

107TH CONGRESS
2^D SESSION

H. R. 4047

To amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States businesses operating abroad, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2002

Mr. HOUGHTON 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 simplify certain rules relating to the taxation of United States businesses operating abroad, 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 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “International Tax Simplification and Fairness for Amer-
7 ican Competitiveness Act of 2002”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 101. Expansion of de minimis rule under subpart F.

Sec. 102. Clarification of treatment of pipeline transportation income.

Sec. 103. Look-through treatment for sales of partnership interests.

Sec. 104. Repeal of foreign personal holding company rules and foreign invest-
 ment company rules.

Sec. 105. Determination of foreign personal holding company income with re-
 spect to transactions in commodities.

Sec. 106. Study of proper treatment of European Union under same country
 exceptions.

Sec. 107. Effective date.

TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDIT

Sec. 201. Extension of period to which excess foreign taxes may be carried.

Sec. 202. Recharacterization of overall domestic loss.

Sec. 203. Special rules relating to financial services income.

Sec. 204. Look-thru rules to apply to dividends from noncontrolled section 902
 corporations.

Sec. 205. Application of look-thru rules to foreign tax credit.

Sec. 206. Ordering rules for foreign tax credit carryovers.

Sec. 207. Repeal of limitation of foreign tax credit under alternative minimum
 tax.

Sec. 208. Attribution of stock ownership through partnerships to apply in de-
 termining section 902 and 960 credits.

Sec. 209. Repeal of special rules for applying foreign tax credit in case of for-
 eign oil and gas income.

TITLE III—OTHER PROVISIONS

Sec. 301. Deduction for dividends received from certain foreign corporations.

Sec. 302. Application of uniform capitalization rules to foreign persons.

Sec. 303. United States property not to include certain assets acquired by deal-
 ers in ordinary course of trade or business.

Sec. 304. Treatment of certain dividends of regulated investment companies.

Sec. 305. Airline mileage awards to certain foreign persons.

Sec. 306. Interest payments deductible where disqualified guarantee has eco-
 nomic effect.

Sec. 307. Modifications of reporting requirements for certain foreign-owned cor-
 porations.

Sec. 308. Election not to use average exchange rate for foreign tax paid other than in functional currency.

Sec. 309. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Sec. 310. Repeal of withholding tax on dividends from certain foreign corporations.

1 **TITLE I—TREATMENT OF CON-**
 2 **TROLLED FOREIGN COR-**
 3 **PORATIONS**

4 **SEC. 101. EXPANSION OF DE MINIMIS RULE UNDER SUB-**
 5 **PART F.**

6 (a) IN GENERAL.—Clause (ii) of section
 7 954(b)(3)(A) (relating to de minimis, etc., rules) is
 8 amended by striking “\$1,000,000” and inserting
 9 “\$5,000,000”.

10 (b) TECHNICAL AMENDMENTS.—

11 (1) Clause (ii) of section 864(d)(5)(A) is
 12 amended by striking “\$1,000,000” and inserting
 13 “\$5,000,000”.

14 (2) Clause (i) of section 881(c)(5)(A) is amend-
 15 ed by striking “\$1,000,000” and inserting
 16 “\$5,000,000”.

17 **SEC. 102. CLARIFICATION OF TREATMENT OF PIPELINE**
 18 **TRANSPORTATION INCOME.**

19 Section 954(g)(1) (defining foreign base company oil
 20 related income) is amended by striking “or” at the end
 21 of subparagraph (A), by striking the period at the end

1 of subparagraph (B) and inserting “, or”, and by inserting
2 after subparagraph (B) the following new subparagraph:

3 “(C) the pipeline transportation of oil or
4 gas within such foreign country.”

5 **SEC. 103. LOOK-THROUGH TREATMENT FOR SALES OF**
6 **PARTNERSHIP INTERESTS.**

7 (a) IN GENERAL.—Section 954(c) (defining foreign
8 personal holding company income) is amended by adding
9 at the end the following new paragraph:

10 “(4) LOOK-THROUGH RULE FOR CERTAIN
11 PARTNERSHIP SALES.—

12 “(A) IN GENERAL.—In the case of any
13 sale by a controlled foreign corporation of an
14 interest in a partnership with respect to which
15 such corporation is a 25-percent owner, such
16 corporation shall be treated for purposes of this
17 subsection as selling the proportionate share of
18 the assets of the partnership attributable to
19 such interest.

20 “(B) 25-PERCENT OWNER.—For purposes
21 of this paragraph, the term ‘25-percent owner’
22 means a controlled foreign corporation which
23 owns 25 percent or more of the capital or prof-
24 its interest in the partnership. The constructive

1 ownership rules of section 958(b) shall apply
2 for purposes of the preceding sentence.”

3 (b) CONFORMING AMENDMENT.—Section
4 954(c)(1)(B)(ii) is amended by inserting “except as pro-
5 vided in paragraph (4),” before “which”.

6 **SEC. 104. REPEAL OF FOREIGN PERSONAL HOLDING COM-**
7 **PANY RULES AND FOREIGN INVESTMENT**
8 **COMPANY RULES.**

9 (a) GENERAL RULE.—The following provisions are
10 hereby repealed:

11 (1) Part III of subchapter G of chapter 1 (re-
12 lating to foreign personal holding companies).

13 (2) Section 1246 (relating to gain on foreign in-
14 vestment company stock).

15 (3) Section 1247 (relating to election by foreign
16 investment companies to distribute income cur-
17 rently).

18 (b) EXEMPTION OF FOREIGN CORPORATIONS FROM
19 PERSONAL HOLDING COMPANY RULES.—

20 (1) IN GENERAL.—Subsection (c) of section
21 542 (relating to exceptions) is amended—

22 (A) by striking paragraph (5) and insert-
23 ing the following:

24 “(5) a foreign corporation,”

1 (B) by striking paragraphs (7) and (10)
2 and by redesignating paragraphs (8) and (9) as
3 paragraphs (7) and (8), respectively,

4 (C) by inserting “and” at the end of para-
5 graph (7) (as so redesignated), and

6 (D) by striking “; and” at the end of para-
7 graph (8) (as so redesignated) and inserting a
8 period.

9 (2) TREATMENT OF INCOME FROM PERSONAL
10 SERVICE CONTRACTS.—Paragraph (1) of section
11 954(c) is amended by adding at the end the fol-
12 lowing new subparagraph:

13 “(H) PERSONAL SERVICE CONTRACTS.—

14 “(i) Amounts received under a con-
15 tract under which the corporation is to fur-
16 nish personal services; if some person other
17 than the corporation has the right to des-
18 ignate (by name or by description) the in-
19 dividual who is to perform the services, or
20 if the individual who is to perform the
21 services is designated (by name or by de-
22 scription) in the contract; and

23 “(ii) amounts received from the sale
24 or other disposition of such a contract.

1 This subparagraph shall apply with respect to
2 amounts received for services under a particular
3 contract only if at some time during the taxable
4 year 25 percent or more in value of the out-
5 standing stock of the corporation is owned, di-
6 rectly or indirectly, by or for the individual who
7 has performed, is to perform, or may be des-
8 ignated (by name or by description) as the one
9 to perform, such services.”

10 (c) CONFORMING AMENDMENTS.—

11 (1) Paragraph (2) of section 171(c) is
12 amended—

13 (A) by striking “, or by a foreign personal
14 holding company, as defined in section 552”,
15 and

16 (B) by striking “, or a foreign personal
17 holding company”.

18 (2) Paragraph (2) of section 245(a) is amended
19 by striking “foreign personal holding company or”

20 (3) Section 312 is amended by striking sub-
21 section (j).

