

104TH CONGRESS  
1ST SESSION

# H. R. 1278

To amend the Internal Revenue Code of 1986 to reduce tax benefits for foreign corporations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1995

Mr. EVANS (for himself, Mr. RAHALL, Mr. BONIOR, Mr. DELLUMS, Mr. HINCHEY, Mr. FATTAH, Mr. OWENS, Mr. WATT of North Carolina, Ms. KAPTUR, Mr. GUTIERREZ, Mr. HOLDEN, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to reduce tax benefits for foreign corporations, 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 “Corporate Welfare  
5 Reduction Act of 1995”.

6 **SEC. 2. FOREIGN OIL AND GAS INCOME.**

7 (a) SPECIAL RULES FOR FOREIGN TAX CREDIT  
8 WITH RESPECT TO FOREIGN OIL AND GAS INCOME.—

9 (1) CERTAIN TAXES NOT CREDITABLE.—

1           (A) IN GENERAL.—Subsection (a) of sec-  
2           tion 907 of the Internal Revenue Code of 1986  
3           (relating to reduction in amount allowed as for-  
4           eign tax under section 901) is amended to read  
5           as follows:

6           “(a) CERTAIN TAXES NOT CREDITABLE.—

7           “(1) IN GENERAL.—For purposes of this sub-  
8           title, the term ‘income, war profits, and excess prof-  
9           its taxes’ shall not include—

10           “(A) any taxes which are paid or accrued  
11           to any foreign country with respect to foreign  
12           oil and gas income and which are not imposed  
13           under a generally applicable income tax law of  
14           such country, and

15           “(B) any taxes (not described in subpara-  
16           graph (A)) which are paid or accrued to any  
17           foreign country with respect to foreign oil and  
18           gas income to the extent that the foreign law  
19           imposing such amount of tax is structured, or  
20           in fact operates, so that the amount of tax im-  
21           posed with respect to foreign oil and gas income  
22           will generally be materially greater, over a rea-  
23           sonable period of time, than the amount gen-  
24           erally imposed on income that is not foreign oil  
25           and gas income.

1 In computing the amount not treated as tax under  
2 subparagraph (B), such amount shall be treated as  
3 a deduction under the foreign law.

4 “(2) FOREIGN OIL AND GAS INCOME.—For pur-  
5 poses of this paragraph, the term ‘foreign oil and  
6 gas income’ means the amount of foreign oil and gas  
7 extraction income and foreign oil related income.

8 “(3) GENERALLY APPLICABLE INCOME TAX  
9 LAW.—For purposes of this paragraph, the term  
10 ‘generally applicable income tax law’ means any law  
11 of a foreign country imposing an income tax if such  
12 tax generally applies to all income from sources  
13 within such foreign country—

14 “(A) without regard to the residence or na-  
15 tionality of the person earning such income,  
16 and

17 “(B) in the case of any income earned by  
18 a corporation, partnership, or other entity,  
19 without regard to—

20 “(i) where such corporation, partner-  
21 ship, or other entity is organized, and

22 “(ii) the residence or nationality of  
23 the persons owning interests in such cor-  
24 poration, partnership, or entity.”

1 (B) CONFORMING AMENDMENT.—Section  
2 907 of such Code is amended by striking sub-  
3 sections (b), (c)(3), (c)(4), (c)(5), and (f).

4 (2) SEPARATE BASKETS FOR FOREIGN OIL AND  
5 GAS EXTRACTION INCOME AND FOREIGN OIL RELAT-  
6 ED INCOME.—

7 (A) IN GENERAL.—Paragraph (1) of sec-  
8 tion 904(d) of such Code (relating to separate  
9 application of section with respect to certain  
10 categories of income) is amended by striking  
11 “and” at the end of subparagraph (H), by re-  
12 designating subparagraph (I) as subparagraph  
13 (K) and by inserting after subparagraph (H)  
14 the following new subparagraphs:

15 “(I) foreign oil and gas extraction income,  
16 “(J) foreign oil related income, and”.

