

Calendar No. 48

114TH CONGRESS
1ST SESSION**S. 915****[Report No. 114–25]**

To amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2015

Mr. HATCH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Real Estate Investment and Jobs Act of 2015”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 **SEC. 2. EXCEPTION FROM FIRPTA FOR CERTAIN STOCK OF**
 8 **REAL ESTATE INVESTMENT TRUSTS.**

9 (a) MODIFICATIONS OF OWNERSHIP RULES.—

10 (1) IN GENERAL.—Section 897 is amended by
 11 adding at the end the following new subsection:

12 “(k) SPECIAL RULES RELATING TO REAL ESTATE
 13 INVESTMENT TRUSTS.—

14 “(1) INCREASE IN PERCENTAGE OWNERSHIP
 15 FOR EXCEPTIONS FOR PERSONS HOLDING PUBLICLY
 16 TRADED STOCK.—

17 “(A) DISPOSITIONS.—In the case of any
 18 disposition of stock in a real estate investment
 19 trust, paragraphs (3) and (6)(C) of subsection
 20 (c) shall each be applied by substituting ‘more
 21 than 10 percent’ for ‘more than 5 percent’.

22 “(B) DISTRIBUTIONS.—In the case of any
 23 distribution from a real estate investment trust,
 24 subsection (h)(1) shall be applied by sub-
 25 stituting ‘10 percent’ for ‘5 percent’.

1 “(2) STOCK HELD BY QUALIFIED SHARE-
2 HOLDERS NOT TREATED AS USRPI.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B)—

5 “(i) stock of a real estate investment
6 trust which is held directly by a qualified
7 shareholder shall not be treated as a
8 United States real property interest, and

9 “(ii) notwithstanding subsection
10 (h)(1), any distribution to a qualified
11 shareholder shall not be treated as gain
12 recognized from the sale or exchange of a
13 United States real property interest to the
14 extent the stock of the real estate invest-
15 ment trust held by such qualified share-
16 holder is not treated as a United States
17 real property interest under clause (i).

18 “(B) EXCEPTION.—In the case of a quali-
19 fied shareholder with 1 or more applicable in-
20 vestors—

21 “(i) subparagraph (A)(i) shall not
22 apply to so much of the stock of a real es-
23 tate investment trust held by a qualified
24 shareholder as bears the same ratio to the
25 amount of the interests (other than inter-

ests held solely as a creditor) held by such applicable investors in the qualified shareholder bears to all such interests in the qualified shareholder, and

“(ii) a percentage equal to the ratio determined under clause (i) of the amounts realized by the qualified shareholder with respect to any disposition of stock in the real estate investment trust or with respect to any distribution from the real estate investment trust attributable to gain from sales or exchanges of a United States real property interest shall be treated as amounts realized from the disposition of United States real property interests.

“(C) APPLICABLE INVESTOR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable investor’ means, with respect to any qualified shareholder holding stock in a real estate investment trust, a person (other than a qualified shareholder) which—

1 “(I) holds an interest (other than
 2 an interest solely as a creditor) in
 3 such qualified shareholder, and

4 “(II) holds more than 10 percent
 5 of the stock of such real estate invest-
 6 ment trust (whether or not by reason
 7 of the person’s ownership interest in
 8 the qualified shareholder).

9 “(ii) CONSTRUCTIVE OWNERSHIP
 10 RULES.—For purposes of this subpara-
 11 graph, the constructive ownership rules
 12 under subsection (c)(6)(C) shall apply.

13 “(3) QUALIFIED SHAREHOLDER.—For purposes
 14 of this subsection—

15 “(A) IN GENERAL.—The term ‘qualified
 16 shareholder’ means a foreign person—

17 “(i) which is eligible for benefits of a
 18 comprehensive income tax treaty with the
 19 United States which includes an exchange
 20 of information program,

21 “(ii) which is a qualified collective in-
 22 vestment vehicle,

23 “(iii) the principal class of interests of
 24 which is listed and regularly traded on 1 or
 25 more recognized stock exchanges (as de-

1 fined in such comprehensive income tax
2 treaty), and

3 “(iv) which maintains records on the
4 identity of each person who, at any time
5 during the foreign person’s taxable year,
6 holds directly more than 10 percent of the
7 class of interest described in clause (iii).

