

AMENDMENTS TO SENATE AMENDMENTS TO H.R.

22

OFFERED BY MR. DELANEY OF MARYLAND

Page 11, strike the items relating to title LII.

Page 13, after the item relating to section 95003 insert the following:

DIVISION J—INFRASTRUCTURE 2.0

Sec. 96001. Short title; etc.

**TITLE XCVI—DEEMED REPATRIATION AND INVESTMENT IN
DOMESTIC INFRASTRUCTURE**

Sec. 96101. Elimination of incentive for corporations to continue to hold accumulated earnings offshore.

Sec. 96102. American Infrastructure Fund.

Sec. 96103. Dedication of remaining revenues to highway trust fund.

Sec. 96104. Highway Trust Fund Solvency Commission.

Sec. 96105. Regional infrastructure accelerator pilot program.

TITLE XCVII—PROSPECTIVE INTERNATIONAL TAX REFORM

Sec. 96200. General effective date of title.

**Subtitle A—Reform of Taxation of Income Earned by Controlled Foreign
Corporations**

PART I—GENERAL PROVISIONS

Sec. 96201. Modifications to subpart F income.

PART II—FOREIGN TAX CREDIT LIMITATIONS

Sec. 96211. Reform of foreign tax credit limitation.

Sec. 96212. Denial of credit and deduction for foreign taxes with respect to excluded subpart F income.

PART III—EXPENSE DISALLOWANCE

Sec. 96221. Disallowance of deduction for expenses allocable to exempt income of a controlled foreign corporation.

PART IV—OTHER PROVISIONS RELATING TO SUBPART F

SUBPART A—PREVIOUSLY DEFERRED FOREIGN INCOME

Sec. 96231. Treatment of previously deferred foreign income.

SUBPART B—OTHER PROVISIONS

Sec. 96236. Elimination of 30-day requirement.

Sec. 96237. Modification of definition of United States shareholder.

Subtitle B—Reform of Foreign Tax Credit Provisions

Sec. 96241. Repeal of section 902 indirect foreign tax credits; foreign tax credit related to subpart F income.

Sec. 96242. Repeal of rule suspending foreign taxes and credits until related income is taken into account.

Page 895, strike line 14 and all that follows through line 13 on page 935.

Page 1032, after line 4, add the following:

1 **DIVISION J—INFRASTRUCTURE**

2 **2.0**

3 **SEC. 96001. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This division may be cited as the
5 “Infrastructure 2.0 Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this division an
8 amendment or repeal is expressed in terms of an amend-
9 ment to, or repeal of, a section or other provision, the ref-
10 erence shall be considered to be made to a section or other
11 provision of the Internal Revenue Code of 1986.

1 **TITLE XCVI—DEEMED REPATRI-**
2 **ATION AND INVESTMENT IN**
3 **DOMESTIC INFRASTRUCTURE**

4 **SEC. 96101. ELIMINATION OF INCENTIVE FOR CORPORA-**
5 **TIONS TO CONTINUE TO HOLD ACCUMU-**
6 **LATED EARNINGS OFFSHORE.**

7 (a) IN GENERAL.—Section 965 is amended to read
8 as follows:

9 **“SEC. 965. ELIMINATION OF INCENTIVE TO HOLD ACCUMU-**
10 **LATED EARNINGS AND PROFITS OFFSHORE.**

11 “(a) TREATMENT OF DEFERRED FOREIGN INCOME
12 AS SUBPART F INCOME.—In the case of the last taxable
13 year of a deferred foreign income corporation which ends
14 before the date of the enactment of the Infrastructure 2.0
15 Act, the subpart F income of such foreign corporation (as
16 otherwise determined for such taxable year under section
17 952) shall be increased by the accumulated post-1986 de-
18 ferred foreign income of such corporation determined as
19 of the close of such taxable year.

20 “(b) REDUCTION IN AMOUNTS INCLUDED IN GROSS
21 INCOME OF UNITED STATES SHAREHOLDERS OF SPECI-
22 FIED FOREIGN CORPORATIONS WITH DEFICITS IN EARN-
23 INGS AND PROFITS.—

24 “(1) IN GENERAL.—In the case of a taxpayer
25 which is a United States shareholder with respect to

1 at least one deferred foreign income corporation and
2 at least one E&P deficit foreign corporation, the
3 amount which would (but for this subsection) be
4 taken into account under section 951(a)(1) by rea-
5 son of subsection (a) as such United States share-
6 holder's pro rata share of the subpart F income of
7 each deferred foreign income corporation shall be re-
8 duced (but not below zero) by the amount of such
9 United States shareholder's aggregate foreign E&P
10 deficit which is allocated under paragraph (2) to
11 such deferred foreign income corporation.

12 “(2) ALLOCATION OF AGGREGATE FOREIGN E&P
13 DEFICIT.—The aggregate foreign E&P deficit of any
14 United States shareholder shall be allocated among
15 the deferred foreign income corporations of such
16 United States shareholder in an amount which bears
17 the same proportion to such aggregate as—

18 “(A) such United States shareholder's pro
19 rata share of the accumulated post-1986 de-
20 ferred foreign income of each such deferred for-
21 eign income corporation, bears to

22 “(B) the aggregate of such United States
23 shareholder's pro rata share of the accumulated
24 post-1986 deferred foreign income of all de-

1 ferred foreign income corporations of such
2 United States shareholder.

3 “(3) DEFINITIONS RELATED TO E&P DEFICI-
4 CITS.—For purposes of this subsection—

5 “(A) AGGREGATE FOREIGN E&P DEF-
6 ICIT.—The term ‘aggregate foreign E&P deficit’
7 means, with respect to any United States share-
8 holder, the aggregate of such shareholder’s pro
9 rata shares of the specified E&P deficits of the
10 E&P deficit foreign corporations of such share-
11 holder.

12 “(B) E&P DEFICIT FOREIGN CORPORA-
13 TION.—The term ‘E&P deficit foreign corpora-
14 tion’ means, with respect to any taxpayer, any
15 specified foreign corporation with respect to
16 which such taxpayer is a United States share-
17 holder, if—

18 “(i) such specified foreign corporation
19 has a deficit in post-1986 earnings and
20 profits, and

21 “(ii) as of the date of the enactment
22 of the Infrastructure 2.0 Act—

23 “(I) such corporation was a spec-
24 ified foreign corporation, and

1 “(II) such taxpayer was a United
2 States shareholder of such corpora-
3 tion.

4 “(C) SPECIFIED E&P DEFICIT.—The term
5 ‘specified E&P deficit’ means, with respect to
6 any E&P deficit foreign corporation, the
7 amount of the deficit referred to in subpara-
8 graph (B).

9 “(c) DEDUCTION FOR PORTION OF INCLUDED IN-
10 COME.—In the case of a United States shareholder of a
11 deferred foreign income corporation, there shall be allowed
12 as a deduction for the taxable year in which an amount
13 is included in the gross income of such United States
14 shareholder under section 951(a)(1) by reason of this sec-
15 tion an amount equal to 75 percent of the amount so in-
16 cluded in gross income.

17 “(d) DEFERRED FOREIGN INCOME CORPORATION;
18 ACCUMULATED POST-1986 DEFERRED FOREIGN IN-
19 COME.—For purposes of this section—

20 “(1) DEFERRED FOREIGN INCOME CORPORA-
21 TION.—The term ‘deferred foreign income corpora-
22 tion’ means, with respect to any United States
23 shareholder, any specified foreign corporation of
24 such United States shareholder which has accumu-
25 lated post-1986 deferred foreign income (as of the

1 close of the taxable year referred to in subsection
2 (a)) greater than zero.

3 “(2) ACCUMULATED POST-1986 DEFERRED FOR-
4 EIGN INCOME.—The term ‘accumulated post-1986
5 deferred foreign income’ means the post-1986 earn-
6 ings and profits except to the extent such earnings—

7 “(A) are attributable to income of the
8 specified foreign corporation which is effectively
9 connected with the conduct of a trade or busi-
10 ness within the United States and subject to
11 tax under this chapter,

12 “(B) if distributed, would—

13 “(i) in the case of a controlled foreign
14 corporation, be excluded from the gross in-
15 come of a United States shareholder under
16 section 959, or

17 “(ii) in the case of any passive foreign
18 investment company (as defined in section
19 1297) other than a controlled foreign cor-
20 poration, be treated as a distribution which
21 is not a dividend, or

22 “(C) in the case of any passive foreign in-
23 vestment company (as so defined), is properly
24 attributable to an unreversed inclusion of a
25 United States person under section 1296.

1 To the extent provided in regulations or other guid-
2 ance prescribed by the Secretary, in the case of any
3 controlled foreign corporation which has share-
4 holders which are not United States shareholders,
5 accumulated post-1986 deferred foreign income shall
6 be appropriately reduced by amounts which would be
7 described in subparagraph (B)(i) if such share-
8 holders were United States shareholders. Such regu-
9 lations or other guidance may provide a similar rule
10 for purposes of subparagraph (B)(ii) and (C).

11 “(3) POST-1986 EARNINGS AND PROFITS.—The
12 term ‘post-1986 earnings and profits’ means the
13 earnings and profits of the foreign corporation (com-
14 puted in accordance with sections 964(a) and 986)
15 accumulated in taxable years beginning after Decem-
16 ber 31, 1986, and determined—

17 “(A) as of the close the taxable year re-
18 ferred to in subsection (a), and

19 “(B) without diminution by reason of divi-
20 dends distributed during such taxable year.

21 “(e) SPECIFIED FOREIGN CORPORATION.—

22 “(1) IN GENERAL.—For purposes of this sec-
23 tion, the term ‘specified foreign corporation’
24 means—

1 “(A) any controlled foreign corporation,
2 and

3 “(B) any section 902 corporation (as de-
4 fined in section 909(d)(5)).

5 “(2) APPLICATION TO SECTION 902 CORPORA-
6 TIONS.—For purposes of section 951, a section 902
7 corporation (as so defined) shall be treated as a con-
8 trolled foreign corporation solely for purposes of tak-
9 ing into account the subpart F income of such cor-
10 poration under subsection (a) (and for purposes of
11 applying subsection (f)).

12 “(f) DETERMINATIONS OF PRO RATA SHARE.—For
13 purposes of this section, the determination of any United
14 States shareholder’s pro rata share of any amount with
15 respect to any specified foreign corporation shall be deter-
16 mined under rules similar to the rules of section 951(a)(2)
17 by treating such amount in the same manner as subpart
18 F income (and by treating such specified foreign corpora-
19 tion as a controlled foreign corporation).

20 “(g) DISALLOWANCE OF FOREIGN TAX CREDIT,
21 ETC.—

22 “(1) IN GENERAL.—No credit shall be allowed
23 under section 901 for the applicable percentage of
24 any taxes paid or accrued (or treated as paid or ac-

1 erued) with respect to any amount for which a de-
2 duction is allowed under this section.

3 “(2) APPLICABLE PERCENTAGE.—For purposes
4 of this subsection, the term ‘applicable percentage’
5 means the percentage specified in subsection (c).

6 “(3) DENIAL OF DEDUCTION.—No deduction
7 shall be allowed under this chapter for any tax for
8 which credit is not allowable under section 901 by
9 reason of paragraph (1) (determined by treating the
10 taxpayer as having elected the benefits of subpart A
11 of part III of subchapter N).

12 “(4) COORDINATION WITH SECTION 78.—Sec-
13 tion 78 shall not apply to any tax for which credit
14 is not allowable under section 901 by reason of para-
15 graph (1).

16 “(h) ELECTION TO PAY LIABILITY IN INSTALL-
17 MENTS.—

18 “(1) IN GENERAL.—In the case of a United
19 States shareholder of a deferred foreign income cor-
20 poration, such United States shareholder may elect
21 to pay the net tax liability under this section in 8
22 installments of the following amounts:

23 “(A) 8 percent of the net tax liability in
24 the case of each of the first 5 of such install-
25 ments,

1 “(B) 15 percent of the net tax liability in
2 the case of the 6th such installment,

3 “(C) 20 percent of the net tax liability in
4 the case of the 7th such installment, and

5 “(D) 25 percent of the net tax liability in
6 the case of the 8th such installment.

7 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

8 If an election is made under paragraph (1), the first
9 installment shall be paid on the due date (deter-
10 mined without regard to any extension of time for
11 filing the return) for the return of tax for the tax-
12 able year described in subsection (b) and each suc-
13 ceeding installment shall be paid on the due date (as
14 so determined) for the return of tax for the taxable
15 year following the taxable year with respect to which
16 the preceding installment was made.

17 “(3) ACCELERATION OF PAYMENT.—If there is
18 an addition to tax for failure to pay timely assessed
19 with respect to any installment required under this
20 subsection, a liquidation or sale of substantially all
21 the assets of the taxpayer (including in a title 11 or
22 similar case), a cessation of business by the tax-
23 payer, or any similar circumstance, then the unpaid
24 portion of all remaining installments shall be due on
25 the date of such event (or in the case of a title 11

1 or similar case, the day before the petition is filed).
2 The preceding sentence shall not apply to the sale
3 of substantially all the assets of a taxpayer to a
4 buyer if such buyer enters into an agreement with
5 the Secretary under which such buyer is liable for
6 the remaining installments due under this subsection
7 in the same manner as if such buyer were the tax-
8 payer.

9 “(4) PRORATION OF DEFICIENCY TO INSTALL-
10 MENTS.—If an election is made under paragraph (1)
11 to pay the net tax liability under this section in in-
12 stallments and a deficiency has been assessed with
13 respect to such net tax liability, the deficiency shall
14 be prorated to the installments payable under para-
15 graph (1). The part of the deficiency so prorated to
16 any installment the date for payment of which has
17 not arrived shall be collected at the same time as,
18 and as a part of, such installment. The part of the
19 deficiency so prorated to any installment the date
20 for payment of which has arrived shall be paid upon
21 notice and demand from the Secretary. This sub-
22 section shall not apply if the deficiency is due to
23 negligence, to intentional disregard of rules and reg-
24 ulations, or to fraud with intent to evade tax.

1 “(5) ELECTION.—Any election under paragraph
2 (1) shall be made not later than the due date for the
3 return of tax for the taxable year described in sub-
4 section (a) and shall be made in such manner as the
5 Secretary may provide.

6 “(6) NET TAX LIABILITY UNDER THIS SEC-
7 TION.—For purposes of this subsection—

8 “(A) IN GENERAL.—The net tax liability
9 under this section with respect to any United
10 States shareholder is the excess (if any) of—

11 “(i) such taxpayer’s net income tax
12 for the taxable year described in subsection
13 (a), over

14 “(ii) such taxpayer’s net income tax
15 for such taxable year determined without
16 regard to this section.

17 “(B) NET INCOME TAX.—The term ‘net
18 income tax’ means the regular tax liability re-
19 duced by the credits allowed under subparts A,
20 B, and D of part IV of subchapter A.

21 “(i) INCLUSION OF DEFERRED FOREIGN INCOME
22 UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF
23 OVERALL FOREIGN LOSS.—For purposes of section
24 904(f)(1), in the case of a United States shareholder of
25 a deferred foreign income corporation, such United States

1 shareholder's taxable income from sources without the
2 United States shall be determined without regard to this
3 section.

4 “(j) REGULATIONS.—The Secretary may prescribe
5 such regulations or other guidance as may be necessary
6 or appropriate to carry out the provisions of this section.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for subpart F of part III of subchapter N of chapter 1
9 of such Code is amended by striking the item relating to
10 section 965 and inserting the following:

“Sec. 965. Elimination of incentive to hold accumulated earnings and profits
offshore.”.

11 **SEC. 96102. AMERICAN INFRASTRUCTURE FUND.**

12 (a) AMERICAN INFRASTRUCTURE FUND.—

13 (1) IN GENERAL.—There is established a wholly
14 owned Government corporation—

15 (A) which shall be called the American In-
16 frastructure Fund (referred to in this Act as
17 the “AIF”);

18 (B) which shall be headed by the Board of
19 Trustees established under subsection (b);

20 (C) which may have separate subaccounts
21 or subsidiaries for funds used to make loans,
22 bond guarantees, and equity investments under
23 this section;

1 (D) which shall be available to the AIF to
2 pay for the costs of carrying out this section,
3 including the compensation of the Board and
4 other employees of the AIF; and

5 (E) the funds of which may be invested by
6 the Board in such manner as the Board deter-
7 mines appropriate.

8 (2) DEPOSITS TO AIF.—All funds received from
9 bond issuances, loan payments, bond guarantee fees,
10 and any other funds received in carrying out this
11 section shall be held by AIF.

12 (3) LIMITATIONS.—The charter of the AIF
13 shall limit its activities to those activities described
14 as the mission of the Board under subsection (b)(2).

15 (4) OVERSIGHT.—The AIF shall register with
16 the Securities and Exchange Commission and the
17 Chairman shall report to Congress annually as to
18 whether the AIF is fulfilling the mission of the
19 Board under subsection (b)(2).

20 (5) TREATMENT OF AIF.—

21 (A) ACCOUNTS.—Title 31, United States
22 Code, is amended in each of sections 9107(e)(3)
23 and 9108(d)(2)—

1 (i) by inserting “the American Infra-
2 structure Fund,” after “the Regional
3 Banks for Cooperatives,”; and

4 (ii) by striking “those banks” and in-
5 sserting “those entities”.

6 (B) BONDS.—Section 149(b)(3)(A)(i) is
7 amended by inserting “American Infrastructure
8 Fund,” after “Federal Home Loan Mortgage
9 Corporation,”.

10 (b) BOARD OF TRUSTEES.—

11 (1) IN GENERAL.—There is established a Board
12 of Trustees of the AIF (referred to in this sub-
13 section as the “Board”), which shall be composed of
14 9 members who—

15 (A) have substantial experience in bond
16 guarantees or municipal credit; and

17 (B) to the greatest extent practicable, have
18 extensive experience working with municipal
19 credit, risk management, and infrastructure fi-
20 nance.

21 (2) MISSION.—The mission of the Board is—

22 (A) to operate the AIF and its subsidiaries
23 to be a low cost provider of bond guarantees,
24 loans, and equity investments to State and local

1 governments and infrastructure providers for
2 urban and rural infrastructure projects that—

3 (i) provide a positive economic impact;

4 and

5 (ii) meet such other standards as the
6 Board may develop;

7 (B) to operate the AIF in a self-sustaining
8 manner;

9 (C) to not have a profit motive, but to seek
10 at all times to pursue its mission of providing
11 low cost bond guarantees and loans while—

12 (i) covering its costs;

13 (ii) maintaining such reserves as may
14 be needed; and

15 (iii) applying prudent underwriting
16 standards;

17 (D) to only consider projects put forth by
18 State and local governments and not to seek
19 projects directly; and

20 (E) to engage in no other activities other
21 than those permitted under this section.

22 (3) MEMBERSHIP.—

23 (A) INITIAL MEMBERS.—

24 (i) APPOINTMENT.—Not later than
25 150 days after the date of the enactment

1 of this Act, the President shall appoint,
2 with the advice and consent of the Senate,
3 as members of the Board—

4 (I) 2 individuals from a list of at
5 least 5 individuals selected by the
6 Speaker of the House of Representa-
7 tives;

8 (II) 2 individuals from a list of
9 at least 5 individuals selected by the
10 Minority Leader of the House of Rep-
11 resentatives;

12 (III) 2 individuals from a list of
13 at least 5 individuals selected by the
14 Majority Leader of the Senate;

15 (IV) 2 individuals from a list of
16 at least 5 individuals selected by the
17 Minority Leader of the Senate; and

18 (V) 1 individual selected at will
19 by the President.

20 (ii) SUBMISSION OF LISTS.—Each of
21 the lists described in clause (i) shall be
22 submitted to the President not later than
23 90 days after the date of the enactment of
24 this Act. If any of such lists are submitted
25 after the date required under this clause,

1 the President may appoint the 2 members
2 of the Board who were to be selected from
3 such list at will.

4 (B) STAGGERED TERMS.—The members of
5 the Board appointed pursuant to subparagraph
6 (A)(i) shall serve staggered terms, with 2 each
7 of the initial members of the Board serving for
8 terms of 5, 6, 7, and 8 years, respectively, and
9 the initial Chair selected under subparagraph
10 (D) serving for 9 years. The decision of which
11 Board members, other than the Chair, serve for
12 which initial terms shall be made by the mem-
13 bers of the Board drawing lots.

14 (C) ADDITIONAL MEMBERS.—

15 (i) IN GENERAL.—Except as provided
16 in subparagraph (A), if the term of a
17 member of the Board expires or otherwise
18 becomes vacant, the President shall ap-
19 point a replacement for such member, with
20 the advice and consent of the Senate, from
21 among a list of at least 5 individuals sub-
22 mitted by the Board.

23 (ii) TERM OF SERVICE.—

24 (I) IN GENERAL.—Each member
25 of the Board appointed to replace a

1 member whose term is expiring shall
2 serve for a 7-year term.

