shareholder year,

20 or

21 “(B) if there is no majority U.S. share-
22 holder year, the taxable year prescribed under
23 regulations.

24 “(2) 1-MONTH DEFERRAL ALLOWED.—A speci-
25 fied foreign corporation may elect, in lieu of the tax-

1 able year under paragraph (1)(A), a taxable year be-
2 ginning 1 month earlier than the majority U.S.
3 shareholder year.

4 “(3) MAJORITY U.S. SHAREHOLDER YEAR.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, the term ‘majority U.S. shareholder
7 year’ means the taxable year (if any) which, on
8 each testing day, constituted the taxable year
9 of—

10 “(i) each United States shareholder
11 described in subsection (b)(2)(A), and

12 “(ii) each United States shareholder
13 not described in clause (i) whose stock was
14 treated as owned under subsection
15 (b)(2)(B) by any shareholder described in
16 such clause.

17 “(B) TESTING DAY.—The testing days
18 shall be—

19 “(i) the first day of the corporation’s
20 taxable year (determined without regard to
21 this section), or

22 “(ii) the days during such representa-
23 tive period as the Secretary may pre-
24 scribe.”

1 (13) Clause (ii) of section 904(d)(2) is amended
2 to read as follows:

3 “(ii) CERTAIN AMOUNTS INCLUDED.—
4 Except as provided in clause (iii), the term
5 ‘passive income’ includes, except as pro-
6 vided in subparagraph (E)(iii) or para-
7 graph (3)(I), any amount includible in
8 gross income under section 1293 (relating
9 to certain passive foreign investment com-
10 panies).”

11 (14)(A) Subparagraph (A) of section 904(g)(1)
12 is amended by adding “or” at the end of clause (i),
13 by striking clause (ii), and by redesignating clause
14 (iii) as clause (ii).

15 (B) The paragraph heading of paragraph (2) of
16 section 904(g) is amended by striking “FOREIGN
17 PERSONAL HOLDING OR”.

18 (15) Section 951 is amended by striking sub-
19 sections (c) and (d) and by redesignating subsections
20 (e) and (f) as subsections (c) and (d), respectively.

21 (16) Paragraph (3) of section 989(b) is amend-
22 ed by striking “, 551(a),”.

23 (17) Paragraph (5) of section 1014(b) is hereby
24 repealed.

1 (18) Subsection (a) of section 1016 is amended
2 by striking paragraph (13) and by redesignating the
3 following paragraphs accordingly.

4 (19)(A) Paragraph (3) of section 1212(a) is
5 amended to read as follows:

6 “(3) SPECIAL RULES ON CARRYBACKS.—A net
7 capital loss of a corporation shall not be carried
8 back under paragraph (1)(A) to a taxable year—

9 “(A) for which it is a regulated investment
10 company (as defined in section 851), or

11 “(B) for which it is a real estate invest-
12 ment trust (as defined in section 856).”

13 (B) The amendment made by subparagraph (A)
14 shall apply to taxable years beginning after Decem-
15 ber 31, 2004.

16 (20) Section 1223 is amended by striking para-
17 graph (10) and by redesignating the following para-
18 graphs accordingly.

19 (21) Subsection (d) of section 1248 is amended
20 by striking paragraph (5) and by redesignating
21 paragraphs (6) and (7) as paragraphs (5) and (6),
22 respectively.

23 (22) Paragraph (2) of section 1260(c) is
24 amended by striking subparagraphs (H) and (I) and

1 by redesignating subparagraph (J) as subparagraph
2 (H).

3 (23) Subparagraph (F) of section 1291(b)(3) is
4 amended by striking “551(d), 959(a),” and inserting
5 “959(a)”.

6 (24) Paragraph (2) of section 1294(a) is
7 amended to read as follows:

8 “(2) ELECTION NOT PERMITTED WHERE
9 AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION
10 951.—The taxpayer may not make an election under
11 paragraph (1) with respect to the undistributed
12 PFIC earnings tax liability attributable to a quali-
13 fied electing fund for the taxable year if any amount
14 is includible in the gross income of the taxpayer
15 under section 951 with respect to such fund for such
16 taxable year.”

17 (25) Section 6035 is hereby repealed.

