

108TH CONGRESS
1ST SESSION

H. R. 285

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

JANUARY 8, 2003

Mr. HOUGHTON (for himself, Mr. SAM JOHNSON of Texas, Mr. PORTMAN, and Mr. RAMSTAD) 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 “Fairness, Simplification and Competitiveness for Amer-
7 ican Business Act of 2003”.

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. Clarification of treatment of pipeline transportation income.

Sec. 103. Look-through treatment for sales of partnership interests.

Sec. 104. Repeal of foreign personal holding company rules and foreign invest-
 ment company rules.

Sec. 105. Determination of foreign personal holding company income with re-
 spect to transactions in commodities.

Sec. 106. Repeal of CFC rules on foreign base company sales and services in-
 come.

Sec. 107. Look-thru treatment of payments between related controlled foreign
 corporations under foreign personal holding company income
 rules.

Sec. 108. Reduction to 3 foreign tax credit baskets.

Sec. 109. Effective date.

TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDIT

Sec. 201. Recharacterization of overall domestic loss.

Sec. 202. Special rules relating to financial services income.

Sec. 203. Look-thru rules to apply to dividends from noncontrolled section 902
 corporations.

Sec. 204. Application of look-thru rules to foreign tax credit.

Sec. 205. 10-year foreign tax credit carryforward.

Sec. 206. Repeal of limitation of foreign tax credit under alternative minimum
 tax.

Sec. 207. Attribution of stock ownership through partnerships to apply in de-
 termining section 902 and 960 credits.

Sec. 208. Repeal of special rules for applying foreign tax credit in case of for-
 eign oil and gas income.

TITLE III—OTHER PROVISIONS

Sec. 301. Application of uniform capitalization rules to foreign persons.

Sec. 302. United States property not to include certain assets acquired by deal-
 ers in ordinary course of trade or business.

Sec. 303. Treatment of certain dividends of regulated investment companies.

Sec. 304. Airline mileage awards to certain foreign persons.

Sec. 305. Interest payments deductible where disqualified guarantee has eco-
 nomic effect.

Sec. 306. Modifications of reporting requirements for certain foreign-owned corporations.

Sec. 307. Election not to use average exchange rate for foreign tax paid other than in functional currency.

Sec. 308. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Sec. 309. Repeal of withholding tax on dividends from certain foreign corporations.

Sec. 310. Interest expense allocation rules.

Sec. 311. Permanent extension of Subpart F exemption for active financing.

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. CLARIFICATION OF TREATMENT OF PIPELINE** 18 **TRANSPORTATION INCOME.**

19 Section 954(g)(1) (defining foreign base company oil
20 related income) is amended by striking “or” at the end

1 of subparagraph (A), by striking the period at the end
 2 of subparagraph (B) and inserting “, or”, and by inserting
 3 after subparagraph (B) the following new subparagraph:

4 “(C) the pipeline transportation of oil or
 5 gas within such foreign country.”

6 **SEC. 103. LOOK-THROUGH TREATMENT FOR SALES OF**
 7 **PARTNERSHIP INTERESTS.**

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

11 “(4) LOOK-THROUGH RULE FOR CERTAIN
 12 PARTNERSHIP SALES.—

13 “(A) IN GENERAL.—In the case of any
 14 sale by a controlled foreign corporation of an
 15 interest in a partnership with respect to which
 16 such corporation is a 25-percent owner, such
 17 corporation shall be treated for purposes of this
 18 subsection as selling the proportionate share of
 19 the assets of the partnership attributable to
 20 such interest.

21 “(B) 25-PERCENT OWNER.—For purposes
 22 of this paragraph, the term ‘25-percent owner’
 23 means a controlled foreign corporation which
 24 owns 25 percent or more of the capital or prof-
 25 its interest in the partnership. The constructive

1 ownership rules of section 958(b) shall apply
 2 for purposes of the preceding sentence.”

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

6 **SEC. 104. REPEAL OF FOREIGN PERSONAL HOLDING COM-**
 7 **PANY RULES AND FOREIGN INVESTMENT**
 8 **COMPANY RULES.**

9 (a) GENERAL RULE.—The following provisions are
 10 hereby repealed:

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

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

15 (3) Section 1247 (relating to election by foreign
 16 investment companies to distribute income cur-
 17 rently).

18 (b) EXEMPTION OF FOREIGN CORPORATIONS FROM
 19 PERSONAL HOLDING COMPANY RULES.—

20 (1) IN GENERAL.—Subsection (c) of section
 21 542 (relating to exceptions) is amended—

22 (A) by striking paragraph (5) and insert-
 23 ing the following:

24 “(5) a foreign corporation,”

1 (B) by striking paragraphs (7) and (10)
2 and by redesignating paragraphs (8) and (9) as
3 paragraphs (7) and (8), respectively,

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

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

9 (2) TREATMENT OF INCOME FROM PERSONAL
10 SERVICE CONTRACTS.—Paragraph (1) of section
11 954(c) is amended by adding at the end the fol-
12 lowing new subparagraph:

13 “(H) PERSONAL SERVICE CONTRACTS.—

14 “(i) Amounts received under a con-
15 tract under which the corporation is to fur-
16 nish personal services; if some person other
17 than the corporation has the right to des-
18 ignate (by name or by description) the in-
19 dividual who is to perform the services, or
20 if the individual who is to perform the
21 services is designated (by name or by de-
22 scription) in the contract; and

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

1 This subparagraph shall apply with respect to
2 amounts received for services under a particular
3 contract only if at some time during the taxable
4 year 25 percent or more in value of the out-
5 standing stock of the corporation is owned, di-
6 rectly or indirectly, by or for the individual who
7 has performed, is to perform, or may be des-
8 ignated (by name or by description) as the one
9 to perform, such services.”

10 (c) CONFORMING AMENDMENTS.—

11 (1) Paragraph (2) of section 171(c) is amend-
12 ed—

13 (A) by striking “, or by a foreign personal
14 holding company, as defined in section 552”,
15 and

16 (B) by striking “, or a foreign personal
17 holding company”.

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

20 (3) Section 312 is amended by striking sub-
21 section (j).

22 (4) Subsection (m) of section 312 is amended
23 by striking “, a foreign investment company (within
24 the meaning of section 1246(b)), or a foreign per-

1 sonal holding company (within the meaning of sec-
2 tion 552)’’.

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

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

11 (7) Paragraph (1) of section 543(b) is amended
12 by inserting “and” at the end of subparagraph (A),
13 by striking “, and” at the end of subparagraph (B)
14 and inserting a period, and by striking subparagraph
15 (C).

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

19 (9) Section 563 is amended—

20 (A) by striking subsection (c),

21 (B) by redesignating subsection (d) as sub-
22 section (c), and

23 (C) by striking “subsection (a), (b), or (c)”
24 in subsection (c) (as so redesignated) and in-
25 serting “subsection (a) or (b)”.

1 (10) Subsection (d) of section 751 is amended
2 by adding “and” at the end of paragraph (2), by
3 striking paragraph (3), by redesignating paragraph
4 (4) as paragraph (3), and by striking “paragraph
5 (1), (2), or (3)” in paragraph (3) (as so redesign-
6 ated) and inserting paragraph (1) or (2)”.

7 (11) Paragraph (2) of section 864(d) is amend-
8 ed by striking subparagraph (A) and by redesign-
9 ating subparagraphs (B) and (C) as subparagraphs
10 (A) and (B), respectively.

