

purposes of this subsection, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.”.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 954(b) is amended by inserting “foreign base company excess intangible income described in subsection (a)(4) or” before “foreign base company oil-related income” in the last sentence thereof.

(2) Subsection (b) of section 954 is amended by adding at the end the following new paragraph:

“(7) FOREIGN BASE COMPANY EXCESS INTANGIBLE INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company excess intangible income shall not be considered foreign base company income of such corporation under paragraph (2), (3), or (5) of subsection (a).”.

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

SEC. 133. LIMITATIONS ON INCOME SHIFTING THROUGH INTANGIBLE PROPERTY TRANSFERS.

(a) CLARIFICATION OF DEFINITION OF INTANGIBLE ASSET.—Clause (vi) of section 936(h)(3)(B) is amended by inserting “(including any section 197 intangible described in subparagraph (A), (B), or (C)(i) of subsection (d)(1) of such section)” after “item”.

(b) CLARIFICATION OF ALLOWABLE VALUATION METHODS.—

(1) FOREIGN CORPORATIONS.—Paragraph (2) of section 367(d) is amended by adding at the end the following new subparagraph:

“(D) REGULATORY AUTHORITY.—For purposes of the last sentence of subparagraph (A), the Secretary may require—

“(i) the valuation of transfers of intangible property on an aggregate basis, or

“(ii) the valuation of such a transfer on the basis of the realistic alternatives to such a transfer,

in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.”.

(2) ALLOCATION AMONG TAXPAYERS.—Section 482 is amended by adding at the end the following: “For purposes of the preceding sentence, the Secretary may require the valuation of transfers of intangible property on an aggregate basis or the valuation of such a transfer on the basis of the realistic alternatives to such a transfer, in any case in which the Secretary determines that such basis is the most reliable means of valuation of such transfers.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers in taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendment made by subsection (a) shall be construed to create any inference with respect to the application of section 936(h)(3) of the Internal Revenue Code of 1986, or the authority of the Secretary of the Treasury to provide regulations for such application, on or before the date of the enactment of such amendment.

SEC. 134. LIMITATION ON EARNINGS STRIPPING BY EXPATRIATED ENTITIES.

(a) IN GENERAL.—Subsection (j) of section 163 is amended—

(1) by redesignating paragraph (9) as paragraph (10), and

(2) by inserting after paragraph (8) the following new paragraph:

“(9) SPECIAL RULES FOR EXPATRIATED ENTITIES.—

“(A) IN GENERAL.—In the case of a corporation to which this subsection applies which is an expatriated entity, this subsection

shall apply to such corporation with the following modifications:

“(i) Paragraph (2)(A) shall be applied without regard to clause (ii) thereof.

“(ii) Paragraph (1)(B) shall be applied—

“(I) without regard to the parenthetical, and

“(II) by substituting ‘in the 1st succeeding taxable year and in the 2nd through 10th succeeding taxable years to the extent not previously taken into account under this subparagraph’ for ‘in the succeeding taxable year’.

“(iii) Paragraph (2)(B) shall be applied—

“(I) without regard to clauses (ii) and (iii), and

“(II) by substituting ‘25 percent of the adjusted taxable income of the corporation for such taxable year’ for the matter of clause (i)(II) thereof.

“(B) EXPATRIATED ENTITY.—For purposes of this paragraph—

“(i) IN GENERAL.—With respect to a corporation and a taxable year, the term ‘expatriated entity’ has the meaning given such term by section 7874(a)(2), determined as if such section and the regulations under such section as in effect on the first day of such taxable year applied to all taxable years of the corporation beginning after July 10, 1989.

“(ii) EXCEPTION FOR SURROGATES TREATED AS A DOMESTIC CORPORATION.—The term ‘expatriated entity’ does not include a surrogate foreign corporation which is treated as a domestic corporation by reason of section 7874(b).”.

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

TITLE II—ENDING EXCESSIVE CORPORATE TAX DEDUCTIONS FOR STOCK OPTIONS

SEC. 201. CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS.

(a) CONSISTENT TREATMENT FOR WAGE DEDUCTION.—

(1) IN GENERAL.—Section 83(h) is amended—

(A) by striking “In the case of” and inserting:

“(1) IN GENERAL.—In the case of”, and

(B) by adding at the end the following new paragraph:

“(2) STOCK OPTIONS.—In the case of property transferred to a person in connection with a stock option, any deduction related to such stock option shall be allowed only under section 162(q) and paragraph (1) shall not apply.”.

(2) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—Section 162 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

“(q) TREATMENT OF COMPENSATION PAID WITH STOCK OPTIONS.—

“(1) IN GENERAL.—In the case of compensation for personal services that is paid with stock options, the deduction under subsection (a)(1) shall not exceed the amount the taxpayer has treated as compensation cost with respect to such stock options for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries), and shall be taken into account in the same period that such compensation cost is recognized for such purpose.

“(2) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary may prescribe rules for the application of paragraph (1) in cases where the stock option is granted by—

“(A) a parent or subsidiary corporation (within the meaning of section 424) of the taxpayer, or

“(B) another corporation.”.