3 (II) VACANCIES.—Any member
4 of the Board appointed to fill a va-
5 cancy occurring before the expiration
6 of the term to which that member’s
7 predecessor was appointed shall be ap-
8 pointed only for the remainder of the
9 term.

10 (D) CHAIR.—The members of the Board
11 shall choose 1 member to serve as the Chair of
12 the Board for a term of 7 years, except that the
13 initial Chair shall serve for a term of 9 years,
14 pursuant to subsection (B).

15 (E) CONTINUATION OF SERVICE.—Each
16 member of the Board may continue to serve
17 after the expiration of the term of office to
18 which that member was appointed until a suc-
19 cessor has been appointed.

20 (F) CONFLICTS OF INTEREST.—No mem-
21 ber of the Board may have a financial interest
22 in, or be employed by, a Qualified Infrastruc-
23 ture Project (“QIP”) related to assistance pro-
24 vided under this section. Owning municipal
25 credit of any State or local government or own-

1 ing the securities of a diversified company that
2 engages in infrastructure activities, provided
3 those activities constitute less than 20 percent
4 of the company's revenues, or investing in
5 broadly held investment funds shall not be
6 deemed to create a conflict of interest. The
7 Board may issue regulations to define terms
8 used under this subparagraph.

9 (4) COMPENSATION.—The members of the
10 Board shall be compensated at an amount to be set
11 by the Board, but under no circumstances may such
12 compensation be higher than the rate prescribed for
13 level IV of the Executive Schedule under section
14 5315 of title 5, United States Code.

15 (5) STAFF.—The Board shall employ and set
16 compensation for such staff as the Board determines
17 as is necessary to carry out the activities and mis-
18 sion of the AIF, and such staff may be paid without
19 regard to the provisions of chapter 51 and sub-
20 chapter III of chapter 53, United States Code, relat-
21 ing to classification and General Schedule pay rates.

22 (6) PROCEDURES.—The Board shall establish
23 such procedures as are necessary to carry out this
24 section.

25 (7) CORPORATE GOVERNANCE STANDARDS.—

1 (A) BOARD COMMITTEES GENERALLY.—

2 The Board shall maintain all of the committees
3 required to be maintained by the board of direc-
4 tors of an issuer listed on the New York Stock
5 Exchange as of the date of the enactment of
6 this section.

7 (B) RISK MANAGEMENT COMMITTEE.—The
8 Board shall maintain a risk management com-
9 mittee, which shall—

10 (i) employ additional staff who are
11 certified by the Board as having significant
12 and relevant experience in insurance un-
13 derwriting and credit risk management;
14 and

15 (ii) establish the risk management
16 policies used by the Board.

17 (C) STANDARDS.—The Board shall, to the
18 extent practicable, follow all standards with re-
19 spect to corporate governance that are required
20 to be followed by the board of directors of an
21 issuer listed on the New York Stock Exchange
22 as of the date of the enactment of this section.

23 (8) BIENNIAL REPORTS.—Not less frequently
24 than once every 2 years, the Board shall produce a
25 report that describes, of the materials, goods, and

1 products that were used to construct, or to support
2 the construction of, qualified infrastructure projects
3 (as described in subsection (c)) and received financ-
4 ing from the American Infrastructure Fund within
5 the most recent 2 calendar years, the percentage of
6 such materials, goods, and products that were cre-
7 ated, sourced, or manufactured in the United States.

8 (c) INFRASTRUCTURE INVESTMENT.—

9 (1) ENTITIES ELIGIBLE FOR ASSISTANCE.—The
10 AIF may provide assistance to State and local gov-
11 ernment entities, nonprofit infrastructure providers,
12 private parties, and public-private partnerships (re-
13 ferred to in this section as “eligible entities”) to help
14 finance qualified infrastructure projects (referred to
15 in this subsection as “QIPs”).

16 (2) FORMS OF ASSISTANCE.—The AIF may—

17 (A) provide bond guarantees to debt issued
18 by eligible entities;

19 (B) make loans, including subordinated
20 loans, to eligible entities; and

21 (C) make equity investments in QIPs.

22 (3) QUALIFIED INFRASTRUCTURE PROJECTS.—

23 A project qualifies as a QIP under this section if—

24 (A) the project is sponsored by a State or
25 local government;

1 (B) the infrastructure is, or will be, owned
2 by a State or local government;

3 (C) the project involves the construction,
4 maintenance, improvement, or repair of a trans-
5 portation, energy, water, communications, or
6 educational facility;

7 (D) the recipient of bond guarantees,
8 loans, equity investments, or any other innova-
9 tive financing technique authorized under this
10 Act provides written assurances prescribed by
11 the AIF that the project will be performed in
12 compliance with the requirements of all Federal
13 laws that would otherwise apply to similar
14 projects to which the United States is a party;
15 and

16 (E) in the case of a public transportation
17 capital project as defined in section 5302 of
18 title 49, United States Code, the recipient of
19 bond guarantees, loans, equity investments, or
20 any other innovative financing technique au-
21 thorized under this Act complies with the grant
22 requirements applicable to grants made under
23 section 5309 of such title.

24 (4) APPLICATION FOR ASSISTANCE.—

1 (A) IN GENERAL.—A State or local gov-
2 ernment that wishes to receive a loan or bond
3 guarantee under this section shall submit an
4 application to the Board in such form and man-
5 ner and containing such information as the
6 Board may require.

7 (B) REQUIREMENT FOR PUBLIC SPONSOR-
8 SHIP OF PRIVATE ENTITIES.—A private entity
9 may only receive a bond guarantee, loan, or eq-
10 uity investment under this section if the State
11 or local government for the jurisdiction in which
12 the nonprofit infrastructure provider or private
13 partner is located submits an application pursu-
14 ant to subparagraph (A) on behalf of such non-
15 profit infrastructure provider or private part-
16 ner.

17 (5) LIMITATIONS ON SINGLE STATE AWARDS.—

18 (A) ANNUAL LIMITATION.—The Board
19 shall set an annual limit, as a percentage of
20 total assistance provided under this section dur-
21 ing a year, on the amount of assistance a single
22 State (including local governments and other
23 infrastructure providers within such State) may
24 receive in assistance provided under this sec-
25 tion.

1 (B) CUMULATIVE LIMITATION.—The
2 Board shall set a limit, as a percentage of total
3 assistance provided under this section out-
4 standing at any one time, on the amount of as-
5 sistance a single State (including local govern-
6 ments and other infrastructure providers within
7 such State) may receive in assistance provided
8 under this section.

9 (6) LOAN SPECIFICATIONS.—Loans made under
10 this section shall have such maturity and carry such
11 interest rate as the Board determines appropriate.

12 (7) BOND GUARANTEE.—The Board shall
13 charge such fees for Bond guarantees made under
14 this section as the Board determines appropriate.

15 (8) EQUITY INVESTMENTS.—With respect to a
16 QIP, the amount of an equity investment made by
17 the AIF in such QIP may not exceed 20 percent of
18 the total cost of the QIP.

19 (9) PUBLIC-PRIVATE PARTNERSHIP REQUIRE-
20 MENTS.—At least 35 percent of the assistance pro-
21 vided under this section shall be provided to QIPs
22 for which at least 10 percent of the financing for
23 such QIPs comes from private debt or equity.

24 (10) PROHIBITION ON PRINCIPAL FORGIVE-
25 NESS.—With respect to a loan made under this sec-

1 tion, the Board may not forgive any amount of prin-
2 cipal on such loan.

3 (d) DEFINITIONS.—For purposes of this section:

4 (1) INFRASTRUCTURE PROVIDER.—The term
5 “infrastructure provider” means an entity that seeks
6 to finance a QIP.

7 (2) SECRETARY.—The term “Secretary” means
8 the Secretary of the Treasury.

9 (3) STATE.—The term “State” means each of
10 the several States, the District of Columbia, any ter-
11 ritory or possession of the United States, and each
12 federally recognized Indian tribe.

13 (e) APPROPRIATION.—Out of money in the Treasury
14 not otherwise appropriated, there is hereby appropriated
15 \$50,000,000,000 to the American Infrastructure Fund.
16 Amounts appropriated under this subsection shall remain
17 available without fiscal year limitation.

18 **SEC. 96103. DEDICATION OF REMAINING REVENUES TO**
19 **HIGHWAY TRUST FUND.**

20 (a) IN GENERAL.—Section 9503(f) is amended by re-
21 designating paragraph (5) as paragraph (6) and by insert-
22 ing after paragraph (4) the following new paragraph:

23 “(5) APPROPRIATION OF REVENUES ATTRIB-
24 UTABLE TO SECTION 965.—

1 “(A) INITIAL APPROPRIATION.—Out of
2 money in the Treasury not otherwise appro-
3 priated, there is hereby appropriated for each of
4 the fiscal years 2016 through 2021,
5 \$20,000,000,000 to the Highway Trust Fund.

6 “(B) REMAINING REVENUES.—

7 “(i) IN GENERAL.—Out of money in
8 the Treasury not otherwise appropriated,
9 there are hereby appropriated to the High-
10 way Trust Fund the excess of—

11 “(I) amounts equivalent to the
12 aggregate net tax liabilities under sec-
13 tion 965 (as defined in such section)
14 received in the Treasury, over

15 “(II) \$170,025,000,000.

16 “(ii) ADDITIONAL TRANSFERS ONLY
17 AFTER REVENUES EQUALING INITIAL
18 TRANSFERS HAVE BEEN RECEIVED IN THE
19 TREASURY.—For purposes of applying sec-
20 tion 9601 to clause (i), no transfer shall be
21 made under clause (i) until the Secretary
22 estimates that the amount described in
23 clause (i)(I) has exceeded the amount de-
24 scribed in clause (i)(II).”.

1 (b) TRANSFERS TO MASS TRANSIT ACCOUNT.—Sec-
2 tion 9503(e)(2) of such Code is amended by striking “the
3 mass transit portion” and inserting “, 20 percent of the
4 amounts appropriated to the Highway Trust Fund under
5 subsection (f)(5), and the mass transit portion”.

6 **SEC. 96104. HIGHWAY TRUST FUND SOLVENCY COMMIS-**
7 **SION.**

8 (a) ESTABLISHMENT.—There is established in the
9 legislative branch a commission to be known as the “High-
10 way Trust Fund Solvency Commission” (in this section
11 referred to as the “Commission”).

12 (b) DUTY OF THE COMMISSION.—Not later than 1
13 year after the initial meeting of the Commission, the Com-
14 mission shall transmit to Congress a written report that
15 includes recommendations and proposed legislation for
16 achieving long-term solvency of the Highway Trust Fund.

17 (c) MEMBERS.—

18 (1) NUMBER AND APPOINTMENT.—The Com-
19 mission shall be composed of 9 members. Of the
20 members of the Commission—

21 (A) 1 member shall be appointed by the
22 President of the United States;

23 (B) 1 member shall be appointed by the
24 chairman of the Committee on Finance of the
25 Senate;

1 (C) 1 member shall be appointed by the
2 ranking minority member of the Committee on
3 Finance of the Senate;

4 (D) 1 member shall be appointed by the
5 chairman of the Committee on Ways and Means
6 of the House of Representatives;

7 (E) 1 member shall be appointed by the
8 ranking minority member of the Committee on
9 Ways and Means of the House of Representa-
10 tives;

11 (F) 1 member shall be appointed by the
12 chairman of the Committee on Environment
13 and Public Works of the Senate;

14 (G) 1 member shall be appointed by the
15 ranking minority member of the Committee on
16 Environment and Public Works of the Senate;

17 (H) 1 member shall be appointed by the
18 chairman of the Committee on Transportation
19 and Infrastructure of the House of Representa-
20 tives; and

21 (I) 1 member shall be appointed by the
22 ranking minority member of the Committee on
23 Transportation and Infrastructure of the House
24 of Representatives.

1 (2) TIMING OF APPOINTMENTS.—Each of the
2 appointments made under paragraph (1) shall be
3 made not later than 45 days after the date of the
4 enactment of this Act.

5 (3) TERMS; VACANCIES.—Each member shall be
6 appointed for the life of the Commission, and a va-
7 cancy in the Commission shall be filled in the man-
8 ner in which the original appointment was made.

9 (4) COMPENSATION.—

10 (A) IN GENERAL.—Members of the Com-
11 mission shall serve without pay.

12 (B) TRAVEL EXPENSES.—Each member
13 shall receive travel expenses, including per diem
14 in lieu of subsistence, in accordance with appli-
15 cable provisions under subchapter I of chapter
16 57 of title 5, United States Code.

17 (d) OPERATION AND POWERS OF THE COMMIS-
18 SION.—

19 (1) CHAIR.—The chairperson of the Commis-
20 sion shall be elected by the members of the Commis-
21 sion.

22 (2) MEETINGS.—The Commission shall meet
23 not later than 30 days after the members of the
24 Commission have been appointed, and at such times
25 thereafter as the chairperson shall determine.

1 (3) RULES OF PROCEDURE.—The chairperson
2 shall, with the approval of a majority of the mem-
3 bers of the Commission, establish written rules of
4 procedure for the Commission, which shall include a
5 quorum requirement to conduct the business of the
6 Commission.

7 (4) HEARINGS.—The Commission may, for the
8 purpose of carrying out this section, hold hearings,
9 sit and act at times and places, take testimony, and
10 receive evidence as the Commission considers appro-
11 priate.

12 (5) OBTAINING OFFICIAL DATA.—The Commis-
13 sion may secure directly from any department or
14 agency of the United States, including the Congres-
15 sional Budget Office and the Government Account-
16 ability Office, any information or technical assist-
17 ance necessary to enable it to carry out this section.
18 Upon request of the chairperson of the Commission,
19 the head of that department or agency shall furnish
20 that information or technical assistance to the Com-
21 mission.

22 (6) CONTRACT AUTHORITY.—The Commission
23 may contract with and compensate government and
24 private agencies or persons for any purpose nec-
25 essary to enable it to carry out this section.

1 (7) **MAILS.**—The Commission may use the
2 United States mails in the same manner and under
3 the same conditions as other departments and agen-
4 cies of the United States.

5 (e) **PERSONNEL.**—

6 (1) **DIRECTOR.**—The Commission shall have a
7 Director who shall be appointed by the Commission.
8 The Director shall be paid at a rate of pay equiva-
9 lent to the annual rate of basic pay for a comparable
10 position paid under the Executive Schedule, subject
11 to the approval of the chairperson of the Commis-
12 sion.

13 (2) **STAFF.**—The Director may appoint and fix
14 the pay of additional staff as the Director considers
15 appropriate.

16 (3) **EXPERTS AND CONSULTANTS.**—The Com-
17 mission may procure temporary and intermittent
18 services under section 3109(b) of title 5, United
19 States Code, but at rates for individuals not to ex-
20 ceed the daily equivalent of the annual rate of basic
21 pay for a comparable position paid under the Execu-
22 tive Schedule.

23 (4) **STAFF OF FEDERAL AGENCIES.**—Upon re-
24 quest of the Commission, the head of any Federal
25 department or agency may detail, without reim-

1 bursement, any of the personnel of that department
2 or agency to the Commission to assist it in carrying
3 out its duties under this section.

4 (5) ADMINISTRATIVE SUPPORT SERVICES.—

5 Upon the request of the Commission, the Adminis-
6 trator of General Services shall provide to the Com-
7 mission, on a reimbursable basis, the administrative
8 support services necessary for the Commission to
9 carry out its responsibilities under this section.

10 (f) TERMINATION.—The Commission shall terminate
11 not later than 60 days after the submission of the report
12 described in subsection (b).

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated such sums as may be nec-
15 essary to carry out this section.

16 (h) EXPEDITED CONSIDERATION OF COMMISSION
17 RECOMMENDATIONS.—

18 (1) EXPEDITED CONSIDERATION.—

19 (A) INTRODUCTION OF APPROVAL BILL.—

20 The majority leader of each House or a des-
21 ignee shall (by request) introduce an approval
22 bill as described in paragraph (3) not later than
23 the third day of session of that House after the
24 date of receipt of the report transmitted to the
25 Congress under subsection (b).

1 (B) CONSIDERATION IN THE HOUSE OF
2 REPRESENTATIVES.—

3 (i) REFERRAL AND REPORTING.—Any
4 committee of the House of Representatives
5 to which an approval bill is referred shall
6 report it to the House without amendment
7 not later than the third legislative day
8 after the date of its introduction. If a com-
9 mittee fails to report the bill within that
10 period or the House has adopted a concur-
11 rent resolution providing for adjournment
12 sine die at the end of a Congress, such
13 committee shall be automatically dis-
14 charged from further consideration of the
15 bill and it shall be placed on the appro-
16 priate calendar.

17 (ii) PROCEEDING TO CONSIDER-
18 ATION.—Not later than 3 legislative days
19 after the approval bill is reported or a
20 committee has been discharged from fur-
21 ther consideration thereof, it shall be in
22 order to move to proceed to consider the
23 approval bill in the House. Such a motion
24 shall be in order only at a time designated
25 by the Speaker in the legislative schedule

1 within two legislative days after the day on
2 which the proponent announces an inten-
3 tion to the House to offer the motion pro-
4 vided that such notice may not be given
5 until the approval bill is reported or a com-
6 mittee has been discharged from further
7 consideration thereof. Such a motion shall
8 not be in order after the House has dis-
9 posed of a motion to proceed with respect
10 to that special message. The previous ques-
11 tion shall be considered as ordered on the
12 motion to its adoption without intervening
13 motion. A motion to reconsider the vote by
14 which the motion is disposed of shall not
15 be in order.

16 (iii) CONSIDERATION.—If the motion
17 to proceed is agreed to, the House shall
18 immediately proceed to consider the ap-
19 proval bill in the House without inter-
20 vening motion. The approval bill shall be
21 considered as read. All points of order
22 against the approval bill and against its
23 consideration are waived. The previous
24 question shall be considered as ordered on
25 the approval bill to its passage without in-

1 tervening motion except 4 hours of debate
2 equally divided and controlled by the pro-
3 ponent and an opponent and one motion to
4 limit debate on the bill. A motion to recon-
5 sider the vote on passage of the approval
6 bill shall not be in order.

7 (C) CONSIDERATION IN THE SENATE.—

8 (i) COMMITTEE ACTION.—The appro-
9 priate committee of the Senate shall report
10 without amendment the approval bill not
11 later than the third session day after intro-
12 duction. If a committee fails to report the
13 approval bill within that period or the Sen-
14 ate has adopted a concurrent resolution
15 providing for adjournment sine die at the
16 end of a Congress, the Committee shall be
17 automatically discharged from further con-
18 sideration of the approval bill and it shall
19 be placed on the appropriate calendar.

20 (ii) MOTION TO PROCEED.—Not later
21 than 3 session days after the approval bill
22 is reported in the Senate or the committee
23 has been discharged thereof, it shall be in
24 order for any Senator to move to proceed
25 to consider the approval bill in the Senate.

1 The motion shall be decided without debate
2 and the motion to reconsider shall be
3 deemed to have been laid on the table.
4 Such a motion shall not be in order after
5 the Senate has disposed of a prior motion
6 to proceed with respect to the approval bill.

7 (iii) CONSIDERATION.—If a motion to
8 proceed to the consideration of the ap-
9 proval bill is agreed to, the Senate shall
10 immediately proceed to consideration of
11 the approval bill without intervening mo-
12 tion, order, or other business, and the ap-
13 proval bill shall remain the unfinished
14 business of the Senate until disposed of.
15 Consideration on the bill in the Senate
16 under this subsection, and all debatable
17 motions and appeals in connection there-
18 with, shall not exceed 10 hours equally di-
19 vided in the usual form. All points of order
20 against the approval bill or its consider-
21 ation are waived. Consideration in the Sen-
22 ate on any debatable motion or appeal in
23 connection with the approval bill shall be
24 limited to not more than 1 hour. A motion
25 to postpone, or a motion to proceed to the

1 consideration of other business, or a mo-
2 tion to recommit the approval bill is not in
3 order. A motion to reconsider the vote by
4 which the approval bill is agreed to or dis-
5 agreed to is not in order.

6 (D) AMENDMENTS PROHIBITED.—No
7 amendment to, or motion to strike a provision
8 from, an approval bill considered under this sec-
9 tion shall be in order in either the Senate or the
10 House of Representatives.

11 (E) COORDINATION WITH ACTION BY
12 OTHER HOUSE.—

13 (i) IN GENERAL.—If, before passing
14 the approval bill, one House receives from
15 the other a bill—

16 (I) the approval bill of the other
17 House shall not be referred to a com-
18 mittee; and

19 (II) the procedure in the receiv-
20 ing House shall be the same as if no
21 approval bill had been received from
22 the other House until the vote on pas-
23 sage, when the bill received from the
24 other House shall supplant the ap-
25 proval bill of the receiving House.