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

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

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

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

21 “(3) UNITED STATES SHAREHOLDER.—The
22 term ‘United States shareholder’ has the meaning
23 given to such term by section 951(b), except that, in
24 the case of a foreign corporation having related per-
25 son insurance income (as defined in section

1 953(c)(2)), the Secretary may treat any person as a
 2 United States shareholder for purposes of this sec-
 3 tion if such person is treated as a United States
 4 shareholder under section 953(c)(1).”

5 (D) Subsection (c) of section 898 is amended to
 6 read as follows:

7 “(c) DETERMINATION OF REQUIRED YEAR.—

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

9 “(A) the majority U.S. shareholder year,
 10 or

11 “(B) if there is no majority U.S. share-
 12 holder year, the taxable year prescribed under
 13 regulations.

14 “(2) 1-MONTH DEFERRAL ALLOWED.—A speci-
 15 fied foreign corporation may elect, in lieu of the tax-
 16 able year under paragraph (1)(A), a taxable year be-
 17 ginning 1 month earlier than the majority U.S.
 18 shareholder year.

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

20 “(A) IN GENERAL.—For purposes of this
 21 subsection, the term ‘majority U.S. shareholder
 22 year’ means the taxable year (if any) which, on
 23 each testing day, constituted the taxable year
 24 of—

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

3 “(ii) each United States shareholder
4 not described in clause (i) whose stock was
5 treated as owned under subsection
6 (b)(2)(B) by any shareholder described in
7 such clause.

8 “(B) TESTING DAY.—The testing days
9 shall be—

10 “(i) the first day of the corporation’s
11 taxable year (determined without regard to
12 this section), or

13 “(ii) the days during such representa-
14 tive period as the Secretary may pre-
15 scribe.”

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

18 “(ii) CERTAIN AMOUNTS INCLUDED.—
19 Except as provided in clause (iii), the term
20 ‘passive income’ includes, except as pro-
21 vided in subparagraph (E)(iii) or para-
22 graph (3)(I), any amount includible in
23 gross income under section 1293 (relating
24 to certain passive foreign investment com-
25 panies).”

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

5 (B) The paragraph heading of paragraph (2) of
6 section 904(g) is amended by striking “FOREIGN
7 PERSONAL HOLDING OR”.

8 (15) Section 951 is amended by striking sub-
9 sections (c) and (d) and by redesignating subsections
10 (e) and (f) as subsections (c) and (d), respectively.

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

13 (17) Paragraph (5) of section 1014(b) is hereby
14 repealed.

15 (18) Subsection (a) of section 1016 is amended
16 by striking paragraph (13) and by redesignating the
17 following paragraphs accordingly.

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

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

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

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

3 (B) The amendment made by subparagraph (A)
4 shall apply to taxable years beginning after Decem-
5 ber 31, 2004.

6 (20) Section 1223 is amended by striking para-
7 graph (10) and by redesignating the following para-
8 graphs accordingly.

9 (21) Subsection (d) of section 1248 is amended
10 by striking paragraph (5) and by redesignating
11 paragraphs (6) and (7) as paragraphs (5) and (6),
12 respectively.

13 (22) Paragraph (2) of section 1260(c) is
14 amended by striking subparagraphs (H) and (I) and
15 by redesignating subparagraph (J) as subparagraph
16 (H).

17 (23) Subparagraph (F) of section 1291(b)(3) is
18 amended by striking “551(d), 959(a),” and inserting
19 “959(a)”.

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

22 “(2) ELECTION NOT PERMITTED WHERE
23 AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION
24 951.—The taxpayer may not make an election under
25 paragraph (1) with respect to the undistributed

1 PFIC earnings tax liability attributable to a quali-
2 fied electing fund for the taxable year if any amount
3 is includible in the gross income of the taxpayer
4 under section 951 with respect to such fund for such
5 taxable year.”

6 (25) Section 6035 is hereby repealed.

7 (26) Subparagraph (D) of section 6103(e)(1) is
8 amended by striking clause (iv) and redesignating
9 clauses (v) and (vi) as clauses (iv) and (v), respec-
10 tively.

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

13 “(B) CONSTRUCTIVE DIVIDENDS.—If the
14 taxpayer omits from gross income an amount
15 properly includible therein under section
16 951(a), the tax may be assessed, or a pro-
17 ceeding in court for the collection of such tax
18 may be done without assessing, at any time
19 within 6 years after the return was filed.”

20 (28) Subsection (a) of section 6679 is amend-
21 ed—

22 (A) by striking “6035, 6046, and 6046A”
23 in paragraph (1) and inserting “6046 and
24 6046A”, and

25 (B) by striking paragraph (3).

1 (29) Sections 170(f)(10)(A), 508(d), 4947 and
 2 section 4948(c)(4) are each amended by striking
 3 “556(b)(2),” each place it appears.

4 (30) The table of parts for subchapter G of
 5 chapter 1 is amended by striking the item relating
 6 to part III.

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

10 (32) The table of sections for subpart A of part
 11 III of subchapter A of chapter 61 of such Code is
 12 amended by striking the item relating to section
 13 6035.

14 **SEC. 105. DETERMINATION OF FOREIGN PERSONAL HOLD-**
 15 **ING COMPANY INCOME WITH RESPECT TO**
 16 **TRANSACTIONS IN COMMODITIES.**

17 (a) IN GENERAL.—Clauses (i) and (ii) of section
 18 954(c)(1)(C) (relating to commodity transactions) are
 19 amended to read as follows:

20 “(i) arise out of commodity hedging
 21 transactions (as defined in paragraph
 22 (5)(A)),

23 “(ii) are active business gains or
 24 losses from the sale of commodities, but
 25 only if substantially all of the controlled

1 foreign corporation's commodities are
 2 property described in paragraph (1), (2) or
 3 (8) of section 1221(a), or”.

4 (b) DEFINITION AND SPECIAL RULES.—Subsection
 5 (c) of section 954 is amended by adding after paragraph
 6 (4) the following new paragraph:

7 “(5) DEFINITION AND SPECIAL RULES RELAT-
 8 ING TO COMMODITY TRANSACTIONS.—

9 “(A) COMMODITY HEDGING TRANS-
 10 ACTIONS.—For purposes of paragraph
 11 (1)(C)(i), the term ‘commodity hedging trans-
 12 action’ means any transaction with respect to a
 13 commodity if such transaction—

14 “(i) is a hedging transaction as de-
 15 fined in section 1221(b)(2), determined—

16 “(I) without regard to subpara-
 17 graph (A)(ii) thereof,

18 “(II) by applying subparagraph
 19 (A)(i) thereof by substituting ‘ordi-
 20 nary property or property described in
 21 section 1231(b)’ for ‘ordinary prop-
 22 erty’, and

23 “(III) by substituting ‘controlled
 24 foreign corporation’ for ‘taxpayer’
 25 each place it appears, and

1 “(ii) is clearly identified as such in ac-
2 cordance with section 1221(a)(7).

3 “(B) REGULATIONS.—The Secretary shall
4 prescribe such regulations as are appropriate to
5 carry out the purposes of paragraph (1)(C) in
6 the case of transactions involving related par-
7 ties.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to commodity hedging transactions
10 entered into on or after the date of enactment of this Act.