22 (4) Subsection (m) of section 312 is amended
23 by striking “, a foreign investment company (within
24 the meaning of section 1246(b)), or a foreign per-

1 sonal holding company (within the meaning of sec-
2 tion 552)”.

3 (5) Subsection (e) of section 443 is amended by
4 striking paragraph (3) and by redesignating para-
5 graphs (4) and (5) as paragraphs (3) and (4), re-
6 spectively.

7 (6) Subparagraph (B) of section 465(c)(7) is
8 amended to by adding “or” at the end of clause (i),
9 by striking clause (ii), and by redesignating clause
10 (iii) as clause (ii).

11 (7) Paragraph (1) of section 543(b) is amended
12 by inserting “and” at the end of subparagraph (A),
13 by striking “, and” at the end of subparagraph (B)
14 and inserting a period, and by striking subparagraph
15 (C).

16 (8) Paragraph (1) of section 562(b) is amended
17 by striking “or a foreign personal holding company
18 described in section 552”.

19 (9) Section 563 is amended—

20 (A) by striking subsection (c),

21 (B) by redesignating subsection (d) as sub-
22 section (c), and

23 (C) by striking “subsection (a), (b), or (c)”
24 in subsection (c) (as so redesignated) and in-
25 serting “subsection (a) or (b)”.

1 (10) Subsection (d) of section 751 is amended
2 by adding “and” at the end of paragraph (2), by
3 striking paragraph (3), by redesignating paragraph
4 (4) as paragraph (3), and by striking “paragraph
5 (1), (2), or (3)” in paragraph (3) (as so redesign-
6 ated) and inserting paragraph (1) or (2)”.

7 (11) Paragraph (2) of section 864(d) is amend-
8 ed by striking subparagraph (A) and by redesign-
9 ating subparagraphs (B) and (C) as subparagraphs
10 (A) and (B), respectively.

11 (12)(A) Subparagraph (A) of section 898(b)(1)
12 is amended to read as follows:

13 “(A) which is treated as a controlled for-
14 eign corporation for any purpose under subpart
15 F of part III of this subchapter, and”.

16 (B) Subparagraph (B) of section 898(b)(2) is
17 amended by striking “and sections 551(f) and 554,
18 whichever are applicable,”.

19 (C) Paragraph (3) of section 898(b) is amended
20 to read as follows:

21 “(3) UNITED STATES SHAREHOLDER.—The
22 term ‘United States shareholder’ has the meaning
23 given to such term by section 951(b), except that, in
24 the case of a foreign corporation having related per-
25 son insurance income (as defined in section

1 953(c)(2)), the Secretary may treat any person as a
2 United States shareholder for purposes of this sec-
3 tion if such person is treated as a United States
4 shareholder under section 953(c)(1).”

5 (D) Subsection (c) of section 898 is amended to
6 read as follows:

7 “(c) DETERMINATION OF REQUIRED YEAR.—

8 “(1) IN GENERAL.—The required year is—

9 “(A) the majority U.S. shareholder year,
10 or

11 “(B) if there is no majority U.S. share-
12 holder year, the taxable year prescribed under
13 regulations.

14 “(2) 1-MONTH DEFERRAL ALLOWED.—A speci-
15 fied foreign corporation may elect, in lieu of the tax-
16 able year under paragraph (1)(A), a taxable year be-
17 ginning 1 month earlier than the majority U.S.
18 shareholder year.

19 “(3) MAJORITY U.S. SHAREHOLDER YEAR.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the term ‘majority U.S. shareholder
22 year’ means the taxable year (if any) which, on
23 each testing day, constituted the taxable year
24 of—

1 “(i) each United States shareholder
2 described in subsection (b)(2)(A), and

3 “(ii) each United States shareholder
4 not described in clause (i) whose stock was
5 treated as owned under subsection
6 (b)(2)(B) by any shareholder described in
7 such clause.

8 “(B) TESTING DAY.—The testing days
9 shall be—

10 “(i) the first day of the corporation’s
11 taxable year (determined without regard to
12 this section), or

13 “(ii) the days during such representa-
14 tive period as the Secretary may pre-
15 scribe.”

16 (13) Clause (ii) of section 904(d)(2) is amended
17 to read as follows:

18 “(ii) CERTAIN AMOUNTS INCLUDED.—
19 Except as provided in clause (iii), the term
20 ‘passive income’ includes, except as pro-
21 vided in subparagraph (E)(iii) or para-
22 graph (3)(I), any amount includible in
23 gross income under section 1293 (relating
24 to certain passive foreign investment com-
25 panies).”

1 (14)(A) Subparagraph (A) of section 904(g)(1)
2 is amended by adding “or” at the end of clause (i),
3 by striking clause (ii), and by redesignating clause
4 (iii) as clause (ii).

5 (B) The paragraph heading of paragraph (2) of
6 section 904(g) is amended by striking “FOREIGN
7 PERSONAL HOLDING OR”.

8 (15) Section 951 is amended by striking sub-
9 sections (c) and (d) and by redesignating subsections
10 (e) and (f) as subsections (c) and (d), respectively.

11 (16) Paragraph (3) of section 989(b) is amend-
12 ed by striking “, 551(a),”.

13 (17) Paragraph (5) of section 1014(b) is hereby
14 repealed.

15 (18) Subsection (a) of section 1016 is amended
16 by striking paragraph (13) and by redesignating the
17 following paragraphs accordingly.

18 (19)(A) Paragraph (3) of section 1212(a) is
19 amended to read as follows:

20 “(3) SPECIAL RULES ON CARRYBACKS.—A net
21 capital loss of a corporation shall not be carried
22 back under paragraph (1)(A) to a taxable year—

23 “(A) for which it is a regulated investment
24 company (as defined in section 851), or

1 “(B) for which it is a real estate invest-
2 ment trust (as defined in section 856).”

3 (B) The amendment made by subparagraph (A)
4 shall apply to taxable years beginning after Decem-
5 ber 31, 2004.

6 (20) Section 1223 is amended by striking para-
7 graph (10) and by redesignating the following para-
8 graphs accordingly.

9 (21) Subsection (d) of section 1248 is amended
10 by striking paragraph (5) and by redesignating
11 paragraphs (6) and (7) as paragraphs (5) and (6),
12 respectively.

13 (22) Paragraph (2) of section 1260(c) is
14 amended by striking subparagraphs (H) and (I) and
15 by redesignating subparagraph (J) as subparagraph
16 (H).

17 (23) Subparagraph (F) of section 1291(b)(3) is
18 amended by striking “551(d), 959(a),” and inserting
19 “959(a)”.

20 (24) Paragraph (2) of section 1294(a) is
21 amended to read as follows:

22 “(2) ELECTION NOT PERMITTED WHERE
23 AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION
24 951.—The taxpayer may not make an election under
25 paragraph (1) with respect to the undistributed

1 PFIC earnings tax liability attributable to a quali-
2 fied electing fund for the taxable year if any amount
3 is includible in the gross income of the taxpayer
4 under section 951 with respect to such fund for such
5 taxable year.”

6 (25) Section 6035 is hereby repealed.

7 (26) Subparagraph (D) of section 6103(e)(1) is
8 amended by striking clause (iv) and redesignating
9 clauses (v) and (vi) as clauses (iv) and (v), respec-
10 tively.

