

105TH CONGRESS  
1ST SESSION

# H. R. 775

To amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Ms. MCKINNEY (for herself, Mr. BONIOR, Mr. BORSKI, Mr. BROWN of Ohio, Mrs. CLAYTON, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DELLUMS, Mr. EVANS, Mr. FATTAH, Mr. FILNER, Mr. FOGLIETTA, Mr. HILLIARD, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mrs. MEEK of Florida, Ms. NORTON, Mr. OWENS, Mr. RUSH, Mr. STUPAK, Mr. TOWNS, Mr. WATT of North Carolina, and Mr. WYNN) 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 discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Jobs Act”.

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. TAXATION OF INCOME OF CONTROLLED FOREIGN**  
8 **CORPORATIONS ATTRIBUTABLE TO IM-**  
9 **PORTED PROPERTY.**

10 (a) GENERAL RULE.—Subsection (a) of section 954  
11 (defining foreign base company income) is amended by  
12 striking “and” at the end of paragraph (4), by striking  
13 the period at the end of paragraph (5) and inserting  
14 “, and”, and by adding at the end the following new para-  
15 graph:

16 “(6) imported property income for the taxable  
17 year (determined under subsection (h) and reduced  
18 as provided in subsection (b)(5)).”

19 (b) DEFINITION OF IMPORTED PROPERTY IN-  
20 COME.—Section 954 is amended by adding at the end the  
21 following new subsection:

22 “(h) IMPORTED PROPERTY INCOME.—

23 “(1) IN GENERAL.—For purposes of subsection  
24 (a)(6), the term ‘imported property income’ means

1 income (whether in the form of profits, commissions,  
2 fees, or otherwise) derived in connection with—

3 “(A) manufacturing, producing, growing,  
4 or extracting imported property,

5 “(B) the sale, exchange, or other disposi-  
6 tion of imported property, or

7 “(C) the lease, rental, or licensing of im-  
8 ported property.

9 Such term shall not include any foreign oil and gas  
10 extraction income (within the meaning of section  
11 907(c)) or any foreign oil related income (within the  
12 meaning of section 907(c)).

13 “(2) IMPORTED PROPERTY.—For purposes of  
14 this subsection—

15 “(A) IN GENERAL.—Except as otherwise  
16 provided in this paragraph, the term ‘imported  
17 property’ means property which is imported  
18 into the United States by the controlled foreign  
19 corporation or a related person.

20 “(B) IMPORTED PROPERTY INCLUDES CER-  
21 TAIN PROPERTY IMPORTED BY UNRELATED  
22 PERSONS.—The term ‘imported property’ in-  
23 cludes any property imported into the United  
24 States by an unrelated person if, when such  
25 property was sold to the unrelated person by

1 the controlled foreign corporation (or a related  
2 person), it was reasonable to expect that—

3 “(i) such property would be imported  
4 into the United States, or

5 “(ii) such property would be used as  
6 a component in other property which would  
7 be imported into the United States.

8 “(C) EXCEPTION FOR PROPERTY SUBSE-  
9 QUENTLY EXPORTED.—The term ‘imported  
10 property’ does not include any property which is  
11 imported into the United States and which—

12 “(i) before substantial use in the  
13 United States, is sold, leased, or rented by  
14 the controlled foreign corporation or a re-  
15 lated person for direct use, consumption,  
16 or disposition outside the United States, or

17 “(ii) is used by the controlled foreign  
18 corporation or a related person as a com-  
19 ponent in other property which is so sold,  
20 leased, or rented.

21 “(3) DEFINITIONS AND SPECIAL RULES.—

22 “(A) IMPORT.—For purposes of this sub-  
23 section, the term ‘import’ means entering, or  
24 withdrawal from warehouse, for consumption or  
25 use. Such term includes any grant of the right

1 to use an intangible (as defined in section  
2 936(b)(3)(B)) in the United States.

3 “(B) UNRELATED PERSON.—For purposes  
4 of this subsection, the term ‘unrelated person’  
5 means any person who is not a related person  
6 with respect to the controlled foreign corpora-  
7 tion.

8 “(C) COORDINATION WITH FOREIGN BASE  
9 COMPANY SALES INCOME.—For purposes of this  
10 section, the term ‘foreign base company sales  
11 income’ shall not include any imported property  
12 income.”

13 (c) SEPARATE APPLICATION OF LIMITATIONS ON  
14 FOREIGN TAX CREDIT FOR IMPORTED PROPERTY IN-  
15 COME.—

16 (1) IN GENERAL.—Paragraph (1) of section  
17 904(d) (relating to separate application of section  
18 with respect to certain categories of income) is  
19 amended by striking “and” at the end of subpara-  
20 graph (H), by redesignating subparagraph (I) as  
21 subparagraph (J), and by inserting after subpara-  
22 graph (H) the following new subparagraph:

23 “(I) imported property income, and”.

1           (2) IMPORTED PROPERTY INCOME DEFINED.—  
2 Paragraph (2) of section 904(d) is amended by re-  
3 designating subparagraphs (H) and (I) as subpara-  
4 graphs (I) and (J), respectively, and by inserting  
5 after subparagraph (G) the following new subpara-  
6 graph:

7           “(H) IMPORTED PROPERTY INCOME.—The  
8 term ‘imported property income’ means any in-  
9 come received or accrued by any person which  
10 is of a kind which would be imported property  
11 income (as defined in section 954(h)).”

12           (3) LOOK-THRU RULES TO APPLY.—Subpara-  
13 graph (F) of section 904(d)(3) is amended by strik-  
14 ing “or (E)” and inserting “(E), or (H)”.

