

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5103

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2002

Mr. LEVIN (for himself and Mr. MATSUI) 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 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, Fairness, and Competi-  
7 tiveness 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. Look-through treatment for sales of partnership interests.

Sec. 103. Repeal of foreign personal holding company rules and foreign invest-  
 ment company rules.

Sec. 104. Study of proper treatment of European Union under same country  
 exceptions.

Sec. 105. 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. Application of look-thru rules to foreign tax credit.

Sec. 205. Attribution of stock ownership through partnerships to apply in de-  
 termining section 902 and 960 credits.

Sec. 206. Study of whether to repeal special rules in section 907 on foreign 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. Election not to use average exchange rate for foreign tax paid other  
 than in functional currency.

Sec. 307. Repeal of special capital gains tax on aliens present in the United  
 States for 183 days or more.

Sec. 308. Repeal of withholding tax on dividends from certain foreign corpora-  
 tions.

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. LOOK-THROUGH TREATMENT FOR SALES OF**  
18 **PARTNERSHIP INTERESTS.**

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

22 “(4) LOOK-THROUGH RULE FOR CERTAIN  
23 PARTNERSHIP SALES.—

24 “(A) IN GENERAL.—In the case of any  
25 sale by a controlled foreign corporation of an

1 interest in a partnership with respect to which  
2 such corporation is a 25-percent owner, such  
3 corporation shall be treated for purposes of this  
4 subsection as selling the proportionate share of  
5 the assets of the partnership attributable to  
6 such interest.

7 “(B) 25-PERCENT OWNER.—For purposes  
8 of this paragraph, the term ‘25-percent owner’  
9 means a controlled foreign corporation which  
10 owns 25 percent or more of the capital or prof-  
11 its interest in the partnership. The constructive  
12 ownership rules of section 958(b) shall apply  
13 for purposes of the preceding sentence.”

14 (b) CONFORMING AMENDMENT.—Section  
15 954(e)(1)(B)(ii) is amended by inserting “except as pro-  
16 vided in paragraph (4),” before “which”.

17 **SEC. 103. REPEAL OF FOREIGN PERSONAL HOLDING COM-**  
18 **PANY RULES AND FOREIGN INVESTMENT**  
19 **COMPANY RULES.**

20 (a) GENERAL RULE.—The following provisions are  
21 hereby repealed:

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

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

1           (3) Section 1247 (relating to election by foreign  
2 investment companies to distribute income cur-  
3 rently).

4           (b) EXEMPTION OF FOREIGN CORPORATIONS FROM  
5 PERSONAL HOLDING COMPANY RULES.—

6           (1) IN GENERAL.—Subsection (c) of section  
7 542 (relating to exceptions) is amended—

8           (A) by striking paragraph (5) and insert-  
9 ing the following:

10           “(5) a foreign corporation,”

11           (B) by striking paragraphs (7) and (10)  
12 and by redesignating paragraphs (8) and (9) as  
13 paragraphs (7) and (8), respectively,

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

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

19           (2) TREATMENT OF INCOME FROM PERSONAL  
20 SERVICE CONTRACTS.—Paragraph (1) of section  
21 954(c) is amended by adding at the end the fol-  
22 lowing new subparagraph:

23           “(H) PERSONAL SERVICE CONTRACTS.—

24           “(i) Amounts received under a con-  
25 tract under which the corporation is to fur-

1 nish personal services; if some person other  
2 than the corporation has the right to des-  
3 ignate (by name or by description) the in-  
4 dividual who is to perform the services, or  
5 if the individual who is to perform the  
6 services is designated (by name or by de-  
7 scription) in the contract; and

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

10 This subparagraph shall apply with respect to  
11 amounts received for services under a particular  
12 contract only if at some time during the taxable  
13 year 25 percent or more in value of the out-  
14 standing stock of the corporation is owned, di-  
15 rectly or indirectly, by or for the individual who  
16 has performed, is to perform, or may be des-  
17 ignated (by name or by description) as the one  
18 to perform, such services.”

19 (c) CONFORMING AMENDMENTS.—

20 (1) Paragraph (2) of section 171(c) is  
21 amended—

22 (A) by striking “, or by a foreign personal  
23 holding company, as defined in section 552”,  
24 and

1 (B) by striking “, or a foreign personal  
2 holding company”.

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

5 (3) Section 312 is amended by striking sub-  
6 section (j).

7 (4) Subsection (m) of section 312 is amended  
8 by striking “, a foreign investment company (within  
9 the meaning of section 1246(b)), or a foreign per-  
10 sonal holding company (within the meaning of sec-  
11 tion 552)”.