18 (26) Subparagraph (D) of section 6103(e)(1) is
19 amended by striking clause (iv) and redesignating
20 clauses (v) and (vi) as clauses (iv) and (v), respec-
21 tively.

22 (27) Subparagraph (B) of section 6501(e)(1) is
23 amended to read as follows:

24 “(B) CONSTRUCTIVE DIVIDENDS.—If the
25 taxpayer omits from gross income an amount

1 properly includible therein under section
2 951(a), the tax may be assessed, or a pro-
3 ceeding in court for the collection of such tax
4 may be done without assessing, at any time
5 within 6 years after the return was filed.”

6 (28) Subsection (a) of section 6679 is
7 amended—

8 (A) by striking “6035, 6046, and 6046A”
9 in paragraph (1) and inserting “6046 and
10 6046A”, and

11 (B) by striking paragraph (3).

12 (29) Sections 170(f)(10)(A), 508(d), 4947 and
13 section 4948(c)(4) are each amended by striking
14 “556(b)(2),” each place it appears.

15 (30) The table of parts for subchapter G of
16 chapter 1 is amended by striking the item relating
17 to part III.

18 (31) The table of sections for part IV of sub-
19 chapter P of chapter 1 is amended by striking the
20 items relating to sections 1246 and 1247.

21 (32) The table of sections for subpart A of part
22 III of subchapter A of chapter 61 of such Code is
23 amended by striking the item relating to section
24 6035.

1 **SEC. 104. STUDY OF PROPER TREATMENT OF EUROPEAN**
2 **UNION UNDER SAME COUNTRY EXCEPTIONS.**

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

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

20 **SEC. 105. EFFECTIVE DATE.**

21 Except as otherwise provided in this title, the amend-
22 ments made by this title shall apply to taxable years of
23 foreign corporations beginning after December 31, 2002,
24 and taxable years of United States persons owning stock
25 in such corporations with or within which such corpora-
26 tions' taxable years end.

1 **TITLE II—PROVISIONS RELAT-**
2 **ING TO FOREIGN TAX CREDIT**

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

5 (a) GENERAL RULE.—Section 904(c) (relating to
6 carryback and carryover of excess tax paid) is amended
7 by striking “in the first, second, third, fourth, or fifth”
8 and inserting “in any of the first 10”.

9 (b) EXCESS EXTRACTION TAXES.—Paragraph (1) of
10 section 907(f) is amended by striking “in the first, second,
11 third, fourth, or fifth” and inserting “in any of the first
12 10”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to excess foreign taxes which (with-
15 out regard to the amendments made by this section) may
16 be carried to any taxable year beginning after December
17 31, 2001.

18 **SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC**
19 **LOSS.**

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

24 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC
25 LOSS.—

1 “(1) GENERAL RULE.—For purposes of this
2 subpart, in the case of any taxpayer who sustains an
3 overall domestic loss for any taxable year beginning
4 after December 31, 2002, that portion of the tax-
5 payer’s taxable income from sources within the
6 United States for each succeeding taxable year
7 which is equal to the lesser of—

8 “(A) the amount of such loss (to the extent
9 not used under this paragraph in prior taxable
10 years), or

11 “(B) 50 percent of the taxpayer’s taxable
12 income from sources within the United States
13 for such succeeding taxable year,
14 shall be treated as income from sources without the
15 United States (and not as income from sources with-
16 in the United States).

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

19 “(A) IN GENERAL.—The term ‘overall do-
20 mestic loss’ means any domestic loss to the ex-
21 tent such loss offsets taxable income from
22 sources without the United States for the tax-
23 able year or for any preceding taxable year by
24 reason of a carryback. For purposes of the pre-
25 ceding sentence, the term ‘domestic loss’ means

1 the amount by which the gross income for the
2 taxable year from sources within the United
3 States is exceeded by the sum of the deductions
4 properly apportioned or allocated thereto (deter-
5 mined without regard to any carryback from a
6 subsequent taxable year).

7 “(B) TAXPAYER MUST HAVE ELECTED
8 FOREIGN TAX CREDIT FOR YEAR OF LOSS.—
9 The term ‘overall domestic loss’ shall not in-
10 clude any loss for any taxable year unless the
11 taxpayer chose the benefits of this subpart for
12 such taxable year.