11 **SEC. 106. REPEAL OF CFC RULES ON FOREIGN BASE COM-**
12 **PANY SALES AND SERVICES INCOME.**

13 (a) IN GENERAL.—Subsection (a) of section 954 (re-
14 lating to foreign base company income) is amended by
15 striking paragraphs (2) and (3) and by redesignating
16 paragraphs (4) and (5) as paragraphs (2) and (3), respec-
17 tively.

18 (b) CERTAIN SALES.—Paragraph (1) of section
19 954(c) is amended by adding at the end the following new
20 subparagraph:

21 “(H) CERTAIN SALES.—Income (whether
22 in the form of profits, commissions, fees, or
23 otherwise) derived in connection with the pur-
24 chase of personal property from a related per-
25 son and its sale to any person, the sale of per-

sonal property to any person on behalf of a related person, the purchase of personal property from any person and its sale to a related person, or the purchase of personal property from any person on behalf of a related person where—

“(i) the property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted in the United States, and

“(ii) the property is sold for use, consumption, or disposition in the United States, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition in the United States.”

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) is amended by striking subclauses (III) and (IV) and by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(2) Section 953(c)(6)(A) is amended by striking “section 954(d)(3)” and inserting “section 954(b)(9)”.

1 (3) Subsection (b) of section 954 is amended by
2 adding at the end the following new paragraph:

3 “(9) RELATED PERSON DEFINED.—For pur-
4 poses of this subsection, a person is a related person
5 with respect to a controlled foreign corporation if—

6 “(A) such person is an individual, corpora-
7 tion, partnership, trust, or estate which con-
8 trols, or is controlled by, the controlled foreign
9 corporation, or

10 “(B) such person is a corporation, partner-
11 ship, trust, or estate which is controlled by the
12 same person or persons which control the con-
13 trolled foreign corporation.

14 For purposes of the preceding sentence, control
15 means, with respect to a corporation, the ownership,
16 directly or indirectly, of stock possessing more than
17 50 percent of the total voting power of all classes of
18 stock entitled to vote or of the total value of stock
19 of such corporation. In the case of a partnership,
20 trust, or estate, control means the ownership, di-
21 rectly or indirectly, of more than 50 percent (by
22 value) of the beneficial interests in such partnership,
23 trust, or estate. For purposes of this paragraph,
24 rules similar to the rules of section 958 shall apply.”

1 (4) Paragraph (5) of section 954(b) is amended
 2 by striking “the foreign base company sales income,
 3 the foreign base company services income,”.

4 (5) Section 954 is amended by striking sub-
 5 sections (d) and (e).

6 (6) Sections 552(c)(2), 861(c)(2)(B),
 7 904(d)(2)(H), 953(e), 955(b), 958(b), 971(f),
 8 988(e)(3)(C), 1297(b)(2), 1298(d)(3), and
 9 1298(e)(2)(B) are each amended by striking
 10 “954(d)(3)” each place it appears and inserting
 11 “954(b)(9)”.

12 **SEC. 107. LOOK-THRU TREATMENT OF PAYMENTS BE-**
 13 **TWEEN RELATED CONTROLLED FOREIGN**
 14 **CORPORATIONS UNDER FOREIGN PERSONAL**
 15 **HOLDING COMPANY INCOME RULES.**

16 Subsection (c) of section 954 is amended by adding
 17 after paragraph (3) the following new paragraph:

18 “(4) LOOK-THRU IN THE CASE OF RELATED
 19 CONTROLLED FOREIGN CORPORATIONS.—For pur-
 20 poses of this subsection, dividends, interest, rents,
 21 and royalties received from a controlled foreign cor-
 22 poration which is a related person (as defined in
 23 subsection (b)(9)) shall not be treated as foreign
 24 personal holding company income to the extent at-
 25 tributable (determined under rules similar to the

1 rules of subparagraphs (C) and (D) of section
 2 904(d)(3)) to income of the related person which is
 3 not subpart F income (as defined in section 952).”

4 **SEC. 108. REDUCTION TO 3 FOREIGN TAX CREDIT BASKETS.**

5 (a) IN GENERAL.—Paragraph (1) of section 904(d)
 6 (relating to separate application of section with respect to
 7 certain categories of income) is amended to read as fol-
 8 lows:

9 “(1) IN GENERAL.—The provisions of sub-
 10 sections (a), (b), and (c) and sections 902, 907, and
 11 960 shall be applied separately with respect to in-
 12 come described in each of the following items of in-
 13 come:

14 “(A) passive income and other passive cat-
 15 egory income,

16 “(B) financial services income, and

17 “(C) income other than income described
 18 in subparagraph (A) or (B).”

19 (b) OTHER PASSIVE CATEGORY INCOME.—Subpara-
 20 graph (A) of section 904(d)(2) is amended by adding at
 21 the end the following new clause:

22 “(v) OTHER PASSIVE CATEGORY IN-
 23 COME.—The term ‘other passive category
 24 income’ means—

1 “(I) dividends from a DISC or
 2 former DISC (as defined in section
 3 992(a)) to the extent such dividends
 4 are treated as income from sources
 5 without the United States,

6 “(II) taxable income attributable
 7 to foreign trade income (within the
 8 meaning of section 923(b)), and

9 “(III) distributions from a FSC
 10 (or a former FSC) out of earnings
 11 and profits attributable to foreign
 12 trade income (within the meaning of
 13 section 923(b)) or interest or carrying
 14 charges (as defined in section
 15 927(d)(1)) derived from a transaction
 16 which results in foreign trade income
 17 (as defined in section 923(b)).”

18 (c) CONFORMING AMENDMENTS.—

19 (1) Paragraph (2) of section 904(d) is amended
 20 by striking subparagraphs (B) and (D).

21 (2)(A) Subclause (III) of section
 22 904(d)(2)(C)(i) is amended to read as follows:

23 “(III) high-taxed export financ-
 24 ing interest.”

1 (B) Subparagraph (C) of section 904(d)(2) is
2 amended by adding at the end the following new
3 clause:

4 “(iv) HIGH-TAXED EXPORT FINANC-
5 ING INTEREST.—The term ‘high-taxed ex-
6 port financing interest’ means any interest
7 if—

8 “(I) such interest is subject to a
9 withholding tax of a foreign country
10 or possession of the United States (or
11 other tax determined on a gross
12 basis), and

13 “(II) the rate of such tax appli-
14 cable to such interest is at least 5 per-
15 cent.

16 The Secretary may by regulations provide
17 that export financing interest (not other-
18 wise high-taxed export financing interest)
19 shall be treated as high-taxed export fi-
20 nancing interest where necessary to pre-
21 vent avoidance of the purposes of this sub-
22 paragraph, and a tax shall not be treated
23 as a withholding tax or other tax imposed
24 on a gross basis if such tax is in the na-

1 ture of a prepayment of a tax imposed on
2 a net basis.”

3 (3) Clause (iii) of section 904(d)(2)(C) is
4 amended to read as follows:

5 “(iii) EXCEPTIONS.—The term ‘finan-
6 cial services income’ does not include—

7 “(I) in the case of a corporation,
8 dividends from noncontrolled section
9 902 corporations out of earnings and
10 profits accumulated in taxable years
11 beginning before January 1, 2003,
12 and

13 “(II) any export financing inter-
14 est which is not high-taxed export fi-
15 nancing interest.”

16 (4) Subparagraph (E) of section 904(d)(2) is
17 amended by striking clause (ii) and by redesignating
18 clauses (iii) and (iv) as clauses (ii) and (iii), respec-
19 tively.