11 (27) Subparagraph (B) of section 6501(e)(1) is
12 amended to read as follows:

13 “(B) CONSTRUCTIVE DIVIDENDS.—If the
14 taxpayer omits from gross income an amount
15 properly includible therein under section
16 951(a), the tax may be assessed, or a pro-
17 ceeding in court for the collection of such tax
18 may be done without assessing, at any time
19 within 6 years after the return was filed.”

20 (28) Subsection (a) of section 6679 is
21 amended—

22 (A) by striking “6035, 6046, and 6046A”
23 in paragraph (1) and inserting “6046 and
24 6046A”, and

25 (B) by striking paragraph (3).

1 (29) Sections 170(f)(10)(A), 508(d), 4947 and
2 section 4948(e)(4) are each amended by striking
3 “556(b)(2),” each place it appears.

4 (30) The table of parts for subchapter G of
5 chapter 1 is amended by striking the item relating
6 to part III.

7 (31) The table of sections for part IV of sub-
8 chapter P of chapter 1 is amended by striking the
9 items relating to sections 1246 and 1247.

10 (32) The table of sections for subpart A of part
11 III of subchapter A of chapter 61 of such Code is
12 amended by striking the item relating to section
13 6035.

14 **SEC. 105. DETERMINATION OF FOREIGN PERSONAL HOLD-**
15 **ING COMPANY INCOME WITH RESPECT TO**
16 **TRANSACTIONS IN COMMODITIES.**

17 (a) IN GENERAL.—Clauses (i) and (ii) of section
18 954(e)(1)(C) (relating to commodity transactions) are
19 amended to read as follows:

20 “(i) arise out of commodity hedging
21 transactions (as defined in paragraph
22 (5)(A)),

23 “(ii) are active business gains or
24 losses from the sale of commodities, but
25 only if substantially all of the controlled

1 foreign corporation's commodities are
2 property described in paragraph (1), (2) or
3 (8) of section 1221(a), or”.

4 (b) DEFINITION AND SPECIAL RULES.—Subsection
5 (c) of section 954 is amended by adding after paragraph
6 (4) the following new paragraph:

7 “(5) DEFINITION AND SPECIAL RULES RELAT-
8 ING TO COMMODITY TRANSACTIONS.—

9 “(A) COMMODITY HEDGING TRANS-
10 ACTIONS.—For purposes of paragraph
11 (1)(C)(i), the term ‘commodity hedging trans-
12 action’ means any transaction with respect to a
13 commodity if such transaction—

14 “(i) is a hedging transaction as de-
15 fined in section 1221(b)(2), determined—

16 “(I) without regard to subpara-
17 graph (A)(ii) thereof,

18 “(II) by applying subparagraph
19 (A)(i) thereof by substituting ‘ordi-
20 nary property or property described in
21 section 1231(b)’ for ‘ordinary prop-
22 erty’, and

23 “(III) by substituting ‘controlled
24 foreign corporation’ for ‘taxpayer’
25 each place it appears, and

1 “(ii) is clearly identified as such in ac-
2 cordance with section 1221(a)(7).

3 “(B) REGULATIONS.—The Secretary shall
4 prescribe such regulations as are appropriate to
5 carry out the purposes of paragraph (1)(C) in
6 the case of transactions involving related par-
7 ties.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to commodity hedging transactions
10 entered into on or after the date of enactment of this Act.

11 **SEC. 106. STUDY OF PROPER TREATMENT OF EUROPEAN**
12 **UNION UNDER SAME COUNTRY EXCEPTIONS.**

13 (a) STUDY.—The Secretary of the Treasury or the
14 Secretary’s delegate shall conduct a study on the feasi-
15 bility of treating all countries included in the European
16 Union as 1 country for purposes of applying the same
17 country exceptions under subpart F of part III of sub-
18 chapter N of chapter 1 of the Internal Revenue Code of
19 1986. Such study shall include consideration of methods
20 of ensuring that taxpayers are subject to a substantial ef-
21 fective rate of foreign tax in such countries if such treat-
22 ment is adopted.

23 (b) REPORT.—Not later than 6 months after the date
24 of the enactment of this Act, the Secretary of the Treasury
25 shall report to the Committee on Ways and Means of the

1 House of Representatives and the Committee on Finance
2 of the Senate the results of the study conducted under
3 subsection (a), including recommendations (if any) for leg-
4 islation.

5 **SEC. 107. EFFECTIVE DATE.**

6 Except as otherwise provided in this title, the amend-
7 ments made by this title shall apply to taxable years of
8 foreign corporations beginning after December 31, 2002,
9 and taxable years of United States persons owning stock
10 in such corporations with or within which such corpora-
11 tions' taxable years end.

12 **TITLE II—PROVISIONS RELAT-**
13 **ING TO FOREIGN TAX CREDIT**

14 **SEC. 201. EXTENSION OF PERIOD TO WHICH EXCESS FOR-**
15 **EIGN TAXES MAY BE CARRIED.**

16 (a) **GENERAL RULE.**—Section 904(c) (relating to
17 carryback and carryover of excess tax paid) is amended
18 by striking “in the first, second, third, fourth, or fifth”
19 and inserting “in any of the first 10”.

20 (b) **EXCESS EXTRACTION TAXES.**—Paragraph (1) of
21 section 907(f) is amended by striking “in the first, second,
22 third, fourth, or fifth” and inserting “in any of the first
23 10”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to excess foreign taxes arising in
 3 taxable years beginning after December 31, 2002.

4 **SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC**
 5 **LOSS.**

6 (a) GENERAL RULE.—Section 904 is amended by re-
 7 designating subsections (g), (h), (i), (j), and (k) as sub-
 8 sections (h), (i), (j), (k), and (l) respectively, and by in-
 9 serting after subsection (f) the following new subsection:

10 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC
 11 LOSS.—

12 “(1) GENERAL RULE.—For purposes of this
 13 subpart, in the case of any taxpayer who sustains an
 14 overall domestic loss for any taxable year beginning
 15 after December 31, 2002, that portion of the tax-
 16 payer’s taxable income from sources within the
 17 United States for each succeeding taxable year
 18 which is equal to the lesser of—

19 “(A) the amount of such loss (to the extent
 20 not used under this paragraph in prior taxable
 21 years), or

22 “(B) 50 percent of the taxpayer’s taxable
 23 income from sources within the United States
 24 for such succeeding taxable year,

1 shall be treated as income from sources without the
2 United States (and not as income from sources with-
3 in the United States).

4 “(2) OVERALL DOMESTIC LOSS DEFINED.—For
5 purposes of this subsection and section 936—

6 “(A) IN GENERAL.—The term ‘overall do-
7 mestic loss’ means any domestic loss to the ex-
8 tent such loss offsets taxable income from
9 sources without the United States for the tax-
10 able year or for any preceding taxable year by
11 reason of a carryback. For purposes of the pre-
12 ceding sentence, the term ‘domestic loss’ means
13 the amount by which the gross income for the
14 taxable year from sources within the United
15 States is exceeded by the sum of the deductions
16 properly apportioned or allocated thereto (deter-
17 mined without regard to any carryback from a
18 subsequent taxable year).

19 “(B) TAXPAYER MUST HAVE ELECTED
20 FOREIGN TAX CREDIT FOR YEAR OF LOSS.—
21 The term ‘overall domestic loss’ shall not in-
22 clude any loss for any taxable year unless the
23 taxpayer chose the benefits of this subpart for
24 such taxable year.

1 “(3) CHARACTERIZATION OF SUBSEQUENT IN-
2 COME.—

3 “(A) IN GENERAL.—Any income from
4 sources within the United States that is treated
5 as income from sources without the United
6 States under paragraph (1) shall be allocated
7 among and increase the income categories in
8 proportion to the loss from sources within the
9 United States previously allocated to those in-
10 come categories.

