

114TH CONGRESS
1ST SESSION

S. 981

To amend the Internal Revenue Code of 1986 to provide for a repatriation holiday, to increase funding to the Highway Trust Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2015

Mr. PAUL (for himself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for a repatriation holiday, to increase funding to the Highway Trust Fund, 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.**

4 This Act may be cited as the “Invest In Transpor-
5 tation Act”.

6 **SEC. 2. INCENTIVES TO REINVEST FOREIGN EARNINGS IN**
7 **UNITED STATES.**

8 (a) **APPLICABILITY OF TEMPORARY DIVIDENDS RE-**
9 **CEIVED DEDUCTION.—**

1 (1) IN GENERAL.—Subsection (f) of section 965
2 of the Internal Revenue Code of 1986 is amended to
3 read as follows:

4 “(f) ELECTION.—

5 “(1) IN GENERAL.—The taxpayer may elect to
6 apply this section to the 5-taxable-year period begin-
7 ning with—

8 “(A) the taxpayer’s last taxable year which
9 begins before the date of the enactment of the
10 Invest In Transportation Act, or

11 “(B) the taxpayer’s first taxable year
12 which begins during the 1-year period beginning
13 on such date of enactment.

14 “(2) TIME FOR MAKING ELECTION.—Any elec-
15 tion made under this section shall be made on or be-
16 fore the due date (including extensions) for filing the
17 return of tax for the first taxable year in the 5-tax-
18 able-year period described in paragraph (1).

19 “(3) DECLARATION OF AMOUNT REPATRI-
20 ATED.—An election under this section shall des-
21 ignate a limitation of the aggregate amount of divi-
22 dends to be taken into account under subsection (a)
23 during the 5-taxable-year period.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) DETERMINATIONS RELATING TO BASE
2 PERIOD FOR DETERMINING EXTRAORDINARY
3 DIVIDENDS.—Section 965 of such Code is
4 amended by striking “June 30, 2003” each
5 place it appears in subsections (b)(2) and (c)(2)
6 and inserting “December 31, 2014”.

7 (B) DETERMINATIONS RELATING TO RE-
8 LATED PARTY INDEBTEDNESS.—Section
9 965(b)(3)(B) of such Code is amended by strik-
10 ing “October 3, 2004” and inserting “Decem-
11 ber 31, 2014”.

12 (b) DEDUCTION EQUIVALENT TO 6.5-PERCENT RATE
13 OF TAX.—Paragraph (1) of section 965(a) of the Internal
14 Revenue Code of 1986 is amended by striking “85 per-
15 cent” and inserting “81.4 percent”.

16 (c) LIMITATIONS.—

17 (1) IN GENERAL.—

18 (A) IN GENERAL.—Paragraph (1) of sec-
19 tion 965(b) of the Internal Revenue Code of
20 1986 is amended to read as follows:

21 “(1) IN GENERAL.—The amount of dividends
22 taken into account under subsection (a) shall not ex-
23 ceed the United States shareholder’s pro rata share
24 of the accumulated earnings and profits described in
25 section 959(c)(3) as of the end of the last taxable

1 year ending on or before December 31, 2014, for all
2 controlled foreign corporations of the United States
3 shareholder.”.

4 (B) CONFORMING AMENDMENTS.—

5 (i) Subsection (c) of section 965 of
6 such Code is amended by striking para-
7 graph (1).

8 (ii) Paragraph (5) of section 965(c) of
9 such Code is amended to read as follows:

10 “(5) CONTROLLED GROUPS.—All United States
11 shareholders which are members of an affiliated
12 group filing a consolidated return under section
13 1501 shall be treated as one United States share-
14 holder.”.

