

115TH CONGRESS
1ST SESSION

H. R. 4204

To amend the Internal Revenue Code of 1986 to provide for International
Regulated Investment Companies.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2017

Mr. MARCHANT 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 provide
for International Regulated Investment Companies.

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 “International Regu-
5 lated Investment Company Act of 2017”.

6 **SEC. 2. INTERNATIONAL REGULATED INVESTMENT COMPA-**
7 **NIES.**

8 (a) IN GENERAL.—Subchapter N of chapter 1 of the
9 Internal Revenue Code of 1986 is amended by redesign-

1 nating part V as part VI and inserting after part IV the
 2 following new part:

3 **“PART V—INTERNATIONAL REGULATED**
 4 **INVESTMENT COMPANIES**

“Sec. 998. Definition of international regulated investment company.

“Sec. 998A. Taxation of IRICs.

“Sec. 998B. Other rules.

5 **“SEC. 998. DEFINITION OF INTERNATIONAL REGULATED IN-**
 6 **VESTMENT COMPANY.**

7 “(a) GENERAL RULE.—For purposes of this title, the
 8 terms ‘international regulated investment company’ and
 9 ‘IRIC’ mean, with respect to any taxable year, a domestic
 10 corporation which, at all times during the taxable year,
 11 meets the following requirements:

12 “(1) The corporation is registered under the In-
 13 vestment Company Act of 1940.

14 “(2) Except as provided in subsection (c), the
 15 corporation holds no assets other than the stock of
 16 a single regulated investment company—

17 “(A) to which part I of subchapter M ap-
 18 plies, and

19 “(B) which is not a qualified investment
 20 entity (as defined in section 897(h)(4)(A)(ii)).

21 “(3) All outstanding stock of the corporation is
 22 held by nonresident alien individuals (and their for-
 23 eign estates) and qualified foreign pension funds
 24 (within the meaning of section 897(l)(2)).

1 “(4) The corporation has in effect an election
2 to be treated as an IRIC.

3 “(b) ELECTION.—An election to be treated as an
4 IRIC shall apply to the taxable year for which made and
5 all subsequent taxable years until terminated. Such elec-
6 tion shall be made for any taxable year not later than the
7 due date (with extensions) for the return of tax imposed
8 by this subtitle for the taxable year.

9 “(c) PERMITTED ASSETS.—For purposes of sub-
10 section (a)(2), an IRIC may hold—

11 “(1) an amount of cash and cash equivalents
12 reasonably necessary or appropriate for the corpora-
13 tion to conduct its normal affairs, and

14 “(2) such other assets as are incidental to the
15 corporation’s conduct of its normal affairs or other-
16 wise allowed by the Secretary.

17 “(d) TERMINATION.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), if a corporation fails to meet the require-
20 ments of subsection (a) at any time during the tax-
21 able year, the corporation shall not be treated as an
22 IRIC for such taxable year.

23 “(2) INADVERTENT FAILURE.—

24 “(A) IN GENERAL.—A corporation which
25 fails to meet the requirements of subsection (a)

for any taxable year shall nevertheless be considered to have satisfied the requirements of such subsection for such taxable year if—

“(i) the failure was due to reasonable cause and not due to willful neglect,

“(ii) no later than 30 days after the discovery of the event causing such failure, the corporation meets the requirements of subsection (a),

“(iii) in the case of a failure to meet the requirements of subsection (a)(3) for any period, the failure was caused by persons not described therein holding, in the aggregate, less than 1 percent of the stock (by value) of the corporation, and

“(iv) the corporation pays the additional tax imposed by reason of subparagraph (B).

“(B) IMPOSITION OF ADDITIONAL TAX ON CERTAIN FAILURES.—In the case of a failure described in subparagraph (A)(iii) for any taxable year, the tax imposed by section 998A(a) on the IRIC shall be equal to the sum of—

“(i) the tax determined under such section (without regard to this subpara-

1 graph) on amounts received by the IRIC
 2 for the taxable year other than amounts so
 3 received which are attributable to stock
 4 held by persons not described in subsection
 5 (a)(3) for the period so held, plus

6 “(ii) 100 percent of the amounts re-
 7 ceived which are so attributable.

8 The Secretary shall prescribe rules for the prop-
 9 er allocation of deductions to amounts described
 10 in this subparagraph.