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

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

20 (7) Paragraph (1) of section 543(b) is amended  
21 by inserting “and” at the end of subparagraph (A),  
22 by striking “, and” at the end of subparagraph (B)  
23 and inserting a period, and by striking subparagraph  
24 (C).

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

4           (9) Section 563 is amended—

5                   (A) by striking subsection (c),

6                   (B) by redesignating subsection (d) as sub-  
7           section (c), and

8                   (C) by striking “subsection (a), (b), or (c)”  
9           in subsection (c) (as so redesignated) and in-  
10          serting “subsection (a) or (b)”.

11          (10) Subsection (d) of section 751 is amended  
12          by adding “and” at the end of paragraph (2), by  
13          striking paragraph (3), by redesignating paragraph  
14          (4) as paragraph (3), and by striking “paragraph  
15          (1), (2), or (3)” in paragraph (3) (as so redesi-  
16          gnated) and inserting paragraph (1) or (2)”.

17          (11) Paragraph (2) of section 864(d) is amend-  
18          ed by striking subparagraph (A) and by redesi-  
19          gnating subparagraphs (B) and (C) as subparagraphs  
20          (A) and (B), respectively.

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

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

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

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

6           “(3) UNITED STATES SHAREHOLDER.—The  
7 term ‘United States shareholder’ has the meaning  
8 given to such term by section 951(b), except that, in  
9 the case of a foreign corporation having related per-  
10 son insurance income (as defined in section  
11 953(c)(2)), the Secretary may treat any person as a  
12 United States shareholder for purposes of this sec-  
13 tion if such person is treated as a United States  
14 shareholder under section 953(c)(1).”

15           (D) Subsection (c) of section 898 is amended to  
16 read as follows:

17           “(c) DETERMINATION OF REQUIRED YEAR.—

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

19           “(A) the majority U.S. shareholder year,

20           or

21           “(B) if there is no majority U.S. share-  
22 holder year, the taxable year prescribed under  
23 regulations.

24           “(2) 1-MONTH DEFERRAL ALLOWED.—A speci-  
25 fied foreign corporation may elect, in lieu of the tax-

1       able year under paragraph (1)(A), a taxable year be-  
2       ginning 1 month earlier than the majority U.S.  
3       shareholder year.

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

5                       “(A) IN GENERAL.—For purposes of this  
6       subsection, the term ‘majority U.S. shareholder  
7       year’ means the taxable year (if any) which, on  
8       each testing day, constituted the taxable year  
9       of—

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

12                      “(ii) each United States shareholder  
13                      not described in clause (i) whose stock was  
14                      treated as owned under subsection  
15                      (b)(2)(B) by any shareholder described in  
16                      such clause.

17               “(B) TESTING DAY.—The testing days  
18       shall be—

19                      “(i) the first day of the corporation’s  
20                      taxable year (determined without regard to  
21                      this section), or

22                      “(ii) the days during such representa-  
23                      tive period as the Secretary may pre-  
24                      scribe.”

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

3                   “(ii) CERTAIN AMOUNTS INCLUDED.—  
4           Except as provided in clause (iii), the term  
5           ‘passive income’ includes, except as pro-  
6           vided in subparagraph (E)(iii) or para-  
7           graph (3)(I), any amount includible in  
8           gross income under section 1293 (relating  
9           to certain passive foreign investment com-  
10          panies).”

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

15           (B) The paragraph heading of paragraph (2) of  
16 section 904(g) is amended by striking “FOREIGN  
17 PERSONAL HOLDING OR”.

18           (15) Section 951 is amended by striking sub-  
19 sections (c) and (d) and by redesignating subsections  
20 (e) and (f) as subsections (e) and (d), respectively.

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

23           (17) Paragraph (5) of section 1014(b) is hereby  
24 repealed.

1           (18) Subsection (a) of section 1016 is amended  
2           by striking paragraph (13) and by redesignating the  
3           following paragraphs accordingly.

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

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

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

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

13           (B) The amendment made by subparagraph (A)  
14           shall apply to taxable years beginning after Decem-  
15           ber 31, 2004.

16           (20) Section 1223 is amended by striking para-  
17           graph (10) and by redesignating the following para-  
18           graphs accordingly.

19           (21) Subsection (d) of section 1248 is amended  
20           by striking paragraph (5) and by redesignating  
21           paragraphs (6) and (7) as paragraphs (5) and (6),  
22           respectively.

23           (22) Paragraph (2) of section 1260(c) is  
24           amended by striking subparagraphs (H) and (I) and

1 by redesignating subparagraph (J) as subparagraph  
2 (H).

3 (23) Subparagraph (F) of section 1291(b)(3) is  
4 amended by striking “551(d), 959(a),” and inserting  
5 “959(a)”.

