

107TH CONGRESS  
2D SESSION

# S. 2676

To amend the Internal Revenue Code of 1986 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2002

Mr. TORRICELLI (for himself and Mr. HATCH) 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 to allow a 10-year foreign tax credit carryforward and to apply the look-thru rules for purposes of the foreign tax credit limitation to dividends from foreign corporations not controlled by a domestic corporation.

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 This Act may be cited as the “Foreign Tax Credit  
5 Improvement Act of 2002”.

1 **SEC. 2. 10-YEAR FOREIGN TAX CREDIT CARRYFORWARD.**

2 (a) IN GENERAL.—Section 904(c) of the Internal  
3 Revenue Code of 1986 (relating to carryback and carry-  
4 over of excess tax paid) is amended by striking “in the  
5 first, second, third, fourth, or fifth” and inserting “in any  
6 of the first 10”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to excess foreign taxes which (with-  
9 out regard to such amendment) may be carried forward  
10 to any taxable year ending after the date of the enactment  
11 of this Act.

12 **SEC. 3. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM**  
13 **NONCONTROLLED SECTION 902 CORPORA-**  
14 **TIONS.**

15 (a) IN GENERAL.—Section 904(d)(4) of the Internal  
16 Revenue Code of 1986 (relating to application of look-thru  
17 rules to dividends from noncontrolled section 902 corpora-  
18 tions) is amended to read as follows:

19 “(4) LOOK-THRU APPLIES TO DIVIDENDS FROM  
20 NONCONTROLLED SECTION 902 CORPORATIONS.—

21 “(A) IN GENERAL.—For purposes of this  
22 subsection, any dividend from a noncontrolled  
23 section 902 corporation with respect to the tax-  
24 payer shall be treated as income in a separate  
25 category in proportion to the ratio of—

1 “(i) the portion of earnings and prof-  
2 its attributable to income in such category,  
3 to

4 “(ii) the total amount of earnings and  
5 profits.

6 “(B) SPECIAL RULES.—For purposes of  
7 this paragraph—

8 “(i) IN GENERAL.—Rules similar to  
9 the rules of paragraph (3)(F) shall apply;  
10 except that the term ‘separate category’  
11 shall include the category of income de-  
12 scribed in paragraph (1)(I).

13 “(ii) EARNINGS AND PROFITS.—

14 “(I) IN GENERAL.—The rules of  
15 section 316 shall apply.

16 “(II) REGULATIONS.—The Sec-  
17 retary may prescribe regulations re-  
18 garding the treatment of distributions  
19 out of earnings and profits for periods  
20 before the taxpayer’s acquisition of  
21 the stock to which the distributions  
22 relate.

23 “(iii) DIVIDENDS NOT ALLOCABLE TO  
24 SEPARATE CATEGORY.—The portion of any  
25 dividend from a noncontrolled section 902

1 corporation which is not treated as income  
 2 in a separate category under subparagraph  
 3 (A) shall be treated as a dividend to which  
 4 subparagraph (A) does not apply.

5 “(iv) LOOK-THRU WITH RESPECT TO  
 6 CARRYFORWARDS OF CREDIT.—Rules simi-  
 7 lar to subparagraph (A) also shall apply to  
 8 any carryforward under subsection (c)  
 9 from a taxable year beginning before Janu-  
 10 ary 1, 2003, of tax allocable to a dividend  
 11 from a noncontrolled section 902 corpora-  
 12 tion with respect to the taxpayer.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Subparagraph (E) of section 904(d)(1) of  
 15 such Code, as in effect both before and after the  
 16 amendments made by section 1105 of the Taxpayer  
 17 Relief Act of 1997, is hereby repealed.

18 (2) Section 904(d)(2)(C)(iii) of such Code, as  
 19 so in effect, is amended by striking subclause (II)  
 20 and by redesignating subclause (III) as subclause  
 21 (II).

22 (3) The last sentence of section 904(d)(2)(D) of  
 23 such Code, as so in effect, is amended to read as fol-  
 24 lows: “Such term does not include any financial  
 25 services income.”.

1           (4) Section 904(d)(2)(E) of such Code is  
2           amended by striking clauses (ii) and (iv) and by re-  
3           designating clause (iii) as clause (ii).

4           (5) Section 904(d)(3)(F) of such Code is  
5           amended by striking “(D), or (E)” and inserting “or  
6           (D)”.

7           (6) Section 864(d)(5)(A)(i) of such Code is  
8           amended by striking “(C)(iii)(III)” and inserting  
9           “(C)(iii)(II)”.

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

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