17 (B) DEFINITIONS.—Paragraph (2) of sec-  
18 tion 904(d) of such Code is amended by redesi-  
19 gnating subparagraphs (H) and (I) as subpara-  
20 graphs (J) and (K), respectively, and by insert-  
21 ing after subparagraph (G) the following new  
22 subparagraphs:

23 “(H) FOREIGN OIL AND GAS EXTRACTION  
24 INCOME.—The term ‘foreign oil and gas extrac-  
25 tion income’ has the meaning given such term

1 by section 907(c)(1). Such term shall not in-  
2 clude any dividend from a noncontrolled section  
3 902 corporation.

4 “(I) FOREIGN OIL RELATED INCOME.—  
5 The term ‘foreign oil related income’ has the  
6 meaning given such term by section 907(c)(2).  
7 Such term shall not include any dividend from  
8 a noncontrolled section 902 corporation and any  
9 shipping income.”

10 (C) CONFORMING AMENDMENT.—Clause  
11 (i) of section 904(d)(3)(F) of such Code is  
12 amended by striking “or (E)” and inserting  
13 “(E), (I), or (J)”.

14 (3) EFFECTIVE DATE.—

15 (A) IN GENERAL.—Except as otherwise  
16 provided in this paragraph, the amendments  
17 made by this subsection shall apply to taxable  
18 years beginning after December 31, 1995.

19 (B) DISALLOWANCE RULE.—

20 (i) Section 907(a) of such Code (as  
21 amended by paragraph (1)) shall apply to  
22 taxes paid or accrued after December 31,  
23 1995, in taxable years ending after such  
24 date.

1           (ii) In determining the amount of  
2           taxes deemed to be paid in a taxable year  
3           beginning after December 31, 1995, under  
4           section 902 or 960 of such Code, section  
5           907(a) of such Code (as amended by para-  
6           graph (1)) shall apply to all taxes whether  
7           paid or accrued before, on, or after Decem-  
8           ber 31, 1995.

9           (C) LOSS RULE.—Notwithstanding the  
10          amendments made by paragraph (1)(B), section  
11          907(c)(4) of such Code shall continue to apply  
12          with respect to foreign oil and gas extraction  
13          losses for taxable years beginning before Janu-  
14          ary 1, 1996.

15          (D) TRANSITIONAL RULES.—

16               (i) Any taxes paid or accrued in a tax-  
17               able year beginning before January 1,  
18               1996, with respect to income which was  
19               described in subparagraph (I) of section  
20               904(d)(1) of such Code (as in effect on the  
21               day before the date of the enactment of  
22               this Act) shall be treated as taxes paid or  
23               accrued with respect to foreign oil and gas  
24               extraction income or foreign oil related in-  
25               come (as the case may be) to the extent

1 such taxes were paid or accrued with re-  
2 spect to such type of income.

3 (ii) Any unused oil and gas extraction  
4 taxes which under section 907(f) of such  
5 Code (as so in effect) would have been al-  
6 lowed as a carryover to the taxpayer's first  
7 taxable year beginning after December 31,  
8 1995 (determined without regard to the  
9 limitation of paragraph (2) of such section  
10 907(f) for such first taxable year), shall be  
11 allowed as carryovers under section 904(c)  
12 of such Code in the same manner as if  
13 they were unused taxes under section  
14 904(c) with respect to foreign oil and gas  
15 extraction income.

16 (b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL  
17 AND GAS EXTRACTION INCOME.—

18 (1) GENERAL RULE.—Paragraph (1) of section  
19 954(g) of the Internal Revenue Code of 1986 (defin-  
20 ing foreign base company oil related income) is  
21 amended to read as follows:

22 “(1) IN GENERAL.—Except as otherwise pro-  
23 vided in this subsection, the term ‘foreign oil and  
24 gas income’ means any income of a kind which

1 would be taken into account in determining the  
2 amount of—

3 “(A) foreign oil and gas extraction income  
4 (as defined in section 907(c)(1)), or

5 “(B) foreign oil related income (as defined  
6 in section 907(c)(2)).”

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subsections (a)(5), (b)(4), (b)(5), and  
9 (b)(8) of section 954 of such Code are each  
10 amended by striking “base company oil related  
11 income” each place it appears (including in the  
12 heading of subsection (b)(8)) and inserting “oil  
13 and gas income”.