8 “(B) QUALIFIED COLLECTIVE INVEST-
9 MENT VEHICLE.—For purposes of this sub-
10 section, the term ‘qualified collective investment
11 vehicle’ means a foreign person—

12 “(i) which, under the comprehensive
13 income tax treaty described in subpara-
14 graph (A)(i), is eligible for a reduced rate
15 of withholding with respect to ordinary
16 dividends paid by a real estate investment
17 trust and continues to be so eligible even
18 if such person holds more than 10 percent
19 of the stock of such real estate investment
20 trust,

21 “(ii) which, if such person were a
22 United States person, would be classified
23 as a United States real property holding
24 corporation (determined without regard to
25 paragraph (2)) at any time during the 5-

year period ending on the date of any disposition of, or distribution with respect to, the person's interests in a real estate investment trust, or

“(iii) which is designated as a qualified collective investment vehicle by the Secretary and is either—

“(I) fiscally transparent within the meaning of section 894, or

“(II) required to include dividends in its gross income, but entitled to a deduction for distributions to persons holding interests (other than interests solely as a creditor) in such foreign person.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 897(c)(1)(A) is amended by inserting “or subsection (k)” after “subparagraph (B)” in the matter preceding clause (i).

(B) Section 857(b)(3)(F) is amended by inserting “or section 897(k)(2)(A)(ii)” after “897(h)(1)”.

(b) DETERMINATION OF DOMESTIC CONTROL.—

(1) SPECIAL OWNERSHIP RULES.—

1 (A) IN GENERAL.—Section 897(h)(4) is
2 amended by adding at the end the following
3 new subparagraph:

4 “(E) SPECIAL OWNERSHIP RULES.—For
5 purposes of determining the holder of stock
6 under subparagraphs (B) and (C)—

7 “(i) in the case of any class of stock
8 of the qualified investment entity which is
9 regularly traded on an established securi-
10 ties market in the United States, a person
11 holding less than 5 percent of such class of
12 stock at all times during the testing period
13 shall be treated as a United States person
14 unless the qualified investment entity has
15 actual knowledge that such person is not a
16 United States person,

17 “(ii) any stock in the qualified invest-
18 ment entity held by another qualified in-
19 vestment entity—

20 “(I) any class of stock of which
21 is regularly traded on an established
22 securities market, or

23 “(II) which is a regulated invest-
24 ment company which issues redeem-
25 able securities (within the meaning of

1 section 2 of the Investment Company
2 Act of 1940),
3 shall be treated as held by a foreign per-
4 son, except that if such other qualified in-
5 vestment entity is domestically controlled
6 (determined after application of this sub-
7 paragraph), such stock shall be treated as
8 held by a United States person, and

9 “(iii) any stock in the qualified invest-
10 ment entity held by any other qualified in-
11 vestment entity not described in subclause
12 (I) or (II) of clause (ii) shall only be treat-
13 ed as held by a United States person in
14 proportion to the stock of such other quali-
15 fied investment entity which is (or is treat-
16 ed under clause (ii) or (iii) as) held by a
17 United States person.”.

18 (B) CONFORMING AMENDMENT.—The
19 heading for paragraph (4) of section 897(h) is
20 amended by inserting “AND SPECIAL RULES”
21 after “DEFINITIONS”.

22 (2) TECHNICAL AMENDMENT.—Clause (ii) of
23 section 897(h)(4)(A) is amended by inserting “and
24 for purposes of determining whether a real estate in-
25 vestment trust is a domestically controlled qualified

investment entity under this subsection” after “real estate investment trust”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date of enactment and shall apply to—

(A) any disposition on and after the date of the enactment of this Act, and

(B) any distribution by a real estate investment trust on or after the date of the enactment of this Act which is treated as a deduction for a taxable year of such trust ending after such date.

(2) DETERMINATION OF DOMESTIC CONTROL.—

The amendments made by subsection (b)(1) shall take effect on the date of the enactment of this Act.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (b)(2) shall take effect on January 1, 2015.

SEC. 3. INCREASE IN RATE OF WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Subsections (a), (e)(3), (e)(4), and (e)(5) of section 1445 are each amended by striking “10 percent” and inserting “15 percent”.