15 (2) ADDITIONAL LIMITATION.—Subsection (b)
16 of section 965 of such Code is amended by redesignig-
17 nating paragraph (4) as paragraph (5) and by in-
18 serting after paragraph (3) the following new para-
19 graph:

20 “(4) ADDITIONAL LIMITATION.—

21 “(A) IN GENERAL.—The amount of divi-
22 dends taken into account under subsection (a)
23 for each taxable year during the 5-taxable-year
24 period described in subsection (f)(1) shall not
25 exceed the amount designated in the election

1 under subsection (f)(3) reduced by the sum
2 of—

3 “(i) the aggregate amount of divi-
4 dends taken into account under subsection
5 (a) in prior taxable years in such 5-tax-
6 able-year period, and

7 “(ii) the sum of the dividend short-
8 falls for each such prior taxable year.

9 “(B) DIVIDEND SHORTFALL.—For pur-
10 poses of subparagraph (A), the dividend short-
11 fall for any taxable year is an amount equal to
12 the excess (if any) of—

13 “(i) 20 percent of the amount des-
14 ignated under subsection (f)(3), over

15 “(ii) the amount of dividends taken
16 into account under subsection (a) for such
17 taxable year.”.

18 (d) DIVIDEND REINVESTMENT PLAN REQUIRE-
19 MENTS.—Paragraph (5) of section 965(b) of the Internal
20 Revenue Code of 1986, as redesignated by subsection (c),
21 is amended to read as follows:

22 “(5) REQUIREMENT TO INVEST IN UNITED
23 STATES.—

24 “(A) IN GENERAL.—Subsection (a) shall
25 not apply to any dividends received by a United

1 States shareholder unless the amount of the
2 dividends is invested in the United States pur-
3 suant to a domestic reinvestment plan which—

4 “(i) is approved by the taxpayer’s
5 president, chief executive officer, or com-
6 parable official before the payment of such
7 dividend and subsequently approved by the
8 taxpayer’s board of directors, management
9 committee, executive committee, or similar
10 body,

11 “(ii) provides that not less than 25
12 percent of such dividends will be used—

13 “(I) to increase workforce, to
14 raise wages and benefits, or to in-
15 crease pension contributions,

16 “(II) to provide for energy effi-
17 ciency improvements either through
18 investment in new property or the ret-
19 rofitting of existing property,

20 “(III) to provide for environ-
21 mental improvements, such as carbon
22 offsets, water efficiency, or environ-
23 mental remediation,

1 “(IV) to invest in public-private
2 partnerships and the improvement of
3 public infrastructure,

4 “(V) to make capital improve-
5 ments,

6 “(VI) for the acquisition of other
7 businesses, or

8 “(VII) for research and develop-
9 ment, and

10 “(iii) provides that none of such divi-
11 dends will be used during the period cov-
12 ered by the domestic reinvestment plan to
13 compensate any employee who is the chief
14 executive officer (or is an individual acting
15 in such a capacity), or who is among the
16 4 highest compensated employees, in ex-
17 cess of the level of compensation paid to
18 individuals in such capacity during the tax-
19 able year immediately preceding the tax-
20 able year to which an election under this
21 section applies.

22 For purposes of clause (iii), compensation shall
23 be determined under rules similar to the rules
24 for reporting executive officer compensation to

1 shareholders under the Securities Exchange Act
2 of 1934.

3 “(B) USE OF CERTAIN FUNDS.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), dividends shall be
6 treated as meeting the requirements of
7 subclauses (I), (V), and (VII) of subpara-
8 graph (A)(ii) only if such amounts supple-
9 ment but do not supplant otherwise
10 planned funding for such purposes. Such
11 planned funding shall be certified by the
12 individual and entity approving the domes-
13 tic reinvestment plan.

14 “(ii) EXCEPTION.—Clause (i) shall
15 not apply if the aggregate funding for the
16 purposes described in subclauses (I), (V),
17 and (VII) of subparagraph (A)(ii) for the
18 5-taxable-year period described in sub-
19 section (f)(1) exceeds 125 percent of the
20 amount spent for such purposes during the
21 5-year period ending with the last day of
22 the most recent taxable year ending before
23 January 1, 2015. Rules similar to the rules
24 of subparagraphs (B) and (C) of sub-
25 section (c)(2) shall apply for purposes of

1 determining the 5-year period under the
2 preceding sentence.