1 (ii) EXCEPTION.—This paragraph
2 shall not apply to the House of Represent-
3 atives.

4 (2) LIMITATION.—Paragraph (1) shall apply
5 only to an approval bill described in paragraph (3)
6 and introduced pursuant to paragraph (1)(A).

7 (3) APPROVAL BILL DESCRIBED.—For purposes
8 of paragraph (1), a bill described in this paragraph
9 is a bill—

10 (A) which consists of the proposed legisla-
11 tion which is included in such report to carry
12 out the recommendations made by the Commis-
13 sion in the report; and

14 (B) the title of which is as follows: “A bill
15 to carry out the recommendations of the High-
16 way Trust Fund Solvency Commission.”.

17 (4) EXTENDED TIME PERIOD.—If Congress ad-
18 journs at the end of a Congress and an approval bill
19 was then pending in either House of Congress or a
20 committee thereof, or an approval bill had not yet
21 been introduced with respect to a special message,
22 then within the first 3 days of session of the next
23 Congress, the Commission shall transmit to Con-
24 gress an additional special message containing all of
25 the information in the previous, pending special mes-

1 sage. An approval bill may be introduced within the
2 first five days of session of such next Congress and
3 shall be treated as an approval bill under this sec-
4 tion, and the time periods described in subpara-
5 graphs (B) and (C) of paragraph (1) shall com-
6 mence on the day of introduction of that approval
7 bill.

8 **SEC. 96105. REGIONAL INFRASTRUCTURE ACCELERATOR**
9 **PILOT PROGRAM.**

10 (a) **IN GENERAL.**—Not later than 90 days after the
11 date of enactment of this Act, the Secretary of Transpor-
12 tation shall establish a regional infrastructure accelerator
13 pilot program (in this section referred to as the “Pro-
14 gram”) to assist certain State, local, and regional public
15 entities to develop improved priorities and financing strat-
16 egies for the accelerated development of covered infra-
17 structure projects.

18 (b) **ACCELERATOR ESTABLISHMENT AUTHORITY.**—

19 (1) **IN GENERAL.**—In carrying out the Pro-
20 gram, the Secretary is authorized to establish re-
21 gional infrastructure accelerators that will—

22 (A) serve a defined geographic area; and

23 (B) act as a resource to State, local, and
24 regional public entities in that area in accord-
25 ance with this section.

1 (2) APPLICATIONS.—To be eligible for a re-
2 gional infrastructure accelerator under the Program,
3 State, local, and regional public entities shall submit
4 to the Secretary an application proposing an accel-
5 erator at such time, in such form, and containing
6 such information as the Secretary determines is ap-
7 propriate.

8 (3) NUMBER.—To the extent practicable, the
9 Secretary shall establish at least 5 regional infra-
10 structure accelerators under the Program.

11 (4) GEOGRAPHIC DIVERSITY.—In establishing
12 regional infrastructure accelerators under the Pro-
13 gram, the Secretary shall consider the need for geo-
14 graphic diversity among such accelerators.

15 (c) ACCELERATOR COMPOSITION.—

16 (1) IN GENERAL.—Each regional infrastructure
17 accelerator established under subsection (b) shall in-
18 clude a membership composed of at least the fol-
19 lowing:

20 (A) A representative of each State, local,
21 or regional public entity in the area served by
22 the accelerator that participated in the applica-
23 tion that resulted in the establishment of the
24 accelerator.

1 (B) A representative of a State, local, or
2 regional public entity located outside the area
3 served by the accelerator with experience in in-
4 novative infrastructure financing.

5 (C) A representative of a financing entity
6 that intends to finance covered infrastructure
7 projects in the area served by the accelerator.

8 (D) A representative of a construction or
9 development entity that intends to develop cov-
10 ered infrastructure projects in the area served
11 by the accelerator.

12 (E) A representative of the Department of
13 Transportation.

14 (F) A representative of the Department of
15 the Treasury.

16 (G) A representative of the Environmental
17 Protection Agency.

18 (H) A representative of another Federal
19 department or agency with jurisdiction over
20 covered infrastructure projects intended for the
21 area served by the accelerator.

22 (2) LOCAL REPRESENTATION REQUIREMENT.—
23 At least 60 percent of the membership of each re-
24 gional infrastructure accelerator established under
25 subsection (b) shall be composed of representatives

1 of State, local, and regional public entities located in
2 the area served by the accelerator.

3 (3) DIVERSE PERSPECTIVES.—Each regional
4 infrastructure accelerator established under sub-
5 section (b) shall have a membership that represents
6 a diverse set of public and private perspectives.

7 (d) REGIONAL INFRASTRUCTURE ACCELERATION
8 PLAN.—Each regional infrastructure accelerator estab-
9 lished under subsection (b) shall develop and implement
10 a regional infrastructure acceleration plan for the area
11 served by the accelerator that—

12 (1) describes how the accelerator will promote
13 investment in covered infrastructure projects, includ-
14 ing through—

15 (A) providing guidance and feedback to
16 State, local, and regional public entities with re-
17 spect to infrastructure priorities, financing
18 strategies, and other matters relating to such
19 projects;

20 (B) evaluating and promoting innovative
21 financing methods;

22 (C) connecting sources of financing to the
23 public sponsors of such projects;

1 (D) establishing standards to measure the
2 life-cycle impacts of investments in such
3 projects; and

4 (E) providing technical assistance and in-
5 formation on best practices with respect to such
6 projects from predevelopment activities through
7 maintenance;

8 (2) assesses regional and multimodal ap-
9 proaches to advancing innovative investment in cov-
10 ered infrastructure projects; and

11 (3) develops strategies for—

12 (A) transparency with respect to covered
13 infrastructure project analysis to ensure the
14 public interest is protected;

15 (B) predevelopment capital programs to fa-
16 cilitate the creation of a catalog of covered in-
17 frastructure projects available for investment;

18 (C) the bundling of smaller-scale and rural
19 projects into project pools for investment; and

20 (D) the multimodal integration of trans-
21 portation projects.

22 (e) PROGRAM TERMINATION.—The Program shall
23 terminate on the date that is 10 years after the date on
24 which the Program is established under subsection (a).

1 (f) COVERED INFRASTRUCTURE PROJECT DE-
2 FINED.—In this section, the term “covered infrastructure
3 project” means a project—

4 (1) sponsored by a State, local, or regional pub-
5 lic entity; and

6 (2) that involves the construction, maintenance,
7 improvement, or repair of a transportation, energy,
8 water, communications, or educational facility that
9 is, or will be, owned by such an entity.

10 (g) APPROPRIATION.—Out of money in the Treasury
11 not otherwise appropriated, there is hereby appropriated
12 \$25,000,000 to the Department of Transportation to
13 carry out the Program. Amounts appropriated under this
14 subsection shall remain available without fiscal year limi-
15 tation.

16 **TITLE XCVII—PROSPECTIVE**
17 **INTERNATIONAL TAX REFORM**

18 **SEC. 96200. GENERAL EFFECTIVE DATE OF TITLE.**

19 For purposes of this title, the term “applicable date”
20 means the first day of the first taxable year beginning on
21 or after the date of the enactment of this Act.

1 **Subtitle A—Reform of Taxation of**
2 **Income Earned by Controlled**
3 **Foreign Corporations**

4 **PART I—GENERAL PROVISIONS**

5 **SEC. 96201. MODIFICATIONS TO SUBPART F INCOME.**

6 (a) IN GENERAL.—Subpart F of part III of sub-
7 chapter N of chapter 1 is amended by striking sections
8 952 through 956 and inserting the following:

9 **“SEC. 952. SUBPART F INCOME DEFINED.**

10 “(a) IN GENERAL.—For purposes of this subpart, the
11 term ‘subpart F income’ means, with respect to any con-
12 trolled foreign corporation, the sum of—

13 “(1) the inclusion percentage of the corpora-
14 tion’s modified active income, plus

15 “(2) 100 percent of the corporation’s modified
16 nonactive income.

17 “(b) MODIFIED ACTIVE INCOME.—

18 “(1) IN GENERAL.—The term ‘modified active
19 income’ means, with respect to any controlled for-
20 eign corporation, the excess (if any) of—

21 “(A) the corporation’s active foreign mar-
22 ket income, over

23 “(B) the amount of the reduction under
24 subsection (e) for deductions properly allocable
25 to such income.

1 “(2) REDUCTION FOR CERTAIN LOSSES.—

2 “(A) IN GENERAL.—The modified active
3 income determined under paragraph (1) for any
4 taxable year shall be reduced (but not below
5 zero)—

6 “(i) first by any active foreign market
7 loss for any prior taxable year, and

8 “(ii) then by any qualified loss for
9 such taxable year (or for any prior taxable
10 year to the extent provided in subsection
11 (c)(3)(B)).

12 “(B) LIMITATION.—An active foreign mar-
13 ket loss or qualified loss for any prior taxable
14 year shall only be taken into account under sub-
15 paragraph (A)—

16 “(i) if the prior taxable year is a tax-
17 able year which begins on or after the ap-
18 plicable date (as defined in section 96200
19 of the Infrastructure 2.0 Act), and for
20 which the controlled foreign corporation
21 was a controlled foreign corporation, and

22 “(ii) to the extent such loss has not
23 been previously taken into account under
24 this subsection.

1 “(3) ACTIVE FOREIGN MARKET LOSS.—The
2 term ‘active foreign market loss’ means, with respect
3 to any taxable year, the amount by which the
4 amount determined under paragraph (1)(B) exceeds
5 the amount determined under paragraph (1)(A).

6 “(c) MODIFIED NONACTIVE INCOME.—

7 “(1) IN GENERAL.—The term ‘modified non-
8 active income’ means, with respect to any controlled
9 foreign corporation, the excess (if any) of—

10 “(A) the corporation’s gross income deter-
11 mined without regard to active foreign market
12 income, over

13 “(B) the amount of the reduction under
14 subsection (e) for deductions properly allocable
15 to such gross income.

16 “(2) REDUCTION FOR QUALIFIED LOSSES.—
17 The amount determined under paragraph (1) for
18 any taxable year shall be reduced (but not below
19 zero) by any qualified loss for any prior taxable year
20 beginning on or after the applicable date (as defined
21 in section 96200 of the Infrastructure 2.0 Act), for
22 which the controlled foreign corporation was a con-
23 trolled foreign corporation, but only to the extent
24 such loss has not been previously taken into account
25 under subsection (b)(2) or this subsection.

1 “(3) QUALIFIED LOSS.—For purposes of this
2 section—

3 “(A) IN GENERAL.—The term ‘qualified
4 loss’ means, with respect to any taxable year,
5 the amount by which the amount determined
6 under paragraph (1)(B) exceeds the amount de-
7 termined under paragraph (1)(A).

8 “(B) ORDERING RULE FOR LOSSES CAR-
9 RIED FROM PRIOR TAXABLE YEARS.—In the
10 case of any qualified losses carried to a taxable
11 year from 1 or more prior taxable years, such
12 losses shall be taken into account—

13 “(i) first under paragraph (2), and

14 “(ii) then under subsection (b)(2)(B)
15 to the extent such losses exceed the
16 amount determined under paragraph (1).

17 “(d) INCLUSION PERCENTAGE.—For purposes of this
18 section—

19 “(1) IN GENERAL.—The term ‘inclusion per-
20 centage’ means 20 percent increased by the number
21 of percentage points (if any) determined under para-
22 graph (2).

23 “(2) ADDITIONAL INCLUSION FOR EARNINGS
24 NOT SUBJECT TO OECD AVERAGE FOREIGN TAX.—
25 The number of percentage points determined under

1 this paragraph with respect to any controlled foreign
2 corporation for any taxable year, is the number of
3 percentage points (not less than zero nor more than
4 15) which bears the same ratio to 15 as—

5 “(A) the number of percentage points by
6 which 25 percent exceeds the aggregate foreign
7 rate of tax imposed on the modified active in-
8 come of such controlled foreign corporation for
9 such taxable year, bears to

10 “(B) 25.

11 “(e) EXCLUSION OF UNITED STATES INCOME.—For
12 purposes of this subpart, any item of income of the con-
13 trolled foreign corporation which is effectively connected
14 with the conduct by such corporation of a trade or busi-
15 ness within the United States shall not be taken into ac-
16 count in computing the subpart F income of such corpora-
17 tion unless such item is exempt from taxation (or is sub-
18 ject to a reduced rate of tax) pursuant to a treaty obliga-
19 tion of the United States. For purposes of this subsection,
20 any exemption (or reductions) with respect to the tax im-
21 posed by section 884 shall not be taken into account.

22 “(f) DEDUCTIONS.—For purposes of subsections
23 (b)(1)(B) and (c)(1)(B), the active foreign market income,
24 and gross income other than active foreign market income,
25 of a controlled foreign corporation shall each be reduced,

1 under regulations prescribed by the Secretary, by any de-
2 ductions (including taxes) of such corporation properly al-
3 locable to items of income taken into account in computing
4 such income.

5 **“SEC. 953. ACTIVE FOREIGN MARKET INCOME.**

6 “(a) ACTIVE FOREIGN MARKET INCOME DEFINED.—

7 For purposes of this subpart, the term ‘active foreign mar-
8 ket income’ means, with respect to any controlled foreign
9 corporation, the aggregate of all items of income which
10 are—

11 “(1) attributable to economically significant ac-
12 tivities with respect to a qualified trade or business,
13 and

14 “(2) derived in connection with—

15 “(A) property which is sold, exchanged, or
16 otherwise disposed of for use, consumption, or
17 disposition outside of the United States, or

18 “(B) services which are provided outside of
19 the United States with respect to persons or
20 property located outside of the United States.

21 “(b) TREATMENT OF PASSIVE INCOME.—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the term ‘active foreign
24 market income’ shall not include the passive income

1 (as defined in section 954) of a controlled foreign
2 corporation.

3 “(2) ACTIVE FOREIGN MARKET INCOME IN-
4 CLUDES CERTAIN INCOME.—The term ‘active foreign
5 market income’ shall include—

6 “(A) if the controlled foreign corporation
7 or a qualified business unit of the corporation
8 is an eligible controlled foreign corporation (as
9 defined in section 954(c)), any item of income
10 of the corporation or unit which is qualified
11 banking or financing income (as so defined),

12 “(B) if the controlled foreign corporation
13 or a qualified business unit of the corporation
14 is a qualifying insurance company (as defined
15 in section 954(d)) or a qualifying insurance
16 company branch (as so defined), any item of in-
17 come of the corporation or unit which is quali-
18 fied insurance income (as so defined),

19 “(C) any item of income which is rents or
20 royalties derived from the ownership and oper-
21 ation (including leasing) of real or personal
22 property which is not treated as passive income
23 under section 954(a)(2)(A), and

24 “(D) in the case of a regular dealer in
25 property which is property described in section

1 954(a)(1)(B), forward contracts, option con-
2 tracts, or similar financial instruments (includ-
3 ing notional principal contracts and all instru-
4 ments referenced to commodities), any item of
5 income from any transaction (including hedging
6 transactions and transactions involving physical
7 settlement) entered into in the ordinary course
8 of such dealer's trade or business as such a
9 dealer.

10 “(3) GAIN OR LOSS FROM SALES OF STOCK IN
11 OTHER CFCS.—If a controlled foreign corporation
12 sells, exchanges, or otherwise disposes of stock in
13 another controlled foreign corporation which is a re-
14 lated person to the selling corporation—

15 “(A) gain from such sale, exchange, or dis-
16 position shall be treated as active foreign mar-
17 ket income to the extent that such gain would
18 have been excluded from gross income under
19 section 1203 if the selling corporation were a
20 United States shareholder in the other con-
21 trolled foreign corporation, and

22 “(B) loss from such sale, exchange, or dis-
23 position shall not be allowed to the extent such
24 loss would have been disallowed under section
25 1213 if the selling corporation were a United

1 States shareholder in the other controlled for-
2 eign corporation.

3 “(4) GAIN OR LOSS FROM SALES OF INTERESTS
4 IN 25-PERCENT OWNED PARTNERSHIPS.—

5 “(A) IN GENERAL.—

6 “(i) PORTION TREATED AS ACTIVE
7 FOREIGN MARKET INCOME.—In the case of
8 any sale or exchange by a controlled for-
9 eign corporation of an interest in a part-
10 nership with respect to which such cor-
11 poration is a 25-percent owner, gain or
12 loss on such sale shall be taken into ac-
13 count in determining active foreign market
14 income in the amount which bears the
15 same ratio to the amount of such gain or
16 loss as the controlled foreign corporation’s
17 distributable share of the active foreign
18 market income from the partnership over
19 the applicable period bears to the con-
20 trolled foreign corporation’s distributable
21 share of gross income from the partnership
22 over such period. The Secretary shall pre-
23 scribe such regulations as may be appro-
24 priate to prevent abuse of the purposes of
25 this paragraph, including regulations pro-

1 viding for coordination of this paragraph
2 with the provisions of subchapter K.

3 “(ii) APPLICABLE PERIOD.—For pur-
4 poses of this subparagraph, the term ‘ap-
5 plicable period’ means, with respect to any
6 interest in a partnership, the shorter of the
7 3-taxable year period immediately pre-
8 ceding the taxable year of the sale or ex-
9 change or the controlled foreign corpora-
10 tion’s holding period in the interest. In no
11 event shall the applicable period include
12 any portion of any taxable year beginning
13 before the applicable date (as defined in
14 section 96200 of the Infrastructure 2.0
15 Act).

16 “(B) 25-PERCENT OWNER.—For purposes
17 of this paragraph, the term ‘25-percent owner’
18 means a controlled foreign corporation which
19 owns directly 25 percent or more of the capital
20 or profits interest in a partnership. For pur-
21 poses of the preceding sentence, if a controlled
22 foreign corporation is a shareholder or partner
23 of a corporation or a partnership, the controlled
24 foreign corporation shall be treated as owning
25 directly its proportionate share of any capital or

1 profits interest in any partnership held directly
2 or indirectly by such corporation or partnership.
3 If a controlled foreign corporation is treated as
4 owning a capital or profits interest in a part-
5 nership under constructive ownership rules
6 similar to the rules of section 958(b), the con-
7 trolled foreign corporation shall be treated as
8 owning such interest directly for purposes of
9 this subparagraph.

10 “(c) TREATMENT OF INSURANCE INCOME.—

11 “(1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the term ‘active foreign
13 market income’ shall not include the insurance in-
14 come (as defined in section 955(a)) of a controlled
15 foreign corporation.

16 “(2) ACTIVE FOREIGN MARKET INCOME IN-
17 CLUDES EXEMPT INSURANCE INCOME.—The term
18 ‘active foreign market income’ shall include exempt
19 insurance income (as defined in section 955(c)) shall
20 be treated as active foreign market income.

21 “(d) TREATMENT OF INCOME FROM PROPERTY
22 USED, CONSUMED, OR DISPOSED OF IN THE UNITED
23 STATES.—For purposes of subsection (a)(2)(A)—

24 “(1) IN GENERAL.—The term ‘active foreign
25 market income’ shall not include income derived in

1 connection with property which is sold, exchanged,
2 or otherwise disposed of to any person if it was rea-
3 sonable for the controlled foreign corporation (or a
4 related person) to expect that—

5 “(A) such property would be used, con-
6 sumed, or disposed of in the United States, or

7 “(B) such property would be used in the
8 manufacture or production of, or as a compo-
9 nent part in, other property which would be
10 used, consumed, or disposed of in the United
11 States.

12 “(2) CHAIN OF RELATED PERSONS.—If—

13 “(A) property is ultimately used, con-
14 sumed, or disposed of as described in subpara-
15 graph (A) or (B) of paragraph (1), and

16 “(B) all sales, exchanges, or dispositions of
17 such property (or of the other property de-
18 scribed in paragraph (1)(B)) before the sale for
19 use, consumption, or disposition in the United
20 States are between related persons,

21 then, for purposes of paragraph (1), there shall be
22 deemed to have been a reasonable expectation that
23 the property (or the other property described in
24 paragraph (1)(B)) would be used, consumed, or dis-
25 posed of in the United States.

1 “(3) EXCEPTION FOR PROPERTY SUBSE-
2 QUENTLY EXPORTED.—Paragraphs (1) and (2) shall
3 not apply with respect to property which, after entry
4 into the United States is—

5 “(A) sold, leased, rented, or licensed by the
6 controlled foreign corporation or a related per-
7 son for direct use, consumption, or disposition
8 outside the United States, or

9 “(B) used by the controlled foreign cor-
10 poration or a related person as a component in
11 other property which is so sold, leased, rented,
12 or licensed.

13 “(4) RELATED PERSON DEFINED.—For pur-
14 poses of this subsection, the term ‘related person’
15 has the meaning given such term under section
16 954(b).