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

8 “(2) ELECTION NOT PERMITTED WHERE  
9 AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION  
10 951.—The taxpayer may not make an election under  
11 paragraph (1) with respect to the undistributed  
12 PFIC earnings tax liability attributable to a quali-  
13 fied electing fund for the taxable year if any amount  
14 is includible in the gross income of the taxpayer  
15 under section 951 with respect to such fund for such  
16 taxable year.”

17 (25) Section 6035 is hereby repealed.

18 (26) Subparagraph (D) of section 6103(e)(1) is  
19 amended by striking clause (iv) and redesignating  
20 clauses (v) and (vi) as clauses (iv) and (v), respec-  
21 tively.

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

24 “(B) CONSTRUCTIVE DIVIDENDS.—If the  
25 taxpayer omits from gross income an amount

1 properly includible therein under section  
2 951(a), the tax may be assessed, or a pro-  
3 ceeding in court for the collection of such tax  
4 may be done without assessing, at any time  
5 within 6 years after the return was filed.”

6 (28) Subsection (a) of section 6679 is  
7 amended—

8 (A) by striking “6035, 6046, and 6046A”  
9 in paragraph (1) and inserting “6046 and  
10 6046A”, and

11 (B) by striking paragraph (3).

12 (29) Sections 170(f)(10)(A), 508(d), 4947 and  
13 section 4948(c)(4) are each amended by striking  
14 “556(b)(2),” each place it appears.

15 (30) The table of parts for subchapter G of  
16 chapter 1 is amended by striking the item relating  
17 to part III.

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

21 (32) The table of sections for subpart A of part  
22 III of subchapter A of chapter 61 of such Code is  
23 amended by striking the item relating to section  
24 6035.

1 **SEC. 104. STUDY OF PROPER TREATMENT OF EUROPEAN**  
2 **UNION UNDER SAME COUNTRY EXCEPTIONS.**

3 (a) STUDY.—The Secretary of the Treasury or the  
4 Secretary's delegate shall conduct a study on the feasi-  
5 bility of treating all countries included in the European  
6 Union as 1 country for purposes of applying the same  
7 country exceptions under subpart F of part III of sub-  
8 chapter N of chapter 1 of the Internal Revenue Code of  
9 1986. Such study shall include consideration of methods  
10 of ensuring that taxpayers are subject to a substantial ef-  
11 fective rate of foreign tax in such countries if such treat-  
12 ment is adopted.

13 (b) REPORT.—Not later than 6 months after the date  
14 of the enactment of this Act, the Secretary of the Treasury  
15 shall report to the Committee on Ways and Means of the  
16 House of Representatives and the Committee on Finance  
17 of the Senate the results of the study conducted under  
18 subsection (a), including recommendations (if any) for leg-  
19 islation.

20 **SEC. 105. EFFECTIVE DATE.**

21 Except as otherwise provided in this title, the amend-  
22 ments made by this title shall apply to taxable years of  
23 foreign corporations beginning after December 31, 2002,  
24 and taxable years of United States persons owning stock  
25 in such corporations with or within which such corpora-  
26 tions' taxable years end.

1 **TITLE II—PROVISIONS RELAT-**  
2 **ING TO FOREIGN TAX CREDIT**

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

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

9 (b) EXCESS EXTRACTION TAXES.—Paragraph (1) of  
10 section 907(f) is amended by striking “in the first, second,  
11 third, fourth, or fifth” and inserting “in any of the first  
12 10”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to excess foreign taxes which (with-  
15 out regard to the amendments made by this section) may  
16 be carried to any taxable year beginning after December  
17 31, 2001.

18 **SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC**  
19 **LOSS.**

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

24 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC  
25 LOSS.—

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

8           “(A) the amount of such loss (to the extent  
9 not used under this paragraph in prior taxable  
10 years), or

11           “(B) 50 percent of the taxpayer’s taxable  
12 income from sources within the United States  
13 for such succeeding taxable year,  
14 shall be treated as income from sources without the  
15 United States (and not as income from sources with-  
16 in the United States).

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

19           “(A) IN GENERAL.—The term ‘overall do-  
20 mestic loss’ means any domestic loss to the ex-  
21 tent such loss offsets taxable income from  
22 sources without the United States for the tax-  
23 able year or for any preceding taxable year by  
24 reason of a carryback. For purposes of the pre-  
25 ceding sentence, the term ‘domestic loss’ means

1 the amount by which the gross income for the  
2 taxable year from sources within the United  
3 States is exceeded by the sum of the deductions  
4 properly apportioned or allocated thereto (deter-  
5 mined without regard to any carryback from a  
6 subsequent taxable year).