3 “(C) COMPLIANCE.—Under regulations es-
4 tablished by the Secretary, any taxpayer mak-
5 ing an election under this section shall submit
6 to the Secretary—

7 “(i) the domestic reinvestment plan
8 required under this paragraph, and

9 “(ii) annually thereafter, such infor-
10 mation as required by the Secretary for
11 purposes of determining such taxpayer’s
12 compliance with the plan, including con-
13 temporaneous documentation of compliance
14 and retention requirements for a period of
15 time as determined by the Secretary as ap-
16 propriate.”.

17 (e) SPECIAL RULES FOR INVERTED CORPORA-
18 TIONS.—

19 (1) IN GENERAL.—Subsection (b) of section
20 965 is amended by adding at the end the following
21 new paragraph:

22 “(6) DENIAL OF DEDUCTION FOR CERTAIN
23 COMPANIES.—No deduction shall be allowed under
24 subsection (a) with respect to any expatriated entity
25 (as defined in section 7874(a)(2)).”.

1 (2) RECAPTURE.—Section 965 of the Internal
2 Revenue Code of 1986 is amended by adding at the
3 end the following new subsection:

4 “(g) RECAPTURE.—

5 “(1) IN GENERAL.—In the case of a taxpayer
6 who makes an election under subsection (f) and who
7 is an expatriated entity—

8 “(A) the tax imposed by this chapter shall
9 be increased for the first taxable year in which
10 such taxpayer becomes an expatriated entity by
11 an amount equal to 20 percent of the amount
12 designated under subsection (f)(3), and

13 “(B) no credits shall be allowed against
14 the increase in tax under subparagraph (A).

15 “(2) EXPATRIATED ENTITY.—For purposes of
16 this subsection, the term ‘expatriated entity’ has the
17 same meaning given such term under section
18 7874(a)(2), except that—

19 “(A) ‘during the 10-year period beginning
20 with the first taxable year after 2013 to which
21 section 965 applies’ shall be substituted for
22 ‘after March 4, 2003’ in subparagraph (B)(i),
23 and

24 “(B) ‘the first taxable year after 2013 to
25 which section 965 applies’ shall be substituted

1 for ‘March 4, 2003’ in the matter following
2 subparagraph (B)(iii).”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after the
5 date of the enactment of this Act.

6 **SEC. 3. TRANSFERS TO HIGHWAY TRUST FUND.**

7 (a) IN GENERAL.—Subsection (f) of section 9503 of
8 the Internal Revenue Code of 1986 is amended by redesignig-
9 nating paragraph (7) as paragraph (8) and by inserting
10 after paragraph (6) the following new paragraph:

11 “(7) TRANSFER OF REVENUES FROM REPATRI-
12 ATION HOLIDAY.—

13 “(A) INITIAL TRANSFER.—

14 “(i) IN GENERAL.—Not later than 60
15 days after the date of the enactment of
16 this Act, the Secretary shall estimate the
17 amount of revenues to be received in the
18 Treasury after the date of the enactment
19 of this paragraph and before October 1,
20 2019, from income taxes imposed on divi-
21 dends which are taken into account under
22 section 965.

23 “(ii) TRANSFER.—Out of money in
24 the Treasury not otherwise appropriated,
25 there is hereby appropriated—

1 “(I) to the Highway Account (as
2 defined in subsection (e)(5)(B)) in the
3 Highway Trust Fund an amount
4 equal to 80 percent of the amount es-
5 timated under subparagraph (A), and

6 “(II) to the Mass Transit Ac-
7 count in the Highway Trust Fund an
8 amount equal to 20 percent of the
9 amount so estimated.

10 “(B) ADDITIONAL TRANSFER.—

11 “(i) IN GENERAL.—Not later than Oc-
12 tober 1, 2023, the Secretary shall deter-
13 mine the amount of revenues received in
14 the Treasury from income taxes imposed
15 on dividends which were taken into ac-
16 count under section 965 during the period
17 described in subparagraph (A)(i).