13 “(3) CHARACTERIZATION OF SUBSEQUENT IN-
14 COME.—

15 “(A) IN GENERAL.—Any income from
16 sources within the United States that is treated
17 as income from sources without the United
18 States under paragraph (1) shall be allocated
19 among and increase the income categories in
20 proportion to the loss from sources within the
21 United States previously allocated to those in-
22 come categories.

23 “(B) INCOME CATEGORY.—For purposes of
24 this paragraph, the term ‘income category’ has

1 the meaning given such term by subsection
 2 (f)(5)(E)(i).

3 “(4) COORDINATION WITH SUBSECTION (f).—

4 The Secretary shall prescribe such regulations as
 5 may be necessary to coordinate the provisions of this
 6 subsection with the provisions of subsection (f).”

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 535(d)(2) is amended by striking
 9 “section 904(g)(6)” and inserting “section
 10 904(h)(6)”.

11 (2) Subparagraph (A) of section 936(a)(2) is
 12 amended by striking “section 904(f)” and inserting
 13 “subsections (f) and (g) of section 904”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to losses for taxable years begin-
 16 ning after December 31, 2002.

17 **SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERV-**
 18 **ICES INCOME.**

19 (a) EXCEPTION FOR INTEREST ON CERTAIN SECURI-
 20 TIES.—Section 904(d)(2)(B) (relating to high withholding
 21 tax interest) is amended by redesignating clause (iii) as
 22 clause (iv) and by inserting after clause (ii) the following
 23 new clause:

24 “(iii) EXCEPTION FOR INTEREST ON
 25 DEALER PROPERTY.—The term ‘high with-

1 holding tax interest' shall not include any
2 interest on a security (within the meaning
3 of section 475(c)(2)) which is received or
4 accrued by a person that holds the security
5 in connection with the holder's activities as
6 a dealer in securities (within the meaning
7 of section 475(c)(1))."

8 (b) EXCEPTION FOR INCOME ON DEALER PROP-
9 erty.—Subsection 904(g) (relating to source rules in case
10 of United States-owned foreign corporations) is amended
11 by redesignating paragraph (11) as paragraph (12) and
12 by adding after paragraph (10) the following new para-
13 graph:

14 "(11) EXCEPTION FOR INCOME ON DEALER
15 PROPERTY.—Paragraph (1) shall not apply to any
16 amount derived from a United States-owned foreign
17 corporation that is derived from income on a secu-
18 rity (within the meaning of section 475(c)(2)) which
19 is received or accrued by a person that holds the se-
20 curity in connection with the holder's activities as a
21 dealer in securities (within the meaning of section
22 475(c)(1))."

23 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 2002.

4 (2) DEEMED PAID CREDITS.—In the case of
5 any credit under section 901 of the Internal Revenue
6 Code of 1986 by reason of section 902 or 960 of
7 such Code, the amendments made by this section
8 shall apply to taxable years of foreign corporations
9 beginning after December 31, 2002, and to taxable
10 years of United States shareholders in such corpora-
11 tions with or within which such taxable years of for-
12 eign corporations end.

13 **SEC. 204. APPLICATION OF LOOK-THRU RULES TO FOREIGN**
14 **TAX CREDIT.**

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

16 (1) NONCONTROLLED SECTION 902 CORPORA-
17 TION.—Section 904(d)(4)(A) is amended to read as
18 follows:

19 “(A) IN GENERAL.—For purposes of this
20 subsection—

21 “(i) any applicable dividend shall be
22 treated as income in a separate category in
23 proportion to the ratio of—

24 “(I) the portion of the earnings
25 and profits described in subparagraph

1 (B)(ii) attributable to income in such
2 category, to

3 “(II) the total amount of earn-
4 ings and profits, and

5 “(ii) any interest, rent, or royalty
6 which is received or accrued from a non-
7 controlled section 902 corporation with re-
8 spect to the taxpayer shall be treated as
9 income in a separate category to the extent
10 it is properly allocable (under regulations
11 prescribed by the Secretary) to income of
12 such corporation in such category.”