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) is amended

by inserting at the end the following new clause:

“(iv) SPECIAL RULE FOR STOCK OPTIONS.—The amount which may be treated as wages for any taxable year in connection with the issuance of a stock option shall not exceed the amount allowed for such taxable year as a compensation deduction under section 162(q) with respect to such stock option.”.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply to stock options exercised after the date of the enactment of this Act, except that—

(1) such amendments shall not apply to stock options that were granted before such date and that vested in taxable periods beginning on or before June 15, 2005,

(2) for stock options that were granted before such date of enactment and vested during taxable periods beginning after June 15, 2005, and ending before such date of enactment, a deduction under section 162(q) of the Internal Revenue Code of 1986 (as added by subsection (a)(2)) shall be allowed in the first taxable period of the taxpayer that ends after such date of enactment,

(3) for public entities reporting as small business issuers and for non-public entities required to file public reports of financial condition, paragraphs (1) and (2) shall be applied by substituting “December 15, 2005” for “June 15, 2005”, and

(4) no deduction shall be allowed under section 83(h) or section 162(q) of such Code with respect to any stock option the vesting date of which is changed to accelerate the time at which the option may be exercised in order to avoid the applicability of such amendments.

SEC. 202. APPLICATION OF EXECUTIVE PAY DEDUCTION LIMIT.

(a) IN GENERAL.—Subparagraph (D) of section 162(m)(4) is amended to read as follows:

“(D) STOCK OPTION COMPENSATION.—The term ‘applicable employee remuneration’ shall include any compensation deducted under subsection (q), and such compensation shall not qualify as performance-based compensation under subparagraph (C).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock options exercised or granted after the date of the enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Subcommittee on Primary Health and Aging of the Committee on Health, Education, Labor, and Pensions will meet in open session on Wednesday, February 29, 2012, at 10 a.m. in SD 430 Dirksen Senate Office Building to conduct a hearing entitled Dental Crisis in America: The Need to Expand Access.

For further information regarding this meeting, please contact the subcommittee on (202) 224 5480.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Committee on Health, Education, Labor, and Pensions will meet in open session on Thursday, March 1, 2012, at 10 a.m. in SD 430 Dirksen Senate Office Building to conduct a hearing entitled The Key to America's Global Competitiveness: A Quality Education.

For further information regarding this meeting, please contact the committee on (202) 224 5501.

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. HARKIN. Mr. President, I wish to announce that the Senate HELP Committee hearing previously scheduled for March 1, 2012, entitled “The Key to America’s Global Competitiveness: A Quality Education” has been postponed until Thursday, March 8, 2012 at 10 a.m. in room 430 of the Dirksen Senate Office Building.

For further information regarding this meeting, please contact the committee on (202) 224 5501.

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Subcommittee on National Parks. The hearing will be held on Wednesday, March 7, 2012, at 2:30 p.m. in room SD 366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 29, a bill to establish the Sacramento-San Joaquin Delta National Heritage Area;

S. 1150, a bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania;

S. 1191, a bill to direct the Secretary of the Interior to carry out a study regarding the suitability and feasibility of establishing the Naugatuck River Valley National Heritage Area in Connecticut;

S. 1198, a bill to reauthorize the Essex National Heritage Area;

S. 1215, a bill to provide for the exchange of land located in the Lowell National Historical Park;

S. 1589, a bill to extend the authorization for the Coastal Heritage Trail in the State of New Jersey;

S. 1708, a bill to establish the John H. Chafee Blackstone River Valley National Historical Park;

H.R. 1141, to authorize the Secretary of the Interior to study the suitability and feasibility of designating prehistoric, historic, and limestone forest sites on Rota, Commonwealth of the Northern Mariana Islands, as a unit of the National Park System.

H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, 304

Dirksen Senate Office Building, Washington, DC 20510 6150, or by email to Jake McCook@energy.senate.gov.

For further information, please contact David Brooks (202) 224 9863 or Jake McCook (202) 224 9313.

COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, Thursday, March 8, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on the President fiscal year 2013 Budget for Native Programs.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224 2251.

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 13, 2012, at 10 a.m., in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the “Report of the Independent Consultant’s Review with Respect to the Department of Energy Loan and Loan Guarantee Portfolio.”

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510 6150, or by email to Abigail Campbell@energy.senate.gov.

For further information, please contact Michael Carr at 202 224 8164 or Colin Hayes at (202) 224 4797 or Abigail Campbell at 202 224 1219.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Ed Chung, a Department of Justice detailee on my Judiciary Committee staff, be given Senate floor privileges for the duration of the 112th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 1173

Mr. PRYOR. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1173) to repeal the CLASS program.

Mr. PRYOR. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR TUESDAY, FEBRUARY 28, 2012

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, February 28, 2012, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate be in a period of morning business until 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half hour and the Republicans controlling the second half hour; further, that the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus meetings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. PRYOR. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Tuesday, February 28, 2012, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 27, 2012:

THE JUDICIARY

MARGO KITSY BRODIE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.