20 (5) Clause (i) of section 904(d)(3)(F) is amend-
21 ed to read as follows:

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), the separate categories
24 are—

1 “(I) passive income and other
2 passive category income, and

3 “(II) financial services income.”

4 (6) Paragraph (3) of section 904(d) is amended
5 by striking subparagraph (H) and by redesignating
6 subparagraph (I) as subparagraph (H).

7 (7) Paragraph (2) of section 904(d) is amended
8 by adding at the end the following new subpara-
9 graph:

10 “(I) TRANSITIONAL RULE FOR 2003
11 CHANGES.—For purposes of paragraph (1),
12 taxes carried from any taxable year beginning
13 before January 1, 2004, to any taxable year be-
14 ginning on or after such date, with respect to
15 any item of income shall be treated as described
16 in the subparagraph of paragraph (1) in which
17 such income would be described were such taxes
18 paid or accrued in a taxable year beginning on
19 or after such date.”

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2003.

23 **SEC. 109. EFFECTIVE DATE.**

24 Except as otherwise provided in this title, the amend-
25 ments made by this title shall apply to taxable years of

1 foreign corporations beginning after December 31, 2003,
 2 and taxable years of United States persons owning stock
 3 in such corporations with or within which such corpora-
 4 tions' taxable years end.

5 **TITLE II—PROVISIONS RELAT-** 6 **ING TO FOREIGN TAX CREDIT**

7 **SEC. 201. RECHARACTERIZATION OF OVERALL DOMESTIC** 8 **LOSS.**

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

13 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC
 14 LOSS.—

15 “(1) GENERAL RULE.—For purposes of this
 16 subpart, in the case of any taxpayer who sustains an
 17 overall domestic loss for any taxable year beginning
 18 after December 31, 2003, that portion of the tax-
 19 payer's taxable income from sources within the
 20 United States for each succeeding taxable year
 21 which is equal to the lesser of—

22 “(A) the amount of such loss (to the extent
 23 not used under this paragraph in prior taxable
 24 years), or

1 “(B) 50 percent of the taxpayer’s taxable
2 income from sources within the United States
3 for such succeeding taxable year,
4 shall be treated as income from sources without the
5 United States (and not as income from sources with-
6 in the United States).

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

9 “(A) IN GENERAL.—The term ‘overall do-
10 mestic loss’ means any domestic loss to the ex-
11 tent such loss offsets taxable income from
12 sources without the United States for the tax-
13 able year or for any preceding taxable year by
14 reason of a carryback. For purposes of the pre-
15 ceding sentence, the term ‘domestic loss’ means
16 the amount by which the gross income for the
17 taxable year from sources within the United
18 States is exceeded by the sum of the deductions
19 properly apportioned or allocated thereto (deter-
20 mined without regard to any carryback from a
21 subsequent taxable year).

22 “(B) TAXPAYER MUST HAVE ELECTED
23 FOREIGN TAX CREDIT FOR YEAR OF LOSS.—
24 The term ‘overall domestic loss’ shall not in-
25 clude any loss for any taxable year unless the

1 taxpayer chose the benefits of this subpart for
2 such taxable year.

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

5 “(A) IN GENERAL.—Any income from
6 sources within the United States that is treated
7 as income from sources without the United
8 States under paragraph (1) shall be allocated
9 among and increase the income categories in
10 proportion to the loss from sources within the
11 United States previously allocated to those in-
12 come categories.

13 “(B) INCOME CATEGORY.—For purposes of
14 this paragraph, the term ‘income category’ has
15 the meaning given such term by subsection
16 (f)(5)(E)(i).

17 “(4) COORDINATION WITH SUBSECTION (f).—
18 The Secretary shall prescribe such regulations as
19 may be necessary to coordinate the provisions of this
20 subsection with the provisions of subsection (f).”

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 535(d)(2) is amended by striking
23 “section 904(g)(6)” and inserting “section
24 904(h)(6)”.

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

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to losses for taxable years begin-
 6 ning after December 31, 2003.

7 **SEC. 202. SPECIAL RULES RELATING TO FINANCIAL SERV-**
 8 **ICES INCOME.**

9 (a) FINANCIAL SERVICES INCOME IN EXCESS OF 80
 10 PERCENT OF GROSS INCOME.—Section 904(d)(2)(C) (re-
 11 lating to financial services income) is amended by adding
 12 at the end the following new clause:

13 “(iv) INCOME EXCEEDING 80 PERCENT
 14 OF GROSS INCOME.—If the financial serv-
 15 ices income (as defined in clause (i)) of
 16 any person exceeds 80 percent of gross in-
 17 come, the entire gross income for the tax-
 18 able year shall be treated as financial serv-
 19 ices income.”

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

1 “(11) EXCEPTION FOR INCOME ON DEALER
2 PROPERTY.—Paragraph (1) shall not apply to any
3 amount derived from a United States-owned foreign
4 corporation that is derived from income on a secu-
5 rity (within the meaning of section 475(c)(2)) which
6 is received or accrued by a person that holds the se-
7 curity in connection with the holder’s activities as a
8 dealer in securities (within the meaning of section
9 475(c)(1)).”

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to taxable years beginning
13 after December 31, 2003.

14 (2) DEEMED PAID CREDITS.—In the case of
15 any credit under section 901 of the Internal Revenue
16 Code of 1986 by reason of section 902 or 960 of
17 such Code, the amendments made by this section
18 shall apply to taxable years of foreign corporations
19 beginning after December 31, 2003, and to taxable
20 years of United States shareholders in such corpora-
21 tions with or within which such taxable years of for-
22 eign corporations end.

1 **SEC. 203. LOOK-THRU RULES TO APPLY TO DIVIDENDS**
 2 **FROM NONCONTROLLED SECTION 902 COR-**
 3 **PORATIONS.**

4 (a) IN GENERAL.—Section 904(d)(4) (relating to
 5 look-thru rules apply to dividends from noncontrolled sec-
 6 tion 902 corporations) is amended to read as follows:

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

9 “(A) IN GENERAL.—For purposes of this
 10 subsection, any dividend from a noncontrolled
 11 section 902 corporation with respect to the tax-
 12 payer shall be treated as income in a separate
 13 category in proportion to the ratio of—

14 “(i) the portion of earnings and prof-
 15 its attributable to income in such category,
 16 to

17 “(ii) the total amount of earnings and
 18 profits.

19 “(B) SPECIAL RULES.—For purposes of
 20 this paragraph—

21 “(i) IN GENERAL.—Rules similar to
 22 the rules of paragraph (3)(F) shall apply.

23 “(ii) EARNINGS AND PROFITS.—

24 “(I) IN GENERAL.—The rules of
 25 section 316 shall apply.

1 “(II) REGULATIONS.—The Sec-
 2 retary may prescribe regulations re-
 3 garding the treatment of distributions
 4 out of earnings and profits for periods
 5 before the taxpayer’s acquisition of
 6 the stock to which the distributions
 7 relate.

8 “(iii) DIVIDENDS NOT ALLOCABLE TO
 9 SEPARATE CATEGORY.—The portion of any
 10 dividend from a noncontrolled section 902
 11 corporation which is not treated as income
 12 in a separate category under subparagraph
 13 (A) shall be treated as a dividend to which
 14 subparagraph (A) does not apply.