14 (B) The subsection heading for subsection  
15 (g) of section 954 of such Code is amended by  
16 striking “FOREIGN BASE COMPANY OIL RE-  
17 LATED INCOME” and inserting “FOREIGN OIL  
18 AND GAS INCOME”.

19 (C) Subparagraph (A) of section 954(g)(2)  
20 of such Code is amended by striking “foreign  
21 base company oil related income” and inserting  
22 “foreign oil and gas income”.

23 (3) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to taxable years of for-  
25 eign corporations beginning after December 31,

1 1995, and to taxable years of United States share-  
2 holders in which or with which such taxable years of  
3 foreign corporations end.

4 **SEC. 3. TRANSFER PRICING.**

5 (a) **AUTHORITY OF SECRETARY WHEN LEGAL LIM-**  
6 **ITS ON TRANSFER BY TAXPAYER.**—Section 482 of the In-  
7 ternal Revenue Code of 1986 (relating to allocation of in-  
8 come and deductions among taxpayers) is amended by  
9 adding at the end the following: “The authority of the Sec-  
10 retary under this section shall not be limited by any re-  
11 striction (by any law or agreement) on the ability of such  
12 interests, organizations, trades, or businesses to transfer  
13 or receive money or other property.”

14 (b) **EFFECTIVE DATE.**—The amendment made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 1995.

17 **SEC. 4. ELIMINATION OF EXCLUSION FOR CITIZENS OR**  
18 **RESIDENTS OF UNITED STATES LIVING**  
19 **ABROAD.**

20 Section 911 of the Internal Revenue Code of 1986  
21 (relating to citizens or residents of the United States living  
22 abroad) is amended by redesignating subsection (f) as sub-  
23 section (g) and by inserting after subsection (e) the follow-  
24 ing new subsection:

1       “(f) TERMINATION.—This section shall not apply to  
2 any taxable year beginning after December 31, 1995.”

3 **SEC. 5. DISPOSITION OF STOCK IN DOMESTIC CORPO-**  
4                   **RATIONS BY 10-PERCENT FOREIGN SHARE-**  
5                   **HOLDERS.**

6       (a) GENERAL RULE.—Subpart D of part II of sub-  
7 chapter N of chapter 1 of the Internal Revenue Code of  
8 1986 (relating to miscellaneous provisions) is amended by  
9 adding at the end thereof the following new section:

10 **“SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPO-**  
11                   **RATIONS BY 10-PERCENT FOREIGN SHARE-**  
12                   **HOLDERS.**

13       “(a) GENERAL RULE.—

14               “(1) TREATMENT AS EFFECTIVELY CONNECTED  
15 WITH UNITED STATES TRADE OR BUSINESS.—For  
16 purposes of this title, if any nonresident alien indi-  
17 vidual or foreign corporation is a 10-percent share-  
18 holder in any domestic corporation, any gain or loss  
19 of such individual or foreign corporation from the  
20 disposition of any stock in such domestic corporation  
21 shall be taken into account—

22                   “(A) in the case of a nonresident alien in-  
23 dividual, under section 871(b)(1), or

24                   “(B) in the case of a foreign corporation,  
25 under section 882(a)(1),

1 as if the taxpayer were engaged during the taxable  
2 year in a trade or business within the United States  
3 through a permanent establishment in the United  
4 States and as if such gain or loss were effectively  
5 connected with such trade or business and attrib-  
6 utable to such permanent establishment. Notwith-  
7 standing section 865, any such gain or loss shall be  
8 treated as from sources in the United States.

9 “(2) 26-PERCENT MINIMUM TAX ON NON-  
10 RESIDENT ALIEN INDIVIDUALS.—

11 “(A) IN GENERAL.—In the case of any  
12 nonresident alien individual, the amount deter-  
13 mined under section 55(b)(1)(A) shall not be  
14 less than 26 percent of the lesser of—

15 “(i) the individual’s alternative mini-  
16 mum taxable income (as defined in section  
17 55(b)(2)) for the taxable year, or

18 “(ii) the individual’s net taxable stock  
19 gain for the taxable year.

