

108TH CONGRESS
2D SESSION

H. R. 3829

To amend the Internal Revenue Code of 1986 to provide that interests in certain domestically controlled investment partnerships are not treated as United States real property interests.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2004

Mr. CANTOR introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide that interests in certain domestically controlled investment partnerships are not treated as United States real property interests.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CERTAIN DOMESTICALLY CONTROLLED IN-**
2 **VESTMENT PARTNERSHIP INTERESTS NOT**
3 **TREATED AS UNITED STATES REAL PROP-**
4 **ERTY INTERESTS.**

5 (a) IN GENERAL.—Paragraph (1) of section 897(c)
6 of the Internal Revenue Code of 1986 is amended by add-
7 ing at the end the following new subparagraph:

8 “(C) EXCLUSION OF DOMESTICALLY CON-
9 TROLLED INVESTMENT PARTNERSHIPS.—

10 “(i) IN GENERAL.—The term ‘United
11 States real property interest’ does not in-
12 clude any interest in or owned by an in-
13 vestment partnership (as defined by sec-
14 tion 731(c)(3)(C)(i)) if at all times during
15 the testing period—

16 “(I) less than 50 percent in value
17 of the capital or profits interests in
18 such partnership is held directly or in-
19 directly by foreign persons,

20 “(II) no single foreign person
21 owns directly or indirectly more than
22 10 percent of the capital or profits in-
23 terests in such partnership, and

24 “(III) the adjusted basis of its
25 United States real property interests

1 does not exceed 10 percent of the ad-
 2 justed basis of its assets.

3 “(ii) SPECIAL RULE FOR PENSION
 4 TRUSTS.—In determining the ownership of
 5 the capital or profits in a partnership, any
 6 interest held by a pension trust shall be
 7 treated as held directly by its beneficiaries
 8 in proportion to their actuarial interests in
 9 such trust and shall not be treated as held
 10 by such trust.

11 “(iii) TESTING PERIOD.—For pur-
 12 poses of this subparagraph, the term ‘test-
 13 ing period’ means the shorter of—

14 “(I) the 5-year period ending on
 15 the date of the disposition or of the
 16 distribution, as the case by be, or

17 “(II) the period during which the
 18 partnership was in existence.

19 For purposes of clause (i)(III), except as
 20 provided in regulations, the testing period
 21 shall not commence until the date which is
 22 36 months after the partnership came into
 23 existence.”.

24 (b) WITHHOLDING TAX.—Section 1445(b) of such
 25 Code is amended—

1 (1) in paragraph (1), by striking “or (6)” and
2 inserting “(6), or (8)”, and

3 (2) by adding at the end the following new
4 paragraph:

5 “(8) DOMESTICALLY CONTROLLED INVEST-
6 MENT PARTNERSHIPS.—This paragraph applies if
7 the disposition is of an interest in or owned by a do-
8 mestically controlled investment partnership that is
9 not a United States real property interest by reason
10 of section 897(c)(1)(C).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to dispositions on or after the date
13 of the enactment of this Act.

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