7 “(B) TAXPAYER MUST HAVE ELECTED  
8 FOREIGN TAX CREDIT FOR YEAR OF LOSS.—  
9 The term ‘overall domestic loss’ shall not in-  
10 clude any loss for any taxable year unless the  
11 taxpayer chose the benefits of this subpart for  
12 such taxable year.

13 “(3) CHARACTERIZATION OF SUBSEQUENT IN-  
14 COME.—

15 “(A) IN GENERAL.—Any income from  
16 sources within the United States that is treated  
17 as income from sources without the United  
18 States under paragraph (1) shall be allocated  
19 among and increase the income categories in  
20 proportion to the loss from sources within the  
21 United States previously allocated to those in-  
22 come categories.

23 “(B) INCOME CATEGORY.—For purposes of  
24 this paragraph, the term ‘income category’ has

1 the meaning given such term by subsection  
2 (f)(5)(E)(i).

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

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 535(d)(2) is amended by striking  
9 “section 904(g)(6)” and inserting “section  
10 904(h)(6)”.

11 (2) Subparagraph (A) of section 936(a)(2) is  
12 amended by striking “section 904(f)” and inserting  
13 “subsections (f) and (g) of section 904”.

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

17 **SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERV-**  
18 **ICES INCOME.**

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

24 “(iii) EXCEPTION FOR INTEREST ON  
25 DEALER PROPERTY.—The term ‘high with-

1 holding tax interest' shall not include any  
2 interest on a security (within the meaning  
3 of section 475(c)(2)) which is received or  
4 accrued by a person that holds the security  
5 in connection with the holder's activities as  
6 a dealer in securities (within the meaning  
7 of section 475(c)(1)).”

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

14 “(11) EXCEPTION FOR INCOME ON DEALER  
15 PROPERTY.—Paragraph (1) shall not apply to any  
16 amount derived from a United States-owned foreign  
17 corporation that is derived from income on a secu-  
18 rity (within the meaning of section 475(c)(2)) which  
19 is received or accrued by a person that holds the se-  
20 curity in connection with the holder's activities as a  
21 dealer in securities (within the meaning of section  
22 475(c)(1)).”

23 (c) EFFECTIVE DATES.—

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

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

13 **SEC. 204. APPLICATION OF LOOK-THRU RULES TO FOREIGN**  
14 **TAX CREDIT.**

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

16           (1) NONCONTROLLED SECTION 902 CORPORA-  
17 TION.—Section 904(d)(4)(A) is amended to read as  
18 follows:

19                   “(A) IN GENERAL.—For purposes of this  
20 subsection—

21                           “(i) any applicable dividend shall be  
22 treated as income in a separate category in  
23 proportion to the ratio of—

24                                   “(I) the portion of the earnings  
25 and profits described in subparagraph

1 (B)(ii) attributable to income in such  
2 category, to

3 “(II) the total amount of earn-  
4 ings and profits, and

5 “(ii) any interest, rent, or royalty  
6 which is received or accrued from a non-  
7 controlled section 902 corporation with re-  
8 spect to the taxpayer shall be treated as  
9 income in a separate category to the extent  
10 it is properly allocable (under regulations  
11 prescribed by the Secretary) to income of  
12 such corporation in such category.”

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

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

17 (B) by inserting “or noncontrolled section  
18 902 corporations, whichever is applicable” after  
19 “controlled foreign corporations”.

20 (3) CONFORMING AMENDMENT.—The heading  
21 for section 904(d)(4) is amended by inserting “, IN-  
22 TEREST, RENTS, OR ROYALTIES” after “DIVI-  
23 DENDS”.

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

4 **SEC. 205. ATTRIBUTION OF STOCK OWNERSHIP THROUGH**  
5 **PARTNERSHIPS TO APPLY IN DETERMINING**  
6 **SECTION 902 AND 960 CREDITS.**

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

11 “(7) CONSTRUCTIVE OWNERSHIP THROUGH  
12 PARTNERSHIPS.—Stock owned, directly or indirectly,  
13 by or for a partnership shall be considered as being  
14 owned proportionately by its partners. Stock consid-  
15 ered to be owned by a person by reason of the pre-  
16 ceding sentence shall, for purposes of applying such  
17 sentence, be treated as actually owned by such per-  
18 son. The Secretary may prescribe such regulations  
19 as may be necessary to carry out the purposes of  
20 this paragraph, including rules to account for special  
21 partnership allocations of dividends, credits, and  
22 other incidents of ownership of stock in determining  
23 proportionate ownership.”

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply to taxes of foreign corporations

1 for taxable years of such corporations beginning after De-  
2 cember 31, 2002.