11 **“SEC. 998A. TAXATION OF IRICS.**

12 “(a) IN GENERAL.—In the case of an IRIC, there
 13 shall be imposed, in lieu of the tax imposed by section 11,
 14 a tax equal to 30 percent of the excess of—

15 “(1) the amounts received by the IRIC which
 16 (before the application of any treaty) would be sub-
 17 ject to tax under section 871(a) if received by a non-
 18 resident alien individual, over

19 “(2) the deductions properly allocable to such
 20 amounts (other than deductions allowed under sec-
 21 tions 163, 172, 243, and such other provisions as
 22 the Secretary may prescribe in regulations to pre-
 23 vent abuse).

24 “(b) TREATIES.—

1 “(1) IN GENERAL.—In the case of a treaty
 2 IRIC, subsection (a) shall be applied by substituting
 3 ‘15 percent’ for ‘30 percent’.

4 “(2) TREATY IRIC.—For purposes of paragraph
 5 (1), the term ‘treaty IRIC’ means an IRIC—

6 “(A) all the outstanding stock of which is
 7 held by persons resident in a country that has
 8 in effect with the United States an income tax
 9 treaty pursuant to which such persons would,
 10 by reason of section 894(a), be subject to tax
 11 under section 871(a) on dividends at a rate not
 12 greater than 15 percent, and

13 “(B) which elects to be a treaty IRIC.

14 Rules similar to the rules of section 998(b) shall
 15 apply to an election under subparagraph (B).

16 **“SEC. 998B. OTHER RULES.**

17 “(a) COORDINATION WITH SUBCHAPTER M.—Except
 18 as provided in subsection (e), an IRIC shall not be treated
 19 as a regulated investment company for purposes of this
 20 title.

21 “(b) NO CARRYOVERS.—

22 “(1) CARRYOVERS TO IRIC YEARS.—No
 23 carryforward, and no carryback, arising for a tax-
 24 able year for which the corporation is not an IRIC

1 may be carried to a taxable year for which such cor-
2 poration is an IRIC.

3 “(2) CARRYOVERS FROM IRIC YEARS.—No
4 carryforward, and no carryback, shall arise for a
5 taxable year for which a corporation is an IRIC.

6 “(c) CERTAIN TAXES NOT TO APPLY.—Sections 55,
7 531, and 541 shall not apply to an IRIC.

8 “(d) CREDITS NOT ALLOWED.—No credits under
9 this chapter shall be allowed to an IRIC.

10 “(e) REDEMPTIONS.—In applying section 302(b)(5),
11 an IRIC shall be treated as a publicly offered regulated
12 investment company.

13 “(f) RELIANCE ON CERTIFICATION.—

14 “(1) RELIANCE.—With respect to the require-
15 ment in sections 998(a)(3) and 998A(b)(2)(A), a
16 corporation may rely on the certification of its share-
17 holders, unless or until such time that the corpora-
18 tion has reason to know that the certification is false
19 or is no longer true.

20 “(2) REDEMPTION UPON FALSE CERTIFI-
21 CATION.—If a corporation has reason to know that
22 the certification made by one of its shareholders is
23 false or is no longer true, the corporation must re-
24 deem the stock held by such shareholder as soon as
25 reasonably practicable (and in no case more than 30

1 days after the corporation obtains such reason to
 2 know). Failure to redeem such stock in a timely
 3 manner shall result in the corporation failing the re-
 4 quirement of section 998(a)(3) or 998A(b)(2)(A),
 5 whichever is applicable.

6 “(3) CERTIFICATION BY CERTAIN INSTITU-
 7 TIONS.—For purposes of this subsection, a certifi-
 8 cation with regard to a person which is made by an
 9 institution described in section 871(h)(5)(B) in a
 10 form satisfactory to the Secretary under section
 11 871(h) shall be deemed to be a certification by such
 12 person.”.

13 (b) CLERICAL AMENDMENT.—The table of parts for
 14 subchapter N of chapter 1 of the Internal Revenue Code
 15 of 1986 is amended by redesignating the item relating to
 16 part V as relating to part VI and inserting after the item
 17 relating to part IV the following new item:

“PART V—INTERNATIONAL REGULATED INVESTMENT COMPANIES”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to taxable years beginning after
 20 the date of the enactment of this Act.

○