1 (b) EXCEPTION FOR CERTAIN RESIDENCES.—Sec-
 2 tion 1445(c) is amended by adding at the end the fol-
 3 lowing new paragraph:

4 “(4) REDUCED RATE OF WITHHOLDING FOR
 5 RESIDENCE WHERE AMOUNT REALIZED DOES NOT
 6 EXCEED \$1,000,000.—In the case of a disposition—

7 “(A) of property which is acquired by the
 8 transferee for use by the transferee as a resi-
 9 dence,

10 “(B) with respect to which the amount re-
 11 alized for such property does not exceed
 12 \$1,000,000, and

13 “(C) to which subsection (b)(5) does not
 14 apply,

15 subsection (a) shall be applied by substituting ‘10
 16 percent’ for ‘15 percent.’.”

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to dispositions after the date which
 19 is 60 days after the date of the enactment of this Act.

20 **SEC. 4. REQUIRED NOTIFICATION OF STATUS AS UNITED**
 21 **STATES REAL PROPERTY HOLDING COR-**
 22 **PORATION.**

23 (a) NOTIFICATION OF STATUS AS UNITED STATES
 24 REAL PROPERTY HOLDING CORPORATION.—

1 (1) IN GENERAL.—Subpart A of part III of
 2 subchapter A of chapter 61 is amended by inserting
 3 before section 6039C the following new section:

4 **“SEC. 6039B. NOTIFICATION OF STATUS AS UNITED STATES**
 5 **REAL PROPERTY HOLDING CORPORATION.**

6 “(a) IN GENERAL.—Any corporation which is a
 7 United States real property holding corporation shall
 8 make the following notifications:

9 “(1) DISCLOSURE TO THE SECRETARY.—Not
 10 later than the due date for its return of tax (includ-
 11 ing extensions) for the taxable year, the corporation
 12 shall disclose the information described in subsection
 13 (b) to the Secretary in such form and manner as the
 14 Secretary may require.

15 “(2) DISCLOSURE ON PAYEE STATEMENTS.—
 16 The corporation shall include on any statement re-
 17 quired to be made under section 6042(c) the infor-
 18 mation described in subsection (b).

19 “(3) DISCLOSURE TO THE PUBLIC.—The cor-
 20 poration shall disclose to the public the information
 21 described in subsection (b)—

22 “(A) in any annual report made by such
 23 corporation, or

24 “(B) in the case of a corporation which
 25 does not file an annual report for any year, on

1 its website or through such other media as de-
2 termined appropriate by the Secretary in the in-
3 terests of tax administration.

4 “(b) INFORMATION DESCRIBED.—The information
5 described in this subsection is—

6 “(1) a statement that such corporation is a
7 United States real property holding corporation, and

8 “(2) such other information as may be required
9 by the Secretary.

10 “(c) UNITED STATES REAL PROPERTY HOLDING
11 CORPORATION.—

12 “(1) IN GENERAL.—For purposes of this sec-
13 tion, a corporation is a United States real property
14 holding corporation if—

15 “(A) such corporation meets the require-
16 ments of section 897(c)(2) at any time during
17 the applicable period, or

18 “(B) any officer of such corporation has
19 actual knowledge that such corporation meets
20 such requirements at any time during the pe-
21 riod beginning on the first day after the end of
22 the applicable period and ending on the date
23 the notification required under subsection (a) is
24 made.

1 “(2) APPLICABLE PERIOD.—For purposes of
2 paragraph (1), the applicable period is—

3 “(A) in the case of any notice required
4 under subsection (a)(1), the 5-year period end-
5 ing on the last day of the taxable year for which
6 a disclosure was required to be made under
7 such subsection,

8 “(B) in the case of any notice required
9 under subsection (a)(2), the 5-year period end-
10 ing on the last day of the calendar year for
11 which a disclosure was required to be made
12 under such subsection, and

13 “(C) in the case of any notice required
14 under subsection (a)(3), the 5-year period end-
15 ing on the last day of the year for which a dis-
16 closure was required to be made under such
17 subsection.