20 “(B) NET TAXABLE STOCK GAIN.—For  
21 purposes of subparagraph (A), the term ‘net  
22 taxable stock gain’ means the excess of—

23 “(i) the aggregate gains for the tax-  
24 able year from dispositions of stock in do-  
25 mestic corporations with respect to which

1           such individual is a 10-percent share-  
2           holder, over

3                   “(ii) the aggregate of the losses for  
4           the taxable year from dispositions of such  
5           stock.

6                   “(C) COORDINATION WITH SECTION  
7           897(a)(2).—Section 897(a)(2)(A) shall not apply  
8           to any nonresident alien individual for any tax-  
9           able year for which such individual has a net  
10          taxable stock gain, but the amount of such net  
11          taxable stock gain shall be increased by the  
12          amount of such individual’s net United States  
13          real property gain (as defined in section  
14          897(a)(2)(B)) for such taxable year.

15          “(b) 10-PERCENT SHAREHOLDER.—

16                   “(1) IN GENERAL.—For purposes of this sec-  
17          tion, the term ‘10-percent shareholder’ means any  
18          person who at any time during the shorter of—

19                           “(A) the period beginning on January 1,  
20                           1995, and ending on the date of the disposition,  
21                           or

22                           “(B) the 5-year period ending on the date  
23                           of the disposition,  
24                           owned 10 percent or more (by vote or value) of the  
25                           stock in the domestic corporation.

1 “(2) CONSTRUCTIVE OWNERSHIP.—

2 “(A) IN GENERAL.—Section 318(a) (relat-  
3 ing to constructive ownership of stock) shall  
4 apply for purposes of paragraph (1).

5 “(B) MODIFICATIONS.—For purposes of  
6 subparagraph (A)—

7 “(i) paragraph (2)(C) of section  
8 318(a) shall be applied by substituting ‘10  
9 percent’ for ‘50 percent’, and

10 “(ii) paragraph (3)(C) of section  
11 318(a) shall be applied—

12 “(I) by substituting ‘10 percent’  
13 for ‘50 percent’, and

14 “(II) in any case where such  
15 paragraph would not apply but for  
16 subclause (I), by considering a cor-  
17 poration as owning the stock (other  
18 than stock in such corporation) owned  
19 by or for any shareholder of such cor-  
20 poration in that proportion which the  
21 value of the stock which such share-  
22 holder owns in such corporation bears  
23 to the value of all stock in such cor-  
24 poration.

1           “(3) TREATMENT OF STOCK HELD BY CERTAIN  
2 PARTNERSHIPS.—

3           “(A) IN GENERAL.—For purposes of this  
4 section, if—

5           “(i) a partnership is a 10-percent  
6 shareholder in any domestic corporation,  
7 and

8           “(ii) 10 percent or more of the capital  
9 or profits interests in such partnership is  
10 held (directly or indirectly) by nonresident  
11 alien individuals or foreign corporations,  
12 each partner in such partnership who is not  
13 otherwise a 10-percent shareholder in such cor-  
14 poration shall, with respect to the stock in such  
15 corporation held by the partnership, be treated  
16 as a 10-percent shareholder in such corpora-  
17 tion.

18           “(B) EXCEPTION.—

19           “(i) IN GENERAL.—Subparagraph (A)  
20 shall not apply with respect to stock in a  
21 domestic corporation held by any partner-  
22 ship if, at all times during the 5-year pe-  
23 riod ending on the date of the disposition  
24 involved—

1           “(I) the aggregate bases of the  
2 stock and securities in such domestic  
3 corporation held by such partnership  
4 were less than 25 percent of the part-  
5 nership’s net adjusted asset cost, and

6           “(II) the partnership did not own  
7 50 percent or more (by vote or value)  
8 of the stock in such domestic corpora-  
9 tion.

10           The Secretary may by regulations dis-  
11 regard any failure to meet the require-  
12 ments of subclause (I) where the partner-  
13 ship normally met such requirements dur-  
14 ing such 5-year period.