17 “(e) ECONOMICALLY SIGNIFICANT ACTIVITIES.—For
18 purposes of this section, the term ‘economically significant
19 activities’ means, with respect to any item of income, ac-
20 tivities—

21 “(1) performed outside the United States,

22 “(2) performed by officers or employees of the
23 controlled foreign corporation which are part of the
24 management and operational functions of the cor-
25 poration, and

1 “(3) which make a substantial contribution to
2 the production of such item of income.

3 “(f) QUALIFIED TRADE OR BUSINESS.—For pur-
4 poses of this section—

5 “(1) IN GENERAL.—The term ‘qualified trade
6 or business’ means any trade or business which con-
7 sists of—

8 “(A) manufacturing, producing, growing,
9 or extracting property outside of the United
10 States, or

11 “(B) providing services outside of the
12 United States.

13 “(2) SPECIAL RULE FOR SUBSTANTIAL CON-
14 TRIBUTIONS TO MANUFACTURING AND SERVICES.—
15 If a trade or business consists of making a substan-
16 tial contribution through the activities of the officers
17 and employees of the controlled foreign corporation
18 to a qualified trade or business which is described in
19 subparagraph (A) or (B) of paragraph (1) of an-
20 other person, then the trade or business shall be
21 treated as a qualified trade or business described in
22 subparagraph (A) or (B) of paragraph (1), which-
23 ever is applicable.

24 **“SEC. 954. DEFINITION OF PASSIVE INCOME.**

25 “(a) PASSIVE INCOME.—

1 “(1) IN GENERAL.—For purposes of this part,
2 the term ‘passive income’ means the portion of the
3 gross income which consists of:

4 “(A) DIVIDENDS, ETC.—Dividends, inter-
5 est, royalties, rents, and annuities.

6 “(B) CERTAIN PROPERTY TRANS-
7 ACTIONS.—The excess of gains over losses from
8 the sale or exchange of property—

9 “(i) which gives rise to income de-
10 scribed in subparagraph (A) (after applica-
11 tion of paragraph (2)(A)) other than prop-
12 erty which gives rise to income not treated
13 as passive income by reason of subsection
14 (c) or (d) for the taxable year,

15 “(ii) which is an interest in a trust,
16 partnership, or REMIC, or

17 “(iii) which does not give rise to any
18 income.

19 Gains and losses from the sale or exchange of
20 any property which, in the hands of the con-
21 trolled foreign corporation, is property de-
22 scribed in section 1221(a)(1) shall not be taken
23 into account under this subparagraph.

24 “(C) COMMODITIES TRANSACTIONS.—The
25 excess of gains over losses from transactions

1 (including futures, forward, and similar trans-
2 actions) in any commodities. This subparagraph
3 shall not apply to gains or losses which—

4 “(i) arise out of commodity hedging
5 transactions (as defined in paragraph
6 (5)(A)),

7 “(ii) are active business gains or
8 losses from the sale of commodities, but
9 only if substantially all of the controlled
10 foreign corporation’s commodities are
11 property described in paragraph (1), (2),
12 or (8) of section 1221(a), or

13 “(iii) are foreign currency gains or
14 losses (as defined in section 988(b)) attrib-
15 utable to any section 988 transactions.

16 “(D) FOREIGN CURRENCY GAINS.—The ex-
17 cess of foreign currency gains over foreign cur-
18 rency losses (as defined in section 988(b)) at-
19 tributable to any section 988 transactions. This
20 subparagraph shall not apply in the case of any
21 transaction, other than a borrowing, directly re-
22 lated to the business needs of the controlled for-
23 eign corporation.

24 “(E) INCOME EQUIVALENT TO INTER-
25 EST.—Any income equivalent to interest, in-

1 including income from commitment fees (or simi-
2 lar amounts) for loans actually made.

3 “(F) INCOME FROM NOTIONAL PRINCIPAL
4 CONTRACTS.—

5 “(i) IN GENERAL.—Net income from
6 notional principal contracts.

7 “(ii) COORDINATION WITH OTHER
8 CATEGORIES OF PASSIVE INCOME.—Any
9 item of income, gain, deduction, or loss
10 from a notional principal contract entered
11 into for purposes of hedging any item de-
12 scribed in any preceding subparagraph
13 shall not be taken into account for pur-
14 poses of this subparagraph but shall be
15 taken into account under such other sub-
16 paragraph.

17 “(G) PAYMENTS IN LIEU OF DIVIDENDS.—
18 Payments in lieu of dividends which are made
19 pursuant to an agreement to which section
20 1058 applies.

21 “(H) PERSONAL SERVICE CONTRACTS.—

22 “(i) Amounts received under a con-
23 tract under which the corporation is to fur-
24 nish personal services if—

1 “(I) some person other than the
2 corporation has the right to designate
3 (by name or by description) the indi-
4 vidual who is to perform the services,
5 or

6 “(II) the individual who is to per-
7 form the services is designated (by
8 name or by description) in the con-
9 tract, and

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

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

21 “(2) EXCEPTION FOR CERTAIN AMOUNTS.—

22 “(A) RENTS AND ROYALTIES DERIVED IN
23 ACTIVE BUSINESS.—Passive income shall not
24 include rents and royalties which are derived in
25 the active conduct of a trade or business and

1 which are received from a person other than a
2 related person. For purposes of the preceding
3 sentence, rents derived from leasing an aircraft
4 or vessel in foreign commerce shall not fail to
5 be treated as derived in the active conduct of a
6 trade or business if, as determined under regu-
7 lations prescribed by the Secretary, the active
8 leasing expenses are not less than 10 percent of
9 the profit on the lease.

10 “(B) EXCEPTION FOR DEALERS.—Except
11 as provided by regulations, in the case of a reg-
12 ular dealer in property which is property de-
13 scribed in paragraph (1)(B), forward contracts,
14 option contracts, or similar financial instru-
15 ments (including notional principal contracts
16 and all instruments referenced to commodities),
17 there shall not be taken into account in com-
18 puting passive income any item of income, gain,
19 deduction, or loss from any transaction (includ-
20 ing hedging transactions and transactions in-
21 volving physical settlement) entered into in the
22 ordinary course of such dealer’s trade or busi-
23 ness as such a dealer.

24 “(3) LOOK-THRU RULE FOR CERTAIN PARTNER-
25 SHIP SALES.—

1 “(A) IN GENERAL.—In the case of any
2 sale or exchange by a controlled foreign cor-
3 poration of an interest in a partnership with re-
4 spect to which such corporation is a 25-percent
5 owner, gain or loss on such sale shall be treated
6 as being described in paragraph (1)(B)(ii) in
7 the amount which bears the same ratio to the
8 amount of such gain or loss as the controlled
9 foreign corporation’s distributable share of pas-
10 sive income from the partnership over the appli-
11 cable period (as defined in section
12 953(b)(4)(A)(ii)) bears to the controlled foreign
13 corporation’s distributable share of gross in-
14 come from the partnership over such period.
15 The Secretary shall prescribe such regulations
16 as may be appropriate to prevent abuse of the
17 purposes of this paragraph, including regula-
18 tions providing for the coordination of this
19 paragraph with the provisions of subchapter K.

20 “(B) 25-PERCENT OWNER.—For purposes
21 of this paragraph, the term ‘25-percent owner’
22 has the meaning given such term under section
23 953(b)(4)(B).

24 “(4) DEFINITION AND SPECIAL RULES RELAT-
25 ING TO COMMODITY TRANSACTIONS.—

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

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

8 “(I) without regard to subpara-
9 graph (A)(ii) thereof,

10 “(II) by applying subparagraph
11 (A)(i) thereof by substituting ‘ordi-
12 nary property or property described in
13 section 1231(b)’ for ‘ordinary prop-
14 erty’, and

15 “(III) by substituting ‘controlled
16 foreign corporation’ for ‘taxpayer’
17 each place it appears, and

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

20 “(B) TREATMENT OF DEALER ACTIVITIES
21 UNDER PARAGRAPH (1)(C).—Commodities with
22 respect to which gains and losses are not taken
23 into account under paragraph (2)(B) in com-
24 puting a controlled foreign corporation’s passive
25 income shall not be taken into account in apply-

1 ing the substantially all test under paragraph
2 (1)(C)(ii) to such corporation.

3 “(C) 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 per-
7 sons.

8 “(b) RELATED PERSON DEFINED.—For purposes of
9 this section, a person is a related person with respect to
10 a controlled foreign corporation, if—

11 “(1) such person is an individual, corporation,
12 partnership, trust, or estate which controls, or is
13 controlled by, the controlled foreign corporation, or

14 “(2) such person is a corporation, partnership,
15 trust, or estate which is controlled by the same per-
16 son or persons which control the controlled foreign
17 corporation.

18 For purposes of the preceding sentence, control means,
19 with respect to a corporation, the ownership, directly or
20 indirectly, of stock possessing more than 50 percent of the
21 total voting power of all classes of stock entitled to vote
22 or of the total value of stock of such corporation. In the
23 case of a partnership, trust, or estate, control means the
24 ownership, directly or indirectly, of more than 50 percent
25 (by value) of the beneficial interests in such partnership,

1 trust, or estate. For purposes of this subsection, rules
2 similar to the rules of section 958 shall apply.

3 “(c) SPECIAL RULE FOR INCOME DERIVED IN THE
4 ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR
5 BUSINESSES.—

6 “(1) IN GENERAL.—For purposes of subsection
7 (a)(1), passive income shall not include qualified
8 banking or financing income of an eligible controlled
9 foreign corporation.

10 “(2) ELIGIBLE CONTROLLED FOREIGN COR-
11 PORATION.—For purposes of this subsection, the
12 term ‘eligible controlled foreign corporation’ means
13 any controlled foreign corporation if—

14 “(A) more than 80 percent of the gross in-
15 come of the controlled foreign corporation is de-
16 rived directly from the active and regular con-
17 duct of a lending, finance, or financial services
18 business from transactions with customers
19 which are located outside the United States and
20 are not related persons, or

21 “(B) it is a regulated financial institution.

22 “(3) QUALIFIED BANKING OR FINANCING IN-
23 COME.—For purposes of this subsection—

24 “(A) IN GENERAL.—The term ‘qualified
25 banking or financing income’ means income of

1 an eligible controlled foreign corporation
2 which—

3 “(i) is derived in the active conduct of
4 a banking, financing, or similar business
5 by such eligible controlled foreign corpora-
6 tion,

7 “(ii) is derived from one or more
8 transactions—

9 “(I) with customers located in a
10 country other than the United States,
11 and

12 “(II) substantially all of the ac-
13 tivities in connection with which are
14 conducted directly by the corporation
15 in its home country, and

16 “(iii) is treated as earned by such cor-
17 poration in its home country for purposes
18 of such country’s tax laws.

19 “(B) INCOME DERIVED FROM CUSTOMERS
20 TO INCLUDE CERTAIN INVESTMENT INCOME.—
21 For purposes of subparagraph (A), in the case
22 of a regulated financial institution, income de-
23 rived from customers includes income derived
24 from—

1 “(i) reserves that are required to be
2 held pursuant to banking regulations,

3 “(ii) deposits placed with the central
4 bank (or equivalent thereof) in the cor-
5 poration’s home country, and

6 “(iii) investments in debt instruments
7 issued by the home country.

8 “(C) SUBSTANTIAL ACTIVITY REQUIRE-
9 MENT FOR CROSS BORDER INCOME.—The term
10 ‘qualified banking or financing income’ shall
11 not include income derived from 1 or more
12 transactions with customers located in a coun-
13 try other than the home country of the eligible
14 controlled foreign corporation unless such cor-
15 poration conducts substantial activity with re-
16 spect to a banking, financing, or similar busi-
17 ness in its home country.

18 “(D) DIRECT CONDUCT OF ACTIVITIES.—
19 For purposes of subparagraph (A)(ii)(II), an
20 activity shall be treated as conducted directly by
21 an eligible controlled foreign corporation in its
22 home country if the activity is performed by
23 employees of a related person and—

24 “(i) the related person is a resident
25 subject to tax under the laws of the home

1 country of the corporation to which sub-
2 paragraph (A)(ii)(II) is being applied,

3 “(ii) the activity is performed in such
4 home country, and

5 “(iii) the related person is com-
6 pensated on an arm’s-length basis for the
7 performance of the activity by its employ-
8 ees and such compensation is treated as
9 earned by such person in such home coun-
10 try for purposes of the home country’s tax
11 laws.

12 “(4) LENDING, FINANCE, OR FINANCIAL SERV-
13 ICES BUSINESS.—For purposes of this subsection,
14 except as provided in regulations, the term ‘lending,
15 finance, or financial services business’ means the
16 business of—

17 “(A) making loans,

18 “(B) purchasing, selling, discounting, or
19 negotiating on a regular basis accounts receiv-
20 able, notes, or installment obligations,

21 “(C) engaging in leasing (including enter-
22 ing into leases and purchasing, servicing, and
23 disposing of leases and leased assets),

24 “(D) issuing letters of credit or providing
25 guarantees,

1 “(E) providing charge and credit card
2 services,

3 “(F) performing trust services, including
4 as a fiduciary, agent, or custodian, other than
5 trust services provided by a broker or dealer in
6 stock, securities, or other financial instruments,

7 “(G) arranging interest rate or currency
8 futures, forwards, options, or notional principal
9 contracts for, or entering into such transactions
10 with, customers,

11 “(H) providing traveler’s check and money
12 order services for customers,

13 “(I) providing correspondent bank services
14 for customers,

15 “(J) engaging in hedging activities directly
16 related to an activity described in any other
17 subparagraph of this paragraph,

18 “(K) underwriting issues of stock, debt, or
19 other securities for customers,

20 “(L) providing financial, investment advi-
21 sory, or investment management services,

22 “(M) purchasing or selling stock, debt in-
23 struments, interest rate or currency futures, or
24 other securities or derivative financial products
25 (including notional principal contracts) from or

1 to customers and holding such stock, debt in-
2 struments, futures, or other securities or prod-
3 ucts as inventory for sale to customers, unless
4 such stock, debt instruments, futures, or other
5 securities or products are not held in a dealer
6 capacity,

7 “(N) effecting transactions in securities for
8 customers as a securities broker, or

9 “(O) rendering services or making facilities
10 available in connection with activities described
11 in subparagraphs (A) through (N) carried on
12 by—

13 “(i) the corporation rendering services
14 or making facilities available, or

15 “(ii) another corporation which is a
16 member of the same affiliated group (as
17 defined in section 1504, but determined
18 without regard to section 1504(b)(3)).

19 “(5) OTHER DEFINITIONS.—For purposes of
20 this subsection—

21 “(A) CUSTOMER.—The term ‘customer’
22 means, with respect to any controlled foreign
23 corporation, any person which has a customer
24 relationship with such corporation and which is
25 acting in its capacity as such.

1 “(B) HOME COUNTRY.—Except as pro-
2 vided in regulations, the term ‘home country’
3 means, with respect to any entity, the country
4 with respect to which the entity is a resident for
5 purposes of the country’s income tax laws.

6 “(C) LOCATED.—Except as provided in
7 regulations, for purposes of paragraph (3)(A)—

8 “(i) if a customer is a natural person,
9 the customer is considered to be located in
10 the country in which the customer is phys-
11 ically located when entering into the trans-
12 action, and

13 “(ii) if a customer is not a natural
14 person, the customer is considered to be lo-
15 cated in the country from which the cus-
16 tomer enters into the transaction.

17 “(D) QUALIFIED BUSINESS UNIT.—The
18 term ‘qualified business unit’ has the meaning
19 given such term by section 989(a).

20 “(E) REGULATED FINANCIAL INSTITU-
21 TION.—Except as provided in regulations, the
22 term ‘regulated financial institution’ means a
23 controlled foreign corporation which—

24 “(i) is engaged in the active conduct
25 of a banking business and is an institution

1 licensed to do business as a bank in the
2 United States (or is any other corporation
3 not so licensed which is specified by the
4 Secretary in regulations), or

5 “(ii) satisfies each of the following
6 conditions:

7 “(I) The corporation is directly
8 or indirectly wholly owned by a do-
9 mestic corporation that is a bank (as
10 defined in section 581) or a depository
11 institution holding company (as de-
12 fined in section 3(w)(1) of the Federal
13 Deposit Insurance Act (12 U.S.C.
14 1813(w)(1))).

15 “(II) The corporation is subject
16 to bank regulatory supervision in a ju-
17 risdiction the central bank of which
18 (or equivalent thereof) is a member of
19 the Basel Committee on Banking Su-
20 pervision.

21 “(III) The corporation is licensed
22 and regulated in such jurisdiction as a
23 bank.

24 “(6) SEPARATE APPLICATION TO QUALIFIED
25 BUSINESS UNITS.—

1 “(A) IN GENERAL.—If a controlled foreign
2 corporation has 1 or more qualified business
3 units—

4 “(i) this subsection shall be applied
5 separately to each such unit in the same
6 manner as if it were a controlled foreign
7 corporation, and

8 “(ii) if any such unit is treated as an
9 eligible controlled foreign corporation after
10 application of clause (i), the qualified
11 banking or financing income of such unit
12 shall be treated as qualified banking or fi-
13 nancing income of the controlled foreign
14 corporation of which such unit is a part.

15 “(B) DETERMINATIONS MADE SEPA-
16 RATELY.—For purposes of the separate applica-
17 tion of this subsection to a controlled foreign
18 corporation and its qualified business units—

19 “(i) in the case of the controlled for-
20 eign corporation, only activities and items
21 of income, deduction, gain, or loss and ac-
22 tivities of such corporation not properly al-
23 locable or attributable to any qualified
24 business unit of such corporation shall be
25 taken into account, and

1 “(ii) in the case of a qualified busi-
2 ness unit, only activities and items of in-
3 come, deduction, gain, or loss and activities
4 properly allocable or attributable to such
5 unit shall be taken into account.

6 “(C) HOME COUNTRY.—For purposes of
7 this subsection, except as provided in regula-
8 tions, notwithstanding paragraph (5)(B), the
9 home country with respect to any qualified
10 business unit treated as a controlled foreign
11 corporation under subparagraph (A) shall be
12 the country in which such unit maintains its
13 principal office.

14 “(7) ANTI-ABUSE RULES.—For purposes of ap-
15 plying this subsection—

16 “(A) there shall be disregarded any item of
17 income, gain, loss, or deduction with respect to
18 any transaction or series of transactions one of
19 the principal purposes of which is qualifying in-
20 come or gain for the exclusion under this sec-
21 tion, including any transaction or series of
22 transactions a principal purpose of which is the
23 acceleration or deferral of any item in order to
24 claim the benefits of such exclusion through the
25 application of this subsection,

1 “(B) there shall be disregarded any item of
2 income, gain, loss, or deduction of an entity
3 which is not engaged in regular and continuous
4 transactions with customers which are not re-
5 lated persons,

6 “(C) there shall be disregarded any item of
7 income, gain, loss, or deduction with respect to
8 any transaction or series of transactions uti-
9 lizing, or doing business with—

10 “(i) one or more entities in order to
11 satisfy any home country requirement
12 under this subsection, or

13 “(ii) a special purpose entity or ar-
14 rangement, including a securitization, fi-
15 nancing, or similar entity or arrangement,
16 if one of the principal purposes of such trans-
17 action or series of transactions is qualifying in-
18 come or gain for the exclusion under this sub-
19 section, and

20 “(D) a related person, an officer, a direc-
21 tor, or an employee with respect to any con-
22 trolled foreign corporation which would other-
23 wise be treated as a customer of such corpora-
24 tion with respect to any transaction shall not be
25 so treated if a principal purpose of such trans-

1 action is to satisfy any requirement of this sub-
2 section.

3 “(8) REGULATIONS.—The Secretary shall pre-
4 scribe such regulations as may be necessary or ap-
5 propriate to carry out the purposes of this sub-
6 section and subsection (a)(1)(B)(i).

7 “(d) SPECIAL RULE FOR INCOME DERIVED IN THE
8 ACTIVE CONDUCT OF INSURANCE BUSINESS.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)(1), passive income shall not include qualified in-
11 surance income of a qualifying insurance company.

12 “(2) QUALIFIED INSURANCE INCOME.—For
13 purposes of this subsection, the term ‘qualified in-
14 surance income’ means income of a qualifying insur-
15 ance company which is—

16 “(A) received from a person other than a
17 related person and derived from the invest-
18 ments made by a qualifying insurance company
19 or a qualifying insurance company branch of its
20 reserves allocable to exempt contracts or of 80
21 percent of its unearned premiums from exempt
22 contracts (as both are determined in the man-
23 ner prescribed under paragraph (4)), or

24 “(B) received from a person other than a
25 related person and derived from investments

1 made by a qualifying insurance company or a
2 qualifying insurance company branch of an
3 amount of its assets allocable to exempt con-
4 tracts equal to—

5 “(i) in the case of property, casualty,
6 or health insurance contracts, one-third of
7 its premiums earned on such insurance
8 contracts during the taxable year (as de-
9 fined in section 832(b)(4)), and

10 “(ii) in the case of life insurance or
11 annuity contracts, 10 percent of the re-
12 serves described in subparagraph (A) for
13 such contracts.