3 **SEC. 206. STUDY OF WHETHER TO REPEAL SPECIAL RULES**  
4 **IN SECTION 907 ON FOREIGN OIL AND GAS IN-**  
5 **COME.**

6 (a) STUDY.—The Secretary of the Treasury or the  
7 Secretary’s delegate shall—

8 (1) conduct a study to determine the revenue  
9 impact and desirability of repealing section 907 of  
10 the Internal Revenue Code of 1986 (relating to spe-  
11 cial rules in case of foreign oil and gas income), and

12 (2) include in such study recommendations (if  
13 any) for an alternative regime that substantially re-  
14 duces compliance costs for affected companies but  
15 achieves the same anti-abuse goals of such section  
16 (as reflected in the revenue impact associated with  
17 the new regime).

18 (b) REPORT.—Not later than 6 months after the date  
19 of the enactment of this Act, the Secretary of the Treasury  
20 shall report to the Committee on Ways and Means of the  
21 House of Representatives and the Committee on Finance  
22 of the Senate the results of the study conducted under  
23 subsection (a), including recommendations (if any) for leg-  
24 islation.

1 **TITLE III—OTHER PROVISIONS**

2 **SEC. 301. DEDUCTION FOR DIVIDENDS RECEIVED FROM**  
3 **CERTAIN FOREIGN CORPORATIONS.**

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

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

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

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

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

1 **SEC. 302. APPLICATION OF UNIFORM CAPITALIZATION**  
2 **RULES TO FOREIGN PERSONS.**

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

6 “(7) FOREIGN PERSONS.—Except for purposes  
7 of applying sections 871(b)(1) and 882(a)(1), this  
8 section shall not apply to any taxpayer who is not  
9 a United States person if such taxpayer capitalizes  
10 costs of produced property or property acquired for  
11 resale by applying the method used to ascertain the  
12 income, profit, or loss for purposes of reports or  
13 statements to shareholders, partners, other propri-  
14 etors, or beneficiaries, or for credit purposes.”

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

20 **SEC. 303. UNITED STATES PROPERTY NOT TO INCLUDE**  
21 **CERTAIN ASSETS ACQUIRED BY DEALERS IN**  
22 **ORDINARY COURSE OF TRADE OR BUSINESS.**

23 (a) IN GENERAL.—Section 956(c)(2) (relating to ex-  
24 ceptions from property treated as United States property)  
25 is amended by striking “and” at the end of subparagraph  
26 (J), by striking the period at the end of subparagraph (K)

1 and inserting “; and”, and by adding at the end the fol-  
2 lowing new subparagraph:

3           “(L) securities acquired and held by a con-  
4           trolled foreign corporation in the ordinary  
5           course of its business as a dealer in securities  
6           if (i) the dealer accounts for the securities as  
7           securities held primarily for sale to customers  
8           in the ordinary course of business, and (ii) the  
9           dealer disposes of the securities (or such securi-  
10          ties mature while held by the dealer) within a  
11          period consistent with the holding of securities  
12          for sale to customers in the ordinary course of  
13          business.”

14          (b) CONFORMING AMENDMENT.—Section 956(c)(2)  
15 is amended by striking “and (K)” in the last sentence and  
16 inserting “, (K), and (L)”.

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

22 **SEC. 304. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
23 **LATED INVESTMENT COMPANIES.**

24          (a) TREATMENT OF CERTAIN DIVIDENDS.—

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

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

8           “(1) INTEREST-RELATED DIVIDENDS.—

9           “(A) IN GENERAL.—Except as provided in  
10           subparagraph (B), no tax shall be imposed  
11           under paragraph (1)(A) of subsection (a) on  
12           any interest-related dividend received from a  
13           regulated investment company.

14           “(B) EXCEPTIONS.—Subparagraph (A)  
15           shall not apply—

16           “(i) to any interest-related dividend  
17           received from a regulated investment com-  
18           pany by a person to the extent such divi-  
19           dend is attributable to interest (other than  
20           interest described in subparagraph (E) (i)  
21           or (iii)) received by such company on in-  
22           debtedness issued by such person or by any  
23           corporation or partnership with respect to  
24           which such person is a 10-percent share-  
25           holder,

1           “(ii) to any interest-related dividend  
2           with respect to stock of a regulated invest-  
3           ment company unless the person who  
4           would otherwise be required to deduct and  
5           withhold tax from such dividend under  
6           chapter 3 receives a statement (which  
7           meets requirements similar to the require-  
8           ments of subsection (h)(5)) that the bene-  
9           ficial owner of such stock is not a United  
10          States person, and

11          “(iii) to any interest-related dividend  
12          paid to any person within a foreign coun-  
13          try (or any interest-related dividend pay-  
14          ment addressed to, or for the account of,  
15          persons within such foreign country) dur-  
16          ing any period described in subsection  
17          (h)(6) with respect to such country.