15           “(ii) NET ADJUSTED ASSET COST.—  
16 For purposes of clause (i), the term ‘net  
17 adjusted asset cost’ means—

18           “(I) the aggregate bases of all of  
19 the assets of the partnership other  
20 than cash and cash items, reduced by

21           “(II) the portion of the liabilities  
22 of the partnership not allocable (on a  
23 proportionate basis) to assets excluded  
24 under subclause (I).

1           “(C) EXCEPTION NOT TO APPLY TO 50-  
2 PERCENT PARTNERS.—Subparagraph (B) shall  
3 not apply in the case of any partner owning (di-  
4 rectly or indirectly) more than 50 percent of the  
5 capital or profits interests in the partnership at  
6 any time during the 5-year period ending on the  
7 date of the disposition.

8           “(D) SPECIAL RULES.—For purposes of  
9 subparagraphs (B) and (C)—

10           “(i) TREATMENT OF PREDE-  
11 CESSORS.—Any reference to a partnership  
12 or corporation shall be treated as including  
13 a reference to any predecessor thereof.

14           “(ii) PARTNERSHIP NOT IN EXIST-  
15 ENCE.—If any partnership was not in ex-  
16 istence throughout the entire 5-year period  
17 ending on the date of the disposition, only  
18 the portion of such period during which  
19 the partnership (or any predecessor) was  
20 in existence shall be taken into account.

21           “(E) OTHER PASS-THRU ENTITIES;  
22 TIERED ENTITIES.—Rules similar to the rules  
23 of the preceding provisions of this paragraph  
24 shall also apply in the case of any pass-thru en-

1           tity other than a partnership and in the case of  
2           tiered partnerships and other entities.

3           “(c) COORDINATION WITH NONRECOGNITION PROVI-  
4           SIONS; ETC.—

5           “(1) COORDINATION WITH NONRECOGNITION  
6           PROVISIONS.—

7           “(A) IN GENERAL.—Except as provided in  
8           subparagraph (B), any nonrecognition provision  
9           shall apply for purposes of this section to a  
10          transaction only in the case of—

11           “(i) an exchange of stock in a domes-  
12          tic corporation for other property the sale  
13          of which would be subject to taxation  
14          under this chapter, or

15           “(ii) a distribution with respect to  
16          which gain or loss would not be recognized  
17          under section 336 if the sale of the distrib-  
18          uted property by the distributee would be  
19          subject to tax under this chapter.

20          “(B) REGULATIONS.—The Secretary shall  
21          prescribe regulations (which are necessary or  
22          appropriate to prevent the avoidance of Federal  
23          income taxes) providing—

1           “(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

2           “(ii) the extent to which—

3           “(I) transfers of property in a reorganization, and

4           “(II) changes in interests in, or distributions from, a partnership, trust, or estate,

5           shall be treated as sales of property at fair market value.

6           “(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term ‘nonrecognition provision’ means any provision of this title for not recognizing gain or loss.

7           “(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

8           “(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

9           “(1) any option or other right to acquire stock in a domestic corporation,

10           “(2) the conversion feature of any debt instrument issued by a domestic corporation, and

1           “(3) to the extent provided in regulations, any  
2           other interest in a domestic corporation other than  
3           an interest solely as creditor,  
4 shall be treated as stock in such corporation.

5           “(e) TREATMENT OF CERTAIN GAIN AS A DIVI-  
6 DEND.—In the case of any gain which would be subject  
7 to tax by reason of this section but for a treaty and which  
8 results from any distribution in liquidation or redemption,  
9 for purposes of this subtitle, such gain shall be treated  
10 as a dividend to the extent of the earnings and profits  
11 of the domestic corporation attributable to the stock.  
12 Rules similar to the rules of section 1248(c) (determined  
13 without regard to paragraph (2)(D) thereof) shall apply  
14 for purposes of the preceding sentence.

15           “(f) REGULATIONS.—The Secretary shall prescribe  
16 such regulations as may be appropriate to carry out the  
17 purposes of this section, including—

18           “(1) regulations coordinating the provisions of  
19 this section with the provisions of section 897, and

20           “(2) regulations aggregating stock held by a  
21 group of persons acting together.”