18 “(d) APPLICATION TO PUBLICLY TRADED PARTNER-
19 SHIPS.—Under regulations prescribed by the Secretary,
20 rules similar to the rules of subsection (a) shall apply to
21 any publicly traded partnership (as defined in section
22 7704(b)) which—

23 “(1) is not treated as a corporation under sec-
24 tion 7704(a), and

1 “(2) would be a United States real property
2 holding corporation if such publicly traded partner-
3 ship were a corporation.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
5 tions for subpart A of part III of subchapter A of
6 chapter 61 is amended by inserting before the item
7 relating to section 6039C the following new item:

“Sec. 6039B. Notification of status as United States real property holding cor-
poration.”.

8 (b) NOTIFICATION OF DOMESTIC CONTROL.—Sub-
9 paragraph (B) of section 897(h)(4) is amended by adding
10 at the end the following new sentence: “Notwithstanding
11 the preceding sentence, a qualified investment entity shall
12 not be treated as a domestically controlled qualified invest-
13 ment entity for any period unless such entity makes a dis-
14 closure that such entity is domestically controlled on any
15 annual report made by such entity on or after January
16 1, 2016 (or, in the case of an entity which does not file
17 an annual report for the year, on its website or through
18 such other media as determined appropriate by the Sec-
19 retary in the interests of tax administration).”.

20 (c) PENALTY FOR FAILURE TO MAKE NOTIFICATION
21 OF STATUS.—

22 (1) IN GENERAL.—Part I of subchapter B of
23 chapter 68 is amended by adding at the end the fol-
24 lowing new section:

1 **“SEC. 6720D. FAILURE TO MAKE NOTIFICATION OF STATUS**
 2 **AS UNITED STATES REAL PROPERTY HOLD-**
 3 **ING COMPANY.**

4 “(a) IN GENERAL.—Any person required to make a
 5 notification under section 6039B who—

6 “(1) fails to disclose to the Secretary the infor-
 7 mation required under section 6039B(a)(1) for any
 8 taxable year,

9 “(2) fails to substantially comply with the re-
 10 quirements of section 6039B(a)(2) for any calendar
 11 year, or

12 “(3) fails to make the disclosure required under
 13 section 6039B(a)(3) for any year,
 14 shall pay a penalty with respect to each such failure in
 15 the amount determined under subsection (b).

16 “(b) AMOUNT OF PENALTY.—

17 “(1) IN GENERAL.—Except as otherwise pro-
 18 vided in this subsection, the amount of the penalty
 19 under this subsection shall be \$1,500,000.

20 “(2) LOWER PENALTY FOR PERSONS WITH
 21 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

22 “(A) IN GENERAL.—In the case of a per-
 23 son who meets the gross receipts test under
 24 subparagraph (B), the amount of the penalty
 25 under this subsection shall be \$500,000.

26 “(B) GROSS RECEIPTS TEST.—

1 “(i) IN GENERAL.—A person meets
 2 the gross receipts test of this subparagraph
 3 for any calendar year if the average annual
 4 gross receipts of such person for the most
 5 recent 5 taxable years ending before such
 6 calendar year do not exceed \$5,000,000.

7 “(ii) CERTAIN RULES MADE APPLICA-
 8 BLE.—For purposes of clause (i), rules
 9 similar to the rules of paragraphs (2) and
 10 (3) of section 448(c) shall apply.

11 “(3) HIGHER PENALTY FOR PERSONS WITH
 12 LARGE UNITED STATES REAL PROPERTY INTER-
 13 ESTS.—

14 “(A) IN GENERAL.—In the case of a per-
 15 son described in subparagraph (C), the amount
 16 of the penalty under this subsection shall be
 17 \$5,000,000.

18 “(B) INTENTIONAL DISREGARD.—If a fail-
 19 ure is due to intentional disregard, subpara-
 20 graph (A) shall be applied by substituting
 21 ‘\$10,000,000’ for ‘\$5,000,000’.

22 “(C) PERSON DESCRIBED.—

23 “(i) IN GENERAL.—A person is de-
 24 scribed in this subparagraph if such person
 25 has United States real property interests

1 (as defined in section 897(c)) with a gross
 2 fair market value of \$1,000,000,000 or
 3 more at any time during the applicable pe-
 4 riod (as defined in section 6039B(b)(2)).

5 “(ii) AGGREGATION RULES.—For pur-
 6 poses of this paragraph, rules similar to
 7 the rules of paragraph (2) of section
 8 448(c) shall apply.