11 “(B) INCOME CATEGORY.—For purposes of
12 this paragraph, the term ‘income category’ has
13 the meaning given such term by subsection
14 (f)(5)(E)(i).

15 “(4) COORDINATION WITH SUBSECTION (f).—
16 The Secretary shall prescribe such regulations as
17 may be necessary to coordinate the provisions of this
18 subsection with the provisions of subsection (f).”

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 535(d)(2) is amended by striking
21 “section 904(g)(6)” and inserting “section
22 904(h)(6)”.

23 (2) Subparagraph (A) of section 936(a)(2) is
24 amended by striking “section 904(f)” and inserting
25 “subsections (f) and (g) of section 904”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to losses for taxable years begin-
3 ning after December 31, 2002.

4 **SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERV-**
5 **ICES INCOME.**

6 (a) EXCEPTION FOR INTEREST ON CERTAIN SECURI-
7 TIES.—Section 904(d)(2)(B) (relating to high withholding
8 tax interest) is amended by redesignating clause (iii) as
9 clause (iv) and by inserting after clause (ii) the following
10 new clause:

11 “(iii) EXCEPTION FOR INTEREST ON
12 DEALER PROPERTY.—The term ‘high with-
13 holding tax interest’ shall not include any
14 interest on a security (within the meaning
15 of section 475(c)(2)) which is received or
16 accrued by a person that holds the security
17 in connection with the holder’s activities as
18 a dealer in securities (within the meaning
19 of section 475(c)(1)).”

20 (b) FINANCIAL SERVICES INCOME IN EXCESS OF 80
21 PERCENT OF GROSS INCOME.—Section 904(d)(2)(C) (re-
22 lating to financial services income) is amended by adding
23 at the end the following new clause:

24 “(iv) INCOME EXCEEDING 80 PERCENT
25 OF GROSS INCOME.—If the financial serv-

1 ices income (as defined in clause (i)) of
2 any person exceeds 80 percent of gross in-
3 come, the entire gross income for the tax-
4 able year shall be treated as financial serv-
5 ices income.”

6 (c) EXCEPTION FOR INCOME ON DEALER PROP-
7 PERTY.—Subsection 904(g) (relating to source rules in case
8 of United States-owned foreign corporations) is amended
9 by redesignating paragraph (11) as paragraph (12) and
10 by adding after paragraph (10) the following new para-
11 graph:

12 “(11) EXCEPTION FOR INCOME ON DEALER
13 PROPERTY.—Paragraph (1) shall not apply to any
14 amount derived from a United States-owned foreign
15 corporation that is derived from income on a secu-
16 rity (within the meaning of section 475(c)(2)) which
17 is received or accrued by a person that holds the se-
18 curity in connection with the holder’s activities as a
19 dealer in securities (within the meaning of section
20 475(c)(1)).”

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to taxable years beginning
24 after December 31, 2002.

1 (2) DEEMED PAID CREDITS.—In the case of
 2 any credit under section 901 of the Internal Revenue
 3 Code of 1986 by reason of section 902 or 960 of
 4 such Code, the amendments made by this section
 5 shall apply to taxable years of foreign corporations
 6 beginning after December 31, 2002, and to taxable
 7 years of United States shareholders in such corpora-
 8 tions with or within which such taxable years of for-
 9 eign corporations end.

10 **SEC. 204. LOOK-THRU RULES TO APPLY TO DIVIDENDS**
 11 **FROM NONCONTROLLED SECTION 902 COR-**
 12 **PORATIONS.**

13 (a) IN GENERAL.—Section 904(d)(4) (relating to
 14 look-thru rules apply to dividends from noncontrolled sec-
 15 tion 902 corporations) is amended to read as follows:

16 “(4) LOOK-THRU APPLIES TO DIVIDENDS FROM
 17 NONCONTROLLED SECTION 902 CORPORATIONS.—

18 “(A) IN GENERAL.—For purposes of this
 19 subsection, any dividend from a noncontrolled
 20 section 902 corporation with respect to the tax-
 21 payer shall be treated as income in a separate
 22 category in proportion to the ratio of—

23 “(i) the portion of earnings and prof-
 24 its attributable to income in such category,
 25 to

1 “(ii) the total amount of earnings and
2 profits.

3 “(B) SPECIAL RULES.—For purposes of
4 this paragraph—

5 “(i) IN GENERAL.—Rules similar to
6 the rules of paragraph (3)(F) shall apply.

7 “(ii) EARNINGS AND PROFITS.—

8 “(I) IN GENERAL.—The rules of
9 section 316 shall apply.

10 “(II) REGULATIONS.—The Sec-
11 retary may prescribe regulations re-
12 garding the treatment of distributions
13 out of earnings and profits for periods
14 before the taxpayer’s acquisition of
15 the stock to which the distributions
16 relate.

17 “(iii) DIVIDENDS NOT ALLOCABLE TO
18 SEPARATE CATEGORY.—The portion of any
19 dividend from a noncontrolled section 902
20 corporation which is not treated as income
21 in a separate category under subparagraph
22 (A) shall be treated as a dividend to which
23 subparagraph (A) does not apply.

24 “(iv) LOOK-THRU WITH RESPECT TO
25 CARRYFORWARDS OF CREDIT.—Rules simi-

1 lar to subparagraph (A) also shall apply to
2 any carryforward under subsection (c)
3 from a taxable year beginning before Janu-
4 ary 1, 2002, of tax allocable to a dividend
5 from a noncontrolled section 902 corpora-
6 tion with respect to the taxpayer.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (E) of section 904(d)(1), as
9 in effect both before and after the amendments
10 made by section 1105 of the Taxpayer Relief Act of
11 1997, is hereby repealed.

12 (2) Section 904(d)(2)(C)(iii), as so in effect, is
13 amended by striking subclause (II) and by redesignig-
14 nating subclause (III) as subclause (II).

15 (3) The last sentence of section 904(d)(2)(D),
16 as so in effect, is amended to read as follows: “Such
17 term does not include any financial services income.”

18 (4) Section 904(d)(2)(E) is amended by strik-
19 ing clauses (ii) and (iv) and by redesignating clause
20 (iii) as clause (ii).

21 (5) Section 904(d)(3)(F) is amended by strik-
22 ing “(D), or (E)” and inserting “or (D)”.

23 (6) Section 864(d)(5)(A)(i) is amended by
24 striking “(C)(iii)(III)” and inserting “(C)(iii)(II)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2001.

4 **SEC. 205. APPLICATION OF LOOK-THRU RULES TO FOREIGN**
5 **TAX CREDIT.**

6 (a) INTEREST, RENTS, AND ROYALTIES.—

7 (1) NONCONTROLLED SECTION 902 CORPORA-
8 TION.—Section 904(d)(4)(A), as amended by section
9 204, is amended to read as follows:

10 “(A) IN GENERAL.—For purposes of this
11 subsection—

12 “(i) any applicable dividend shall be
13 treated as income in a separate category in
14 proportion to the ratio of—

15 “(I) the portion of the earnings
16 and profits attributable to income in
17 such category, to

18 “(II) the total amount of earn-
19 ings and profits, and

20 “(ii) any interest, rent, or royalty
21 which is received or accrued from a non-
22 controlled section 902 corporation with re-
23 spect to the taxpayer shall be treated as
24 income in a separate category to the extent
25 it is properly allocable (under regulations

1 prescribed by the Secretary) to income of
2 such corporation in such category.”