22           (b) WITHHOLDING OF TAX.—Subchapter A of chap-  
23 ter 3 of such Code is amended by adding at the end the  
24 following new section:

1 **“SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK**  
2 **DISPOSITIONS.**

3 “(a) GENERAL RULE.—Except as otherwise provided  
4 in this section, in the case of any disposition of stock in  
5 a domestic corporation by a foreign person who is a 10-  
6 percent shareholder in such corporation, the withholding  
7 agent shall deduct and withhold a tax equal to 10 percent  
8 of the amount realized on the disposition.

9 “(b) EXCEPTIONS.—

10 “(1) STOCK WHICH IS NOT REGULARLY TRAD-  
11 ED.—In the case of a disposition of stock which is  
12 not regularly traded, a withholding agent shall not  
13 be required to deduct and withhold any amount  
14 under subsection (a) if—

15 “(A) the transferor furnishes to such with-  
16 holding agent an affidavit by such transferor  
17 stating, under penalty of perjury, that section  
18 899 does not apply to such disposition be-  
19 cause—

20 “(i) the transferor is not a foreign  
21 person, or

22 “(ii) the transferor is not a 10-percent  
23 shareholder, and

24 “(B) such withholding agent does not  
25 know (or have reason to know) that such affida-  
26 vit is not correct.

1 “(2) STOCK WHICH IS REGULARLY TRADED.—

2 “(A) IN GENERAL.—Except as provided in  
3 subparagraph (B), a withholding agent shall  
4 not be required to deduct and withhold any  
5 amount under subsection (a) with respect to  
6 any disposition of regularly traded stock if such  
7 withholding agent does not know (or have rea-  
8 son to know) that section 899 applies to such  
9 disposition.

10 “(B) SPECIAL RULE WHERE SUBSTANTIAL  
11 DISPOSITION.—If—

12 “(i) there is a disposition of regularly  
13 traded stock in a corporation, and

14 “(ii) the amount of stock involved in  
15 such disposition constitutes 1 percent or  
16 more (by vote or value) of the stock in  
17 such corporation,

18 subparagraph (A) shall not apply but para-  
19 graph (1) shall apply as if the disposition in-  
20 volved stock which was not regularly traded.

21 “(C) NOTIFICATION BY FOREIGN PER-  
22 SON.—If section 899 applies to any disposition  
23 by a foreign person of regularly traded stock,  
24 such foreign person shall notify the withholding

1 agent that section 899 applies to such disposi-  
2 tion.

3 “(3) NONRECOGNITION TRANSACTIONS.—A  
4 withholding agent shall not be required to deduct  
5 and withhold any amount under subsection (a) in  
6 any case where gain or loss is not recognized by rea-  
7 son of section 899(c) (or the regulations prescribed  
8 under such section).

9 “(c) SPECIAL RULE WHERE NO WITHHOLDING.—  
10 If—

11 “(1) there is no amount deducted and withheld  
12 under this section with respect to any disposition to  
13 which section 899 applies, and

14 “(2) the foreign person does not pay the tax  
15 imposed by this subtitle to the extent attributable to  
16 such disposition on the date prescribed therefor,  
17 for purposes of determining the amount of such tax, the  
18 foreign person’s basis in the stock disposed of shall be  
19 treated as zero or such other amount as the Secretary may  
20 determine (and, for purposes of section 6501, the  
21 underpayment of such tax shall be treated as due to a  
22 willful attempt to evade such tax).

23 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
24 poses of this section—

1           “(1) WITHHOLDING AGENT.—The term ‘with-  
2 holding agent’ means—

3           “(A) the last United States person to have  
4 the control, receipt, custody, disposal, or pay-  
5 ment of the amount realized on the disposition,  
6 or

7           “(B) if there is no such United States per-  
8 son, the person prescribed in regulations.

9           “(2) FOREIGN PERSON.—The term ‘foreign per-  
10 son’ means any person other than a United States  
11 person.

12           “(3) REGULARLY TRADED STOCK.—The term  
13 ‘regularly traded stock’ means any stock of a class  
14 which is regularly traded on an established securities  
15 market.