18 “(ii) TRANSFER.—If the amount de-
19 termined under clause (i) exceeds the
20 amount transferred under subparagraph
21 (A)(ii), out of money in the Treasury not
22 otherwise appropriated, there is hereby ap-
23 propriated—

24 “(I) to the Highway Account (as
25 defined in subsection (e)(5)(B)) in the

1 Highway Trust Fund an amount
2 equal to the applicable percentage of
3 such excess, and

4 “(II) to the Mass Transit Ac-
5 count in the Highway Trust Fund an
6 amount equal to 20 percent of so
7 much of such excess as does not ex-
8 ceed the applicable amount.

9 “(iii) APPLICABLE PERCENTAGES.—
10 For purposes of clause (ii), the applicable
11 percentage is—

12 “(I) 80 percent with respect to so
13 much of excess under subparagraph
14 (B)(ii) as does not exceed the applica-
15 ble amount, and

16 “(II) 100 percent with respect
17 the amount of such excess to which
18 subclause (I) does not apply.

19 “(iv) APPLICABLE AMOUNT.—For
20 purposes of this subparagraph, the applica-
21 ble amount is the amount (not less than
22 zero) equal to the excess of—

23 “(I) \$62,000,000,000, over

24 “(II) the amount transferred
25 under subparagraph (A)(ii).”.

1 (b) RETURN OF EXCESS TRANSFERS.—

2 (1) IN GENERAL.—Subsection (c) of section
3 9503 of such Code is amended by adding at the end
4 the following new paragraph:

5 “(6) RETURN OF EXCESS TRANSFERS.—If the
6 amount of transfers under subparagraph (A)(ii) of
7 subsection (f)(7) exceeds the amount determined
8 under subparagraph (B)(i) of such subsection, the
9 Secretary shall pay to the general fund of the Treas-
10 ury from the Highway Trust Fund not later than
11 October 1, 2023, an amount equal to such excess.”.

12 (2) PORTION FROM MASS TRANSIT ACCOUNT.—
13 Paragraph (5) of section 9503 of such Code is
14 amended by adding at the end the following new
15 subparagraph:

16 “(C) AMOUNTS RELATED TO CERTAIN EX-
17 CESS TRANSFERS.—20 percent of any transfer
18 under paragraph (6) of subsection (c) shall be
19 borne by the Mass Transit Account.”.

20 **SEC. 4. REPAIR, REPLACEMENT, AND REHABILITATION OF**
21 **DEFICIENT BRIDGES.**

22 (a) DEFICIENT BRIDGE AMOUNT.—For purposes of
23 this section, the deficient bridge amount is so much of the
24 amount transferred to the Highway Account (as defined
25 in section 9503(e)(5)(B) of the Internal Revenue Code of

1 1986) in the Highway Trust Fund under section
2 9503(f)(7)(B) of such Code as exceeds the applicable
3 amount (as defined in section 9507(f)(7)(B)(iv) of such
4 Code).

5 (b) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There is authorized to be
7 appropriated out of the Highway Trust Fund (other
8 than the Mass Transit Account) an amount equal to
9 the deficient bridge amount to be used for the re-
10 pair, replacement, or rehabilitation of deficient
11 bridges eligible for assistance under chapter 1 of
12 title 23, United States Code.

13 (2) CALCULATION OF STATE AMOUNTS.—

14 (A) STATE APPORTIONMENTS.—The Sec-
15 retary of Transportation shall apportion the
16 amount authorized to be appropriated under
17 this subsection among the States in accordance
18 with subparagraph (B).

19 (B) STATE SHARES.—The amount for each
20 State shall be determined by multiplying the
21 total amount available under this subsection by
22 the share for each State, which shall be equal
23 to the proportion that—

1 (i) the amount of apportionments that
2 the State received under title 23, United
3 States Code, for fiscal year 2019; bears to

4 (ii) the amount of those apportion-
5 ments received by all States for that fiscal
6 year.

7 (3) CONTRACT AUTHORITY.—Funds authorized
8 to be appropriated by this subsection shall—

9 (A) be available for obligation in the same
10 manner as if the funds were apportioned under
11 chapter 1 of title 23, United States Code; and

12 (B) remain available until expended and
13 not be transferrable.

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