

107TH CONGRESS  
2D SESSION

# H. R. 4993

To amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2002

Mr. DOGGETT (for himself, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. McDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. JEFFERSON, Mrs. THURMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BAIRD, Ms. BALDWIN, Mr. BARRETT of Wisconsin, Ms. BERKLEY, Mr. BERRY, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. CAPUANO, Mr. CLAY, Mr. CONYERS, Mr. DAVIS of Illinois, Mr. DEFazio, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. EDWARDS, Mr. ENGEL, Mr. FARR of California, Mr. FILNER, Mr. FORD, Mr. FRANK, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOLT, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Ms. KILPATRICK, Mr. KIND, Mr. KUCINICH, Mr. LAMPSON, Mr. LARSON of Connecticut, Mr. LYNCH, Mr. MARKEY, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Mr. MOORE, Mr. OBEY, Mr. OLVER, Mr. PALLONE, Mr. PASCARELL, Mr. PASTOR, Mr. PAYNE, Ms. RIVERS, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT, Ms. SLAUGHTER, Ms. SOLIS, Mr. STRICKLAND, Mr. STUPAK, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Mr. TURNER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Ms. WATSON of California, Mr. WAXMAN, Ms. WOOLSEY, Mr. WU, 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 prevent

corporations from exploiting tax treaties to evade taxation of United States income.

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 “No Tax Breaks for  
5 Corporations Renouncing America Act of 2002”.

6 **SEC. 2. DENIAL OF TREATY BENEFITS FOR CERTAIN DE-**  
7 **DUCTIBLE PAYMENTS.**

8       (a) IN GENERAL.—Section 894 of the Internal Rev-  
9 enue Code of 1986 (relating to income affected by treaty)  
10 is amended by adding at the end the following new sub-  
11 section:

12       “(d) DENIAL OF TREATY BENEFITS FOR CERTAIN  
13 DEDUCTIBLE PAYMENTS.—

14               “(1) IN GENERAL.—A foreign entity shall not  
15 be entitled under any income tax treaty of the  
16 United States with a foreign country to any reduced  
17 rate of any withholding tax imposed by this title on  
18 any deductible foreign payment unless such entity is  
19 predominantly owned by individuals who are resi-  
20 dents of such foreign country.

21               “(2) DEDUCTIBLE FOREIGN PAYMENT.—For  
22 purposes of paragraph (1), the term ‘deductible for-  
23 eign payment’ means any payment—

1           “(A) which is made by a domestic entity  
2 directly or indirectly to a related person which  
3 is a foreign entity, and

4           “(B) which is allowable as a deduction  
5 under this chapter.

6           “(3) DOMESTIC AND FOREIGN ENTITIES; RE-  
7 LATED PERSON.—For purposes of this subsection—

8           “(A) DOMESTIC ENTITY.—The term ‘do-  
9 mestic entity’ means any domestic corporation  
10 or domestic partnership.

11           “(B) FOREIGN ENTITY.—The term ‘for-  
12 eign entity’ means any foreign corporation or  
13 foreign partnership.

14           “(C) RELATED PERSON.—The term ‘re-  
15 lated person’ has the meaning given such term  
16 by section 954(d)(3) (determined by sub-  
17 stituting ‘domestic entity’ for ‘controlled foreign  
18 corporation’ each place it appears).

19           “(4) PREDOMINANT OWNERSHIP.—For pur-  
20 poses of this subsection—

21           “(A) IN GENERAL.—An entity is predomi-  
22 nantly owned by individuals who are residents  
23 of a foreign country if—

24           “(i) in the case of a corporation, more  
25 than 50 percent (by value) of the stock of

1 such corporation is owned (within the  
2 meaning of section 883(c)(4)) by individ-  
3 uals who are residents of such foreign  
4 country, or

5 “(ii) in the case of a partnership,  
6 more than 50 percent (by value) of the  
7 beneficial interests in such partnership are  
8 so owned.

9 “(B) PUBLICLY TRADED CORPORATIONS.—  
10 A foreign corporation also shall be treated as  
11 predominantly owned by individuals who are  
12 residents of a foreign country if—

13 “(i)(I) the stock of such corporation is  
14 primarily and regularly traded on an estab-  
15 lished securities market in such foreign  
16 country, and

17 “(II) such corporation has activities  
18 within such foreign country which are sub-  
19 stantial in relation to the total activities of  
20 such corporation and its related persons,  
21 or

22 “(ii) such corporation is wholly owned (di-  
23 rectly or indirectly) by another foreign corpora-  
24 tion which is described in clause (i).

1           “(5) CONDUIT PAYMENTS.—Under regulations  
2           prescribed by the Secretary, paragraph (1) shall not  
3           apply to a payment received by a foreign entity re-  
4           ferred to in paragraph (1) if—

5                   “(A) within a reasonable period after such  
6                   entity receives such payment, such entity makes  
7                   a comparable payment directly or indirectly to  
8                   another related person,

9                   “(B) such related person is a resident of a  
10                  foreign country with which the United States  
11                  has an income tax treaty,

12                  “(C) such related person is predominantly  
13                  owned by individuals who are residents of such  
14                  country, and

15                  “(D) the withholding tax rate reduction  
16                  under such treaty is not less than the with-  
17                  holding tax rate reduction applicable (without  
18                  regard to this paragraph) to the payment re-  
19                  ceived by such foreign entity.”

20           (b) EFFECTIVE DATE.—The amendment made by  
21           this section shall take effect on the date of the enactment  
22           of this Act.

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