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

22          “(C) INTEREST-RELATED DIVIDEND.—For  
23          purposes of this paragraph, an interest-related  
24          dividend is any dividend (or part thereof) which  
25          is designated by the regulated investment com-

1           pany as an interest-related dividend in a writ-  
2           ten notice mailed to its shareholders not later  
3           than 60 days after the close of its taxable year.  
4           If the aggregate amount so designated with re-  
5           spect to a taxable year of the company (includ-  
6           ing amounts so designated with respect to divi-  
7           dends paid after the close of the taxable year  
8           described in section 855) is greater than the  
9           qualified net interest income of the company for  
10          such taxable year, the portion of each distribu-  
11          tion which shall be an interest-related dividend  
12          shall be only that portion of the amounts so  
13          designated which such qualified net interest in-  
14          come bears to the aggregate amount so des-  
15          ignated.

16                 “(D) QUALIFIED NET INTEREST IN-  
17                 COME.—For purposes of subparagraph (C), the  
18                 term ‘qualified net interest income’ means the  
19                 qualified interest income of the regulated in-  
20                 vestment company reduced by the deductions  
21                 properly allocable to such income.

22                 “(E) QUALIFIED INTEREST INCOME.—For  
23                 purposes of subparagraph (D), the term ‘quali-  
24                 fied interest income’ means the sum of the fol-  
25                 lowing amounts derived by the regulated invest-

1           ment company from sources within the United  
2           States:

3                   “(i) Any amount includible in gross  
4                   income as original issue discount (within  
5                   the meaning of section 1273) on an obliga-  
6                   tion payable 183 days or less from the date  
7                   of original issue (without regard to the pe-  
8                   riod held by the company).

9                   “(ii) Any interest includible in gross  
10                   income (including amounts recognized as  
11                   ordinary income in respect of original issue  
12                   discount or market discount or acquisition  
13                   discount under part V of subchapter P and  
14                   such other amounts as regulations may  
15                   provide) on an obligation which is in reg-  
16                   istered form; except that this clause shall  
17                   not apply to—

18                           “(I) any interest on an obligation  
19                           issued by a corporation or partnership  
20                           if the regulated investment company  
21                           is a 10-percent shareholder in such  
22                           corporation or partnership, and

23                           “(II) any interest which is treat-  
24                           ed as not being portfolio interest  
25                           under the rules of subsection (h)(4).

1           “(iii) Any interest referred to in sub-  
2           section (i)(2)(A) (without regard to the  
3           trade or business of the regulated invest-  
4           ment company).

5           “(iv) Any interest-related dividend in-  
6           cludable in gross income with respect to  
7           stock of another regulated investment com-  
8           pany.

9           “(F) 10-PERCENT SHAREHOLDER.—For  
10          purposes of this paragraph, the term ‘10-per-  
11          cent shareholder’ has the meaning given such  
12          term by subsection (h)(3)(B).

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

14           “(A) IN GENERAL.—Except as provided in  
15          subparagraph (B), no tax shall be imposed  
16          under paragraph (1)(A) of subsection (a) on  
17          any short-term capital gain dividend received  
18          from a regulated investment company.

19           “(B) EXCEPTION FOR ALIENS TAXABLE  
20          UNDER SUBSECTION (a)(2).—In the case of  
21          dividends received from a regulated investment  
22          company before January 1, 2003, subparagraph  
23          (A) shall not apply in the case of any non-  
24          resident alien individual subject to tax under  
25          subsection (a)(2).

1           “(C) SHORT-TERM CAPITAL GAIN DIVI-  
2           DEND.—For purposes of this paragraph, a  
3           short-term capital gain dividend is any dividend  
4           (or part thereof) which is designated by the reg-  
5           ulated investment company as a short-term cap-  
6           ital gain dividend in a written notice mailed to  
7           its shareholders not later than 60 days after the  
8           close of its taxable year. If the aggregate  
9           amount so designated with respect to a taxable  
10          year of the company (including amounts so des-  
11          ignated with respect to dividends paid after the  
12          close of the taxable year described in section  
13          855) is greater than the qualified short-term  
14          gain of the company for such taxable year, the  
15          portion of each distribution which shall be a  
16          short-term capital gain dividend shall be only  
17          that portion of the amounts so designated  
18          which such qualified short-term gain bears to  
19          the aggregate amount so designated.