15 “(iv) LOOK-THRU WITH RESPECT TO
 16 CARRYFORWARDS OF CREDIT.—Rules simi-
 17 lar to subparagraph (A) also shall apply to
 18 any carryforward under subsection (c)
 19 from a taxable year beginning before Janu-
 20 ary 1, 2003, of tax allocable to a dividend
 21 from a noncontrolled section 902 corpora-
 22 tion with respect to the taxpayer.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Subparagraph (E) of section 904(d)(1), as
 25 in effect both before and after the amendments

1 made by section 1105 of the Taxpayer Relief Act of
2 1997, is hereby repealed.

3 (2) Section 904(d)(2)(C)(iii), as so in effect, is
4 amended by striking subclause (II) and by redesignig-
5 nating subclause (III) as subclause (II).

6 (3) The last sentence of section 904(d)(2)(D),
7 as so in effect, is amended to read as follows: “Such
8 term does not include any financial services income.”

9 (4) Section 904(d)(2)(E) is amended—

10 (A) by inserting “or (4)” after “paragraph
11 (3)” in clause (i), and

12 (B) by striking clauses (ii) and (iv) and by
13 redesignating clause (iii) as clause (ii).

14 (5) Section 904(d)(3)(F) is amended by strik-
15 ing “(D), or (E)” and inserting “or (D)”.

16 (6) Section 864(d)(5)(A)(i) is amended by
17 striking “(C)(iii)(III)” and inserting “(C)(iii)(II)”.

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

21 **SEC. 204. APPLICATION OF LOOK-THRU RULES TO FOREIGN**
22 **TAX CREDIT.**

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

(1) NONCONTROLLED SECTION 902 CORPORATION.—Section 904(d)(4)(A), as amended by section 203, is amended to read as follows:

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

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

“(I) the portion of the earnings and profits attributable to income in such category, to

“(II) the total amount of earnings and profits, and

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

(2) PARTNERSHIPS.—Section 904(d)(6)(C) (relating to regulations) is amended—

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

1 (B) by inserting “or noncontrolled section
2 902 corporations, whichever is applicable” after
3 “controlled foreign corporations”.

4 (3) CONFORMING AMENDMENT.—The heading
5 for section 904(d)(4), as amended by section 203, is
6 amended by inserting “, INTEREST, RENTS, OR ROY-
7 ALTIES” after “DIVIDENDS”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2003.

11 **SEC. 205. 10-YEAR FOREIGN TAX CREDIT CARRYFORWARD.**

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

16 (b) EXCESS EXTRACTION TAXES.—Paragraph (1) of
17 section 907(f) is amended by striking “in the first, second,
18 third, fourth, or fifth” and inserting “in any of the first
19 10”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to excess foreign taxes which (with-
22 out regard to the amendments made by this section) may
23 be carried to any taxable year beginning after December
24 31, 2002.

1 **SEC. 206. REPEAL OF LIMITATION OF FOREIGN TAX CREDIT**
 2 **UNDER ALTERNATIVE MINIMUM TAX.**

3 (a) IN GENERAL.—Section 59(a) (relating to alter-
 4 native minimum tax foreign tax credit) is amended by
 5 striking paragraph (2) and by redesignating paragraphs
 6 (3) and (4) as paragraphs (2) and (3), respectively.

7 (b) CONFORMING AMENDMENT.—Section
 8 53(d)(1)(B)(i)(II) is amended by striking “and if section
 9 59(a)(2) did not apply”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2003.

13 **SEC. 207. ATTRIBUTION OF STOCK OWNERSHIP THROUGH**
 14 **PARTNERSHIPS TO APPLY IN DETERMINING**
 15 **SECTION 902 AND 960 CREDITS.**

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

20 “(7) CONSTRUCTIVE OWNERSHIP THROUGH
 21 PARTNERSHIPS.—Stock owned, directly or indirectly,
 22 by or for a partnership shall be considered as being
 23 owned proportionately by its partners. Stock consid-
 24 ered to be owned by a person by reason of the pre-
 25 ceding sentence shall, for purposes of applying such
 26 sentence, be treated as actually owned by such per-

1 son. The Secretary may prescribe such regulations
 2 as may be necessary to carry out the purposes of
 3 this paragraph, including rules to account for special
 4 partnership allocations of dividends, credits, and
 5 other incidents of ownership of stock in determining
 6 proportionate ownership.”

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to taxes of foreign corporations
 9 for taxable years of such corporations beginning after De-
 10 cember 31, 2003.

11 **SEC. 208. REPEAL OF SPECIAL RULES FOR APPLYING FOR-**
 12 **IGN TAX CREDIT IN CASE OF FOREIGN OIL**
 13 **AND GAS INCOME.**

14 (a) IN GENERAL.—Section 907 (relating to special
 15 rules in case of foreign oil and gas income) is repealed.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Each of the following provisions are amend-
 18 ed by striking “907,”:

19 (A) Section 245(a)(10).

20 (B) Section 865(h)(1)(B).

21 (C) Section 904(d)(1).

22 (D) Section 904(g)(10)(A).

23 (2) Section 904(f)(5)(E)(iii) is amended by in-
 24 serting “, as in effect before its repeal by the Fair-
 25 ness, Simplification and Competitiveness for Amer-

(3) Section 954(g)(1) is amended by inserting
 “, as in effect before its repeal by the Fairness, Sim-
 plification and Competitiveness for American Busi-
 ness Act of 2003” after “907(c)”.

7 (4) Section 6501(i) is amended—

8 (A) by striking “, or under section 907(f)
9 (relating to carryback and carryover of dis-
10 allowed oil and gas extraction taxes)”, and

11 (B) by striking “or 907(f)”.

(5) The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking the item relating to section 907.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

19 **SEC. 301. APPLICATION OF UNIFORM CAPITALIZATION**
20 **RULES TO FOREIGN PERSONS.**

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

24 “(7) FOREIGN PERSONS.—Except for purposes
25 of applying sections 871(b)(1) and 882(a)(1), this

1 section shall not apply to any taxpayer who is not
 2 a United States person if such taxpayer capitalizes
 3 costs of produced property or property acquired for
 4 resale by applying the method used to ascertain the
 5 income, profit, or loss for purposes of reports or
 6 statements to shareholders, partners, other propri-
 7 etors, or beneficiaries, or for credit purposes.”

8 (b) EFFECTIVE DATE.—The amendment made by
 9 subsection (a) shall apply to taxable years beginning after
 10 December 31, 2003. Section 481 of the Internal Revenue
 11 Code of 1986 shall not apply to any change in a method
 12 of accounting by reason of such amendment.

13 **SEC. 302. UNITED STATES PROPERTY NOT TO INCLUDE**
 14 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**
 15 **ORDINARY COURSE OF TRADE OR BUSINESS.**

16 (a) IN GENERAL.—Section 956(c)(2) (relating to ex-
 17 ceptions from property treated as United States property)
 18 is amended by striking “and” at the end of subparagraph
 19 (J), by striking the period at the end of subparagraph (K)
 20 and inserting “; and”, and by adding at the end the fol-
 21 lowing new subparagraph:

22 “(L) securities acquired and held by a con-
 23 trolled foreign corporation in the ordinary
 24 course of its business as a dealer in securities
 25 if (i) the dealer accounts for the securities as

1 securities held primarily for sale to customers
 2 in the ordinary course of business, and (ii) the
 3 dealer disposes of the securities (or such securi-
 4 ties mature while held by the dealer) within a
 5 period consistent with the holding of securities
 6 for sale to customers in the ordinary course of
 7 business.”

