

113TH CONGRESS
2D SESSION

H. R. 5443

To amend the Internal Revenue Code of 1986 to end tax deferrals on profits accumulated offshore and to terminate the deferral of active income of controlled foreign corporations.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2014

Mr. POCAN 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 end tax deferrals on profits accumulated offshore and to terminate the deferral of active income of controlled foreign 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. SHORT TITLE.**

4 This Act may be cited as the “Putting America First
5 Corporate Tax Act”.

1 **SEC. 2. INCLUSION IN SUBPART F INCOME OF INVEST-**
 2 **MENTS BY CONTROLLED FOREIGN CORPORA-**
 3 **TIONS WITH RESPECT TO MEMBERS OF FOR-**
 4 **EIGN GROUP WHICH INCLUDES UNITED**
 5 **STATES SHAREHOLDER.**

6 (a) IN GENERAL.—Section 956(a)(1)(A) of the Inter-
 7 nal Revenue Code of 1986 is amended to read as follows:

8 “(A) such shareholder’s pro rata share of
 9 the average of—

10 “(i) the amounts of United States
 11 property, and

12 “(ii) in the case of a controlled foreign
 13 corporation which is a member of an ex-
 14 panded affiliated group the common parent
 15 of which is not a United States person, the
 16 amount of foreign group property,
 17 held (directly or indirectly) by the controlled
 18 foreign corporation as of the close of each quar-
 19 ter of such taxable year, over”.

20 (b) FOREIGN GROUP PROPERTY.—Section 956 of
 21 such Code is amended by redesignating subsections (d)
 22 and (e) as subsections (e) and (f), respectively, and by in-
 23 serting after subsection (c) the following new subsection:

24 “(d) FOREIGN GROUP PROPERTY; EXPANDED AF-
 25 FILLATED GROUP.—For purposes of this section—

26 “(1) FOREIGN GROUP PROPERTY.—

1 “(A) IN GENERAL.—The term ‘foreign
2 group property’ means any stock or obligation
3 of any foreign person which is not a controlled
4 foreign corporation.

5 “(B) EXCEPTIONS.—Such term shall not
6 include—

7 “(i) the stock or obligation of any en-
8 tity if less than 25 percent of the total
9 combined voting power of such entity, im-
10 mediately after the acquisition of any stock
11 in such entity by the controlled foreign cor-
12 poration, is owned (directly or indirectly)
13 by the common parent referred to in sub-
14 section (a)(1)(A)(ii), and

15 “(ii) property described in subpara-
16 graph (C), (I), (J), or (K) of subsection
17 (c)(2), applied by substituting ‘foreign per-
18 son’ for ‘United States person’ in such
19 subparagraphs (C) and (J).

20 “(2) EXPANDED AFFILIATED GROUP.—The
21 term ‘expanded affiliated group’ means an affiliated
22 group as defined in section 1504(a), determined—

23 “(A) by substituting ‘more than 50 per-
24 cent’ for ‘at least 80 percent’ each place it ap-
25 pears, and

1 “(B) without regard to paragraphs (2) and
2 (3) of section 1504(b).

3 A partnership or any other entity (other than a cor-
4 poration) shall be treated as a member of an ex-
5 panded affiliated group if such entity controls (as
6 determined under section 954(d)(3)), or is controlled
7 by (as so determined), members of such group (in-
8 cluding any entity treated as a member of such
9 group by reason of this sentence).

10 “(3) APPLICATION TO NON-CORPORATE ENTI-
11 TIES.—In the case of any entity which is not a cor-
12 poration—

13 “(A) any reference in this subsection to
14 stock shall be treated as a reference to any eq-
15 uity or profits interest in such entity, and

16 “(B) except as otherwise provided by the
17 Secretary, paragraph (1)(B)(i) shall be applied
18 by substituting ‘25 percent (by value) of the
19 beneficial interests in such entity’ for ‘25 per-
20 cent of the total combined voting power of such
21 entity’.”.

22 (c) APPLICATION OF RULES FOR PLEDGES AND
23 GUARANTEES.—Section 956(e) of such Code, as so redes-
24 ignated, is amended to read as follows:

1 “(e) PLEDGES AND GUARANTEES.—For purposes of
2 subsection (a), a controlled foreign corporation shall,
3 under regulations prescribed by the Secretary, be consid-
4 ered as holding—

5 “(1) an obligation of a United States person if
6 such controlled foreign corporation is a pledgor or
7 guarantor of such obligation, and

8 “(2) an obligation of a foreign person if such
9 controlled foreign corporation or, to the extent pro-
10 vided under such regulations, any United States
11 shareholder of such controlled foreign corporation, is
12 a pledgor or guarantor of such obligation.”.

13 (d) APPLICATION OF LIMITATION ON AMOUNT OF
14 FOREIGN TAXES DEEMED PAID WITH RESPECT TO SEC-
15 TION 956 INCLUSIONS.—Notwithstanding section 214(b)
16 of Public Law 111–226, section 960(c) of the Internal
17 Revenue Code of 1986 shall apply to acquisitions of for-
18 eign group property (as defined in 956(d) of such Code,
19 as amended by this section) after December 31, 2010, in
20 addition to acquisitions of United States property (as de-
21 fined in section 956(c) of such Code) after such date.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years of controlled for-
24 eign corporations ending after the date of the enactment
25 of this Act and to taxable years of United States share-

1 holders in which or with which such taxable years of con-
 2 trolled foreign corporations end.

3 **SEC. 3. TERMINATION OF DEFERRAL OF ACTIVE INCOME**
 4 **OF CONTROLLED FOREIGN CORPORATIONS.**

5 (a) IN GENERAL.—Section 952 of the Internal Rev-
 6 enue Code of 1986 is amended by adding at the end the
 7 following new subsection:

8 “(d) SPECIAL APPLICATION OF SUBPART.—

9 “(1) IN GENERAL.—For taxable years begin-
 10 ning after December 31, 2014, notwithstanding any
 11 other provision of this subpart, the term ‘subpart F
 12 income’ means, in the case of any controlled foreign
 13 corporation, the income of such corporation derived
 14 from any foreign country.

15 “(2) APPLICABLE RULES.—Rules similar to the
 16 rules under the last sentence of subsection (a) and
 17 subsection (d) shall apply to this subsection.”.

18 (b) EFFECTIVE DATE.—The amendment made by
 19 subsection (a) shall apply to taxable years beginning after
 20 December 31, 2014.

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