13 (2) PARTNERSHIPS.—Section 904(d)(6)(C) (re-
14 lating to regulations) is amended—

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

17 (B) by inserting “or noncontrolled section
18 902 corporations, whichever is applicable” after
19 “controlled foreign corporations”.

20 (3) CONFORMING AMENDMENT.—The heading
21 for section 904(d)(4) is amended by inserting “, IN-
22 TEREST, RENTS, OR ROYALTIES” after “DIVI-
23 DENDS”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2002.

4 **SEC. 205. ATTRIBUTION OF STOCK OWNERSHIP THROUGH**
5 **PARTNERSHIPS TO APPLY IN DETERMINING**
6 **SECTION 902 AND 960 CREDITS.**

7 (a) IN GENERAL.—Subsection (c) of section 902 is
8 amended by redesignating paragraph (7) as paragraph (8)
9 and by inserting after paragraph (6) the following new
10 paragraph:

11 “(7) CONSTRUCTIVE OWNERSHIP THROUGH
12 PARTNERSHIPS.—Stock owned, directly or indirectly,
13 by or for a partnership shall be considered as being
14 owned proportionately by its partners. Stock consid-
15 ered to be owned by a person by reason of the pre-
16 ceding sentence shall, for purposes of applying such
17 sentence, be treated as actually owned by such per-
18 son. The Secretary may prescribe such regulations
19 as may be necessary to carry out the purposes of
20 this paragraph, including rules to account for special
21 partnership allocations of dividends, credits, and
22 other incidents of ownership of stock in determining
23 proportionate ownership.”

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to taxes of foreign corporations

1 for taxable years of such corporations beginning after De-
2 cember 31, 2002.

3 **SEC. 206. STUDY OF WHETHER TO REPEAL SPECIAL RULES**
4 **IN SECTION 907 ON FOREIGN OIL AND GAS IN-**
5 **COME.**

6 (a) STUDY.—The Secretary of the Treasury or the
7 Secretary’s delegate shall—

8 (1) conduct a study to determine the revenue
9 impact and desirability of repealing section 907 of
10 the Internal Revenue Code of 1986 (relating to spe-
11 cial rules in case of foreign oil and gas income), and

12 (2) include in such study recommendations (if
13 any) for an alternative regime that substantially re-
14 duces compliance costs for affected companies but
15 achieves the same anti-abuse goals of such section
16 (as reflected in the revenue impact associated with
17 the new regime).

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

1 **TITLE III—OTHER PROVISIONS**

2 **SEC. 301. DEDUCTION FOR DIVIDENDS RECEIVED FROM**
3 **CERTAIN FOREIGN CORPORATIONS.**

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

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

11 (b) DIVIDENDS TO INCLUDE SUBPART F DISTRIBU-
12 TIONS.—Section 245(a) (relating to dividends from 10-
13 percent owned foreign corporations) is amended by adding
14 at the end the following new paragraph:

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

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2002.

1 **SEC. 302. APPLICATION OF UNIFORM CAPITALIZATION**
2 **RULES TO FOREIGN PERSONS.**

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

6 “(7) FOREIGN PERSONS.—Except for purposes
7 of applying sections 871(b)(1) and 882(a)(1), this
8 section shall not apply to any taxpayer who is not
9 a United States person if such taxpayer capitalizes
10 costs of produced property or property acquired for
11 resale by applying the method used to ascertain the
12 income, profit, or loss for purposes of reports or
13 statements to shareholders, partners, other propri-
14 etors, or beneficiaries, or for credit purposes.”

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to taxable years beginning after
17 December 31, 2002. Section 481 of the Internal Revenue
18 Code of 1986 shall not apply to any change in a method
19 of accounting by reason of such amendment.

20 **SEC. 303. UNITED STATES PROPERTY NOT TO INCLUDE**
21 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**
22 **ORDINARY COURSE OF TRADE OR BUSINESS.**

23 (a) IN GENERAL.—Section 956(c)(2) (relating to ex-
24 ceptions from property treated as United States property)
25 is amended by striking “and” at the end of subparagraph
26 (J), by striking the period at the end of subparagraph (K)

1 and inserting “; and”, and by adding at the end the fol-
 2 lowing new subparagraph:

3 “(L) securities acquired and held by a con-
 4 trolled foreign corporation in the ordinary
 5 course of its business as a dealer in securities
 6 if (i) the dealer accounts for the securities as
 7 securities held primarily for sale to customers
 8 in the ordinary course of business, and (ii) the
 9 dealer disposes of the securities (or such securi-
 10 ties mature while held by the dealer) within a
 11 period consistent with the holding of securities
 12 for sale to customers in the ordinary course of
 13 business.”