16           “(4) AUTHORITY TO PRESCRIBE REDUCED  
17 AMOUNT.—At the request of the person making the  
18 disposition or the withholding agent, the Secretary  
19 may prescribe a reduced amount to be withheld  
20 under this section if the Secretary determines that  
21 to substitute such reduced amount will not jeopard-  
22 ize the collection of the tax imposed by section  
23 871(b)(1) or 882(a)(1).

24           “(5) OTHER TERMS.—Except as provided in  
25 this section, terms used in this section shall have the

1 same respective meanings as when used in section  
2 899.

3 “(6) CERTAIN RULES MADE APPLICABLE.—  
4 Rules similar to the rules of section 1445(e) shall  
5 apply for purposes of this section.

6 “(e) REGULATIONS.—The Secretary shall prescribe  
7 such regulations as may be appropriate to carry out the  
8 purposes of this section, including regulations coordinat-  
9 ing the provisions of this section with the provisions of  
10 sections 1445 and 1446.”

11 (c) EXCEPTION FROM BRANCH PROFITS TAX.—Sub-  
12 paragraph (C) of section 884(d)(2) of such Code is amend-  
13 ed to read as follows:

14 “(C) gain treated as effectively connected  
15 with the conduct of a trade or business within  
16 the United States under—

17 “(i) section 897 in the case of the  
18 disposition of a United States real property  
19 interest described in section  
20 897(c)(1)(A)(ii), or

21 “(ii) section 899,”.

22 (d) REPORTS WITH RESPECT TO CERTAIN DIS-  
23 TRIBUTIONS.—Paragraph (2) of section 6038B(a) of such  
24 Code (relating to notice of certain transfers to foreign per-

1 son) is amended by striking “section 336” and inserting  
2 “section 302, 331, or 336”.

3 (e) CLERICAL AMENDMENTS.—

4 (1) The table of sections for subpart D of part  
5 II of subchapter N of chapter 1 of such Code is  
6 amended by adding at the end the following new  
7 item:

“Sec. 899. Dispositions of stock in domestic corporations by 10-  
percent foreign shareholders.”

8 (2) The table of sections for subchapter A of  
9 chapter 3 of such Code is amended by adding at the  
10 end the following new item:

“Sec. 1447. Withholding of tax on certain stock dispositions.”

11 (f) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-  
13 vided in this subsection, the amendments made by  
14 this section shall apply to dispositions after the date  
15 of the enactment of this Act, except that section  
16 1447 of such Code (as added by this section) shall  
17 not apply to any disposition before the date 6  
18 months after the date of the enactment of this Act.

19 (2) COORDINATION WITH TREATIES.—

20 (A) IN GENERAL.—Sections 899 (other  
21 than subsection (e) thereof) and 1447 of such  
22 Code (as added by this section) shall not apply  
23 to any disposition if such disposition is by a

1 qualified resident of a foreign country and the  
2 application of such sections to such disposition  
3 would be contrary to any treaty between the  
4 United States and such foreign country which  
5 is in effect on the date of the enactment of this  
6 Act and at the time of such disposition.

7 (B) QUALIFIED RESIDENT.—For purposes  
8 of subparagraph (A), the term “qualified resi-  
9 dent” means any resident of the foreign country  
10 entitled to the benefits of the treaty referred to  
11 in subparagraph (A); except that such term  
12 shall not include a corporation unless such cor-  
13 poration is a qualified resident of such country  
14 (as defined in section 884(e)(4) of such Code).

15 **SEC. 6. PORTFOLIO DEBT.**

16 (a) IN GENERAL.—Section 871(h)(3) of the Internal  
17 Revenue Code of 1986 is amended to read as follows:

18 “(3) PORTFOLIO INTEREST TO INCLUDE ONLY  
19 INTEREST ON GOVERNMENT OBLIGATIONS.—The  
20 term ‘portfolio interest’ shall include only interest  
21 paid on an obligation issued by a governmental en-  
22 tity.”

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 881(c)(3) of such Code is amend-  
25 ed—

1 (A) in subparagraph (A), by adding “or”  
2 at the end, and

3 (B) by striking subparagraph (B) and re-  
4 designating subparagraph (C) as subparagraph  
5 (B).