3 (2) PARTNERSHIPS.—Section 904(d)(6)(C) (re-
4 lating to regulations) is amended—

5 (A) by inserting “or (4)(A)(ii)” after
6 “paragraph (3)(C)”, and

7 (B) by inserting “or noncontrolled section
8 902 corporations, whichever is applicable” after
9 “controlled foreign corporations”.

10 (3) CONFORMING AMENDMENT.—The heading
11 for section 904(d)(4), as amended by section 204, is
12 amended by inserting “, INTEREST, RENTS, OR ROY-
13 ALTIES” after “DIVIDENDS”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2002.

17 **SEC. 206. ORDERING RULES FOR FOREIGN TAX**
18 **CARRYOVERS.**

19 (a) IN GENERAL.—Section 904(c) (relating to
20 carryback and carryover of excess tax paid), as amended
21 by section 201, is amended to read as follows:

22 “(c) CARRYBACK AND CARRYFORWARD OF EXCESS
23 FOREIGN TAXES.—

1 “(1) CARRYFORWARDS USED FIRST.—If, for
2 any taxable year for which the taxpayer elects to
3 have the benefits of this subpart apply, the sum of—

4 “(A) the foreign tax carryforwards under
5 this subsection to such taxable year, and

6 “(B) the amount of foreign taxes paid or
7 accrued for the taxable year,

8 exceeds the limitation under subsection (a), such ex-
9 cess (to the extent attributable to the taxes de-
10 scribed in subparagraph (B)) shall be a foreign tax
11 carryback to each of the 2 preceding taxable years
12 and a foreign tax carryforward to each of the 10 fol-
13 lowing taxable years.

14 “(2) AMOUNTS CARRIED TO EARLIEST
15 YEARS.—The entire amount of the excess described
16 in paragraph (1) for any taxable year shall be car-
17 ried to the earliest of the 12 taxable years to which
18 (by reason of paragraph (1)) such excess may be
19 carried. The amount of such excess shall be carried
20 to each of the other 11 taxable years to the extent
21 that such excess may not be taken into account
22 under subsection (a) for a prior taxable year because
23 of the limitations of paragraph (3).

24 “(3) ORDERING RULES.—For purposes of de-
25 termining under this subsection whether foreign

1 taxes are taken into account for a taxable year or
2 as a carryback or carryforward, such taxes shall be
3 treated as taken into account in the order of the tax-
4 able years in which such taxes were actually paid or
5 accrued, beginning with the earliest such year.

6 “(4) LIMITATIONS.—

7 “(A) CARRYBACKS USED LAST.—The ex-
8 cess described in paragraph (1) for any taxable
9 year (hereafter in this paragraph referred to as
10 the ‘current taxable year’) which is carried to
11 any preceding taxable year shall not exceed the
12 amount by which the limitation under sub-
13 section (a) for such preceding taxable year ex-
14 ceeds the sum of—

15 “(i) the foreign taxes paid or accrued
16 for such preceding taxable year, and

17 “(ii) the amount of the foreign taxes
18 paid or accrued for any taxable year earlier
19 than the current taxable year which have
20 been carried to such preceding taxable year
21 (whether or not the taxpayer chooses to
22 have the benefits of this subpart with re-
23 spect to such earlier taxable year).

24 “(B) CREDIT ONLY.—Taxes may be car-
25 ried to a taxable year under this subsection only

1 if the taxpayer chooses for such taxable year to
2 have the benefits of this subpart apply to for-
3 eign taxes paid or accrued for such year. Any
4 amount so carried may be availed of only as a
5 credit and not a deduction.

6 “(C) CARRYFORWARDS.—The excess de-
7 scribed in paragraph (1) for a taxable year
8 which is carried to any succeeding taxable year
9 shall not exceed the amount by which the limi-
10 tation under subsection (a) for such succeeding
11 taxable year exceeds the sum of the amounts
12 which, by reason of this subsection, are carried
13 to such succeeding taxable year and are attrib-
14 utable to taxable years preceding the taxable
15 year of such excess.

16 “(5) FOREIGN TAXES.—For purposes of this
17 subsection, the term ‘foreign taxes’ means taxes paid
18 or accrued to foreign countries or any possessions of
19 the United States.”

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxes paid or accrued for taxable
22 years beginning after December 31, 2002, and to
23 carryforwards of taxes from taxable years beginning after
24 December 31, 1996.

1 **SEC. 207. REPEAL OF LIMITATION OF FOREIGN TAX CREDIT**
2 **UNDER ALTERNATIVE MINIMUM TAX.**

3 (a) IN GENERAL.—Section 59(a) (relating to alter-
4 native minimum tax foreign tax credit) is amended by
5 striking paragraph (2) and by redesignating paragraphs
6 (3) and (4) as paragraphs (2) and (3), respectively.

7 (b) CONFORMING AMENDMENT.—Section
8 53(d)(1)(B)(i)(II) is amended by striking “and if section
9 59(a)(2) did not apply”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2002.

13 **SEC. 208. ATTRIBUTION OF STOCK OWNERSHIP THROUGH**
14 **PARTNERSHIPS TO APPLY IN DETERMINING**
15 **SECTION 902 AND 960 CREDITS.**

16 (a) IN GENERAL.—Subsection (c) of section 902 is
17 amended by redesignating paragraph (7) as paragraph (8)
18 and by inserting after paragraph (6) the following new
19 paragraph:

20 “(7) CONSTRUCTIVE OWNERSHIP THROUGH
21 PARTNERSHIPS.—Stock owned, directly or indirectly,
22 by or for a partnership shall be considered as being
23 owned proportionately by its partners. Stock consid-
24 ered to be owned by a person by reason of the pre-
25 ceding sentence shall, for purposes of applying such
26 sentence, be treated as actually owned by such per-

1 son. The Secretary may prescribe such regulations
2 as may be necessary to carry out the purposes of
3 this paragraph, including rules to account for special
4 partnership allocations of dividends, credits, and
5 other incidents of ownership of stock in determining
6 proportionate ownership.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to taxes of foreign corporations
9 for taxable years of such corporations beginning after De-
10 cember 31, 2002.

11 **SEC. 209. REPEAL OF SPECIAL RULES FOR APPLYING FOR-**
12 **FOREIGN TAX CREDIT IN CASE OF FOREIGN OIL**
13 **AND GAS INCOME.**

14 (a) IN GENERAL.—Section 907 (relating to special
15 rules in case of foreign oil and gas income) is repealed.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Each of the following provisions are amend-
18 ed by striking “907,”:

19 (A) Section 245(a)(10).

20 (B) Section 865(h)(1)(B).

21 (C) Section 904(d)(1).

22 (D) Section 904(g)(10)(A).

23 (2) Section 904(f)(5)(E)(iii) is amended by in-
24 serting “, as in effect before its repeal by the Inter-
25 national Tax Simplification and Fairness for Amer-

1 ican Competitiveness Act of 2002” after “section
2 907(c)(4)(B)”.

3 (3) Section 954(g)(1) is amended by inserting
4 “, as in effect before its repeal by the International
5 Tax Simplification for American Competitiveness
6 Act of 2001” after “907(c)”.

7 (4) Section 6501(i) is amended—

8 (A) by striking “, or under section 907(f)
9 (relating to carryback and carryover of dis-
10 allowed oil and gas extraction taxes)”, and

11 (B) by striking “or 907(f)”.

12 (5) The table of sections for subpart A of part
13 III of subchapter N of chapter 1 is amended by
14 striking the item relating to section 907.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2002.