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

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years of foreign corpora-
 19 tions beginning after December 31, 2002, and to taxable
 20 years of United States shareholders with or within which
 21 such taxable years of foreign corporations end.

22 **SEC. 304. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
 23 **LATED INVESTMENT COMPANIES.**

24 (a) TREATMENT OF CERTAIN DIVIDENDS.—

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

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

8 “(1) INTEREST-RELATED DIVIDENDS.—

9 “(A) IN GENERAL.—Except as provided in
 10 subparagraph (B), no tax shall be imposed
 11 under paragraph (1)(A) of subsection (a) on
 12 any interest-related dividend received from a
 13 regulated investment company.

14 “(B) EXCEPTIONS.—Subparagraph (A)
 15 shall not apply—

16 “(i) to any interest-related dividend
 17 received from a regulated investment com-
 18 pany by a person to the extent such divi-
 19 dend is attributable to interest (other than
 20 interest described in subparagraph (E) (i)
 21 or (iii)) received by such company on in-
 22 debtedness issued by such person or by any
 23 corporation or partnership with respect to
 24 which such person is a 10-percent share-
 25 holder,

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

11 “(iii) to any interest-related dividend
12 paid to any person within a foreign coun-
13 try (or any interest-related dividend pay-
14 ment addressed to, or for the account of,
15 persons within such foreign country) dur-
16 ing any period described in subsection
17 (h)(6) with respect to such country.

18 Clause (iii) shall not apply to any dividend with
19 respect to any stock which was acquired on or
20 before the date of the publication of the Sec-
21 retary’s determination under subsection (h)(6).

22 “(C) INTEREST-RELATED DIVIDEND.—For
23 purposes of this paragraph, an interest-related
24 dividend is any dividend (or part thereof) which
25 is designated by the regulated investment com-

pany as an interest-related 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 net interest income of the company for such taxable year, the portion of each distribution which shall be an interest-related dividend shall be only that portion of the amounts so designated which such qualified net interest income bears to the aggregate amount so designated.

“(D) QUALIFIED NET INTEREST INCOME.—For purposes of subparagraph (C), the term ‘qualified net interest income’ means the qualified interest income of the regulated investment company reduced by the deductions properly allocable to such income.

“(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (D), the term ‘qualified interest income’ means the sum of the following amounts derived by the regulated invest-

1 ment company from sources within the United
2 States:

3 “(i) Any amount includible in gross
4 income as original issue discount (within
5 the meaning of section 1273) on an obliga-
6 tion payable 183 days or less from the date
7 of original issue (without regard to the pe-
8 riod held by the company).

9 “(ii) Any interest includible in gross
10 income (including amounts recognized as
11 ordinary income in respect of original issue
12 discount or market discount or acquisition
13 discount under part V of subchapter P and
14 such other amounts as regulations may
15 provide) on an obligation which is in reg-
16 istered form; except that this clause shall
17 not apply to—

18 “(I) any interest on an obligation
19 issued by a corporation or partnership
20 if the regulated investment company
21 is a 10-percent shareholder in such
22 corporation or partnership, and

23 “(II) any interest which is treat-
24 ed as not being portfolio interest
25 under the rules of subsection (h)(4).

1 “(iii) Any interest referred to in sub-
2 section (i)(2)(A) (without regard to the
3 trade or business of the regulated invest-
4 ment company).

5 “(iv) Any interest-related dividend in-
6 cludable in gross income with respect to
7 stock of another regulated investment com-
8 pany.

9 “(F) 10-PERCENT SHAREHOLDER.—For
10 purposes of this paragraph, the term ‘10-per-
11 cent shareholder’ has the meaning given such
12 term by subsection (h)(3)(B).

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

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

19 “(B) EXCEPTION FOR ALIENS TAXABLE
20 UNDER SUBSECTION (a)(2).—In the case of
21 dividends received from a regulated investment
22 company before January 1, 2003, subparagraph
23 (A) shall not apply in the case of any non-
24 resident alien individual subject to tax under
25 subsection (a)(2).