6 (2) Section 881(c)(4) of such Code is amend-  
7 ed—

8 (A) by striking “section 871(h)(4)” and in-  
9 serting “section 871(h)(3) or (4)”, and

10 (B) in the heading, by inserting “INTER-  
11 EST ON NON-GOVERNMENT OBLIGATIONS OR”  
12 after “INCLUDE”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to interest received after December  
15 31, 1995, with respect to obligations issued after such  
16 date.

17 **SEC. 7. SOURCE OF INCOME FROM CERTAIN SALES OF IN-**  
18 **VENTORY PROPERTY.**

19 (a) GENERAL RULE.—Subsection (b) of section 865  
20 of the Internal Revenue Code of 1986 (relating to excep-  
21 tion for inventory property) is amended to read as follows:

22 “(b) INVENTORY PROPERTY.—

23 “(1) INCOME ATTRIBUTABLE TO PRODUCTION  
24 ACTIVITY.—In the case of income from the sale of

1 inventory property produced (in whole or in part) by  
2 the taxpayer—

3 “(A) a portion (determined under regula-  
4 tions) of such income shall be allocated to pro-  
5 duction activity (and sourced in the United  
6 States or outside the United States depending  
7 on where such activity occurs), and

8 “(B) the remaining portion of such income  
9 shall be sourced under the other provisions of  
10 this section.

11 The regulations prescribed under subparagraph (A)  
12 shall provide that at least 50 percent of such income  
13 shall be allocated to production activities.

14 “(2) SALES INCOME.—

15 “(A) UNITED STATES RESIDENTS.—In-  
16 come from the sale of inventory property by a  
17 United States resident shall be sourced outside  
18 the United States if—

19 “(i) the property is sold for use, con-  
20 sumption, or disposition outside the United  
21 States and an office or another fixed place  
22 of business of the taxpayer outside the  
23 United States participated materially in  
24 the sale, and

1           “(ii) such sale is not (directly or indi-  
2           rectly) to an affiliate of the taxpayer.

3           “(B) NONRESIDENT.—Income from the  
4           sale of inventory property by a nonresident  
5           shall be sourced in the United States if—

6                   “(i) the taxpayer has an office or  
7                   other fixed place of business in the United  
8                   States, and

9                   “(ii) such sale is through such office  
10                  or other fixed place of business.

11          This subparagraph shall not apply if the require-  
12          ments of clauses (i) and (ii) of subparagraph (A) are  
13          met with respect to such sale.

14          “(3) COORDINATION WITH TREATIES.—For  
15          purposes of paragraph (2)(A)(i), a United States  
16          resident shall not be treated as having an office or  
17          fixed place of business in a foreign country if a trea-  
18          ty prevents such country from imposing an income  
19          tax on the income.”

20          (b) EFFECTIVE DATE.—The amendments made by  
21          this section shall apply to income from sales occurring  
22          after December 31, 1995.

1 **SEC. 8. ENHANCEMENT OF BENEFITS FOR FOREIGN SALES**  
2 **CORPORATIONS.**

3 (a) IN GENERAL.—Subsection (a) of section 923 of  
4 the Internal Revenue Code of 1986 is amended—

5 (1) in paragraph (2), by striking “32 percent”  
6 and inserting “34 percent”, and

7 (2) in paragraph (3), by striking “<sup>16</sup>/<sub>23</sub>” and in-  
8 serting “<sup>17</sup>/<sub>23</sub>”.

9 (b) SPECIAL RULES RELATING TO CORPORATE  
10 PREFERENCE ITEMS.—Paragraph (4) of section 291(a) of  
11 such Code is amended—

12 (1) in subparagraph (A), by striking “‘30 per-  
13 cent’ for ‘32 percent’” and inserting “‘32 percent’  
14 for ‘34 percent’”, and

15 (2) in subparagraph (B), by striking “‘<sup>15</sup>/<sub>23</sub>’ for  
16 ‘<sup>16</sup>/<sub>23</sub>’” and inserting “‘<sup>16</sup>/<sub>23</sub>’ for ‘<sup>17</sup>/<sub>23</sub>’”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 1995.

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HR 1278 IH—2

HR 1278 IH—3