18 **TITLE III—OTHER PROVISIONS**

19 **SEC. 301. DEDUCTION FOR DIVIDENDS RECEIVED FROM** 20 **CERTAIN FOREIGN CORPORATIONS.**

21 (a) CONSTRUCTIVE OWNERSHIP RULES TO APPLY IN
22 DETERMINING 80-PERCENT OWNERSHIP.—Section 245
23 (a)(5) (relating to post-1986 undistributed U.S. earnings)
24 is amended by adding at the end the following flush sen-
25 tence:

1 “Section 318(a) shall apply for purposes of subpara-
2 graph (B).”

3 (b) DIVIDENDS TO INCLUDE SUBPART F DISTRIBU-
4 TIONS.—Section 245(a) (relating to dividends from 10-
5 percent owned foreign corporations) is amended by adding
6 at the end the following new paragraph:

7 “(12) SUBPART F INCLUSIONS TREATED AS
8 DIVIDENDS.—For purposes of this subsection, the
9 term ‘dividend’ shall include any amount the tax-
10 payer is required to include in gross income for the
11 taxable year under section 951(a).”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2002.

15 **SEC. 302. APPLICATION OF UNIFORM CAPITALIZATION**
16 **RULES TO FOREIGN PERSONS.**

17 (a) IN GENERAL.—Section 263A(c) (relating to ex-
18 ceptions) is amended by adding at the end the following
19 new paragraph:

20 “(7) FOREIGN PERSONS.—Except for purposes
21 of applying sections 871(b)(1) and 882(a)(1), this
22 section shall not apply to any taxpayer who is not
23 a United States person if such taxpayer capitalizes
24 costs of produced property or property acquired for
25 resale by applying the method used to ascertain the

1 income, profit, or loss for purposes of reports or
2 statements to shareholders, partners, other propri-
3 etors, or beneficiaries, or for credit purposes.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years beginning after
6 December 31, 2002. Section 481 of the Internal Revenue
7 Code of 1986 shall not apply to any change in a method
8 of accounting by reason of such amendment.

9 **SEC. 303. UNITED STATES PROPERTY NOT TO INCLUDE**
10 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**
11 **ORDINARY COURSE OF TRADE OR BUSINESS.**

12 (a) IN GENERAL.—Section 956(c)(2) (relating to ex-
13 ceptions from property treated as United States property)
14 is amended by striking “and” at the end of subparagraph
15 (J), by striking the period at the end of subparagraph (K)
16 and inserting “; and”, and by adding at the end the fol-
17 lowing new subparagraph:

18 “(L) securities acquired and held by a con-
19 trolled foreign corporation in the ordinary
20 course of its business as a dealer in securities
21 if (i) the dealer accounts for the securities as
22 securities held primarily for sale to customers
23 in the ordinary course of business, and (ii) the
24 dealer disposes of the securities (or such securi-
25 ties mature while held by the dealer) within a

1 period consistent with the holding of securities
2 for sale to customers in the ordinary course of
3 business.”

4 (b) CONFORMING AMENDMENT.—Section 956(e)(2)
5 is amended by striking “and (K)” in the last sentence and
6 inserting “, (K), and (L)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years of foreign corpora-
9 tions beginning after December 31, 2002, and to taxable
10 years of United States shareholders with or within which
11 such taxable years of foreign corporations end.

12 **SEC. 304. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
13 **LATED INVESTMENT COMPANIES.**

14 (a) TREATMENT OF CERTAIN DIVIDENDS.—

15 (1) NONRESIDENT ALIEN INDIVIDUALS.—Sec-
16 tion 871 (relating to tax on nonresident alien indi-
17 viduals) is amended by redesignating subsection (k)
18 as subsection (l) and by inserting after subsection (j)
19 the following new subsection:

20 “(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REG-
21 ULATED INVESTMENT COMPANIES.—

22 “(1) INTEREST-RELATED DIVIDENDS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), no tax shall be imposed
25 under paragraph (1)(A) of subsection (a) on

1 any interest-related dividend received from a
2 regulated investment company.

3 “(B) EXCEPTIONS.—Subparagraph (A)
4 shall not apply—

5 “(i) to any interest-related dividend
6 received from a regulated investment com-
7 pany by a person to the extent such divi-
8 dend is attributable to interest (other than
9 interest described in subparagraph (E) (i)
10 or (iii)) received by such company on in-
11 debtedness issued by such person or by any
12 corporation or partnership with respect to
13 which such person is a 10-percent share-
14 holder,

15 “(ii) to any interest-related dividend
16 with respect to stock of a regulated invest-
17 ment company unless the person who
18 would otherwise be required to deduct and
19 withhold tax from such dividend under
20 chapter 3 receives a statement (which
21 meets requirements similar to the require-
22 ments of subsection (h)(5)) that the bene-
23 ficial owner of such stock is not a United
24 States person, and

1 “(iii) to any interest-related dividend
2 paid to any person within a foreign coun-
3 try (or any interest-related dividend pay-
4 ment addressed to, or for the account of,
5 persons within such foreign country) dur-
6 ing any period described in subsection
7 (h)(6) with respect to such country.

8 Clause (iii) shall not apply to any dividend with
9 respect to any stock which was acquired on or
10 before the date of the publication of the Sec-
11 retary’s determination under subsection (h)(6).

12 “(C) INTEREST-RELATED DIVIDEND.—For
13 purposes of this paragraph, an interest-related
14 dividend is any dividend (or part thereof) which
15 is designated by the regulated investment com-
16 pany as an interest-related dividend in a writ-
17 ten notice mailed to its shareholders not later
18 than 60 days after the close of its taxable year.
19 If the aggregate amount so designated with re-
20 spect to a taxable year of the company (includ-
21 ing amounts so designated with respect to divi-
22 dends paid after the close of the taxable year
23 described in section 855) is greater than the
24 qualified net interest income of the company for
25 such taxable year, the portion of each distribu-

1 tion which shall be an interest-related dividend
2 shall be only that portion of the amounts so
3 designated which such qualified net interest in-
4 come bears to the aggregate amount so des-
5 ignated.

6 “(D) QUALIFIED NET INTEREST IN-
7 COME.—For purposes of subparagraph (C), the
8 term ‘qualified net interest income’ means the
9 qualified interest income of the regulated in-
10 vestment company reduced by the deductions
11 properly allocable to such income.

12 “(E) QUALIFIED INTEREST INCOME.—For
13 purposes of subparagraph (D), the term ‘quali-
14 fied interest income’ means the sum of the fol-
15 lowing amounts derived by the regulated invest-
16 ment company from sources within the United
17 States:

18 “(i) Any amount includible in gross
19 income as original issue discount (within
20 the meaning of section 1273) on an obliga-
21 tion payable 183 days or less from the date
22 of original issue (without regard to the pe-
23 riod held by the company).

24 “(ii) Any interest includible in gross
25 income (including amounts recognized as

1 ordinary income in respect of original issue
2 discount or market discount or acquisition
3 discount under part V of subchapter P and
4 such other amounts as regulations may
5 provide) on an obligation which is in reg-
6 istered form; except that this clause shall
7 not apply to—

8 “(I) any interest on an obligation
9 issued by a corporation or partnership
10 if the regulated investment company
11 is a 10-percent shareholder in such
12 corporation or partnership, and

13 “(II) any interest which is treat-
14 ed as not being portfolio interest
15 under the rules of subsection (h)(4).

16 “(iii) Any interest referred to in sub-
17 section (i)(2)(A) (without regard to the
18 trade or business of the regulated invest-
19 ment company).

20 “(iv) Any interest-related dividend in-
21 cludable in gross income with respect to
22 stock of another regulated investment com-
23 pany.