15           (d) TECHNICAL AMENDMENTS.—

16           (1) Clause (iii) of section 952(c)(1)(B) (relating  
17 to certain prior year deficits may be taken into ac-  
18 count) is amended by inserting the following sub-  
19 clause after subclause (II) (and by redesignating the  
20 following subclauses accordingly):

21           “(III) imported property income,”.

22           (2) Paragraph (5) of section 954(b) (relating to  
23 deductions to be taken into account) is amended by  
24 striking “and the foreign base company oil related

1 income” and inserting “the foreign base company oil  
2 related income, and the imported property income”.

3 (e) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graph (2), the amendments made by this section  
6 shall apply to taxable years of foreign corporations  
7 beginning after December 31, 1995, and to taxable  
8 years of United States shareholders within which or  
9 with which such taxable years of such foreign cor-  
10 porations end.

11 (2) SUBSECTION (c).—The amendments made  
12 by subsection (c) shall apply to taxable years begin-  
13 ning after December 31, 1995.

14 **SEC. 3. REFUNDABLE CREDIT FOR NEW EMPLOYEES.**

15 (a) IN GENERAL.—Subpart C of part IV of sub-  
16 chapter A of chapter 1 (relating to refundable credits) is  
17 amended by redesignating section 35 as section 36 and  
18 by inserting after section 34 the following new section:

19 **“SEC. 35. CREDIT FOR NEW EMPLOYEES.**

20 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
21 lowed as a credit against the tax imposed by this subtitle  
22 for any taxable year an amount equal to 20 percent of  
23 the qualified social security taxes paid or incurred by the  
24 taxpayer during the taxable year.

1       “(b) QUALIFIED SOCIAL SECURITY TAXES.—For  
2 purposes of this section—

3           “(1) IN GENERAL.—The term ‘qualified social  
4 security taxes’ means the amount of taxes imposed  
5 by section 3111(a) with respect to wages of an em-  
6 ployee for employment during the 2-year period be-  
7 ginning with the day the employee begins work for  
8 the employer.

9           “(2) APPLICATION TO RAILROAD RETIRE-  
10 MENT.—Such term shall also include taxes imposed  
11 by section 3221(a) with respect to compensation  
12 during such 2-year period but only to the extent at-  
13 tributable to the rate of tax in effect under section  
14 3111(a).

15           “(3) EXCEPTION FOR EMPLOYMENT OUTSIDE  
16 THE UNITED STATES.—Such term shall not include  
17 taxes paid with respect to employment described in  
18 section 3121(b)(B) (relating to employment outside  
19 the United States by citizens and residents).

20       “(c) CERTAIN EMPLOYEES INELIGIBLE.—

21           “(1) OVERALL EMPLOYMENT MUST IN-  
22 CREASE.—

23           “(A) IN GENERAL.—An employer may take  
24 into account for purposes of this section only  
25 that number of employees hired by the employer

1 during a taxable year which does not exceed the  
2 number of employees determined under sub-  
3 paragraph (B). The employer shall designate  
4 which employees shall be taken into account.  
5 Such designation shall apply for such taxable  
6 year and any succeeding taxable year.

7 “(B) MAXIMUM NUMBER OF EMPLOY-  
8 EES.—For purposes of subparagraph (A), the  
9 number of employees determined under this  
10 subparagraph for a taxable year is an amount  
11 equal to the excess (if any) of—

12 “(i) the average daily number of full-  
13 time equivalent employees of the taxpayer  
14 for such taxable year, over

15 “(ii) the average daily number of full-  
16 time equivalent employees of the taxpayer  
17 (or any predecessor) for the 3-taxable-year  
18 period immediately preceding such taxable  
19 year.

20 “(2) OTHER INELIGIBLE EMPLOYEES.—Quali-  
21 fied social security taxes paid with respect to any  
22 employee shall not be taken into account under sub-  
23 section (a) if such employee—

24 “(A) is a member of a targeted group with  
25 respect to whom the employer has taken into

1 account wages in determining the amount of  
2 the targeted jobs credit under section 51,

3 “(B) is described in paragraph (1) of sec-  
4 tion 51(i) (relating to related individuals), or

5 “(C) is employed by the employer for less  
6 than 120 days or has not completed at least  
7 120 hours of service.

8 “(d) OTHER SPECIAL RULES.—For purposes of this  
9 section—

10 “(1) CONTROLLED GROUPS.—All employers  
11 treated as a single employer under subsection (a) or  
12 (b) of section 52 shall be treated as a single em-  
13 ployer.

14 “(2) OTHER RULES.—Rules similar to the rules  
15 of section 51(k) and subsections (c), (d), and (e) of  
16 section 52 shall apply.”

17 (b) CONFORMING AMENDMENTS.—The table of sec-  
18 tions for subpart C of part IV of subchapter A of chapter  
19 1 is amended by striking the item relating to section 35  
20 and inserting the following new items:

“Sec. 35. Credit for new employees.

“Sec. 36. Overpayments of tax.”

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

1 **SEC. 4. REPORT ON ELIMINATION OF BUSINESS TAX PREF-**  
2 **ERENCES.**

3       The Secretary of the Treasury shall, as soon as prac-  
4 ticable after the date of the enactment of this Act, report  
5 to the Committee on Ways and Means of the House of  
6 Representatives and the Committee on Finance of the  
7 Senate recommendations as to the elimination of, or  
8 changes in, business tax preferences. Such recommenda-  
9 tions shall provide an increase in Federal revenues suffi-  
10 cient to offset any overall decrease in Federal revenues  
11 under the other provisions of this Act.

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