9 “(c) COORDINATION WITH PENALTY FOR FAILURE
 10 TO FILE CORRECT PAYEE STATEMENTS.—No penalty
 11 shall be imposed under section 6722 with respect to any
 12 failure to comply with the requirements of section
 13 6039B(a)(2) if a penalty is imposed under subsection
 14 (a)(2) with respect to such failure.

15 “(d) REASONABLE CAUSE WAIVER.—No penalty
 16 shall be imposed under this section with respect to any
 17 failure if it is shown that such failure is due to reasonable
 18 cause and not to willful neglect.

19 “(e) INFLATION ADJUSTMENT.—

20 “(1) IN GENERAL.—In the case of any failure
 21 relating to a notice required to be made in a cal-
 22 endar year beginning after 2016, each of the dollar
 23 amounts under subsection (b) shall be increased by
 24 such dollar amount multiplied by the cost-of-living
 25 adjustment determined under section 1(f)(3), deter-

1 mined by substituting ‘calendar year 2015’ for ‘cal-
2 endar year 1992’ in subparagraph (B) thereof.

3 “(2) ROUNDING.—If any amount adjusted
4 under paragraph (1) is not a multiple of \$10,000,
5 such amount shall be rounded to the next lowest
6 multiple of \$10,000.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions for part I of subchapter B of chapter 68 is
9 amended by adding at the end the following new
10 item:

“Sec. 6720D. Failure to make notification of status as United States real prop-
erty holding company.”.

11 (d) EFFECTIVE DATES.—

12 (1) NOTIFICATION.—The amendments made by
13 subsections (a) and (b) shall take effect on January
14 1, 2016.

15 (2) PENALTIES.—The amendments made by
16 subsection (c) shall apply to notifications required to
17 be made on or after January 1, 2016.

18 **SEC. 5. REQUIRED WITHHOLDING BY BROKERS ON SALES**
19 **BY SHAREHOLDERS OWNING A MORE THAN 5**
20 **PERCENT INTEREST.**

21 (a) IN GENERAL.—Section 1445(e) is amended by re-
22 designating paragraph (7) as paragraph (8) and by insert-
23 ing after paragraph (6) the following new paragraph:

1 “(7) BROKER WITHHOLDING OBLIGATION ON
2 DISPOSITIONS OF CERTAIN INTERESTS IN UNITED
3 STATES REAL PROPERTY HOLDING CORPORATIONS
4 AND PUBLICLY TRADED PARTNERSHIPS.—

5 “(A) IN GENERAL.—In the case of any dis-
6 position of stock of a United States real prop-
7 erty holding corporation by a foreign person in
8 which the disposition is made through a broker
9 (as defined in section 6045(c)), such broker
10 shall be required to deduct and withhold a tax
11 equal to 15 percent of the amount realized on
12 the disposition.

13 “(B) EXCEPTIONS.—

14 “(i) AMOUNTS WITHHELD BY TRANS-
15 FEREE.—Subparagraph (A) shall not apply
16 to any disposition if—

17 “(I) the transferee is required to
18 deduct and withhold tax under sub-
19 section (a), and

20 “(II) the transferee furnishes to
21 the broker an affidavit, under penalty
22 of perjury, that the transferee has de-
23 ducted and withheld such tax.

24 “(ii) INTERESTS REGULARLY TRADED
25 ON AN ESTABLISHED SECURITIES MAR-

1 KET.—Subparagraph (A) shall not apply
 2 to any disposition of any class of stock of
 3 a United States real property holding cor-
 4 poration which is regularly traded on an
 5 established securities market if the trans-
 6 feror, immediately prior to the disposition,
 7 holds 5 percent (10 percent in the case of
 8 a real estate investment trust) or less of
 9 such class of stock (determined under the
 10 rules of section 897(c)(6)(C)).

11 “(iii) DOMESTICALLY CONTROLLED
 12 QUALIFIED INVESTMENT ENTITIES AND
 13 REAL ESTATE INVESTMENT TRUSTS.—Sub-
 14 paragraph (A) shall not apply to disposi-
 15 tions of stock of—

16 “(I) any domestically controlled
 17 qualified investment entity (as defined
 18 in section 897(h)(4)), or

19 “(II) any real estate investment
 20 trust to the extent that such stock is
 21 not treated as a United States real
 22 property interest pursuant to section
 23 897(k)(2).