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

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable years of foreign corpora-
 13 tions beginning after December 31, 2003, and to taxable
 14 years of United States shareholders with or within which
 15 such taxable years of foreign corporations end.

16 **SEC. 303. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
 17 **LATED INVESTMENT COMPANIES.**

18 (a) TREATMENT OF CERTAIN DIVIDENDS.—

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

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

1 “(1) INTEREST-RELATED DIVIDENDS.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), no tax shall be imposed
4 under paragraph (1)(A) of subsection (a) on
5 any interest-related dividend received from a
6 regulated investment company.

7 “(B) EXCEPTIONS.—Subparagraph (A)
8 shall not apply—

9 “(i) to any interest-related dividend
10 received from a regulated investment com-
11 pany by a person to the extent such divi-
12 dend is attributable to interest (other than
13 interest described in subparagraph (E) (i)
14 or (iii)) received by such company on in-
15 debtedness issued by such person or by any
16 corporation or partnership with respect to
17 which such person is a 10-percent share-
18 holder,

19 “(ii) to any interest-related dividend
20 with respect to stock of a regulated invest-
21 ment company unless the person who
22 would otherwise be required to deduct and
23 withhold tax from such dividend under
24 chapter 3 receives a statement (which
25 meets requirements similar to the require-

ments of subsection (h)(5)) that the beneficial owner of such stock is not a United States person, and

“(iii) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country) during any period described in subsection (h)(6) with respect to such country.

Clause (iii) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary’s determination under subsection (h)(6).

“(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company 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 investment company from sources within the United States:

“(i) Any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date

1 of original issue (without regard to the pe-
2 riod held by the company).

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

12 “(I) any interest on an obligation
13 issued by a corporation or partnership
14 if the regulated investment company
15 is a 10-percent shareholder in such
16 corporation or partnership, and

17 “(II) any interest which is treat-
18 ed as not being portfolio interest
19 under the rules of subsection (h)(4).

20 “(iii) Any interest referred to in sub-
21 section (i)(2)(A) (without regard to the
22 trade or business of the regulated invest-
23 ment company).

24 “(iv) Any interest-related dividend in-
25 cludable in gross income with respect to

1 stock of another regulated investment com-
2 pany.

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

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

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

13 “(B) EXCEPTION FOR ALIENS TAXABLE
14 UNDER SUBSECTION (a)(2).—In the case of divi-
15 dends received from a regulated investment
16 company before January 1, 2003, subparagraph
17 (A) shall not apply in the case of any non-
18 resident alien individual subject to tax under
19 subsection (a)(2).

20 “(C) SHORT-TERM CAPITAL GAIN DIVI-
21 DEND.—For purposes of this paragraph, a
22 short-term capital gain dividend is any dividend
23 (or part thereof) which is designated by the reg-
24 ulated investment company as a short-term cap-
25 ital gain dividend in a written notice mailed to

1 its shareholders not later than 60 days after the
2 close of its taxable year. If the aggregate
3 amount so designated with respect to a taxable
4 year of the company (including amounts so des-
5 ignated with respect to dividends paid after the
6 close of the taxable year described in section
7 855) is greater than the qualified short-term
8 gain of the company for such taxable year, the
9 portion of each distribution which shall be a
10 short-term capital gain dividend shall be only
11 that portion of the amounts so designated
12 which such qualified short-term gain bears to
13 the aggregate amount so designated.

14 “(D) QUALIFIED SHORT-TERM GAIN.—For
15 purposes of subparagraph (C), the term ‘quali-
16 fied short-term gain’ means the excess of the
17 net short-term capital gain of the regulated in-
18 vestment company for the taxable year over the
19 net long-term capital loss (if any) of such com-
20 pany for such taxable year. For purposes of this
21 subparagraph—

22 “(i) the net short-term capital gain of
23 the regulated investment company shall be
24 computed by treating any short-term cap-
25 ital gain dividend includible in gross in-

1 come with respect to stock of another regu-
2 lated investment company as a short-term
3 capital gain, and

4 “(ii) the excess of the net short-term
5 capital gain for a taxable year over the net
6 long-term capital loss for a taxable year (to
7 which an election under section 4982(e)(4)
8 does not apply) shall be determined with-
9 out regard to any net capital loss or net
10 short-term capital loss attributable to
11 transactions after October 31 of such year,
12 and any such net capital loss or net short-
13 term capital loss shall be treated as arising
14 on the 1st day of the next taxable year.

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

19 (2) FOREIGN CORPORATIONS.—Section 881 (re-
20 lating to tax on income of foreign corporations not
21 connected with United States business) is amended
22 by redesignating subsection (e) as subsection (f) and
23 by inserting after subsection (d) the following new
24 subsection:

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

3 “(1) INTEREST-RELATED DIVIDENDS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), no tax shall be imposed
6 under paragraph (1) of subsection (a) on any
7 interest-related dividend (as defined in section
8 871(k)(1)) received from a regulated investment
9 company.

10 “(B) EXCEPTION.—Subparagraph (A)
11 shall not apply—

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

14 “(ii) to any interest-related dividend
15 received by a controlled foreign corporation
16 (within the meaning of section 957(a)) to
17 the extent such dividend is attributable to
18 interest received by the regulated invest-
19 ment company from a person who is a re-
20 lated person (within the meaning of section
21 864(d)(4)) with respect to such controlled
22 foreign corporation.

23 “(C) TREATMENT OF DIVIDENDS RE-
24 CEIVED BY CONTROLLED FOREIGN CORPORA-
25 TIONS.—The rules of subsection (c)(5)(A) shall

1 apply to any interest-related dividend received
2 by a controlled foreign corporation (within the
3 meaning of section 957(a)) to the extent such
4 dividend is attributable to interest received by
5 the regulated investment company which is de-
6 scribed in clause (ii) of section 871(k)(1)(E)
7 (and not described in clause (i) or (iii) of such
8 section).

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

10 No tax shall be imposed under paragraph (1) of sub-
11 section (a) on any short-term capital gain dividend
12 (as defined in section 871(k)(2)) received from a
13 regulated investment company.”

14 (3) WITHHOLDING TAXES.—

15 (A) Section 1441(c) (relating to excep-
16 tions) is amended by adding at the end the fol-
17 lowing new paragraph:

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

20 “(A) IN GENERAL.—No tax shall be re-
21 quired to be deducted and withheld under sub-
22 section (a) from any amount exempt from the
23 tax imposed by section 871(a)(1)(A) by reason
24 of section 871(k).

1 “(B) SPECIAL RULE.—For purposes of
2 subparagraph (A), clause (i) of section
3 871(k)(1)(B) shall not apply to any dividend
4 unless the regulated investment company knows
5 that such dividend is a dividend referred to in
6 such clause. A similar rule shall apply with re-
7 spect to the exception contained in section
8 871(k)(2)(B).”

9 (B) Section 1442(a) (relating to with-
10 holding of tax on foreign corporations) is
11 amended—

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

15 (ii) by inserting before the period at
16 the end the following: “, and the references
17 in section 1441(c)(12) to sections 871(a)
18 and 871(k) shall be treated as referring to
19 sections 881(a) and 881(e) (except that for
20 purposes of applying subparagraph (A) of
21 section 1441(c)(12), as so modified, clause
22 (ii) of section 881(e)(1)(B) shall not apply
23 to any dividend unless the regulated invest-
24 ment company knows that such dividend is
25 a dividend referred to in such clause)”.

