

110TH CONGRESS  
1ST SESSION

# S. 396

To amend the Internal Revenue Code of 1986 to treat controlled foreign corporations established in tax havens as domestic corporations.

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IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2007

Mr. DORGAN (for himself, Mr. LEVIN, and Mr. FEINGOLD) 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 treat controlled foreign corporations established in tax havens as domestic corporations.

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. TAX TREATMENT OF CONTROLLED FOREIGN**  
4                       **CORPORATIONS ESTABLISHED IN TAX HA-**  
5                       **VENS.**

6           (a) IN GENERAL.—Subchapter C of chapter 80 of the  
7       Internal Revenue Code of 1986 (relating to provisions af-  
8       fecting more than one subtitle) is amended by adding at  
9       the end the following new section:

1 **“SEC. 7875. CONTROLLED FOREIGN CORPORATIONS IN TAX**  
 2 **HAVENS TREATED AS DOMESTIC CORPORA-**  
 3 **TIONS.**

4 “(a) GENERAL RULE.—If a controlled foreign cor-  
 5 poration is a tax-haven CFC, then, notwithstanding sec-  
 6 tion 7701(a)(4), such corporation shall be treated for pur-  
 7 poses of this title as a domestic corporation.

8 “(b) TAX-HAVEN CFC.—For purposes of this sec-  
 9 tion—

10 “(1) IN GENERAL.—The term ‘tax-haven CFC’  
 11 means, with respect to any taxable year, a foreign  
 12 corporation which—

13 “(A) was created or organized under the  
 14 laws of a tax-haven country, and

15 “(B) is a controlled foreign corporation  
 16 (determined without regard to this section) for  
 17 an uninterrupted period of 30 days or more  
 18 during the taxable year.

19 “(2) EXCEPTION.—The term ‘tax-haven CFC’  
 20 does not include a foreign corporation for any tax-  
 21 able year if substantially all of its income for the  
 22 taxable year is derived from the active conduct of  
 23 trades or businesses within the country under the  
 24 laws of which the corporation was created or orga-  
 25 nized.

1 “(c) TAX-HAVEN COUNTRY.—For purposes of this  
2 section—

3 “(1) IN GENERAL.—The term ‘tax-haven coun-  
4 try’ means any of the following:

“Andorra	Guernsey	Panama
Anguilla	Isle of Man	Samoa
Antigua and Barbuda	Jersey	San Marino
Aruba	Liberia	Federation of
Commonwealth of the	Principality of	Saint Christ-
Bahamas	Liechtenstein	opher
Bahrain	Republic of the	and Nevis
Barbados	Maldives	Saint Lucia
Belize	Malta	Saint Vincent
Bermuda	Republic of the	and the
British Virgin Islands	Marshall Islands	Grenadines
Cayman Islands	Mauritius	Republic of the
Cook Islands	Principality of Monaco	Seychelles
Cyprus	Montserrat	Tonga
Commonwealth of the	Republic of Nauru	Turks and Caicos
Dominica	Netherlands	Republic of
Gibraltar	Antilles	Vanuatu
Grenada	Niue	

5 “(2) SECRETARIAL AUTHORITY.—The Secretary  
6 may remove or add a foreign jurisdiction from the  
7 list of tax-haven countries under paragraph (1) if  
8 the Secretary determines such removal or addition is  
9 consistent with the purposes of this section.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-  
11 tions for subchapter C of chapter 80 of the Internal Rev-  
12 enue Code of 1986 is amended by adding at the end the  
13 following new item:

“Sec. 7875. Controlled foreign corporations in tax havens treated as domestic corporations.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2008.