20          “(D) QUALIFIED SHORT-TERM GAIN.—For  
21          purposes of subparagraph (C), the term ‘quali-  
22          fied short-term gain’ means the excess of the  
23          net short-term capital gain of the regulated in-  
24          vestment company for the taxable year over the  
25          net long-term capital loss (if any) of such com-

1 pany for such taxable year. For purposes of this  
2 subparagraph—

3 “(i) the net short-term capital gain of  
4 the regulated investment company shall be  
5 computed by treating any short-term cap-  
6 ital gain dividend includible in gross in-  
7 come with respect to stock of another regu-  
8 lated investment company as a short-term  
9 capital gain, and

10 “(ii) the excess of the net short-term  
11 capital gain for a taxable year over the net  
12 long-term capital loss for a taxable year (to  
13 which an election under section 4982(e)(4)  
14 does not apply) shall be determined with-  
15 out regard to any net capital loss or net  
16 short-term capital loss attributable to  
17 transactions after October 31 of such year,  
18 and any such net capital loss or net short-  
19 term capital loss shall be treated as arising  
20 on the 1st day of the next taxable year.

21 To the extent provided in regulations, clause  
22 (ii) shall apply also for purposes of computing  
23 the taxable income of the regulated investment  
24 company.”

1           (2) FOREIGN CORPORATIONS.—Section 881 (re-  
2 relating to tax on income of foreign corporations not  
3 connected with United States business) is amended  
4 by redesignating subsection (e) as subsection (f) and  
5 by inserting after subsection (d) the following new  
6 subsection:

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

9           “(1) INTEREST-RELATED DIVIDENDS.—

10           “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), no tax shall be imposed  
12 under paragraph (1) of subsection (a) on any  
13 interest-related dividend (as defined in section  
14 871(k)(1)) received from a regulated investment  
15 company.

16           “(B) EXCEPTION.—Subparagraph (A)  
17 shall not apply—

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

20           “(ii) to any interest-related dividend  
21 received by a controlled foreign corporation  
22 (within the meaning of section 957(a)) to  
23 the extent such dividend is attributable to  
24 interest received by the regulated invest-  
25 ment company from a person who is a re-

1           lated person (within the meaning of section  
2           864(d)(4)) with respect to such controlled  
3           foreign corporation.

4           “(C) TREATMENT OF DIVIDENDS RE-  
5           CEIVED BY CONTROLLED FOREIGN CORPORA-  
6           TIONS.—The rules of subsection (c)(5)(A) shall  
7           apply to any interest-related dividend received  
8           by a controlled foreign corporation (within the  
9           meaning of section 957(a)) to the extent such  
10          dividend is attributable to interest received by  
11          the regulated investment company which is de-  
12          scribed in clause (ii) of section 871(k)(1)(E)  
13          (and not described in clause (i) or (iii) of such  
14          section).

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

20          (3) WITHHOLDING TAXES.—

21                 (A) Section 1441(c) (relating to excep-  
22                 tions) is amended by adding at the end the fol-  
23                 lowing new paragraph:

24                 “(12) CERTAIN DIVIDENDS RECEIVED FROM  
25                 REGULATED INVESTMENT COMPANIES.—

1           “(A) IN GENERAL.—No tax shall be re-  
2           quired to be deducted and withheld under sub-  
3           section (a) from any amount exempt from the  
4           tax imposed by section 871(a)(1)(A) by reason  
5           of section 871(k).

6           “(B) SPECIAL RULE.—For purposes of  
7           subparagraph (A), clause (i) of section  
8           871(k)(1)(B) shall not apply to any dividend  
9           unless the regulated investment company knows  
10          that such dividend is a dividend referred to in  
11          such clause. A similar rule shall apply with re-  
12          spect to the exception contained in section  
13          871(k)(2)(B).”

14          (B) Section 1442(a) (relating to with-  
15          holding of tax on foreign corporations) is  
16          amended—

17                 (i) by striking “and the reference in  
18                 section 1441(c)(10)” and inserting “the  
19                 reference in section 1441(c)(10)”, and

20                 (ii) by inserting before the period at  
21                 the end the following: “, and the references  
22                 in section 1441(c)(12) to sections 871(a)  
23                 and 871(k) shall be treated as referring to  
24                 sections 881(a) and 881(e) (except that for  
25                 purposes of applying subparagraph (A) of

1 section 1441(c)(12), as so modified, clause  
2 (ii) of section 881(e)(1)(B) shall not apply  
3 to any dividend unless the regulated invest-  
4 ment company knows that such dividend is  
5 a dividend referred to in such clause”).

6 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-  
7 TAIN REGULATED INVESTMENT COMPANIES.—Section  
8 2105 (relating to property without the United States for  
9 estate tax purposes) is amended by adding at the end the  
10 following new subsection:

11 “(d) STOCK IN A RIC.—

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

24 “(2) QUALIFYING ASSETS.—For purposes of  
25 this subsection, qualifying assets with respect to a

1 decedent are assets that, if owned directly by the de-  
2 cedent, would have been—

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

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

7 “(C) other property not within the United  
8 States.”