1 “(C) SHORT-TERM CAPITAL GAIN DIVI-
2 DEND.—For purposes of this paragraph, a
3 short-term capital gain dividend is any dividend
4 (or part thereof) which is designated by the reg-
5 ulated investment company as a short-term cap-
6 ital gain dividend in a written notice mailed to
7 its shareholders not later than 60 days after the
8 close of its taxable year. If the aggregate
9 amount so designated with respect to a taxable
10 year of the company (including amounts so des-
11 ignated with respect to dividends paid after the
12 close of the taxable year described in section
13 855) is greater than the qualified short-term
14 gain of the company for such taxable year, the
15 portion of each distribution which shall be a
16 short-term capital gain dividend shall be only
17 that portion of the amounts so designated
18 which such qualified short-term gain bears to
19 the aggregate amount so designated.

20 “(D) QUALIFIED SHORT-TERM GAIN.—For
21 purposes of subparagraph (C), the term ‘quali-
22 fied short-term gain’ means the excess of the
23 net short-term capital gain of the regulated in-
24 vestment company for the taxable year over the
25 net long-term capital loss (if any) of such com-

pany 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 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 which an election under section 4982(e)(4) does not apply) shall be determined without regard to any net capital loss or net short-term capital loss attributable to transactions after October 31 of such year, and any such net capital loss or net short-term capital loss shall be treated as arising on the 1st day of the next taxable year.

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

1 (2) FOREIGN CORPORATIONS.—Section 881 (re-
2 lating to tax on income of foreign corporations not
3 connected with United States business) is amended
4 by redesignating subsection (e) as subsection (f) and
5 by inserting after subsection (d) the following new
6 subsection:

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

9 “(1) INTEREST-RELATED DIVIDENDS.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), no tax shall be imposed
12 under paragraph (1) of subsection (a) on any
13 interest-related dividend (as defined in section
14 871(k)(1)) received from a regulated investment
15 company.

16 “(B) EXCEPTION.—Subparagraph (A)
17 shall not apply—

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

20 “(ii) to any interest-related dividend
21 received by a controlled foreign corporation
22 (within the meaning of section 957(a)) to
23 the extent such dividend is attributable to
24 interest received by the regulated invest-
25 ment company from a person who is a re-

lated person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

“(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The rules of subsection (c)(5)(A) shall apply to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

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

(3) WITHHOLDING TAXES.—

(A) Section 1441(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

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

“(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(k).

“(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (i) of section 871(k)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B).”

(B) Section 1442(a) (relating to withholding of tax on foreign corporations) is amended—

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

(ii) by inserting before the period at the end the following: “, and the references in section 1441(c)(12) to sections 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of applying subparagraph (A) of

1 section 1441(c)(12), as so modified, clause
 2 (ii) of section 881(e)(1)(B) shall not apply
 3 to any dividend unless the regulated invest-
 4 ment company knows that such dividend is
 5 a dividend referred to in such clause)”.
 6

7 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-
 8 TAIN REGULATED INVESTMENT COMPANIES.—Section
 9 2105 (relating to property without the United States for
 10 estate tax purposes) is amended by adding at the end the
 11 following new subsection:

12 “(d) STOCK IN A RIC.—

13 “(1) IN GENERAL.—For purposes of this sub-
 14 chapter, stock in a regulated investment company
 15 (as defined in section 851) owned by a nonresident
 16 not a citizen of the United States shall not be
 17 deemed property within the United States in the
 18 proportion that, at the end of the quarter of such in-
 19 vestment company’s taxable year immediately pre-
 20 ceding a decedent’s date of death (or at such other
 21 time as the Secretary may designate in regulations),
 22 the assets of the investment company that were
 23 qualifying assets with respect to the decedent bore
 24 to the total assets of the investment company.

25 “(2) QUALIFYING ASSETS.—For purposes of
 this subsection, qualifying assets with respect to a

1 decedent are assets that, if owned directly by the de-
 2 cedent, would have been—

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

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

7 “(C) other property not within the United
 8 States.”