24 “(F) 10-PERCENT SHAREHOLDER.—For
25 purposes of this paragraph, the term ‘10-per-

1 cent shareholder' has the meaning given such
2 term by subsection (h)(3)(B).

3 “(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), no tax shall be imposed
6 under paragraph (1)(A) of subsection (a) on
7 any short-term capital gain dividend received
8 from a regulated investment company.

9 “(B) EXCEPTION FOR ALIENS TAXABLE
10 UNDER SUBSECTION (a)(2).—In the case of divi-
11 dends received from a regulated investment
12 company before January 1, 2003, subparagraph
13 (A) shall not apply in the case of any non-
14 resident alien individual subject to tax under
15 subsection (a)(2).

16 “(C) SHORT-TERM CAPITAL GAIN DIVI-
17 DEND.—For purposes of this paragraph, a
18 short-term capital gain dividend is any dividend
19 (or part thereof) which is designated by the reg-
20 ulated investment company as a short-term cap-
21 ital gain dividend in a written notice mailed to
22 its shareholders not later than 60 days after the
23 close of its taxable year. If the aggregate
24 amount so designated with respect to a taxable
25 year of the company (including amounts so des-

1 ignated with respect to dividends paid after the
2 close of the taxable year described in section
3 855) is greater than the qualified short-term
4 gain of the company for such taxable year, the
5 portion of each distribution which shall be a
6 short-term capital gain dividend shall be only
7 that portion of the amounts so designated
8 which such qualified short-term gain bears to
9 the aggregate amount so designated.

10 “(D) QUALIFIED SHORT-TERM GAIN.—For
11 purposes of subparagraph (C), the term ‘quali-
12 fied short-term gain’ means the excess of the
13 net short-term capital gain of the regulated in-
14 vestment company for the taxable year over the
15 net long-term capital loss (if any) of such com-
16 pany for such taxable year. For purposes of this
17 subparagraph—

18 “(i) the net short-term capital gain of
19 the regulated investment company shall be
20 computed by treating any short-term cap-
21 ital gain dividend includible in gross in-
22 come with respect to stock of another regu-
23 lated investment company as a short-term
24 capital gain, and

1 “(ii) the excess of the net short-term
2 capital gain for a taxable year over the net
3 long-term capital loss for a taxable year (to
4 which an election under section 4982(e)(4)
5 does not apply) shall be determined with-
6 out regard to any net capital loss or net
7 short-term capital loss attributable to
8 transactions after October 31 of such year,
9 and any such net capital loss or net short-
10 term capital loss shall be treated as arising
11 on the 1st day of the next taxable year.

12 To the extent provided in regulations, clause
13 (ii) shall apply also for purposes of computing
14 the taxable income of the regulated investment
15 company.”

16 (2) FOREIGN CORPORATIONS.—Section 881 (re-
17 lating to tax on income of foreign corporations not
18 connected with United States business) is amended
19 by redesignating subsection (e) as subsection (f) and
20 by inserting after subsection (d) the following new
21 subsection:

22 “(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS
23 OF REGULATED INVESTMENT COMPANIES.—

24 “(1) INTEREST-RELATED DIVIDENDS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), no tax shall be imposed
3 under paragraph (1) of subsection (a) on any
4 interest-related dividend (as defined in section
5 871(k)(1)) received from a regulated investment
6 company.

7 “(B) EXCEPTION.—Subparagraph (A)
8 shall not apply—

9 “(i) to any dividend referred to in sec-
10 tion 871(k)(1)(B), and

11 “(ii) to any interest-related dividend
12 received by a controlled foreign corporation
13 (within the meaning of section 957(a)) to
14 the extent such dividend is attributable to
15 interest received by the regulated invest-
16 ment company from a person who is a re-
17 lated person (within the meaning of section
18 864(d)(4)) with respect to such controlled
19 foreign corporation.

20 “(C) TREATMENT OF DIVIDENDS RE-
21 CEIVED BY CONTROLLED FOREIGN CORPORA-
22 TIONS.—The rules of subsection (c)(5)(A) shall
23 apply to any interest-related dividend received
24 by a controlled foreign corporation (within the
25 meaning of section 957(a)) to the extent such

1 dividend is attributable to interest received by
2 the regulated investment company which is de-
3 scribed in clause (ii) of section 871(k)(1)(E)
4 (and not described in clause (i) or (iii) of such
5 section).

6 “(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—
7 No tax shall be imposed under paragraph (1) of sub-
8 section (a) on any short-term capital gain dividend
9 (as defined in section 871(k)(2)) received from a
10 regulated investment company.”

11 (3) WITHHOLDING TAXES.—

12 (A) Section 1441(c) (relating to excep-
13 tions) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(12) CERTAIN DIVIDENDS RECEIVED FROM
16 REGULATED INVESTMENT COMPANIES.—

17 “(A) IN GENERAL.—No tax shall be re-
18 quired to be deducted and withheld under sub-
19 section (a) from any amount exempt from the
20 tax imposed by section 871(a)(1)(A) by reason
21 of section 871(k).

22 “(B) SPECIAL RULE.—For purposes of
23 subparagraph (A), clause (i) of section
24 871(k)(1)(B) shall not apply to any dividend
25 unless the regulated investment company knows

1 that such dividend is a dividend referred to in
2 such clause. A similar rule shall apply with re-
3 spect to the exception contained in section
4 871(k)(2)(B).”

5 (B) Section 1442(a) (relating to with-
6 holding of tax on foreign corporations) is
7 amended—

8 (i) by striking “and the reference in
9 section 1441(c)(10)” and inserting “the
10 reference in section 1441(c)(10)”, and

11 (ii) by inserting before the period at
12 the end the following: “, and the references
13 in section 1441(c)(12) to sections 871(a)
14 and 871(k) shall be treated as referring to
15 sections 881(a) and 881(e) (except that for
16 purposes of applying subparagraph (A) of
17 section 1441(c)(12), as so modified, clause
18 (ii) of section 881(e)(1)(B) shall not apply
19 to any dividend unless the regulated invest-
20 ment company knows that such dividend is
21 a dividend referred to in such clause)”.

22 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-
23 TAIN REGULATED INVESTMENT COMPANIES.—Section
24 2105 (relating to property without the United States for

1 estate tax purposes) is amended by adding at the end the
2 following new subsection:

3 “(d) STOCK IN A RIC.—

4 “(1) IN GENERAL.—For purposes of this sub-
5 chapter, stock in a regulated investment company
6 (as defined in section 851) owned by a nonresident
7 not a citizen of the United States shall not be
8 deemed property within the United States in the
9 proportion that, at the end of the quarter of such in-
10 vestment company’s taxable year immediately pre-
11 ceding a decedent’s date of death (or at such other
12 time as the Secretary may designate in regulations),
13 the assets of the investment company that were
14 qualifying assets with respect to the decedent bore
15 to the total assets of the investment company.

16 “(2) QUALIFYING ASSETS.—For purposes of
17 this subsection, qualifying assets with respect to a
18 decedent are assets that, if owned directly by the de-
19 cedent, would have been—

20 “(A) amounts, deposits, or debt obligations
21 described in subsection (b) of this section,

22 “(B) debt obligations described in the last
23 sentence of section 2104(c), or

24 “(C) other property not within the United
25 States.”

1 (c) TREATMENT OF REGULATED INVESTMENT COM-
2 PANIES UNDER SECTION 897.—

3 (1) Paragraph (1) of section 897(h) is amended
4 by striking “REIT” each place it appears and in-
5 serting “qualified investment entity”.