9 (c) TREATMENT OF REGULATED INVESTMENT COM-  
10 PANIES UNDER SECTION 897.—

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

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

16 “(2) SALE OF STOCK IN DOMESTICALLY CON-  
17 TROLLED ENTITY NOT TAXED.—The term ‘United  
18 States real property interest’ does not include any  
19 interest in a domestically controlled qualified invest-  
20 ment entity.

21 “(3) DISTRIBUTIONS BY DOMESTICALLY CON-  
22 TROLLED QUALIFIED INVESTMENT ENTITIES.—In  
23 the case of a domestically controlled qualified invest-  
24 ment entity, rules similar to the rules of subsection

1 (d) shall apply to the foreign ownership percentage  
2 of any gain.”

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

5 “(A) QUALIFIED INVESTMENT ENTITY.—  
6 The term ‘qualified investment entity’ means  
7 any real estate investment trust and any regu-  
8 lated investment company.

9 “(B) DOMESTICALLY CONTROLLED.—The  
10 term ‘domestically controlled qualified invest-  
11 ment entity’ means any qualified investment en-  
12 tity in which at all times during the testing pe-  
13 riod less than 50 percent in value of the stock  
14 was held directly or indirectly by foreign per-  
15 sons.”

16 (4) Subparagraphs (C) and (D) of section  
17 897(h)(4) are each amended by striking “REIT”  
18 and inserting “qualified investment entity”.

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

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as otherwise pro-  
24 vided in this subsection, the amendments made by  
25 this section shall apply to dividends with respect to

1 taxable years of regulated investment companies be-  
2 ginning after the date of the enactment of this Act.

3 (2) ESTATE TAX TREATMENT.—The amend-  
4 ment made by subsection (b) shall apply to estates  
5 of decedents dying after the date of the enactment  
6 of this Act.

7 (3) CERTAIN OTHER PROVISIONS.—The amend-  
8 ments made by subsection (c) (other than paragraph  
9 (1) thereof) shall take effect on the date of the en-  
10 actment of this Act.

11 **SEC. 305. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN**  
12 **PERSONS.**

13 (a) IN GENERAL.—The last sentence of section  
14 4261(e)(3)(C) (relating to regulations) is amended by in-  
15 serting “and mileage awards which are issued to individ-  
16 uals whose mailing addresses on record with the person  
17 providing the right to air transportation are outside the  
18 United States” before the period at the end thereof.

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

1 **SEC. 306. ELECTION NOT TO USE AVERAGE EXCHANGE**  
2 **RATE FOR FOREIGN TAX PAID OTHER THAN**  
3 **IN FUNCTIONAL CURRENCY.**

4 (a) IN GENERAL.—Paragraph (1) of section 986(a)  
5 (relating to determination of foreign taxes and foreign cor-  
6 poration’s earnings and profits) is amended by redesi-  
7 gnating subparagraph (D) as subparagraph (E) and by in-  
8 serting after subparagraph (C) the following new subpara-  
9 graph:

10 “(D) ELECTIVE EXCEPTION FOR TAXES  
11 PAID OTHER THAN IN FUNCTIONAL CUR-  
12 RENCY.—

13 “(i) IN GENERAL.—At the election of  
14 the taxpayer, subparagraph (A) shall not  
15 apply to any foreign income taxes the li-  
16 ability for which is denominated in any  
17 currency other than in the taxpayer’s func-  
18 tional currency.

19 “(ii) APPLICATION TO QUALIFIED  
20 BUSINESS UNITS.—An election under this  
21 subparagraph may apply to foreign income  
22 taxes attributable to a qualified business  
23 unit in accordance with regulations pre-  
24 scribed by the Secretary.

25 “(iii) ELECTION.—Any such election  
26 shall apply to the taxable year for which

1           made and all subsequent taxable years un-  
2           less revoked with the consent of the Sec-  
3           retary.”

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

7 **SEC. 307. REPEAL OF SPECIAL CAPITAL GAINS TAX ON**  
8                                   **ALIENS PRESENT IN THE UNITED STATES**  
9                                   **FOR 183 DAYS OR MORE.**

10          (a) IN GENERAL.—Subsection (a) of section 871 is  
11 amended by striking paragraph (2) and by redesignating  
12 paragraph (3) as paragraph (2).

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

16 **SEC. 308. REPEAL OF WITHHOLDING TAX ON DIVIDENDS**  
17                                   **FROM CERTAIN FOREIGN CORPORATIONS.**

18          (a) IN GENERAL.—Paragraph (2) of section 871(i)  
19 (relating to tax not to apply to certain interest and divi-  
20 dends) is amended by adding at the end the following new  
21 subparagraph:

22                                   “(D) Dividends paid by a foreign corpora-  
23                                   tion.”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to payments made after December  
3 31, 2002.

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