9 (c) TREATMENT OF REGULATED INVESTMENT COM-
 10 PANIES UNDER SECTION 897.—

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

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

16 “(2) SALE OF STOCK IN DOMESTICALLY CON-
 17 TROLLED ENTITY NOT TAXED.—The term ‘United
 18 States real property interest’ does not include any
 19 interest in a domestically controlled qualified invest-
 20 ment entity.

21 “(3) DISTRIBUTIONS BY DOMESTICALLY CON-
 22 TROLLED QUALIFIED INVESTMENT ENTITIES.—In
 23 the case of a domestically controlled qualified invest-
 24 ment entity, rules similar to the rules of subsection

(d) shall apply to the foreign ownership percentage of any gain.”

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

“(A) QUALIFIED INVESTMENT ENTITY.—

The term ‘qualified investment entity’ means any real estate investment trust and any regulated investment company.

“(B) DOMESTICALLY CONTROLLED.—The

term ‘domestically controlled qualified investment entity’ means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.”

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

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

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dividends with respect to

1 taxable years of regulated investment companies be-
2 ginning after the date of the enactment of this Act.

3 (2) ESTATE TAX TREATMENT.—The amend-
4 ment made by subsection (b) shall apply to estates
5 of decedents dying after the date of the enactment
6 of this Act.

7 (3) CERTAIN OTHER PROVISIONS.—The amend-
8 ments made by subsection (c) (other than paragraph
9 (1) thereof) shall take effect on the date of the en-
10 actment of this Act.

11 **SEC. 305. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN**
12 **PERSONS.**

13 (a) IN GENERAL.—The last sentence of section
14 4261(e)(3)(C) (relating to regulations) is amended by in-
15 serting “and mileage awards which are issued to individ-
16 uals whose mailing addresses on record with the person
17 providing the right to air transportation are outside the
18 United States” before the period at the end thereof.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to amounts paid, and benefits pro-
21 vided, after December 31, 2002.

1 **SEC. 306. ELECTION NOT TO USE AVERAGE EXCHANGE**
2 **RATE FOR FOREIGN TAX PAID OTHER THAN**
3 **IN FUNCTIONAL CURRENCY.**

4 (a) IN GENERAL.—Paragraph (1) of section 986(a)
5 (relating to determination of foreign taxes and foreign cor-
6 poration’s earnings and profits) is amended by redesign-
7 ating subparagraph (D) as subparagraph (E) and by in-
8 serting after subparagraph (C) the following new subpara-
9 graph:

10 “(D) ELECTIVE EXCEPTION FOR TAXES
11 PAID OTHER THAN IN FUNCTIONAL CUR-
12 RENCY.—

13 “(i) IN GENERAL.—At the election of
14 the taxpayer, subparagraph (A) shall not
15 apply to any foreign income taxes the li-
16 ability for which is denominated in any
17 currency other than in the taxpayer’s func-
18 tional currency.

19 “(ii) APPLICATION TO QUALIFIED
20 BUSINESS UNITS.—An election under this
21 subparagraph may apply to foreign income
22 taxes attributable to a qualified business
23 unit in accordance with regulations pre-
24 scribed by the Secretary.

25 “(iii) ELECTION.—Any such election
26 shall apply to the taxable year for which

1 made and all subsequent taxable years un-
2 less revoked with the consent of the Sec-
3 retary.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2002.

7 **SEC. 307. REPEAL OF SPECIAL CAPITAL GAINS TAX ON**
8 **ALIENS PRESENT IN THE UNITED STATES**
9 **FOR 183 DAYS OR MORE.**

10 (a) IN GENERAL.—Subsection (a) of section 871 is
11 amended by striking paragraph (2) and by redesignating
12 paragraph (3) as paragraph (2).

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2002.

16 **SEC. 308. REPEAL OF WITHHOLDING TAX ON DIVIDENDS**
17 **FROM CERTAIN FOREIGN CORPORATIONS.**

18 (a) IN GENERAL.—Paragraph (2) of section 871(i)
19 (relating to tax not to apply to certain interest and divi-
20 dends) is amended by adding at the end the following new
21 subparagraph:

22 “(D) Dividends paid by a foreign corpora-
23 tion.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to payments made after December
3 31, 2002.

○