24 “(iv) INTERESTS IN CERTAIN COR-
 25 PORATIONS.—Subparagraph (A) shall not

1 apply to any disposition of stock in a
 2 United States real property holding cor-
 3 poration if such stock is not treated as a
 4 United States real property interest by
 5 reason of section 897(c)(1)(B).

6 “(v) LACK OF BROKER KNOWL-
 7 EDGE.—

8 “(I) IN GENERAL.—Subpara-
 9 graph (A) shall not apply if the
 10 broker had no knowledge, and reason-
 11 ably could not have been expected to
 12 have knowledge, that the disposition
 13 was of stock in a United States real
 14 property holding corporation.

15 “(II) SPECIAL RULE.—For pur-
 16 poses of subclause (I), a broker may
 17 rely on public statements made by a
 18 public company, including statements
 19 related to the status of the company
 20 as a United States real property hold-
 21 ing corporation or as a domestically
 22 controlled qualified investment entity.

23 “(C) APPLICATION TO PUBLICLY TRADED
 24 PARTNERSHIPS.—Under regulations prescribed
 25 by the Secretary, rules similar to the rules of

subparagraphs (A) and (B) shall apply to the disposition through a broker of any interest in a publicly traded partnership (as defined in section 7704(b)) which—

“(i) is not treated as a corporation under section 7704(a), and

“(ii) would be a United States real property holding corporation if such publicly traded partnership were a corporation.

“(D) UNITED STATES REAL PROPERTY HOLDING CORPORATION.—For purposes of this paragraph, the term ‘United States real property holding corporation’ means any corporation which was a United States real property holding corporation (as defined in section 897(c)(2)) at any time during the 5-year period ending on the date of the disposition referred to in subparagraph (A).”.

(b) CONFORMING AMENDMENT.—Section 1445(b)(6) is amended by striking “This paragraph” and inserting “Except as provided in subsection (e)(7), this paragraph”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 2015.

1 **SEC. 6. INTERESTS IN RICS AND REITS NOT EXCLUDED**
 2 **FROM DEFINITION OF UNITED STATES REAL**
 3 **PROPERTY INTERESTS.**

4 (a) IN GENERAL.—Section 897(c)(1)(B) is amended
 5 by striking “and” at the end of clause (i), by striking the
 6 period at the end of clause (ii)(II) and inserting “, and”,
 7 and by adding at the end the following new clause:

8 “(iii) neither such corporation nor any
 9 predecessor of such corporation was a reg-
 10 ulated investment company or a real estate
 11 investment trust at any time during the
 12 shorter of the periods described in sub-
 13 paragraph (A)(ii).”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to dispositions on or after the date
 16 of the enactment of this Act.

17 **SEC. 7. DIVIDENDS DERIVED FROM RICS AND REITS INELI-**
 18 **GIBLE FOR DEDUCTION FOR UNITED STATES**
 19 **SOURCE PORTION OF DIVIDENDS FROM CER-**
 20 **TAIN FOREIGN CORPORATIONS.**

21 (a) IN GENERAL.—Section 245(a) is amended by
 22 adding at the end the following new paragraph:

23 “(12) DIVIDENDS DERIVED FROM RICS AND
 24 REITS INELIGIBLE FOR DEDUCTION.—Regulated in-
 25 vestment companies and real estate investment

1 trusts shall not be treated as domestic corporations
2 for purposes of paragraph (5)(B).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to dividends received from regu-
5 lated investment companies and real estate investment
6 trusts on or after the date of the enactment of this Act.

7 (c) NO INFERENCE.—Nothing contained in this sec-
8 tion or the amendments made by this section shall be con-
9 strued to create any inference with respect to the proper
10 treatment under section 245 of the Internal Revenue Code
11 of 1986 of dividends received from regulated investment
12 companies or real estate investment trusts before the date
13 of the enactment of this Act.

14 **SEC. 8. INCREASE IN CONTINUOUS LEVY.**

15 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
16 of the Internal Revenue Code of 1986 is amended by strik-
17 ing “30 percent” and inserting “35 percent”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to payments made after 180 days
20 after the date of the enactment of this Act.

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