

109TH CONGRESS
1ST SESSION

H. R. 3959

To amend the Internal Revenue Code of 1986 to prevent corporate
expatriation to avoid United States income taxes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2005

Mr. NEAL of Massachusetts (for himself, Mr. McDERMOTT, Mr. LEWIS of Georgia, Ms. DeLAURO, Mr. THOMPSON of California, Mr. DOGGETT, Mr. LEVIN, Mr. EMANUEL, Mr. STARK, Mr. VISCLOSKY, and Mr. PASCRELL) 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 prevent
corporate expatriation to avoid United States income taxes.

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 “Corporate Patriot En-
5 forcement Act of 2005”.

1 **SEC. 2. PREVENTION OF CORPORATE EXPATRIATION TO**
2 **AVOID UNITED STATES INCOME TAX.**

3 (a) IN GENERAL.—Paragraph (4) of section 7701(a)
4 of the Internal Revenue Code of 1986 (defining domestic)
5 is amended to read as follows:

6 “(4) DOMESTIC.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the term ‘domestic’ when ap-
9 plied to a corporation or partnership means cre-
10 ated or organized in the United States or under
11 the law of the United States or of any State
12 unless, in the case of a partnership, the Sec-
13 retary provides otherwise by regulations.

14 “(B) CERTAIN CORPORATIONS TREATED
15 AS DOMESTIC.—

16 “(i) IN GENERAL.—The acquiring cor-
17 poration in a corporate expatriation trans-
18 action shall be treated as a domestic cor-
19 poration.

20 “(ii) CORPORATE EXPATRIATION
21 TRANSACTION.—For purposes of this sub-
22 paragraph, the term ‘corporate expatria-
23 tion transaction’ means any transaction
24 if—

25 “(I) a nominally foreign corpora-
26 tion (referred to in this subparagraph

1 as the ‘acquiring corporation’) ac-
2 quires, as a result of such transaction,
3 directly or indirectly substantially all
4 of the properties held directly or indi-
5 rectly by a domestic corporation, and

6 “(II) immediately after the trans-
7 action, more than 80 percent of the
8 stock (by vote or value) of the acquir-
9 ing corporation is held by former
10 shareholders of the domestic corpora-
11 tion by reason of holding stock in the
12 domestic corporation.

13 “(iii) LOWER STOCK OWNERSHIP RE-
14 QUIREMENT IN CERTAIN CASES.—Sub-
15 clause (II) of clause (ii) shall be applied by
16 substituting ‘50 percent’ for ‘80 percent’
17 with respect to any nominally foreign cor-
18 poration if—

19 “(I) such corporation does not
20 have substantial business activities
21 (when compared to the total business
22 activities of the expanded affiliated
23 group) in the foreign country in which
24 or under the law of which the corpora-
25 tion is created or organized, and

1 “(II) the stock of the corporation
2 is publicly traded and the principal
3 market for the public trading of such
4 stock is in the United States.

5 “(iv) PARTNERSHIP TRANSACTIONS.—
6 The term ‘corporate expatriation trans-
7 action’ includes any transaction if—

8 “(I) a nominally foreign corpora-
9 tion (referred to in this subparagraph
10 as the ‘acquiring corporation’) ac-
11 quires, as a result of such transaction,
12 directly or indirectly properties consti-
13 tuting a trade or business of a domes-
14 tic partnership,

15 “(II) immediately after the trans-
16 action, more than 80 percent of the
17 stock (by vote or value) of the acquir-
18 ing corporation is held by former
19 partners of the domestic partnership
20 or related foreign partnerships (deter-
21 mined without regard to stock of the
22 acquiring corporation which is sold in
23 a public offering related to the trans-
24 action), and

1 “(III) the acquiring corporation
2 meets the requirements of subclauses
3 (I) and (II) of clause (iii).

4 “(v) SPECIAL RULES.—For purposes
5 of this subparagraph—

6 “(I) a series of related trans-
7 actions shall be treated as 1 trans-
8 action, and

9 “(II) stock held by members of
10 the expanded affiliated group which
11 includes the acquiring corporation
12 shall not be taken into account in de-
13 termining ownership.

14 “(vi) OTHER DEFINITIONS.—For pur-
15 poses of this subparagraph—

16 “(I) NOMINALLY FOREIGN COR-
17 PORATION.—The term ‘nominally for-
18 eign corporation’ means any corpora-
19 tion which would (but for this sub-
20 paragraph) be treated as a foreign
21 corporation.

22 “(II) EXPANDED AFFILIATED
23 GROUP.—The term ‘expanded affili-
24 ated group’ means an affiliated group

1 (as defined in section 1504(a) without
2 regard to section 1504(b)).

3 “(III) RELATED FOREIGN PART-
4 NERSHIP.—A foreign partnership is
5 related to a domestic partnership if
6 they are under common control (with-
7 in the meaning of section 482), or
8 they shared the same trademark or
9 tradename.”.

10 (b) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendment made by
12 this section shall apply to corporate expatriation
13 transactions completed after September 11, 2001.

14 (2) SPECIAL RULE.—The amendment made by
15 this section shall also apply to corporate expatriation
16 transactions completed on or before September 11,
17 2001, but only with respect to taxable years of the
18 acquiring corporation beginning after December 31,
19 2005.

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