1 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-
2 TAIN REGULATED INVESTMENT COMPANIES.—Section
3 2105 (relating to property without the United States for
4 estate tax purposes) is amended by adding at the end the
5 following new subsection:

6 “(d) STOCK IN A RIC.—

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

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

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

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

3 “(C) other property not within the United
4 States.”

5 (c) TREATMENT OF REGULATED INVESTMENT COM-
6 PANIES UNDER SECTION 897.—

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

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

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

17 “(3) DISTRIBUTIONS BY DOMESTICALLY CON-
18 TROLLED QUALIFIED INVESTMENT ENTITIES.—In
19 the case of a domestically controlled qualified invest-
20 ment entity, rules similar to the rules of subsection
21 (d) shall apply to the foreign ownership percentage
22 of any gain.”

23 (3) Subparagraphs (A) and (B) of section
24 897(h)(4) are amended to read as follows:

1 “(A) QUALIFIED INVESTMENT ENTITY.—

2 The term ‘qualified investment entity’ means
3 any real estate investment trust and any regu-
4 lated investment company.

5 “(B) DOMESTICALLY CONTROLLED.—The
6 term ‘domestically controlled qualified invest-
7 ment entity’ means any qualified investment en-
8 tity in which at all times during the testing pe-
9 riod less than 50 percent in value of the stock
10 was held directly or indirectly by foreign per-
11 sons.”

12 (4) Subparagraphs (C) and (D) of section
13 897(h)(4) are each amended by striking “REIT”
14 and inserting “qualified investment entity”.

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

18 (d) EFFECTIVE DATE.—

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

24 (2) ESTATE TAX TREATMENT.—The amend-
25 ment made by subsection (b) shall apply to estates

1 of decedents dying after the date of the enactment
2 of this Act.

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

7 **SEC. 304. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN**
8 **PERSONS.**

9 (a) IN GENERAL.—The last sentence of section
10 4261(e)(3)(C) (relating to regulations) is amended by in-
11 serting “and mileage awards which are issued to individ-
12 uals whose mailing addresses on record with the person
13 providing the right to air transportation are outside the
14 United States” before the period at the end thereof.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to amounts paid, and benefits pro-
17 vided, after December 31, 2003.

18 **SEC. 305. INTEREST PAYMENTS DEDUCTIBLE WHERE DIS-**
19 **QUALIFIED GUARANTEE HAS ECONOMIC EF-**
20 **FECT.**

21 (a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating
22 to exceptions to disqualified guarantee) is amended—

23 (1) by striking “or” at the end of subclause (I),

24 (2) by striking the period at the end of sub-

25 clause (II) and inserting “, or”,

1 (3) by inserting after subclause (II) the fol-
2 lowing new subclause:

3 “(III) if, in the case of a guar-
4 antee by a foreign person, the tax-
5 payer establishes to the satisfaction of
6 the Secretary that the taxpayer could
7 have borrowed substantially the same
8 principal amount from an unrelated
9 person without the guarantee.”, and

10 (4) by adding at the end the following new sen-
11 tence: “For purposes of subclause (III), to the ex-
12 tent provided in regulations, the Secretary may re-
13 ject a showing that a taxpayer could have borrowed
14 substantially the same principal amount if such bor-
15 rowing is on terms substantially dissimilar to those
16 of the actual loan.”

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to guarantees issued on and after
19 the date of the enactment of this Act.

20 **SEC. 306. MODIFICATIONS OF REPORTING REQUIREMENTS**
21 **FOR CERTAIN FOREIGN-OWNED CORPORA-**
22 **TIONS.**

23 (a) DE MINIMIS EXCEPTION.—Section 6038A(b) (re-
24 lating to required information) is amended by adding at
25 the end the following new flush sentence:

1 “The Secretary shall not require the reporting corporation
2 to report any information with respect to any foreign per-
3 son which is a related person if the aggregate value of
4 the transactions between the corporation and the related
5 person (and any person related to such person) during the
6 taxable year does not exceed \$5,000,000.”

7 (b) TIME FOR PROVIDING TRANSLATIONS OF SPE-
8 CIFIC DOCUMENTS.—Notwithstanding Internal Revenue
9 Service Regulation § 1.6038A–3(f)(2), a taxpayer shall
10 have at least 60 days to provide translations of specific
11 documents it is requested to translate. Nothing in this
12 subsection shall limit the right of a taxpayer to file a writ-
13 ten request for an extension of time to comply with the
14 request.

15 (c) EFFECTIVE DATES.—

16 (1) EXCEPTION.—The amendment made by
17 subsection (a) shall apply to taxable years beginning
18 after December 31, 2003.

19 (2) TRANSLATIONS.—Subsection (b) shall apply
20 to requests made by the Internal Revenue Service
21 after December 31, 2003.

1 **SEC. 307. 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, 2003.

7 **SEC. 308. 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, 2003.

16 **SEC. 309. 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, 2003.

4 **SEC. 310. INTEREST EXPENSE ALLOCATION RULES.**

5 (a) ELECTION TO ALLOCATE ON WORLDWIDE
 6 BASIS.— Section 864 is amended by redesignating sub-
 7 section (f) as subsection (g) and by inserting after sub-
 8 section (e) the following new subsection:

9 “(f) ELECTION TO ALLOCATE INTEREST, ETC. ON
 10 WORLDWIDE BASIS.—For purposes of this subchapter, at
 11 the election of the worldwide affiliated group—

12 “(1) ALLOCATION AND APPORTIONMENT OF IN-
 13 TEREST EXPENSE.—

14 “(A) IN GENERAL.—The taxable income of
 15 each domestic corporation which is a member of
 16 a worldwide affiliated group shall be determined
 17 by allocating and apportioning interest expense
 18 of each member as if all members of such group
 19 were a single corporation.

20 “(B) TREATMENT OF WORLDWIDE AFFILI-
 21 ATED GROUP.—The taxable income of the do-
 22 mestic members of a worldwide affiliated group
 23 from sources outside the United States shall be
 24 determined by allocating and apportioning the
 25 interest expense of such domestic members to

1 such income in an amount equal to the excess
2 (if any) of—

3 “(i) the total interest expense of the
4 worldwide affiliated group multiplied by
5 the ratio which the foreign assets of the
6 worldwide affiliated group bears to all the
7 assets of the worldwide affiliated group,
8 over

9 “(ii) the interest expense of all foreign
10 corporations which are members of the
11 worldwide affiliated group to the extent
12 such interest expense of such foreign cor-
13 porations would have been allocated and
14 apportioned to foreign source income if
15 this subsection were applied to a group
16 consisting of all the foreign corporations in
17 such worldwide affiliated group.

18 “(C) WORLDWIDE AFFILIATED GROUP.—

19 For purposes of this paragraph, the term
20 ‘worldwide affiliated group’ means an affiliated
21 group as defined in section 1504(a), determined
22 without regard to paragraphs (2), (3), and (4)
23 of section 1504(b).

24 “(2) ALLOCATION AND APPORTIONMENT OF
25 OTHER EXPENSES.—Expenses other than interest

1 which are not directly allocable or apportioned to
2 any specific income producing activity shall be allo-
3 cated and apportioned as if all members of the affili-
4 ated group were a single corporation. For purposes
5 of the preceding sentence, the term ‘affiliated group’
6 has the meaning given such term by section 1504
7 (determined without regard to paragraph (4) of sec-
8 tion 1504(b)).