14 “(3) PRINCIPLES FOR DETERMINING QUALI-
15 FIED INSURANCE INCOME.—Except as provided by
16 the Secretary, for purposes of subparagraphs (A)
17 and (B) of paragraph (2)—

18 “(A) in the case of any contract which is
19 a separate account-type contract (including any
20 variable contract not meeting the requirements
21 of section 817), income credited under such
22 contract shall be allocable only to such contract,
23 and

1 “(B) income not allocable under subpara-
2 graph (A) shall be allocated ratably among con-
3 tracts not described in subparagraph (A).

4 “(4) METHODS FOR DETERMINING UNEARNED
5 PREMIUMS AND RESERVES.—For purposes of para-
6 graph (2)(A)—

7 “(A) PROPERTY AND CASUALTY CON-
8 TRACTS.—The unearned premiums and reserves
9 of a qualifying insurance company or a quali-
10 fying insurance company branch with respect to
11 property, casualty, or health insurance con-
12 tracts shall be determined using the same meth-
13 ods and interest rates which would be used if
14 such company or branch were subject to tax
15 under subchapter L, except that—

16 “(i) the interest rate determined for
17 the functional currency of the company or
18 branch, and which, except as provided by
19 the Secretary, is calculated in the same
20 manner as the Federal mid-term rate
21 under section 1274(d), shall be substituted
22 for the applicable Federal interest rate,
23 and

1 “(ii) such company or branch shall
2 use the appropriate foreign loss payment
3 pattern.

4 “(B) LIFE INSURANCE AND ANNUITY CON-
5 TRACTS.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), the amount of the re-
8 serve of a qualifying insurance company or
9 qualifying insurance company branch for
10 any life insurance or annuity contract shall
11 be equal to the greater of—

12 “(I) the net surrender value of
13 such contract (as defined in section
14 807(e)(1)(A)), or

15 “(II) the reserve determined
16 under paragraph (5).

17 “(ii) RULING REQUEST, ETC.—The
18 amount of the reserve under clause (i)
19 shall be the foreign statement reserve for
20 the contract (less any catastrophe, defi-
21 ciency, equalization, or similar reserves), if,
22 pursuant to a ruling request submitted by
23 the taxpayer or as provided in published
24 guidance, the Secretary determines that
25 the factors taken into account in deter-

1 mining the foreign statement reserve pro-
2 vide an appropriate means of measuring
3 income.

4 “(C) LIMITATION ON RESERVES.—In no
5 event shall the reserve determined under this
6 paragraph for any contract as of any time ex-
7 ceed the amount which would be taken into ac-
8 count with respect to such contract as of such
9 time in determining foreign statement reserves
10 (less any catastrophe, deficiency, equalization,
11 or similar reserves).

12 “(5) AMOUNT OF RESERVE.—The amount of
13 the reserve determined under this paragraph with
14 respect to any contract shall be determined in the
15 same manner as it would be determined if the quali-
16 fying insurance company or qualifying insurance
17 company branch were subject to tax under sub-
18 chapter L, except that in applying such sub-
19 chapter—

20 “(A) the interest rate determined for the
21 functional currency of the company or branch,
22 and which, except as provided by the Secretary,
23 is calculated in the same manner as the Federal
24 mid-term rate under section 1274(d), shall be

1 substituted for the applicable Federal interest
2 rate,

3 “(B) the highest assumed interest rate
4 permitted to be used in determining foreign
5 statement reserves shall be substituted for the
6 prevailing State assumed interest rate, and

7 “(C) tables for mortality and morbidity
8 which reasonably reflect the current mortality
9 and morbidity risks in the company’s or
10 branch’s home country shall be substituted for
11 the mortality and morbidity tables otherwise
12 used for such subchapter.

13 The Secretary may provide that the interest rate
14 and mortality and morbidity tables of a qualifying
15 insurance company may be used for 1 or more of its
16 qualifying insurance company branches when appro-
17 priate.

18 “(6) DEFINITIONS.—For purposes of this sec-
19 tion, any term used in this subsection which is also
20 used in section 955(c) shall have the meaning given
21 such term under section 955(c).

22 **“SEC. 955. DEFINITION OF INSURANCE INCOME.**

23 “(a) INSURANCE INCOME.—

1 “(1) IN GENERAL.—For purposes of section
2 953(c), the term ‘insurance income’ means the gross
3 income which—

4 “(A) is attributable to the issuing (or rein-
5 suring) of an insurance or annuity contract,
6 and

7 “(B) is of a kind that would be subject to
8 tax under subchapter L of this chapter if such
9 income were the income of a domestic insurance
10 company.

11 “(2) EXCEPTION.—Such term shall not include
12 any exempt insurance income (as defined in sub-
13 section (c)).

14 “(b) SPECIAL RULES FOR DETERMINATION OF
15 GROSS INCOME AND ALLOCABLE DEDUCTIONS.—For
16 purposes of determining gross income under subsection (a)
17 and deductions allocable to insurance income under sec-
18 tion 952(e), the following rules shall apply:

19 “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—
20 The following provisions of subchapter L shall not
21 apply:

22 “(A) The small life insurance company de-
23 duction.

24 “(B) Section 805(a)(5) (relating to oper-
25 ations loss deduction).

1 “(C) Section 832(c)(5) (relating to certain
2 capital losses).

3 “(2) SPECIAL RULES FOR AMOUNTS INCLUDED
4 IN INCOME.—The items referred to in—

5 “(A) section 803(a)(1) (relating to gross
6 amount of premiums and other considerations),

7 “(B) section 803(a)(2) (relating to net de-
8 crease in reserves),

9 “(C) section 805(a)(2) (relating to net in-
10 crease in reserves), and

11 “(D) section 832(b)(4) (relating to pre-
12 miums earned on insurance contracts),

13 shall be taken into account only to the extent they
14 are in respect of any reinsurance or the issuing of
15 any insurance or annuity contract described in sub-
16 section (a)(1).

17 “(3) TREATMENT OF RESERVES.—Reserves for
18 any insurance or annuity contract shall be deter-
19 mined in the same manner as under section 954(d).

20 “(c) EXEMPT INSURANCE INCOME.—For purposes of
21 this section—

22 “(1) EXEMPT INSURANCE INCOME DEFINED.—

23 “(A) IN GENERAL.—The term ‘exempt in-
24 surance income’ means income derived by a
25 qualifying insurance company which—

1 “(i) is attributable to the issuing (or
2 reinsuring) of an exempt contract by such
3 company or a qualifying insurance com-
4 pany branch of such company, and

5 “(ii) is treated as earned by such com-
6 pany or branch in its home country for
7 purposes of such country’s tax laws.

8 “(B) EXCEPTION FOR CERTAIN ARRANGE-
9 MENTS.—Such term shall not include income
10 attributable to the issuing (or reinsuring) of an
11 exempt contract as the result of any arrange-
12 ment whereby another corporation receives a
13 substantially equal amount of premiums or
14 other consideration in respect of issuing (or re-
15 insuring) a contract which is not an exempt
16 contract.

17 “(C) DETERMINATIONS MADE SEPA-
18 RATELY.—For purposes of this subsection and
19 section 954(d), the exempt insurance income
20 and exempt contracts of a qualifying insurance
21 company or any qualifying insurance company
22 branch of such company shall be determined
23 separately for such company and each such
24 branch by taking into account—

1 “(i) in the case of the qualifying in-
2 surance company, only items of income, de-
3 duction, gain, or loss, and activities of such
4 company not properly allocable or attrib-
5 utable to any qualifying insurance com-
6 pany branch of such company, and

7 “(ii) in the case of a qualifying insur-
8 ance company branch, only items of in-
9 come, deduction, gain, or loss and activities
10 properly allocable or attributable to such
11 branch.

12 “(2) EXEMPT CONTRACT.—

13 “(A) IN GENERAL.—The term ‘exempt
14 contract’ means an insurance or annuity con-
15 tract issued or reinsured by a qualifying insur-
16 ance company or qualifying insurance company
17 branch in connection with property in, liability
18 arising out of activity in, or the lives or health
19 of residents of, a country other than the United
20 States.

21 “(B) MINIMUM NON-RELATED INCOME RE-
22 QUIRED.—No contract of a qualifying insurance
23 company or of a qualifying insurance company
24 branch shall be treated as an exempt contract
25 unless such company or branch derives more

1 than 30 percent of its net written premiums
2 from exempt contracts (determined without re-
3 gard to this subparagraph) with respect to
4 which no policyholder, insured, annuitant, or
5 beneficiary is a related person (as defined in
6 section 954(b)).

7 “(C) SUBSTANTIAL ACTIVITY REQUIRE-
8 MENTS.—A contract issued by a qualifying in-
9 surance company or qualifying insurance com-
10 pany branch shall not be treated as an exempt
11 contract unless such company or branch, as the
12 case may be—

13 “(i) conducts substantial activity with
14 respect to an insurance business in its
15 home country, and

16 “(ii) performs in its home country
17 substantially all of the activities necessary
18 to give rise to the income generated by
19 such contract.

20 “(3) QUALIFYING INSURANCE COMPANY.—

21 “(A) IN GENERAL.—The term ‘qualifying
22 insurance company’ means any controlled for-
23 eign corporation—

24 “(i) which—

1 “(I) is subject to regulation as an
2 insurance (or reinsurance) company
3 by its home country, and is licensed,
4 authorized, or regulated by the appli-
5 cable insurance regulatory body for its
6 home country to sell insurance, rein-
7 surance, or annuity contracts to per-
8 sons other than related persons (with-
9 in the meaning of section 954(b)) in
10 such home country, and

11 “(II) is engaged in the insurance
12 business and would be subject to tax
13 under subchapter L if it were a do-
14 mestic corporation,

15 “(ii) which derives more than 50 per-
16 cent of its aggregate net written premiums
17 from the issuance or reinsurance by such
18 controlled foreign corporation and each of
19 its qualifying insurance company branches
20 of contracts with respect to which no pol-
21 icyholder, insured, annuitant, or bene-
22 ficiary is a related person (as defined in
23 section 954(b)), except that in the case of
24 a branch, such premiums shall only be
25 taken into account to the extent such pre-

1 miums are treated as earned by such
2 branch in its home country for purposes of
3 such country's tax laws,

4 “(iii) more than 50 percent of the
5 gross receipts of which for the taxable
6 year—

7 “(I) consist of premiums for in-
8 surance or reinsurance in connection
9 with property, liability, or the lives or
10 health of individuals, and

11 “(II) are treated as earned by
12 such controlled foreign corporation in
13 its home country for purposes of such
14 country's tax laws, and

15 “(iv) the applicable insurance liabil-
16 ities of which constitute more than 35 per-
17 cent of its total assets as reported on the
18 company's applicable financial statement
19 for the year with which or in which the
20 taxable year ends.

21 “(B) APPLICABLE INSURANCE LIABIL-
22 ITIES.—For purposes of subparagraph (A)(iv),
23 the term ‘applicable insurance liabilities’
24 means—

1 “(i) loss and loss adjustment ex-
2 penses,

3 “(ii) unearned premiums, and

4 “(iii) reserves (other than any catas-
5 trophe, deficiency, equalization, or similar
6 reserves) for life and health insurance risks
7 and life and health insurance claims with
8 respect to contracts providing coverage for
9 mortality or morbidity risks (not to exceed
10 the amount of such reserve that is required
11 to be reported to the home country insur-
12 ance regulatory body).

13 “(C) APPLICABLE FINANCIAL STATE-
14 MENT.—For purposes of subparagraph (A)(iv),
15 the term ‘applicable financial statement’ means
16 a statement for financial reporting purposes
17 which—

18 “(i) is made on the basis of generally
19 accepted accounting principles,

20 “(ii) is made on the basis of inter-
21 national financial reporting standards, but
22 only if there is no statement that meets
23 the requirement of clause (i), or

24 “(iii) except as otherwise provided by
25 the Secretary in regulations, is the annual

1 statement which is required to be filed
2 with the home country insurance regu-
3 latory body, but only if there is no state-
4 ment which meets the requirements of
5 clause (i) or (ii).

6 “(D) REGULATIONS.—The Secretary shall
7 prescribe such regulations as necessary to carry
8 out the purposes of this paragraph.

9 “(4) QUALIFYING INSURANCE COMPANY
10 BRANCH.—The term ‘qualifying insurance company
11 branch’ means a qualified business unit (within the
12 meaning of section 989(a)) of a controlled foreign
13 corporation if—

14 “(A) such unit is licensed, authorized, or
15 regulated by the applicable insurance regulatory
16 body for its home country to sell insurance, re-
17 insurance, or annuity contracts to persons other
18 than related persons (within the meaning of
19 section 954(b)) in such home country, and

20 “(B) such controlled foreign corporation is
21 a qualifying insurance company, determined
22 under paragraph (3) as if such unit were a
23 qualifying insurance company branch.

24 “(5) LIFE INSURANCE OR ANNUITY CON-
25 TRACT.—For purposes of this section and section

1 954, the determination of whether a contract issued
2 by a controlled foreign corporation or a qualifying
3 insurance company branch is a life insurance con-
4 tract or an annuity contract shall be made without
5 regard to sections 72(s), 101(f), 817(h), and 7702
6 if—

7 “(A) such contract is regulated as a life in-
8 surance or annuity contract by the corpora-
9 tion’s or branch’s home country, and

10 “(B) no policyholder, insured, annuitant,
11 or beneficiary with respect to the contract is a
12 United States person.

13 “(6) HOME COUNTRY.—For purposes of this
14 subsection, except as provided in regulations—

15 “(A) CONTROLLED FOREIGN CORPORA-
16 TION.—The term ‘home country’ means, with
17 respect to a controlled foreign corporation, the
18 country in which such corporation is created or
19 organized.

20 “(B) QUALIFYING INSURANCE COMPANY
21 BRANCH.—The term ‘home country’ means,
22 with respect to a qualifying insurance company
23 branch, the country in which the principal office
24 of such branch is located and in which such
25 branch is licensed, authorized, or regulated by

1 the applicable insurance regulatory body to sell
2 insurance, reinsurance, or annuity contracts to
3 persons other than related persons (as defined
4 in section 954(b)) in such country.

5 “(7) ANTI-ABUSE RULES.—For purposes of ap-
6 plying this subsection and section 954(d)—

7 “(A) the rules of section 954(c)(7) (other
8 than subparagraph (B) thereof) shall apply,

9 “(B) there shall be disregarded any item of
10 income, gain, loss, or deduction of, or derived
11 from, an entity which is not engaged in regular
12 and continuous transactions with persons which
13 are not related persons,

14 “(C) there shall be disregarded any change
15 in the method of computing reserves a principal
16 purpose of which is the acceleration or deferral
17 of any item in order to claim the benefits of
18 this subsection or section 954(d),

19 “(D) a contract of insurance or reinsur-
20 ance shall not be treated as an exempt contract
21 (and premiums from such contract shall not be
22 taken into account for purposes of paragraph
23 (2)(B) or (3)) if—

24 “(i) any policyholder, insured, annu-
25 itant, or beneficiary is a resident of the

1 United States and such contract was mar-
2 keted to such resident and was written to
3 cover a risk outside the United States, or
4 “(ii) the contract covers risks located
5 within and without the United States and
6 the qualifying insurance company or quali-
7 fying insurance company branch does not
8 maintain such contemporaneous records,
9 and file such reports, with respect to such
10 contract as the Secretary may require,
11 “(E) the Secretary may prescribe rules for
12 the allocation of contracts (and income from
13 contracts) among 2 or more qualifying insur-
14 ance company branches of a qualifying insur-
15 ance company in order to clearly reflect the in-
16 come of such branches, and
17 “(F) premiums from a contract shall not
18 be taken into account for purposes of para-
19 graph (2)(B) or (3) if such contract reinsures
20 a contract issued or reinsured by a related per-
21 son (as defined in section 954(b)).
22 “(8) COORDINATION WITH SECTION 956(a).—
23 “(A) IN GENERAL.—In determining insur-
24 ance income for purposes of section 956(a), ex-
25 empt insurance income shall not include income

1 derived from exempt contracts which cover risks
2 other than applicable home country risks.

3 “(B) APPLICABLE HOME COUNTRY
4 RISKS.—For purposes of subparagraph (A), the
5 term ‘applicable home country risks’ means
6 risks in connection with property in, liability
7 arising out of activity in, or the lives or health
8 of residents of, the home country of the quali-
9 fying insurance company or qualifying insur-
10 ance company branch, as the case may be,
11 issuing or reinsuring the contract covering the
12 risks.

13 “(9) REGULATIONS.—The Secretary shall pre-
14 scribe such regulations as may be necessary or ap-
15 propriate to carry out the purposes of this sub-
16 section and section 954(d).

17 “(10) CROSS REFERENCE.—For treatment of
18 certain investment income derived by qualifying in-
19 surance companies, see section 954(d).

20 **“SEC. 956. SPECIAL RULE FOR CERTAIN CAPTIVE INSUR-**
21 **ANCE COMPANIES.**

22 “(a) TREATMENT AS CONTROLLED FOREIGN COR-
23 PORATIONS AND UNITED STATES SHAREHOLDERS.—

24 “(1) IN GENERAL.—For purposes only of tak-
25 ing into account related person insurance income—

1 “(A) the term ‘United States shareholder’
2 means, with respect to any foreign corporation,
3 a United States person (as defined in section
4 957(c)) who owns (within the meaning of sec-
5 tion 958(a)) any stock of the foreign corpora-
6 tion,

7 “(B) the term ‘controlled foreign corpora-
8 tion’ has the meaning given to such term by
9 section 957(a) determined by substituting ‘25
10 percent or more’ for ‘more than 50 percent’,
11 and

12 “(C) the pro rata share referred to in sec-
13 tion 951(a)(1) shall be determined under para-
14 graph (5) of this subsection.

15 “(2) RELATED PERSON INSURANCE INCOME.—
16 For purposes of this subsection, the term ‘related
17 person insurance income’ means any insurance in-
18 come (within the meaning of section 955(a)) attrib-
19 utable to a policy of insurance or reinsurance with
20 respect to which the person (directly or indirectly)
21 insured is a United States shareholder in the foreign
22 corporation or a related person to such a share-
23 holder.

24 “(3) EXCEPTIONS.—

1 “(A) CORPORATIONS NOT HELD BY IN-
2 SURED.—Paragraph (1) shall not apply to any
3 foreign corporation if at all times during the
4 taxable year of such foreign corporation—

5 “(i) less than 20 percent of the total
6 combined voting power of all classes of
7 stock of such corporation entitled to vote,
8 and

9 “(ii) less than 20 percent of the total
10 value of such corporation,

11 is owned (directly or indirectly under the prin-
12 ciples of section 883(c)(4)) by persons who are
13 (directly or indirectly) insured under any policy
14 of insurance or reinsurance issued by such cor-
15 poration or who are related persons to any such
16 person.

17 “(B) DE MINIMIS EXCEPTION.—Paragraph
18 (1) shall not apply to any foreign corporation
19 for a taxable year of such corporation if the re-
20 lated person insurance income (determined on a
21 gross basis) of such corporation for such tax-
22 able year is less than 20 percent of its insur-
23 ance income (as so determined) for such taxable
24 year.

1 “(C) ELECTION TO TREAT INCOME AS EF-
2 FECTIVELY CONNECTED.—Paragraph (1) shall
3 not apply to any foreign corporation for any
4 taxable year if—

5 “(i) such corporation elects (at such
6 time and in such manner as the Secretary
7 may prescribe)—

8 “(I) to treat its related person in-
9 surance income for such taxable year
10 as income effectively connected with
11 the conduct of a trade or business in
12 the United States, and

13 “(II) to waive all benefits (other
14 than with respect to section 884) with
15 respect to related person insurance in-
16 come granted by the United States
17 under any treaty between the United
18 States and any foreign country, and

19 “(ii) such corporation meets such re-
20 quirements as the Secretary shall prescribe
21 to ensure that the tax imposed by this
22 chapter on such income is paid.

23 An election under this subparagraph made for
24 any taxable year shall not be effective if the
25 corporation (or any predecessor thereof) was a

1 disqualified corporation for the taxable year for
2 which the election was made or for any prior
3 taxable year beginning after 1986.

4 “(D) SPECIAL RULES FOR SUBPARAGRAPH
5 (C).—

6 “(i) PERIOD DURING WHICH ELEC-
7 TION IN EFFECT.—

8 “(I) IN GENERAL.—Except as
9 provided in subclause (II), any elec-
10 tion under subparagraph (C) shall
11 apply to the taxable year for which
12 made and all subsequent taxable years
13 unless revoked with the consent of the
14 Secretary.

15 “(II) TERMINATION.—If a for-
16 eign corporation which made an elec-
17 tion under subparagraph (C) for any
18 taxable year is a disqualified corpora-
19 tion for any subsequent taxable year,
20 such election shall not apply to any
21 taxable year beginning after such sub-
22 sequent taxable year.