6 (2) Paragraphs (2) and (3) of section 897(h)
7 are amended to read as follows:

8 “(2) SALE OF STOCK IN DOMESTICALLY CON-
9 TROLLED ENTITY NOT TAXED.—The term ‘United
10 States real property interest’ does not include any
11 interest in a domestically controlled qualified invest-
12 ment entity.

13 “(3) DISTRIBUTIONS BY DOMESTICALLY CON-
14 TROLLED QUALIFIED INVESTMENT ENTITIES.—In
15 the case of a domestically controlled qualified invest-
16 ment entity, rules similar to the rules of subsection
17 (d) shall apply to the foreign ownership percentage
18 of any gain.”

19 (3) Subparagraphs (A) and (B) of section
20 897(h)(4) are amended to read as follows:

21 “(A) QUALIFIED INVESTMENT ENTITY.—
22 The term ‘qualified investment entity’ means
23 any real estate investment trust and any regu-
24 lated investment company.

1 “(B) DOMESTICALLY CONTROLLED.—The
2 term ‘domestically controlled qualified invest-
3 ment entity’ means any qualified investment en-
4 tity in which at all times during the testing pe-
5 riod less than 50 percent in value of the stock
6 was held directly or indirectly by foreign per-
7 sons.”

8 (4) Subparagraphs (C) and (D) of section
9 897(h)(4) are each amended by striking “REIT”
10 and inserting “qualified investment entity”.

11 (5) The subsection heading for subsection (h) of
12 section 897 is amended by striking “REITS” and
13 inserting “CERTAIN INVESTMENT ENTITIES”.

14 (d) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall apply to dividends with respect to
18 taxable years of regulated investment companies be-
19 ginning after the date of the enactment of this Act.

20 (2) ESTATE TAX TREATMENT.—The amend-
21 ment made by subsection (b) shall apply to estates
22 of decedents dying after the date of the enactment
23 of this Act.

24 (3) CERTAIN OTHER PROVISIONS.—The amend-
25 ments made by subsection (c) (other than paragraph

1 (1) thereof) shall take effect on the date of the en-
2 actment of this Act.

3 **SEC. 305. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN**
4 **PERSONS.**

5 (a) IN GENERAL.—The last sentence of section
6 4261(e)(3)(C) (relating to regulations) is amended by in-
7 serting “and mileage awards which are issued to individ-
8 uals whose mailing addresses on record with the person
9 providing the right to air transportation are outside the
10 United States” before the period at the end thereof.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to amounts paid, and benefits pro-
13 vided, after December 31, 2002.

14 **SEC. 306. INTEREST PAYMENTS DEDUCTIBLE WHERE DIS-**
15 **QUALIFIED GUARANTEE HAS ECONOMIC EF-**
16 **FECT.**

17 (a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating
18 to exceptions to disqualified guarantee) is amended—

19 (1) by striking “or” at the end of subclause (I),

20 (2) by striking the period at the end of sub-
21 clause (II) and inserting “, or”,

22 (3) by inserting after subclause (II) the fol-
23 lowing new subclause:

24 “(III) if, in the case of a guar-
25 antee by a foreign person, the tax-

1 payer establishes to the satisfaction of
2 the Secretary that the taxpayer could
3 have borrowed substantially the same
4 principal amount from an unrelated
5 person without the guarantee.”, and

6 (4) by adding at the end the following new sen-
7 tence: “For purposes of subclause (III), to the ex-
8 tent provided in regulations, the Secretary may re-
9 ject a showing that a taxpayer could have borrowed
10 substantially the same principal amount if such bor-
11 rowing is on terms substantially dissimilar to those
12 of the actual loan.”

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to guarantees issued on and after
15 the date of the enactment of this Act.

16 **SEC. 307. MODIFICATIONS OF REPORTING REQUIREMENTS**
17 **FOR CERTAIN FOREIGN-OWNED CORPORA-**
18 **TIONS.**

19 (a) DE MINIMIS EXCEPTION.—Section 6038A(b) (re-
20 lating to required information) is amended by adding at
21 the end the following new flush sentence:

22 “The Secretary shall not require the reporting corporation
23 to report any information with respect to any foreign per-
24 son which is a related person if the aggregate value of
25 the transactions between the corporation and the related

1 person (and any person related to such person) during the
2 taxable year does not exceed \$5,000,000.”

3 (b) TIME FOR PROVIDING TRANSLATIONS OF SPE-
4 CIFIC DOCUMENTS.—Notwithstanding Internal Revenue
5 Service Regulation § 1.6038A–3(f)(2), a taxpayer shall
6 have at least 60 days to provide translations of specific
7 documents it is requested to translate. Nothing in this
8 subsection shall limit the right of a taxpayer to file a writ-
9 ten request for an extension of time to comply with the
10 request.

11 (c) EFFECTIVE DATES.—

12 (1) EXCEPTION.—The amendment made by
13 subsection (a) shall apply to taxable years beginning
14 after December 31, 2002.

15 (2) TRANSLATIONS.—Subsection (b) shall apply
16 to requests made by the Internal Revenue Service
17 after December 31, 2002.

18 **SEC. 308. ELECTION NOT TO USE AVERAGE EXCHANGE**
19 **RATE FOR FOREIGN TAX PAID OTHER THAN**
20 **IN FUNCTIONAL CURRENCY.**

21 (a) IN GENERAL.—Paragraph (1) of section 986(a)
22 (relating to determination of foreign taxes and foreign cor-
23 poration’s earnings and profits) is amended by redesign-
24 nating subparagraph (D) as subparagraph (E) and by in-

1 serring after subparagraph (C) the following new subpara-
2 graph:

3 “(D) ELECTIVE EXCEPTION FOR TAXES
4 PAID OTHER THAN IN FUNCTIONAL CUR-
5 RENCY.—

6 “(i) IN GENERAL.—At the election of
7 the taxpayer, subparagraph (A) shall not
8 apply to any foreign income taxes the li-
9 ability for which is denominated in any
10 currency other than in the taxpayer’s func-
11 tional currency.

12 “(ii) APPLICATION TO QUALIFIED
13 BUSINESS UNITS.—An election under this
14 subparagraph may apply to foreign income
15 taxes attributable to a qualified business
16 unit in accordance with regulations pre-
17 scribed by the Secretary.

18 “(iii) ELECTION.—Any such election
19 shall apply to the taxable year for which
20 made and all subsequent taxable years un-
21 less revoked with the consent of the Sec-
22 retary.”

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 December 31, 2002.

1 **SEC. 309. REPEAL OF SPECIAL CAPITAL GAINS TAX ON**
2 **ALIENS PRESENT IN THE UNITED STATES**
3 **FOR 183 DAYS OR MORE.**

4 (a) **IN GENERAL.**—Subsection (a) of section 871 is
5 amended by striking paragraph (2) and by redesignating
6 paragraph (3) as paragraph (2).

7 (b) **EFFECTIVE DATE.**—The amendment made by
8 this section shall apply to taxable years beginning after
9 December 31, 2002.

10 **SEC. 310. REPEAL OF WITHHOLDING TAX ON DIVIDENDS**
11 **FROM CERTAIN FOREIGN CORPORATIONS.**

12 (a) **IN GENERAL.**—Paragraph (2) of section 871(i)
13 (relating to tax not to apply to certain interest and divi-
14 dends) is amended by adding at the end the following new
15 subparagraph:

16 “(D) Dividends paid by a foreign corpora-
17 tion.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by
19 this section shall apply to payments made after December
20 31, 2002.

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