

111TH CONGRESS  
1ST SESSION

# S. 1610

To amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2009

Ms. CANTWELL (for herself, Mr. VITTER, Ms. LANDRIEU, Mrs. MURRAY, and Mr. MARTINEZ) 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 repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

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 “American Shipping Re-  
5       investment Act of 2009”.

1 **SEC. 2. REPEAL OF QUALIFIED SHIPPING INVESTMENT**  
2 **WITHDRAWAL RULES.**

3 (a) IN GENERAL.—Section 955 of the Internal Rev-  
4 enue Code of 1986 (relating to withdrawal of previously  
5 excluded subpart F income from qualified investment) is  
6 hereby repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 951(a)(1)(A) of the Internal Rev-  
9 enue Code of 1986 is amended by adding “and” at  
10 the end of clause (i) and by striking clause (iii).

11 (2) Section 951(a)(1)(A)(ii) is amended by  
12 striking “, and” at the end and inserting “, except  
13 that in applying this clause amounts invested in less  
14 developed country corporations described in section  
15 955(c)(2) (as so in effect) shall not be treated as in-  
16 vestments in less developed countries.”.

17 (3) Section 951(a)(3) of such Code (relating to  
18 the limitation on pro rata share of previously ex-  
19 cluded subpart F income withdrawn from invest-  
20 ment) is hereby repealed.

21 (4) Section 964(b) of such Code is amended by  
22 striking “, 955,”.

23 (5) The table of sections for subpart F of part  
24 III of subchapter N of chapter 1 of such Code is  
25 amended by striking the item relating to section  
26 955.

1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years of controlled for-  
 3 eign corporations ending on or after the date of the enact-  
 4 ment of this Act, and to taxable years of United States  
 5 shareholders in which or with which such taxable years  
 6 of controlled foreign corporations end.

7       **SEC. 3. ONE-TIME TEMPORARY DIVIDENDS RECEIVED DE-**  
 8                               **DUCTION FOR PREVIOUSLY UNTAXED FOR-**  
 9                               **EIGN BASE COMPANY SHIPPING INCOME.**

10       (a) IN GENERAL.—In the case of a corporation which  
 11 is a United States shareholder and for which an election  
 12 under this section is made for the taxable year, for pur-  
 13 poses of the Internal Revenue Code of 1986, there shall  
 14 be allowed as a deduction in computing taxable income  
 15 under section 63 of such Code an amount equal to 85 per-  
 16 cent of the cash distributions which are received during  
 17 such taxable year by such shareholder from controlled for-  
 18 eign corporations to the extent that the distributions are  
 19 attributable to income—

20               (1) which was derived by the controlled foreign  
 21 corporation in taxable years beginning before Janu-  
 22 ary 1, 2005, and

23               (2) which would, without regard to the year  
 24 earned, be described in section 954(f) (as in effect

1 before the enactment of the American Jobs Creation  
2 Act of 2004).

3 (b) INDIRECT DIVIDENDS.—A rule similar to the rule  
4 of section 965(a)(2) of the Internal Revenue Code of 1986  
5 shall apply, determined by treating cash distributions  
6 which are so attributable as cash dividends.

7 (c) LIMITATION.—The amount of dividends taken  
8 into account under this section shall not exceed the  
9 amount permitted to be taken into account under para-  
10 graphs (1), (3) (determined by substituting “December  
11 31, 2008” for “October 3, 2004”), and (4) of section  
12 965(b) of the Internal Revenue Code of 1986, determined  
13 as if such paragraphs applied to this section.

14 (d) TAXPAYER ELECTION AND DESIGNATION.—For  
15 purposes of subsection (a), a taxpayer may, on its return  
16 for the taxable year to which this section applies—

17 (1) elect to apply paragraph (3) of section  
18 959(c) of the Internal Revenue Code of 1986 before  
19 paragraphs (1) and (2) thereof, and

20 (2) designate the extent, if any, to which a cash  
21 distribution reduces a controlled foreign corpora-  
22 tion’s earnings and profits attributable to—

23 (A) foreign base company shipping income  
24 (determined under section 954(f) of the Inter-  
25 nal Revenue Code of 1986 as in effect before

1 the enactment of the American Jobs Creation  
2 Act of 2004), or

3 (B) other earnings and profits.

4 (e) ELECTION.—

5 (1) IN GENERAL.—The taxpayer may elect to  
6 apply this section to—

7 (A) the taxpayer's last taxable year which  
8 begins before the date of the enactment of this  
9 Act, or

10 (B) the taxpayer's first taxable year which  
11 begins during the 1-year period beginning on  
12 such date.

13 (2) TIMING OF ELECTION AND ONE-TIME ELEC-  
14 TION.—Such election may be made for a taxable  
15 year—

16 (A) only if made on or before the due date  
17 (including extensions) for filing the return of  
18 tax for such taxable year, and

19 (B) only if no election has been made  
20 under this section or section 965 of the Internal  
21 Revenue Code of 1986 with respect to the same  
22 distribution for any other taxable year of the  
23 taxpayer.

24 (f) REDUCTION IN BENEFITS FOR FAILURE TO  
25 MAINTAIN EMPLOYMENT LEVELS.—

1           (1) IN GENERAL.—If, during the period con-  
2       sisting of the calendar month in which the taxpayer  
3       first receives a distribution described in subsection  
4       (a) and the succeeding 23 calendar months, the tax-  
5       payer does not maintain an average employment  
6       level at least equal to the taxpayer’s prior average  
7       employment, an additional amount equal to \$25,000  
8       multiplied by the number of employees by which the  
9       taxpayer’s average employment level during such pe-  
10      riod falls below the prior average employment (but  
11      not exceeding the aggregate amount allowed as a de-  
12      duction pursuant to subsection (a)) shall be taken  
13      into account as income by the taxpayer during the  
14      taxable year that includes the final day of such pe-  
15      riod.

16           (2) PRIOR AVERAGE EMPLOYMENT.—For pur-  
17      poses of this paragraph, the taxpayer’s “prior aver-  
18      age employment” shall be the average number of full  
19      time equivalent employees of the taxpayer during the  
20      period consisting of the 24 calendar months imme-  
21      diately preceding the calendar month in which the  
22      taxpayer first receives a distribution described in  
23      subsection (a).

24           (3) AGGREGATION RULES.—In determining the  
25      taxpayer’s average employment level and prior aver-

1        age employment, all domestic members of a con-  
2        trolled group (as defined in section 264(e)(5)(B) of  
3        the Internal Revenue Code of 1986) shall be treated  
4        as a single taxpayer.

5        (g) SPECIAL RULES.—Rules similar to the rules of  
6        subsections (d) and (e) and paragraphs (3), (4), and (5)  
7        of subsection (c) of section 965 of the Internal Revenue  
8        Code of 1986 shall apply for purposes of this section.

9        (h) EFFECTIVE DATE.—This section shall apply to  
10       taxable years ending on or after the date of the enactment  
11       of this Act.