23 “(ii) EXEMPTION FROM TAX IMPOSED
24 BY SECTION 4371.—The tax imposed by
25 section 4371 shall not apply with respect

1 to any related person insurance income
2 treated as effectively connected with the
3 conduct of a trade or business within the
4 United States under subparagraph (C).

5 “(E) DISQUALIFIED CORPORATION.—For
6 purposes of this paragraph the term ‘disquali-
7 fied corporation’ means, with respect to any
8 taxable year, any foreign corporation which is a
9 controlled foreign corporation at any time dur-
10 ing such taxable year (determined without re-
11 gard to this subsection) but only if a United
12 States shareholder (determined without regard
13 to this subsection) owns (within the meaning of
14 section 958(a)) stock in such corporation at
15 some time during such taxable year.

16 “(4) TREATMENT OF MUTUAL INSURANCE COM-
17 PANIES.—In the case of a mutual insurance com-
18 pany—

19 “(A) this subsection shall apply,

20 “(B) policyholders of such company shall
21 be treated as shareholders, and

22 “(C) appropriate adjustments in the appli-
23 cation of this subpart shall be made under reg-
24 ulations prescribed by the Secretary.

25 “(5) DETERMINATION OF PRO RATA SHARE.—

1 “(A) IN GENERAL.—The pro rata share
2 determined under this paragraph for any
3 United States shareholder is the lesser of—

4 “(i) the amount which would be deter-
5 mined under paragraph (2) of section
6 951(a) if—

7 “(I) only related person insur-
8 ance income were taken into account,

9 “(II) stock owned (within the
10 meaning of section 958(a)) by United
11 States shareholders on the last day of
12 the taxable year were the only stock
13 in the foreign corporation, and

14 “(III) only distributions received
15 by United States shareholders were
16 taken into account under subpara-
17 graph (B) of such paragraph (2), or

18 “(ii) the amount which would be de-
19 termined under paragraph (2) of section
20 951(a) if the entire earnings and profits of
21 the foreign corporation for the taxable year
22 were subpart F income.

23 “(B) COORDINATION WITH OTHER PROVI-
24 SIONS.—The Secretary shall prescribe regula-
25 tions providing for such modifications to the

1 provisions of this subpart as may be necessary
2 or appropriate by reason of subparagraph (A).

3 “(6) RELATED PERSON.—For purposes of this
4 subsection—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the term ‘related person’ has
7 the meaning given such term by section 954(b).

8 “(B) TREATMENT OF CERTAIN LIABILITY
9 INSURANCE POLICIES.—In the case of any pol-
10 icy of insurance covering liability arising from
11 services performed as a director, officer, or em-
12 ployee of a corporation or as a partner or em-
13 ployee of a partnership, the person performing
14 such services and the entity for which such
15 services are performed shall be treated as re-
16 lated persons.

17 “(7) REGULATIONS.—The Secretary shall pre-
18 scribe such regulations as may be necessary to carry
19 out the purposes of this subsection, including—

20 “(A) regulations preventing the avoidance
21 of this subsection through cross insurance ar-
22 rangements or otherwise, and

23 “(B) regulations which may provide that a
24 person will not be treated as a United States
25 shareholder under paragraph (1) with respect

1 to any foreign corporation if neither such per-
2 son (nor any related person to such person) is
3 (directly or indirectly) insured under any policy
4 of insurance or reinsurance issued by such for-
5 eign corporation.

6 “(b) ELECTION BY FOREIGN INSURANCE COMPANY
7 TO BE TREATED AS DOMESTIC CORPORATION.—

8 “(1) IN GENERAL.—If—

9 “(A) a foreign corporation is a controlled
10 foreign corporation (as defined in section
11 957(a) by substituting ‘25 percent or more’ for
12 ‘more than 50 percent’ and by using the defini-
13 tion of United States shareholder under sub-
14 section (a)(1)(B)),

15 “(B) such foreign corporation would qual-
16 ify under part I or II of subchapter L for the
17 taxable year if it were a domestic corporation,

18 “(C) such foreign corporation meets such
19 requirements as the Secretary shall prescribe to
20 ensure that the taxes imposed by this chapter
21 on such foreign corporation are paid, and

22 “(D) such foreign corporation makes an
23 election to have this paragraph apply and
24 waives all benefits to such corporation granted
25 by the United States under any treaty,

1 for purposes of this title, such corporation shall be
2 treated as a domestic corporation.

3 “(2) PERIOD DURING WHICH ELECTION IS IN
4 EFFECT.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), an election under paragraph
7 (1) shall apply to the taxable year for which
8 made and all subsequent taxable years unless
9 revoked with the consent of the Secretary.

10 “(B) TERMINATION.—If a corporation
11 which made an election under paragraph (1) for
12 any taxable year fails to meet the requirements
13 of subparagraphs (A), (B), and (C) of para-
14 graph (1) for any subsequent taxable year, such
15 election shall not apply to any taxable year be-
16 ginning after such subsequent taxable year.

17 “(3) EFFECT OF ELECTION.—

18 “(A) IN GENERAL.—For purposes of sec-
19 tion 367, any foreign corporation making an
20 election under paragraph (1) shall be treated as
21 transferring (as of the 1st day of the 1st tax-
22 able year to which such election applies) all of
23 its assets to a domestic corporation in connec-
24 tion with an exchange to which section 354 ap-
25 plies.

1 “(B) EXCEPTION FOR PRE-1988 EARNINGS
2 AND PROFITS.—

3 “(i) IN GENERAL.—Earnings and
4 profits of the foreign corporation accumu-
5 lated in taxable years beginning before
6 January 1, 1988, shall not be included in
7 the gross income of the persons holding
8 stock in such corporation by reason of sub-
9 paragraph (A).

10 “(ii) TREATMENT OF DISTRIBUTI-
11 ONS.—For purposes of this title, any dis-
12 tribution made by a corporation to which
13 an election under paragraph (1) applies
14 out of earnings and profits accumulated in
15 taxable years beginning before January 1,
16 1988, shall be treated as a distribution
17 made by a foreign corporation.

18 “(iii) CERTAIN RULES TO CONTINUE
19 TO APPLY TO PRE-1988 EARNINGS.—Sec-
20 tion 884 to the extent the foreign corpora-
21 tion reinvested 1987 earnings and profits
22 in United States assets shall be applied
23 without regard to paragraph (1), except
24 that, in the case of a corporation to which
25 an election under paragraph (1) applies,

1 only earnings and profits accumulated in
2 taxable years beginning before January 1,
3 1988, shall be taken into account.

4 “(4) EFFECT OF TERMINATION.—For purposes
5 of section 367, if—

6 “(A) an election is made by a corporation
7 under paragraph (1) for any taxable year, and

8 “(B) such election ceases to apply for any
9 subsequent taxable year,

10 such corporation shall be treated as a domestic cor-
11 poration transferring (as of the 1st day of such sub-
12 sequent taxable year) all of its property to a foreign
13 corporation in connection with an exchange to which
14 section 354 applies.

15 “(5) ADDITIONAL TAX ON CORPORATION MAK-
16 ING ELECTION.—

17 “(A) IN GENERAL.—If a corporation
18 makes an election under paragraph (1), the
19 amount of tax imposed by this chapter for the
20 1st taxable year to which such election applies
21 shall be increased by the amount determined
22 under subparagraph (B).

23 “(B) AMOUNT OF TAX.—The amount of
24 tax determined under this paragraph shall be
25 equal to the lesser of—

1 “(i) $\frac{3}{4}$ of 1 percent of the aggregate
2 amount of capital and accumulated surplus
3 of the corporation as of December 31,
4 1987, or

5 “(ii) \$1,500,000.”.

6 (b) TREATMENT OF CERTAIN EXCLUDED SUBPART
7 F INCOME AS PREVIOUSLY TAXED INCOME.—Section
8 959(g), as added by section 96231, is amended to read
9 as follows:

10 “(g) SPECIAL RULES FOR NONTAXED PORTION OF
11 CERTAIN INCOME.—For purposes of this section—

12 “(1) IN GENERAL.—A United States share-
13 holder’s pro rata share of the excludable portion of
14 the controlled foreign corporation’s subpart F in-
15 come shall be treated as an amount which has been
16 included in gross income under section 951(a).

17 “(2) ORDERING RULE.—Notwithstanding sub-
18 section (c), for purposes of subsections (a) and (b),
19 section 316(a) shall be applied by applying para-
20 graph (2) thereof and then paragraph (1) thereof—

21 “(A) first to the deductible portion (as de-
22 fined in section 965(c)(3)) of the increase in
23 subpart F income described in section
24 965(a)(1) included in the gross income of
25 United States shareholders under section

1 951(a)(1) (after application of section
2 965(a)(2)(A)),

3 “(B) second to the excludable portion of
4 the controlled foreign corporation’s subpart F
5 income, and

6 “(C) then to the amounts described in
7 paragraphs (1), (2), or (3) of subsection (e) in
8 accordance with the provisions of subsection (e).

9 “(3) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(A) DEDUCTIBLE PORTION.—The term
12 ‘deductible portion’ has the meaning given such
13 term by section 965(e)(3).

14 “(B) EXCLUDABLE PORTION.—The term
15 ‘excludable portion’ means, with respect to the
16 subpart F income of a controlled foreign cor-
17 poration, so much of such controlled foreign
18 corporation’s modified active income as is not
19 taken into account in computing subpart F in-
20 come under section 952(a)(1).”.

21 (c) GAINS AND LOSSES FROM THE SALE OF CFC
22 STOCK.—

23 (1) GAINS.—

1 (A) IN GENERAL.—Part I of subchapter P
2 of chapter 1 is amended by adding at the end
3 the following new section:

4 **“SEC. 1203. GAINS FROM SALES OR EXCHANGES OF STOCK**
5 **IN CONTROLLED FOREIGN CORPORATIONS.**

6 “(a) IN GENERAL.—In the case of a United States
7 shareholder (as defined in section 951), there shall be ex-
8 cluded from gross income an amount equal to the applica-
9 ble portion of the amount of any gain recognized from the
10 sale or exchange of stock in a controlled foreign corpora-
11 tion.

12 “(b) APPLICABLE PORTION.—For purposes of this
13 section—

14 “(1) IN GENERAL.—The term ‘applicable por-
15 tion’ means the amount which bears the same ratio
16 to the gain recognized from such sale or exchange
17 as—

18 “(A) the shareholder’s pro rata share (de-
19 termined under section 951(a)(2)) of the ex-
20 cludable portion of the aggregate subpart F in-
21 come of the controlled foreign corporation for
22 the applicable period, bears to

23 “(B) the sum of the amount determined
24 under subparagraph (A) plus the shareholder’s
25 pro rata share (determined under section

1 **“SEC. 1213. LOSSES FROM SALES OR EXCHANGES OF STOCK**
2 **IN CONTROLLED FOREIGN CORPORATIONS.**

3 “(a) **IN GENERAL.**—In the case of a United States
4 shareholder (as defined in section 951), any loss from the
5 sale or exchange of stock in a controlled foreign corpora-
6 tion shall be reduced (but not below zero) by an amount
7 equal to the shareholder’s aggregate pro rata share (deter-
8 mined under section 951(a)(2)) of the excludable portion
9 of the subpart F income of the controlled foreign corpora-
10 tion during the shareholder’s holding period in the stock.

11 “(b) **EXCLUDABLE PORTION.**—For purposes of this
12 section, the term ‘excludable portion’ has the meaning
13 given such term by section 959(g)(3)(B).”.

14 (B) **CLERICAL AMENDMENT.**—The table of
15 sections for part I of subchapter P of chapter
16 1 is amended by adding at the end the following
17 new item:

“Sec. 1213. Losses from sales or exchanges of stock in controlled foreign cor-
porations.”.

18 (d) **REPEAL OF ORDINARY INCOME TREATMENT FOR**
19 **GAINS FROM THE SALE OF STOCK IN CERTAIN FOREIGN**
20 **CORPORATIONS.**—

21 (1) **IN GENERAL.**—Part IV of subchapter P of
22 chapter 1 is amended by striking section 1248.

23 (2) **CONFORMING AMENDMENTS.**—

1 (A) Section (a) is amended by striking
2 paragraph (11).

3 (B) Section 338(h) is amended—
4 (i) in paragraph (6)(B)(ii), by striking
5 “or described in section 1248(e)”, and
6 (ii) in paragraph (16), by striking the
7 second sentence.

8 (C) Section 751 is amended—
9 (i) in subsection (c), by striking
10 “stock in certain foreign corporations (as
11 described in section 1248),”, and
12 (ii) by striking subsection (e) and re-
13 designating subsection (f) as subsection
14 (e).

15 (D) Section 865(k) is amended to read as
16 follows:

17 “(k) CROSS REFERENCE.—For sourcing of income
18 from certain foreign currency transactions, see section
19 988.”.

20 (E) Section 904(h)(7) is amended by strik-
21 ing “or as a dividend under section 1248”.

22 (F) Section 951(a)(2) is amended by strik-
23 ing the last sentence thereof.

24 (G) Section 964 is amended by striking
25 subsection (e).

1 (H) Section 989(b) is amended by striking
2 paragraph (2) and by redesignating paragraphs
3 (3) and (4) as paragraphs (2) and (3), respec-
4 tively.

5 (e) COORDINATION WITH AMOUNTS INCLUDED IN
6 GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

7 (1) IN GENERAL.—Paragraph (1) of section
8 951(a) is amended by striking “such taxable year of
9 the corporation ends—” and all that follows through
10 the end period and inserting: “such taxable year of
11 the corporation ends, the shareholder’s pro rata
12 share (determined under paragraph (2)) of the cor-
13 poration’s subpart F income for such taxable year.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 951(a) is amended—

16 (i) by striking “paragraph (1)(A)(i)”
17 in paragraph (2) and inserting “paragraph
18 (1)”, and

19 (ii) by striking paragraph (3).

20 (B) Subparagraph (A) of section
21 512(b)(17) is amended by striking
22 “951(a)(1)(A)” and inserting “951(a)(1)”.

23 (C) Section 851(b) is amended by striking
24 “951(a)(1)(A)(i)” in the first sentence following
25 paragraph (3) and inserting “951(a)(1)”.

1 (D) Section 959(a) is amended—

2 (i) by striking “shall not, when” and
3 all that follows through “such shareholder”
4 and inserting “shall not, when actually dis-
5 tributed to such shareholder”, and

6 (ii) by striking “and the rules of sub-
7 section (f) shall apply for purposes of para-
8 graph (2) of this subsection”.

9 (E) Section 959(c) is amended by adding
10 at the end the following: “References in this
11 subsection and subsection (f) to section
12 951(a)(1)(B) shall be treated as references to
13 such provisions as in effect on the day before
14 the enactment of the Infrastructure 2.0 Act.”.

15 (F) Section 959(e) is amended by striking
16 “951(a)(1)(A)” and inserting “951(a)(1)”.

17 (G) Section 989(b)(3) is amended by strik-
18 ing “951(a)(1)(A)” and inserting “951(a)(1)”.

19 (H) Section 1298(b) is amended by strik-
20 ing paragraph (8).

21 (f) APPLICATION OF ANTI-LOSS IMPORTATION
22 RULES.—Section 362(e)(1)(B) is amended by adding at
23 the end the following new sentence: “For purposes of
24 clause (i), except as provided under regulations, a con-

1 trolled foreign corporation shall be considered to be sub-
2 ject to tax under this subtitle.”.

3 (g) OTHER CONFORMING AMENDMENTS.—

4 (1) Sections 163(e)(3)(B)(i) and
5 267(a)(3)(B)(i) are each amended by striking “and
6 qualified deficits under section 952(c)(1)(B)” and
7 inserting “and loss carryforwards under sections
8 952(d) and 953(b)”.

9 (2) Section 304(b)(5)(B)(ii) is amended by
10 striking “953(c)” and inserting “956(a)”.

11 (3) Section 355(g)(2)(B)(ii)(I) is amended by
12 striking “section 954(h)(4)” and inserting “section
13 954(c)(4)”.

14 (4) Section 512(b)(17) is amended by striking
15 “953” and inserting “section 955”.

16 (5) Section 864(d)(8) is amended by striking
17 “or section 956(b)(3)”.

18 (6) Section 864(d)(5)(A) is amended—

19 (A) by striking clause (iii) and redesignig-
20 nating clause (iv) as clause (iii), and

21 (B) by striking “954(c)(3)(A)” in clause
22 (iii) (as redesignated by subparagraph (A)) and
23 inserting “954(a)(3)(A)”.

24 (7) Section 864(d)(7)(B) is amended by strik-
25 ing “foreign base company income (as defined in

1 section 954(a), determined without regard to section
2 954(b)(3)(A))” and inserting “passive income (as
3 defined in section 954(a))”.

4 (8) Section 881(c)(5)(A)(iii) is amended by
5 striking “954(c)(3)(A)” and inserting
6 “954(a)(3)(A)”.

7 (9) Section 884(d)(2)(D) is amended by strik-
8 ing “953(c)(3)(C)” and inserting “956(a)(3)(C)”.

9 (10) Section 898(b)(3) is amended—

10 (A) by striking “953(c)(2)” and inserting
11 “956(a)(2)”, and

12 (B) by striking “953(c)(1)” and inserting
13 “956(a)(1)”.

14 (11) Section 936(h)(5) is amended—

15 (A) by inserting “(as in effect on the day
16 before the enactment of the Infrastructure 2.0
17 Act)” after “section 954” in the last sentence
18 of subparagraph (B)(ii), and

19 (B) in subparagraph (F)(iv)(II)—

20 (i) by inserting “(as in effect on the
21 day before the enactment of the Infrastruc-
22 ture 2.0 Act)” after “section 954”, and

23 (ii) by inserting “(as so in effect)”
24 after “section 954(a)”.

25 (12) Section 957(b) is amended—

1 (A) by striking “income described in sec-
2 tion 953(a)” and inserting “income described in
3 section 955(a)”, and

4 (B) by striking “contracts described in sec-
5 tion 953(a)(1)” and inserting “contracts de-
6 scribed in section 955(a)(1)”.

7 (13) Section 958(b) is amended—

8 (A) by striking “956(c)(2),” before “and
9 957”,

10 (B) by striking “to treat the stock of a do-
11 mestic corporation as owned by a United States
12 shareholder of the controlled foreign corpora-
13 tion for purposes of section 956(c)(2),” and

14 (C) by striking the last sentence.

15 (14) Section 964(b) is amended by striking
16 “sections 952, 955, and 956” and inserting “section
17 952”.

18 (15) Section 964(e)(2) is amended by striking
19 “954(e)(3)(A)” and inserting “954(a)(3)(A)”.

20 (16)(A) Part III of subchapter N of chapter 1
21 is amended by striking subpart G.

22 (B) Section 865(e)(2)(A) is amended by strik-
23 ing the last sentence.

1 (C) The table of subparts for part III of sub-
2 chapter N of chapter 1 is amended by striking the
3 item relating to subpart G.

4 (17) Section 999(c) is amended—

5 (A) by striking “, 952(a)(3)” in paragraph
6 (1), and

7 (B) by striking “, the addition to subpart
8 F income under section 952(a)(3),” in para-
9 graph (2).

10 (18) Section 1296(f)(2) is amended—

11 (A) by striking “foreign personal holding
12 company income described in section
13 954(c)(1)(A)” in subparagraph (A) and insert-
14 ing “passive income (as defined in section
15 954(a))”, and

16 (B) by striking “foreign personal holding
17 company income so described” and inserting
18 “such passive income”.

19 (19) Section 1297(b) is amended to read as fol-
20 lows:

21 “(b) PASSIVE INCOME.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), the term ‘passive income’ means any in-
24 come received or accrued by any foreign corporation
25 which is of a kind which would be passive income as

1 defined in section 954 if the foreign corporation
2 were a controlled foreign corporation.

3 “(2) EXCEPTION.—Except as provided in regu-
4 lations, the term ‘passive income’ does not include
5 any income which is interest, a dividend, or a rent
6 or royalty, which is received or accrued from a re-
7 lated person (within the meaning of section 954(b))
8 to the extent that such amount is properly allocable
9 (under regulations prescribed by the Secretary) to
10 income of such related person which is not passive
11 income.”.

12 (20) Section 2057(e)(2)(D)(ii) is amended by
13 striking “section 954(c)(1)” and inserting “section
14 954(a)(1)”.

15 (21) The following sections are amended by
16 striking “954(d)(3)” each place it appears and in-
17 serting “954(b)”:

18 (A) Section 861(c)(2)(B).

19 (B) Section 958(b).

20 (C) Section 988(a)(3)(C).

21 (D) Subsections (d)(3)(A) and (e)(2)(B)(i)
22 of section 1298.

23 (E) Section 1471(e)(2).