9 “(3) TREATMENT OF TAX-EXEMPT ASSETS;
10 BASIS OF STOCK IN NONAFFILIATED 10-PERCENT
11 OWNED CORPORATIONS.—The rules of paragraphs
12 (3) and (4) of subsection (e) shall apply for purposes
13 of this subsection; except that paragraph (3) shall be
14 applied on worldwide affiliated group basis.

15 “(4) TREATMENT OF CERTAIN FINANCIAL IN-
16 STITUTIONS.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (1), any corporation described in sub-
19 paragraph (B) shall be treated as an includible
20 corporation for purposes of section 1504 only
21 for purposes of applying this subsection sepa-
22 rately to corporations so described.

23 “(B) DESCRIPTION.—A corporation is de-
24 scribed in this subparagraph if—

1 “(i) such corporation is a financial in-
2 stitution described in section 581 or 591,

3 “(ii) the business of such financial in-
4 stitution is predominantly with persons
5 other than related persons (within the
6 meaning of subsection (d)(4)) or their cus-
7 tomers, and

8 “(iii) such financial institution is re-
9 quired by State or Federal law to be oper-
10 ated separately from any other entity
11 which is not such an institution.

12 “(C) TREATMENT OF BANK HOLDING COM-
13 PANIES.—To the extent provided in regula-
14 tions—

15 “(i) a bank holding company (within
16 the meaning of section 2(a) of the Bank
17 Holding Company Act of 1956), and

18 “(ii) any subsidiary of a financial in-
19 stitution described in section 581 or 591 or
20 of any bank holding company if such sub-
21 sidiary is predominantly engaged (directly
22 or indirectly) in the active conduct of a
23 banking, financing, or similar business,
24 shall be treated as a corporation described in
25 subparagraph (B).

1 “(5) ELECTION TO EXPAND FINANCIAL INSTI-
2 TUTION GROUP OF WORLDWIDE GROUP.—

3 “(A) IN GENERAL.—If a worldwide affili-
4 ated group elects the application of this sub-
5 section, all financial corporations which—

6 “(i) are members of such worldwide
7 affiliated group, but

8 “(ii) are not corporations described in
9 paragraph (4)(B),

10 shall be treated as described in paragraph
11 (4)(B) for purposes of applying paragraph
12 (4)(A). This subsection (other than this para-
13 graph) shall apply to any such group in the
14 same manner as this subsection (other than this
15 paragraph) applies to the pre-election worldwide
16 affiliated group of which such group is a part.

17 “(B) FINANCIAL CORPORATION.—For pur-
18 poses of this paragraph, the term ‘financial cor-
19 poration’ means any corporation if at least 80
20 percent of its gross income is income described
21 in section 904(d)(2)(C)(ii) and the regulations
22 thereunder which is derived from transactions
23 with persons who are not related (within the
24 meaning of section 267(b) or 707(b)(1)) to the
25 corporation. For purposes of the preceding sen-

1 tence, there shall be disregarded any item of in-
2 come or gain from a transaction or series of
3 transactions a principal purpose of which is the
4 qualification of any corporation as a financial
5 corporation.

6 “(C) ANTIABUSE RULES.—In the case of a
7 corporation which is a member of an electing fi-
8 nancial institution group, to the extent that
9 such corporation—

10 “(i) distributes dividends or makes
11 other distributions with respect to its stock
12 after the date of the enactment of this
13 paragraph to any member of the pre-elec-
14 tion worldwide affiliated group (other than
15 to a member of the electing financial insti-
16 tution group) in excess of the greater of—

17 “(I) its average annual dividend
18 (expressed as a percentage of current
19 earnings and profits) during the 5-
20 taxable-year period ending with the
21 taxable year preceding the taxable
22 year, or

23 “(II) 25 percent of its average
24 annual earnings and profits for such
25 5-taxable-year period, or

1 “(ii) deals with any person in any
2 manner not clearly reflecting the income of
3 the corporation (as determined under prin-
4 ciples similar to the principles of section
5 482),

6 an amount of indebtedness of the electing fi-
7 nancial institution group equal to the excess
8 distribution or the understatement or overstate-
9 ment of income, as the case may be, shall be re-
10 characterized (for the taxable year and subse-
11 quent taxable years) for purposes of this para-
12 graph as indebtedness of the worldwide affili-
13 ated group (excluding the electing financial in-
14 stitution group). If a corporation has not been
15 in existence for 5 taxable years, this subpara-
16 graph shall be applied with respect to the pe-
17 riod it was in existence.

18 “(D) ELECTION.—An election under this
19 paragraph with respect to any financial institu-
20 tion group may be made only by the common
21 parent of the pre-election worldwide affiliated
22 group and may be made only for the first tax-
23 able year beginning after December 31, 2002,
24 in which such affiliated group includes 1 or
25 more financial corporations. Such an election,

once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

“(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

“(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term ‘pre-election worldwide affiliated group’ means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

“(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term ‘electing financial institution group’ means the group of corporations to which this subsection applies separately by reason of the application of paragraph (5)(A) and which includes financial corporations by reason of an election under subparagraph (A).

“(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appro-

1 prie to carry out this subsection, including
2 regulations—

3 “(i) providing for the direct allocation
4 of interest expense in other circumstances
5 where such allocation would be appropriate
6 to carry out the purposes of this sub-
7 section,

8 “(ii) preventing assets or interest ex-
9 pense from being taken into account more
10 than once, and

11 “(iii) dealing with changes in mem-
12 bers of any group (through acquisitions or
13 otherwise) treated under this paragraph as
14 an affiliated group for purposes of this
15 subsection.

16 “(6) ELECTION.—An election to have this sub-
17 section apply with respect to any worldwide affiliated
18 group may be made only by the common parent of
19 the domestic affiliated group referred to in para-
20 graph (1)(C) and may be made only for the first
21 taxable year beginning after December 31, 2002, in
22 which a worldwide affiliated group exists which in-
23 cludes such affiliated group and at least one foreign
24 corporation. Such an election, once made, shall apply
25 to such common parent and all other corporations

1 which are members of such worldwide affiliated
 2 group for such taxable year and all subsequent years
 3 unless revoked with the consent of the Secretary.”.

4 (b) EXPANSION OF REGULATORY AUTHORITY.—
 5 Paragraph (7) of section 864(e) is amended—

6 (1) by inserting before the comma at the end of
 7 subparagraph (B) “and in other circumstances
 8 where such allocation would be appropriate to carry
 9 out the purposes of this subsection”, and

10 (2) by striking “and” at the end of subpara-
 11 graph (E), by redesignating subparagraph (F) as
 12 subparagraph (G), and by inserting after subpara-
 13 graph (E) the following new subparagraph:

14 “(F) preventing assets or interest expense
 15 from being taken into account more than once,
 16 and”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to taxable years beginning after
 19 December 31, 2003.

20 **SEC. 311. PERMANENT EXTENSION OF SUBPART F EXEMP-**
 21 **TION FOR ACTIVE FINANCING.**

22 (a) IN GENERAL.—

23 (1) Section 953(e)(10) is amended—

24 (A) by striking “, and before January 1,
 25 2007,” and

1 (B) by striking the second sentence.

2 (2) Section 954(h)(9) is amended by striking “,
3 and before January 1, 2007,”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to taxable years beginning after
6 December 31, 2003.

○