24 (F) Section 3121(z)(2).

1 (22) The table of sections for subpart F of part
2 III of subchapter 1 is amended by striking the items
3 relating to sections 952 through 956 and inserting
4 the following:

“Sec. 952. Subpart F income defined.

“Sec. 953. Active foreign market income.

“Sec. 954. Definition of passive income.

“Sec. 955. Definition of insurance income.

“Sec. 956. Special rule for certain captive insurance companies.”.

5 (h) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to taxable years of foreign corporations
9 beginning on or after the applicable date, and to tax-
10 able years of United States shareholders with or
11 within which such taxable years of foreign corpora-
12 tions end.

13 (2) GAINS AND LOSSES FROM THE SALE OF CFC
14 STOCK; REPEAL OF SECTION 1248.—The amend-
15 ments made by subsections (c) and (d) shall apply
16 to sales or exchanges on or after the applicable date.

17 **PART II—FOREIGN TAX CREDIT LIMITATIONS**

18 **SEC. 96211. REFORM OF FOREIGN TAX CREDIT LIMITATION.**

19 (a) IN GENERAL.—Subsection (d) of section 904 is
20 amended to read as follows:

21 “(d) SEPARATE APPLICATION OF SECTION WITH RE-
22 SPECT TO CERTAIN CATEGORIES OF INCOME.—

1 “(1) IN GENERAL.—The provisions of sub-
2 sections (a), (b), and (c) and section 907 and 960
3 shall be applied separately with respect to—

4 “(A) amounts included under section
5 951(a) which are attributable to active foreign
6 market income (as defined in section 953),

7 “(B) passive category income, and

8 “(C) income other than income described
9 in either of the preceding subparagraphs.

10 “(2) DEFINITIONS AND SPECIAL RULES.—

11 “(A) PASSIVE CATEGORY INCOME.—

12 “(i) IN GENERAL.—The term ‘passive
13 category income’ means—

14 “(I) United States taxpayer pas-
15 sive income described in subparagraph
16 (B), and

17 “(II) income which is included in
18 gross income of the taxpayer under
19 section 951(a)(1) to the extent such
20 income is attributable to passive in-
21 come (as defined in section 954(a)).

22 “(ii) EXCEPTION FOR HIGH-TAXED
23 INCOME.—Passive category income shall
24 not include any high-taxed income.

1 “(iii) CLARIFICATION OF APPLICATION
2 OF SECTION 864(d)(6).—In determining
3 whether any income is passive category in-
4 come, the rules of section 864(d)(6) shall
5 apply only in the case of income of a con-
6 trolled foreign corporation.

7 “(B) UNITED STATES TAXPAYER PASSIVE
8 INCOME.—United States taxpayer passive in-
9 come described in this subparagraph is income
10 received or accrued by the taxpayer which is of
11 a kind that would be passive income as defined
12 under section 954(a) if such taxpayer were a
13 controlled foreign corporation.

14 “(C) TREATMENT OF FINANCIAL SERVICES
15 INCOME AND COMPANIES.—

16 “(i) IN GENERAL.—Financial services
17 income which is not active foreign market
18 category income shall be treated as income
19 described in paragraph (1)(C) in the case
20 of—

21 “(I) a member of a financial
22 services group, and

23 “(II) any other person if such
24 person is predominantly engaged in

1 the active conduct of a banking, insur-
2 ance, financing, or similar business.

3 “(ii) FINANCIAL SERVICES GROUP.—

4 The term ‘financial services group’ means
5 any affiliated group (as defined in section
6 1504(a) without regard to paragraphs (2)
7 and (3) of section 1504(b)) which is pre-
8 dominantly engaged in the active conduct
9 of a banking, insurance, financing, or simi-
10 lar business. In determining whether such
11 a group is so engaged, there shall be taken
12 into account only the income of members
13 of the group that are—

14 “(I) United States corporations,
15 or

16 “(II) controlled foreign corpora-
17 tions in which such United States cor-
18 porations own, directly or indirectly,
19 at least 80 percent of the total voting
20 power and value of the stock.

21 “(iii) PASS-THRU ENTITIES.—The
22 Secretary shall by regulation specify for
23 purposes of this subparagraph the treat-
24 ment of financial services income received
25 or accrued by partnerships and by other

1 pass-thru entities which are not members
2 of a financial services group.

3 “(D) FINANCIAL SERVICES INCOME.—

4 “(i) IN GENERAL.—Except as other-
5 wise provided in this subparagraph, the
6 term ‘financial services income’ means any
7 income which is received or accrued by any
8 person predominantly engaged in the active
9 conduct of a banking, insurance, financing,
10 or similar business, and which is—

11 “(I) described in clause (ii), or

12 “(II) United States taxpayer pas-
13 sive income (determined without re-
14 gard to subparagraph (A)(ii)).

15 “(ii) GENERAL DESCRIPTION OF FI-
16 NANCIAL SERVICES INCOME.—Income is
17 described in this clause if such income is—

18 “(I) derived in the active conduct
19 of a banking, financing, or similar
20 business,

21 “(II) derived from the investment
22 by an insurance company of its un-
23 earned premiums or reserves ordinary
24 and necessary for the proper conduct
25 of its insurance business, or

1 “(III) of a kind which would be
2 insurance income as defined in section
3 955(a).

4 “(E) HIGH-TAXED INCOME.—The term
5 ‘high-taxed income’ means any income which
6 (but for this subparagraph) would be passive
7 category income if the sum of—

8 “(i) the foreign income taxes paid or
9 accrued by the taxpayer with respect to
10 such income, and

11 “(ii) the foreign income taxes deemed
12 paid by the taxpayer with respect to such
13 income under section 960,

14 exceeds the highest rate of tax specified in sec-
15 tion 1 or 11 (whichever applies) multiplied by
16 the amount of such income (determined with re-
17 gard to section 78). For purposes of the pre-
18 ceding sentence, the term ‘foreign income taxes’
19 means any income, war profits, or excess profits
20 tax imposed by any foreign country or posses-
21 sion of the United States.

22 “(F) TREATMENT OF INCOME TAX BASE
23 DIFFERENCES.—

24 “(i) IN GENERAL.—In the case of tax-
25 able years beginning after December 31,

1 2006, tax imposed under the law of a for-
2 foreign country or possession of the United
3 States on an amount which does not con-
4 stitute income under United States tax
5 principles shall be treated as imposed on
6 income described in paragraph (1)(C).

7 “(ii) SPECIAL RULES FOR YEARS
8 AFTER 2006 AND BEFORE THE APPLICABLE
9 DATE.—In the case of taxable years begin-
10 ning after December 31, 2006, and on or
11 before the applicable date (as defined in
12 section 96200 of the Infrastructure 2.0
13 Act), tax imposed under the law of a for-
14 foreign country or possession of the United
15 States on an amount which does not con-
16 stitute income under United States tax
17 principles shall be treated as imposed on
18 income described in paragraph (1)(B) (as
19 in effect for taxable years beginning the
20 day before such applicable date).

21 “(iii) SPECIAL RULE FOR YEARS BE-
22 FORE 2007.—

23 “(I) IN GENERAL.—In the case
24 of taxes paid or accrued in taxable
25 years beginning after December 31,

1 2004, and before January 1, 2007, a
2 taxpayer may elect to treat tax im-
3 posed under the law of a foreign coun-
4 try or possession of the United States
5 on an amount which does not con-
6 stitute income under United States
7 tax principles as tax imposed on in-
8 come described in subparagraph (C)
9 or (I) of paragraph (1) (as in effect
10 for taxable years beginning in 2006).

11 “(II) REVOCATION.—Any such
12 election shall apply to the taxable year
13 for which made and all subsequent
14 taxable years described in subclause
15 (I) unless revoked with the consent of
16 the Secretary.

17 “(G) TRANSITION RULES FOR CERTAIN
18 CARRYFORWARDS AND CARRYBACKS.—For pur-
19 poses of paragraph (1)—

20 “(i) in the case of any taxes carried
21 from any taxable year beginning before the
22 applicable date (as defined in section
23 96200 of the Infrastructure 2.0 Act), to
24 any taxable year beginning on or after
25 such date—

1 “(I) if such taxes were treated as
2 attributable to income described in
3 paragraph (1)(A) (as in effect for tax-
4 able years beginning the day before
5 such applicable date), such taxes shall
6 be treated as attributable to income
7 described in paragraph (1)(B), and

8 “(II) if such taxes were treated
9 as attributable to income described in
10 paragraph (1)(B) (as in effect for tax-
11 able years beginning the day before
12 such applicable date), such taxes shall
13 be treated as attributable to income
14 described in paragraph (1)(C), and

15 “(ii) the Secretary may by regulations
16 provide for the allocation of any carryback
17 of taxes with respect to income from a tax-
18 able year beginning on or after such appli-
19 cable date, to a taxable year beginning be-
20 fore such date for purposes of allocating
21 such income among the separate categories
22 in effect for the taxable year to which car-
23 ried.

1 “(3) CONTROLLED FOREIGN CORPORATION;
2 UNITED STATES SHAREHOLDER.—For purposes of
3 this subsection—

4 “(A) CONTROLLED FOREIGN CORPORA-
5 TION.—The term ‘controlled foreign corpora-
6 tion’ has the meaning given such term by sec-
7 tion 957 (taking into account section 956(a)).

8 “(B) UNITED STATES SHAREHOLDER.—
9 The term ‘United States shareholder’ has the
10 meaning given such term by section 951(b)
11 (taking into account section 956(a)).

12 “(4) SEPARATE APPLICATION TO ITEMS
13 RESOURCED UNDER TREATIES.—

14 “(A) IN GENERAL.—If—

15 “(i) without regard to any treaty obli-
16 gation of the United States, any item of
17 income would be treated as derived from
18 sources within the United States,

19 “(ii) under a treaty obligation of the
20 United States, such item would be treated
21 as arising from sources outside the United
22 States, and

23 “(iii) the taxpayer chooses the bene-
24 fits of such treaty obligation,

1 subsections (a), (b), and (c) of this section and
2 sections 907 and 960 shall be applied sepa-
3 rately with respect to each such item.

4 “(B) COORDINATION WITH OTHER PROVI-
5 SIONS.—This paragraph shall not apply to any
6 item of income to which subsection (h)(10) or
7 section 865(h) applies.

8 “(C) REGULATIONS.—The Secretary may
9 issue such regulations as may be necessary or
10 appropriate to carry out the purposes of this
11 paragraph, including regulations which provide
12 that related items of income may be aggregated
13 for purposes of this paragraph.

14 “(5) REGULATIONS.—The Secretary shall pre-
15 scribe such regulations as may be necessary or ap-
16 propriate for the purposes of this subsection, includ-
17 ing preventing the manipulation of the character of
18 income the effect of which is to avoid the purposes
19 of this subsection.”.

20 (b) APPLICATION OF PER COUNTRY LIMITATION.—
21 Section 904 is amended by inserting after subsection (d)
22 the following new subsection:

23 “(e) LIMITATIONS APPLIED ON A PER COUNTRY
24 BASIS.—The provisions of subsections (a), (b), (c), and
25 (d) and sections 907 and 960 shall be applied separately

1 with respect to each foreign country or possession with
2 respect to which taxes described in section 901(b) are paid
3 or accrued.”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning on or
6 after the applicable date.

7 **SEC. 96212. DENIAL OF CREDIT AND DEDUCTION FOR FOR-**
8 **EIGN TAXES WITH RESPECT TO EXCLUDED**
9 **SUBPART F INCOME.**

10 (a) IN GENERAL.—Section 901 is amended by redес-
11 ignating subsection (n) as subsection (o) and by inserting
12 after subsection (m) the following:

13 “(n) DENIAL OF FOREIGN TAX CREDIT AND DEDUC-
14 TION WITH RESPECT TO EXCLUDED SUBPART F IN-
15 COME.—

16 “(1) IN GENERAL.—Notwithstanding section
17 960(b), no credit shall be allowed under subsection
18 (a) for any income, war profits, or excess profits
19 taxes paid or accrued (or deemed paid or accrued
20 under section 960) with respect to the excludable
21 portion of subpart F income or any distribution re-
22 ceived by a United States shareholder (as defined in
23 section 951(b)) which is properly attributable to
24 such excludable portion. No deduction shall be al-
25 lowed to a taxpayer under this chapter for any tax

1 for which a credit is not allowable by reason of the
2 preceding sentence.

3 “(2) EXCLUDABLE PORTION.—The term ‘ex-
4 cludable portion’ has the meaning given such term
5 by section 959(g)(3)(B).

6 “(3) COORDINATION WITH SECTION 78.—Sec-
7 tion 78 shall not apply to any tax which is not allow-
8 able as a credit under this section by reason of this
9 subsection.”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years of foreign corpora-
12 tions beginning on or after the applicable date, and to tax-
13 able years of United States shareholders with or within
14 which such taxable years of foreign corporations end.

15 **PART III—EXPENSE DISALLOWANCE**

16 **SEC. 96221. DISALLOWANCE OF DEDUCTION FOR EXPENSES** 17 **ALLOCABLE TO EXEMPT INCOME OF A CON-** 18 **TROLLED FOREIGN CORPORATION.**

19 (a) IN GENERAL.—Part IX of subchapter B of chap-
20 ter 1 is amended by adding at the end the following:

21 **“SEC. 265A. EXPENSES ALLOCABLE TO EXEMPT INCOME OF** 22 **A CONTROLLED FOREIGN CORPORATION.**

23 “(a) IN GENERAL.—In the case of a United States
24 shareholder of a controlled foreign corporation for any tax-

1 able year, no deduction shall be allowed under this chapter
2 for—

3 “(1) the disallowed portion of any allocable
4 CFC interest, or

5 “(2) expenses directly allocable to the exclud-
6 able portion of subpart F income (as defined in sec-
7 tion 959(g)(3)(B)).

8 “(b) DISALLOWED PORTION.—For purposes of this
9 section—

10 “(1) IN GENERAL.—The term ‘disallowed por-
11 tion’ means, with respect to any allocable CFC inter-
12 est in connection with a controlled foreign corpora-
13 tion, the exclusion percentage of the amount which
14 bears the same ratio to the amount of such interest
15 as—

16 “(A) the corporation’s modified active in-
17 come (as defined in section 952) for the appli-
18 cable taxable year, bears to

19 “(B) the corporation’s current earnings
20 and profits.

21 “(2) CURRENT EARNINGS AND PROFITS.—For
22 purposes of this subsection—

23 “(A) IN GENERAL.—The term ‘current
24 earnings and profits’ means the earnings and
25 profits of the controlled foreign corporation for

1 the applicable taxable year, without diminution
2 by reason of distributions made during the tax-
3 able year.

4 “(B) SPECIAL RULE FOR DETERMINING
5 EARNINGS AND PROFITS.—Earnings and profits
6 of any controlled foreign corporation shall be
7 determined without regard to paragraphs (4),
8 (5), and (6) of section 312(n). Under regula-
9 tions, the preceding sentence shall not apply to
10 the extent it would increase earnings and prof-
11 its by an amount which was previously distrib-
12 uted by the controlled foreign corporation.

13 “(3) EXCLUSION PERCENTAGE.—The term ‘ex-
14 clusion percentage’ means, with respect to any con-
15 trolled foreign corporation for any taxable year, the
16 number of percentage points by which 100 percent
17 exceeds the inclusion percentage determined under
18 section 952(d) with respect to such controlled for-
19 eign corporation for such taxable year.

20 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
21 poses of this section—

22 “(1) ALLOCABLE CFC INTEREST.—The term
23 ‘allocable CFC interest’ means any interest expense
24 paid or accrued during the taxable year by a United
25 States shareholder of a controlled foreign corpora-

1 tion which under section 861, and subsection (e) or
2 (f) of section 864 (whichever is applicable), is appor-
3 tioned to income of the controlled foreign corpora-
4 tion.

5 “(2) APPLICABLE TAXABLE YEAR.—The term
6 ‘applicable taxable year’ means, with respect to any
7 controlled foreign corporation, the taxable year of
8 such corporation which ends with or within the tax-
9 able year of the United States shareholder described
10 in subsection (a).

11 “(3) UNITED STATES SHAREHOLDER; CON-
12 TROLLED FOREIGN CORPORATION.—The term
13 ‘United States shareholder’ has the meaning given
14 such term by section 951(b) and the term ‘controlled
15 foreign corporation’ shall have the meaning given
16 such term by section 957(a).

17 “(4) SPECIAL RULE FOR MEMBERS OF AN AF-
18 FILIATED GROUP.—If a United States shareholder
19 to which subsection (a) applies is a domestic cor-
20 poration which is a member of a group all members
21 of which are treated as a single corporation under
22 subsection (e) or (f) of section 864, whichever is ap-
23 plicable, all domestic corporations which are mem-
24 bers of such group shall be treated as a single cor-
25 poration for purposes of this section.

1 “(5) SPECIAL RULES.—

2 “(A) COORDINATION WITH OTHER PROVI-
3 SIONS.—Except as provided in regulations, this
4 section shall be applied before any other provi-
5 sion of this chapter limiting the deductibility of
6 any allocable CFC interest.

7 “(B) SEPARATE APPLICATION TO INCOME
8 IN SEPARATE BASKETS.—This section shall be
9 applied separately with respect to the categories
10 of income under section 904(d)(1).

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pur-
13 poses of this section, including regulations providing—

14 “(1) for the sharing of information between
15 shareholders if necessary to carry out the provisions
16 of this section,

17 “(2) for directly associating interest or other
18 expenses disallowed under this section with income
19 of a controlled foreign corporation and for coordi-
20 nating this section with other provisions of this
21 chapter limiting the deductibility of interest or other
22 expenses, and

23 “(3) for the proper application of this section
24 with respect to the taxpayer’s share of net operating
25 losses of a controlled foreign corporation.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for part IX of subchapter B of chapter 1 is amended
3 by inserting after the item relating to section 265 the fol-
4 lowing:

“Sec. 265A. Expense allocable to exempt income of a controlled foreign cor-
poration.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years of foreign corpora-
7 tions beginning on or after the applicable date, and to tax-
8 able years of United States shareholders with or within
9 which such taxable years of foreign corporations end.

10 **PART IV—OTHER PROVISIONS RELATING TO**

11 **SUBPART F**

12 **Subpart A—Previously Deferred Foreign Income**

13 **SEC. 96231. TREATMENT OF PREVIOUSLY DEFERRED FOR-** 14 **EIGN INCOME.**

15 (a) IN GENERAL.—Subpart F of part III of sub-
16 chapter N of chapter 1 is amended by adding at the end
17 the following new section:

18 **“SEC. 966. INCLUSION OF PREVIOUSLY DEFERRED FOR-** 19 **EIGN INCOME.**

20 “(a) INCLUSION AS SUBPART F INCOME.—

21 “(1) IN GENERAL.—Subject to the provisions of
22 paragraph (2), the subpart F income (determined
23 under section 952 without regard to this section) of
24 a controlled foreign corporation for its last taxable

1 year beginning before the applicable date (as defined
2 in section 96200 of the Infrastructure 2.0 Act), shall
3 be increased by the accumulated deferred foreign in-
4 come of the corporation.

5 “(2) INCLUSION ONLY TO APPLY TO DOMESTIC
6 CORPORATIONS.—In the case of any increase in sub-
7 part F income of a controlled foreign corporation by
8 reason of paragraph (1)—

9 “(A) notwithstanding section 951(a)(1),
10 the inclusion in gross income under such section
11 of a United States shareholder’s pro rata por-
12 tion (as determined under section 951(a)(2)) of
13 such increased subpart F income shall only
14 apply if the United States shareholder is a do-
15 mestic corporation, and

16 “(B) there shall be allowed as a deduction
17 for the taxable year of such United States
18 shareholder in which such increased subpart F
19 income is included in such shareholder’s gross
20 income under section 951(a)(1) an amount
21 equal to the applicable percentage of the
22 amount of the income so included.

23 “(b) ACCUMULATED DEFERRED FOREIGN IN-
24 COME.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘accumulated de-
2 ferred foreign income’ means the excess of—

3 “(A) the undistributed earnings of the con-
4 trolled foreign corporation, over

5 “(B) the undistributed U.S. earnings of
6 such controlled foreign corporation.

7 “(2) UNDISTRIBUTED EARNINGS.—

8 “(A) IN GENERAL.—The term ‘undistrib-
9 uted earnings’ means the earnings and profits
10 of the controlled foreign corporation described
11 in section 959(c)(3), determined—

12 “(i) as of the close of the taxable year
13 described in subsection (a)(1),

14 “(ii) without diminution by reason of
15 distributions made during such taxable
16 year, and

17 “(iii) without regard to this section.

18 “(B) SPECIAL RULE FOR CURRENT YEAR
19 DISTRIBUTIONS.—For purposes of this chapter,
20 any determination with respect to the treatment
21 of distributions described in subparagraph
22 (A)(ii) shall be made after the application of
23 this section to the earnings and profits de-
24 scribed in subparagraph (A).

1 “(3) UNDISTRIBUTED U.S. EARNINGS.—The
2 term ‘undistributed U.S. earnings’ has the meaning
3 given the term ‘post-1986 undistributed U.S. earn-
4 ings’ in section 245(a)(5) (as in effect for taxable
5 years beginning the day before the applicable date
6 (as defined in section 96200 of the Infrastructure
7 2.0 Act)), determined—

8 “(A) without regard to ‘post-1986’ each
9 place it appears in the matter before subpara-
10 graph (A), and

11 “(B) without regard to the last sentence
12 thereof.

13 “(c) DISALLOWANCE OF FOREIGN TAX CREDIT,
14 ETC.—

15 “(1) IN GENERAL.—No credit shall be allowed
16 under section 901 to a United States shareholder of
17 a controlled foreign corporation for any taxes paid
18 or accrued (or treated as paid or accrued) with re-
19 spect to the deductible portion of—

20 “(A) the increased subpart F income of
21 the corporation included in the gross income of
22 the shareholder under subsection (a)(2)(A), or

23 “(B) any distribution received by the
24 shareholder which is properly attributable to
25 such increased subpart F income.

1 “(2) DENIAL OF DEDUCTION.—No deduction
2 shall be allowed under this chapter to a United
3 States shareholder of a controlled foreign corpora-
4 tion for any tax for which a credit is not allowable
5 under section 901 by reason of paragraph (1).

6 “(3) DEDUCTIBLE PORTION.—For purposes of
7 this subsection, the term ‘deductible portion’ means,
8 with respect to the increased subpart F income of
9 the corporation included in the gross income of the
10 shareholder under subsection (a)(2)(A), the applica-
11 ble percentage of such income with respect to which
12 a deduction is allowable under subsection (a)(2)(B).

13 “(4) COORDINATION WITH SECTION 78.—Sec-
14 tion 78 shall not apply to the portion of any tax for
15 which credit is not allowable under section 901 by
16 reason of paragraph (1).

17 “(d) APPLICABLE PERCENTAGE.—For purposes of
18 this section, the term ‘applicable percentage’ means the
19 percentage which is equal to the ratio of—

20 “(1) the excess of—

21 “(A) the highest rate of tax in effect under
22 section 11(b) for the taxable year of the United
23 States shareholder described in subsection
24 (a)(2)(B), over

25 “(B) 20 percent, to

1 “(2) the highest rate of tax in effect under sec-
2 tion 11(b) for the taxable year of the United States
3 shareholder described in subsection (a)(2)(B).

4 The percentage determined under the preceding sentence
5 shall be rounded to the nearest whole percentage point.

6 “(e) ELECTION TO PAY LIABILITY IN INSTALL-
7 MENTS.—

8 “(1) IN GENERAL.—In the case of a United
9 States shareholder with respect to one or more con-
10 trolled foreign corporations to which subsection (a)
11 applies, such United States shareholder may elect to
12 pay the net tax liability under this section in 2 or
13 more (but not exceeding 8) equal installments.

14 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—
15 If an election is made under paragraph (1), the due
16 date for the first installment shall be the due date
17 (determined without regard to any extension of time
18 for filing the return) for the return of tax for the
19 taxable year described in subsection (a)(2)(B) and
20 the due date for each succeeding installment shall be
21 the due date (as so determined) for the return of tax
22 for the taxable year following the taxable year with
23 respect to which the preceding installment was
24 made.

1 “(3) ACCELERATION OF PAYMENT.—If there
2 is—

3 “(A) an assessment of an addition to tax
4 for failure to pay timely with respect to any in-
5 stallment required under this subsection,

6 “(B) a liquidation or sale of substantially
7 all the assets of the taxpayer (including in a
8 title 11 or similar case),

9 “(C) a cessation of business by the tax-
10 payer, or

11 “(D) any similar circumstance,

12 then the unpaid portion of all remaining installments
13 shall be due on the date of such event (or in the case
14 of a title 11 or similar case, the day before the peti-
15 tion is filed).

16 “(4) PRORATION OF DEFICIENCY TO INSTALL-
17 MENTS.—If an election is made under paragraph (1)
18 to pay the net tax liability under this section in in-
19 stallments and a deficiency has been assessed, the
20 deficiency shall be prorated to the installments pay-
21 able under paragraph (1). The part of the deficiency
22 so prorated to any installment the date for payment
23 of which has not arrived shall be collected at the
24 same time as, and as a part of, such installment.
25 The part of the deficiency so prorated to any install-

1 ment the date for payment of which has arrived
2 shall be paid upon notice and demand from the Sec-
3 retary. This paragraph shall not apply if the defi-
4 ciency is due to negligence, to intentional disregard
5 of rules and regulations, or to fraud with intent to
6 evade tax.

7 “(5) RULES RELATING TO INTEREST.—

8 “(A) IN GENERAL.—In the case of any net
9 tax liability prorated to an installment under
10 this subsection, the last date prescribed for pay-
11 ment of the tax for purposes of section 6601(a)
12 shall be the last date for payment of the install-
13 ment rather than the last date for payment of
14 tax for the taxable year in which the net tax li-
15 ability arose.

16 “(B) SPECIAL RULES FOR DEFICI-
17 CIENCIES.—

18 “(i) INTEREST PAYABLE FOR ENTIRE
19 PERIOD.—Subparagraph (A) shall not
20 apply to any deficiency prorated to an in-
21 stallment under paragraph (4).

22 “(ii) PAYMENT OF INTEREST ATTRIB-
23 UTABLE TO PRIOR PERIODS.—In the case
24 of a deficiency to which paragraph (4) ap-
25 plies, interest with respect to such defi-

1 ciency which is assigned under paragraph
2 (4) to any installment the date for pay-
3 ment of which has arrived on or before the
4 date of the assessment of the deficiency,
5 shall be paid upon notice and demand from
6 the Secretary.

7 “(6) PERIOD OF ASSESSMENT.—Notwith-
8 standing section 6501, the period for assessing the
9 net tax liability under this section for which an elec-
10 tion is made under paragraph (1) shall not expire
11 before the due date for the last installment.

12 “(7) ELECTION.—Any election under paragraph
13 (1) shall be made not later than the due date for the
14 return of tax for the taxable year of the United
15 States shareholder described in subsection (a)(2)(B)
16 and shall be made in such manner as the Secretary
17 may provide.

18 “(8) NET TAX LIABILITY UNDER THIS SEC-
19 TION.—For purposes of this subsection—

20 “(A) IN GENERAL.—The net tax liability
21 under this section with respect to any United
22 States shareholder is the excess (if any) of—

23 “(i) such taxpayer’s net income tax
24 for the taxable year, over

1 “(ii) such taxpayer’s net income tax
2 for such taxable year determined without
3 regard to this section.

4 “(B) NET INCOME TAX.—The term ‘net
5 income tax’ means the net income tax (as de-
6 fined in section 38(c)(1)) reduced by the credit
7 allowed under section 38.

8 “(C) REGULATIONS.—The Secretary shall
9 prescribe such regulations as may be necessary
10 for the determination under this subsection of
11 the net tax liability under this section in the
12 case of any pass-thru entity.

13 “(f) REGULATIONS.—The Secretary shall promulgate
14 such regulations as necessary to carry out the purposes
15 of this section, including regulations for the application
16 of this section to pass-through entities all or part of which
17 are owned by 1 or more domestic corporations.”.

18 (b) ORDERING RULE FOR PURPOSES OF TREATMENT
19 OF PREVIOUSLY TAXED INCOME.—

20 (1) IN GENERAL.—Section 959 is amended by
21 adding at the end the following new subsection:

22 “(g) SPECIAL ORDERING RULE.—Notwithstanding
23 subsection (e), for purposes of subsections (a) and (b), sec-
24 tion 316(a) shall be applied by applying paragraph (2)
25 thereof and then paragraph (1) thereof—

1 “(1) first to the deductible portion (as defined
2 in section 965(c)(3)) of the increase in subpart F in-
3 come described in section 965(a)(1) included in the
4 gross income of United States shareholders under
5 section 951(a)(1) (after application of section
6 965(a)(2)(A)), and

7 “(2) then to amounts described in paragraphs
8 (1), (2), or (3) of subsection (c).”.

9 (2) CONFORMING AMENDMENT.—Section
10 959(c) is amended by inserting “except as provided
11 in subsection (g),” after “subsections (a) and (b),”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Clause (vi) of section 56(g)(4)(C) is amend-
14 ed—

15 (A) by inserting “or section 966(a)(2)”
16 after “section 965”, and

17 (B) by inserting “AND INCLUSIONS” after
18 “CERTAIN DISTRIBUTIONS” in the heading
19 thereof.

20 (2) Paragraph (3) of section 245(a) is amend-
21 ed—

22 (A) by striking “post-1986” in subpara-
23 graph (A), and

24 (B) by striking “total post-1986” in sub-
25 paragraph (B).

1 (3) Paragraph (4) of section 245(a) is amended
2 to read as follows:

3 “(4) **UNDISTRIBUTED EARNINGS.**—The term
4 ‘undistributed earnings’ means the amount of the
5 earnings and profits of the controlled foreign cor-
6 poration (computed in accordance with sections
7 964(a) and 986)—

8 “(A) as of the close of the taxable year of
9 the controlled foreign corporation in which the
10 dividend is distributed, and

11 “(B) without diminution by reason of divi-
12 dends distributed during such taxable year.”.

13 (4) Paragraph (5) of section 245(a) is amend-
14 ed—

15 (A) by striking “post-1986” both places it
16 appears in the matter preceding subparagraph
17 (A), and

18 (B) by striking “**POST-1986 UNDISTRI-
19 B-UTED**” in the heading thereof and inserting
20 “**UNDISTRIBUTED**”.

21 (5) Paragraph (6) of section 245(a) is amend-
22 ed—

23 (A) by striking “beginning after December
24 31, 1986” and inserting “which is after the
25 first taxable year of such corporation”, and

1 (B) by striking “post-1986” both places it
2 appears.

3 (6) Paragraph (2) of section 6601(b) is amend-
4 ed—

5 (A) by striking “section 6156(a)” in the
6 matter preceding subparagraph (A) and insert-
7 ing “section 965(d)(1) or 6156(a)”, and

8 (B) by striking “section 6156(b)” in sub-
9 paragraph (A) and inserting “section 965(d)(2)
10 or 6156(b), as the case may be”.

11 (7) The table of sections for subpart F of part
12 III of subchapter N of chapter 1 is amended by
13 striking the item relating to section 965 and insert-
14 ing the following:

“Sec. 965. Inclusion of previously deferred foreign income.”.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to the last taxable year of foreign cor-
19 porations beginning before the applicable date, and
20 to taxable years of United States shareholders with
21 or within which such taxable years of foreign cor-
22 porations end.

23 (2) CONFORMING AMENDMENTS RELATED TO
24 SECTION 245.—The amendments made by para-
25 graphs (2), (3), (4), and (5) of subsection (c) shall

1 apply to taxable years of foreign corporations begin-
2 ning on or after the applicable date, and to taxable
3 years of United States shareholders with or within
4 which such taxable years of foreign corporations
5 end.

6 **Subpart B—Other Provisions**

7 **SEC. 96236. ELIMINATION OF 30-DAY REQUIREMENT.**

8 (a) IN GENERAL.—Section 951(a)(1) is amended by
9 striking “for an uninterrupted period of 30 days or more”
10 and inserting “at any time”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to taxable years of foreign corpora-
13 tions beginning on or after the applicable date, and to tax-
14 able years of United States shareholders with or within
15 which such taxable years of foreign corporations end.

16 **SEC. 96237. MODIFICATION OF DEFINITION OF UNITED**
17 **STATES SHAREHOLDER.**

18 (a) IN GENERAL.—Section 951(b) is amended by in-
19 serting “, or 10 percent or more of the total value of
20 shares of all classes of stock of such foreign corporation”
21 after “such foreign corporation”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to taxable years of foreign corpora-
24 tions beginning on or after the applicable date, and to tax-

1 able years of United States shareholders with or within
2 which such taxable years of foreign corporations end.

3 **Subtitle B—Reform of Foreign Tax**
4 **Credit Provisions**

5 **SEC. 96241. REPEAL OF SECTION 902 INDIRECT FOREIGN**
6 **TAX CREDITS; FOREIGN TAX CREDIT RE-**
7 **LATED TO SUBPART F INCOME.**

8 (a) REPEAL OF SECTION 902 INDIRECT FOREIGN
9 TAX CREDITS.—Subpart A of part III of subchapter N
10 of chapter 1 is amended by striking section 902.

11 (b) FOREIGN TAX CREDIT RELATED TO SUBPART F
12 INCOME.—

13 (1) IN GENERAL.—Section 960 is amended by
14 redesignating subsections (b) and (c) as subsections
15 (c) and (d), respectively, and by striking subsection
16 (a) and inserting the following:

17 “(a) DETERMINATION OF CREDIT ON CURRENT
18 YEAR BASIS.—For purposes of this subpart, if there is
19 included in the gross income of a domestic corporation any
20 amount under section 951(a) with respect to any con-
21 trolled foreign corporation with respect to which such do-
22 mestic corporation is a United States shareholder, such
23 domestic corporation shall be deemed to have paid so
24 much of such foreign corporation’s foreign income taxes
25 as are properly attributable to the amount so included.

1 “(b) TREATMENT OF FOREIGN TAXES NOT PRE-
2 VIOUSLY DEEMED PAID.—For purposes of this subpart—

3 “(1) IN GENERAL.—If any portion of a dis-
4 tribution from a controlled foreign corporation re-
5 ceived by a domestic corporation is excluded from
6 gross income under section 959(a), such domestic
7 corporation shall be deemed to have paid so much of
8 such foreign corporation’s foreign income taxes as
9 are properly attributable to the amount so excluded
10 to the extent such taxes were not deemed paid by
11 the domestic corporation under this section for any
12 prior taxable year.

13 “(2) TAXES OF LOWER-TIER CFCS.—If a con-
14 trolled foreign corporation receives a distribution
15 any portion of which is described in section 959(b)
16 from another controlled foreign corporation, such
17 foreign corporation shall be deemed to have paid so
18 much of such other foreign corporation’s foreign in-
19 come taxes as are properly attributable to the
20 amount so described to the extent such taxes were
21 not deemed paid by a domestic corporation under
22 this section for any prior taxable year.”.

23 “(2) APPLICATION WITH RESPECT TO FOREIGN
24 TAX CREDIT LIMITATION.—Section 960(c), as reded-

1 ignated by paragraph (1), is amended by adding at
2 the end the following new paragraph:

3 “(6) APPLICATION WITH RESPECT TO FOREIGN
4 TAX CREDIT LIMITATION.—This subsection shall be
5 applied separately with respect to each category of
6 income described in section 904(d)(1).”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) Section 960 is amended by striking
9 subsection (d), as redesignated by paragraph
10 (1), and inserting the following:

11 “(d) FOREIGN INCOME TAXES.—For purposes of this
12 section, the term ‘foreign income taxes’ means any income,
13 war profits, or excess profits taxes paid or accrued by a
14 foreign corporation to any foreign country or possession
15 of the United States.

16 “(e) REGULATIONS.—The Secretary shall provide
17 such regulations as may be necessary or appropriate to
18 carry out the provisions of this section, including rules for
19 the application of this section to domestic partnerships
20 with partners that are domestic corporations.”.

21 (B) Section 960 is amended by striking the
22 heading and inserting “**DEEMED PAID CRED-**
23 **IT FOR SUBPART F INCLUSIONS**”.

24 (c) MODIFICATION TO SECTION 78 GROSS UP.—Sec-
25 tion 78 is amended to read as follows:

1 **“SEC. 78. AMOUNTS RECEIVED FROM CERTAIN FOREIGN**
2 **CORPORATIONS BY DOMESTIC CORPORA-**
3 **TIONS CHOOSING FOREIGN TAX CREDIT.**

4 “If a domestic corporation which is a United States
5 shareholder chooses to have the benefits of subpart A of
6 part III of subchapter N (relating to foreign tax credits)
7 for any taxable year, an amount equal to the taxes deemed
8 to be paid by such corporation under section 960 for such
9 taxable year—

10 “(1) shall be treated as an amount included in
11 the gross income under section 951(a), and

12 “(2) for purposes of section 904, shall be
13 deemed to be attributable to the same category of
14 income described in section 904(d)(1) as the income
15 which gave rise to the taxes deemed paid by such
16 corporation.”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Subclause (III) of section 56(g)(4)(C)(iii) is
19 amended by inserting “as in effect before its repeal”
20 after “section 902”.

21 (2) Sections 535(b)(1) and 545(b)(1) are each
22 amended by striking “section 902(a) or 960(a)(1)”
23 and inserting “section 960”.

24 (3) Subparagraph (B) of section 814(f)(1) is
25 repealed.

1 (4) Subsection (a) of section 901 is amended by
2 striking “sections 902 and 960” and inserting “sec-
3 tion 960”.

4 (5) Paragraph (2) of section 901(e) is amended
5 by striking “but is not limited to—” and all that fol-
6 lows through “that portion” and inserting “but is
7 not limited to that portion”.

8 (6) Subsection (f) of section 901 is amended by
9 striking “sections 902 and 960” and inserting “sec-
10 tion 960”.

11 (7) Subparagraph (A) of section 901(j)(1) is
12 amended by striking “902 or”.

13 (8) Subparagraph (A) of section 904(h)(10) is
14 amended by striking “sections 902, 907, and 960”
15 and inserting “sections 907 and 960”.

16 (9) Subsection (k) of section 904 is amended to
17 read as follows:

18 “(k) CROSS REFERENCE.—For modification of limi-
19 tation under subsection (a) for purposes of determining
20 the amount of credit which can be taken against the alter-
21 native minimum tax, see section 59(a).”.

22 (10) Paragraph (1) of section 905(c) is amend-
23 ed by striking the last sentence.

24 (11) Subclause (I) of section 905(c)(2)(B) is
25 amended by striking “902 or”.

1 (12) Subsection (a) of section 906 is amended
2 by striking “(or deemed, under section 902, paid or
3 accrued during the taxable year)”.

4 (13) Subsection (b) of section 906 is amended
5 by striking paragraphs (4) and (5).

6 (14) Subparagraph (B) of section 907(b)(2) is
7 amended by striking “902 or”.

8 (15) Paragraph (3) of section 907(c) is amend-
9 ed—

10 (A) by striking subparagraph (A) and re-
11 designating subparagraphs (B) and (C) as sub-
12 paragraphs (A) and (B), respectively, and

13 (B) by striking “section 960(a)” in sub-
14 paragraph (A) (as so redesignated) and insert-
15 ing “section 960”.

16 (16) Paragraph (5) of section 907(c) is amend-
17 ed by striking “902 or”.

18 (17) Clause (i) of section 907(f)(2)(B) is
19 amended by striking “902 or”.

20 (18) Subsection (a) of section 908 is amended
21 by striking “902 or”.

22 (19) Paragraph (1) of section 958(a) is amend-
23 ed by striking “960(a)(1)” and inserting “960”.

24 (20) Subparagraph (B) of section 6038(c)(1) is
25 amended by striking “sections 902 (relating to for-

1 eign tax credit for corporate stockholder in foreign
2 corporation) and 960 (relating to special rules for
3 foreign tax credit)” and inserting “section 960”.

4 (21) Paragraph (4) of section 6038(c) is
5 amended by striking subparagraph (C).

6 (22) The table of sections for subpart A of part
7 III of subchapter N of chapter 1 is amended by
8 striking the item relating to section 902.

9 (23) The table of sections for part II of sub-
10 chapter B of chapter 1 is amended by striking
11 “Dividends” in the item relating to section 78 and
12 inserting “Amounts”.

13 (24) The table of sections for subpart F of part
14 III of subchapter N of chapter 1 is amended by
15 striking the item relating to section 960 and insert-
16 ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”.

17 (e) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years of foreign corpora-
19 tions beginning on or after the applicable date, and to tax-
20 able years of United States shareholders with or within
21 which such taxable years of foreign corporations end.

1 **SEC. 96242. REPEAL OF RULE SUSPENDING FOREIGN TAXES**
2 **AND CREDITS UNTIL RELATED INCOME IS**
3 **TAKEN INTO ACCOUNT.**

4 (a) IN GENERAL.—Subpart A of part III of sub-
5 chapter N of chapter 1 is amended by striking section 909.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 901(m)(1)(B) is amended by strik-
8 ing “a section 902 corporation (as defined in section
9 909(d)(5))” and inserting “a controlled foreign cor-
10 poration (as defined in section 957(a))”.

11 (2) The table of sections of subpart A of part
12 III of subchapter N of chapter 1 is amended by
13 striking the item relating to section 909.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to foreign taxes paid or accrued
16 in taxable years beginning on or after the applicable date.

