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:

DIVISION J—INFRASTRUCTURE

SEC. 96001. SHORT TITLE; ETC.

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

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.
TITLE XCVI—DEEMED REPATRIATION AND INVESTMENT IN DOMESTIC INFRASTRUCTURE

SEC. 96101. ELIMINATION OF INCENTIVE FOR CORPORATIONS TO CONTINUE TO HOLD ACCUMULATED EARNINGS OFFSHORE.

(a) In General.—Section 965 is amended to read as follows:

“SEC. 965. ELIMINATION OF INCENTIVE TO HOLD ACCUMULATED EARNINGS AND PROFITS OFFSHORE.

“(a) Treatment of Deferred Foreign Income as Subpart F Income.—In the case of the last taxable year of a deferred foreign income corporation which ends before the date of the enactment of the Infrastructure 2.0 Act, the subpart F income of such foreign corporation (as otherwise determined for such taxable year under section 952) shall be increased by the accumulated post-1986 deferred foreign income of such corporation determined as of the close of such taxable year.

“(b) Reduction in Amounts Included in Gross Income of United States Shareholders of Specified Foreign Corporations With Deficits in Earnings and Profits.—

“(1) In general.—In the case of a taxpayer which is a United States shareholder with respect to
at least one deferred foreign income corporation and
at least one E&P deficit foreign corporation, the
amount which would (but for this subsection) be
taken into account under section 951(a)(1) by rea-
son of subsection (a) as such United States share-
holder’s pro rata share of the subpart F income of
each deferred foreign income corporation shall be re-
duced (but not below zero) by the amount of such
United States shareholder’s aggregate foreign E&P
deficit which is allocated under paragraph (2) to
such deferred foreign income corporation.

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

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

“(B) the aggregate of such United States
shareholder’s pro rata share of the accumulated
post-1986 deferred foreign income of all de-
ferred foreign income corporations of such United States shareholder.

“(3) Definitions related to E&P deficits.—For purposes of this subsection—

“(A) Aggregate foreign E&P deficit.—The term ‘aggregate foreign E&P deficit’ means, with respect to any United States shareholder, the aggregate of such shareholder’s pro rata shares of the specified E&P deficits of the E&P deficit foreign corporations of such shareholder.

“(B) E&P deficit foreign corporation.—The term ‘E&P deficit foreign corporation’ means, with respect to any taxpayer, any specified foreign corporation with respect to which such taxpayer is a United States shareholder, if—

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

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

“(I) such corporation was a specified foreign corporation, and
“(II) such taxpayer was a United States shareholder of such corporation.

“(C) SPECIFIED E&P DEFICIT.—The term ‘specified E&P deficit’ means, with respect to any E&P deficit foreign corporation, the amount of the deficit referred to in subparagraph (B).

“(e) DEDUCTION FOR PORTION OF INCLUDED INCOME.—In the case of a United States shareholder of a deferred foreign income corporation, there shall be allowed as a deduction for the taxable year in which an amount is included in the gross income of such United States shareholder under section 951(a)(1) by reason of this section an amount equal to 75 percent of the amount so included in gross income.

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

“(1) DEFERRED FOREIGN INCOME CORPORATION.—The term ‘deferred foreign income corporation’ means, with respect to any United States shareholder, any specified foreign corporation of such United States shareholder which has accumulated post-1986 deferred foreign income (as of the
close of the taxable year referred to in subsection (a)) greater than zero.

“(2) ACCUMULATED POST-1986 DEFERRED FOREIGN INCOME.—The term ‘accumulated post-1986 deferred foreign income’ means the post-1986 earnings and profits except to the extent such earnings—

“(A) are attributable to income of the specified foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter,

“(B) if distributed, would—

“(i) in the case of a controlled foreign corporation, be excluded from the gross income of a United States shareholder under section 959, or

“(ii) in the case of any passive foreign investment company (as defined in section 1297) other than a controlled foreign corporation, be treated as a distribution which is not a dividend, or

“(C) in the case of any passive foreign investment company (as so defined), is properly attributable to an unreversed inclusion of a United States person under section 1296.
To the extent provided in regulations or other guidance prescribed by the Secretary, in the case of any controlled foreign corporation which has shareholders which are not United States shareholders, accumulated post-1986 deferred foreign income shall be appropriately reduced by amounts which would be described in subparagraph (B)(i) if such shareholders were United States shareholders. Such regulations or other guidance may provide a similar rule for purposes of subparagraph (B)(ii) and (C).

“(3) POST-1986 EARNINGS AND PROFITS.—The term ‘post-1986 earnings and profits’ means the earnings and profits of the foreign corporation (computed in accordance with sections 964(a) and 986) accumulated in taxable years beginning after December 31, 1986, and determined—

“(A) as of the close the taxable year referred to in subsection (a), and

“(B) without diminution by reason of dividends distributed during such taxable year.

“(e) SPECIFIED FOREIGN CORPORATION.—

“(1) IN GENERAL.—For purposes of this section, the term ‘specified foreign corporation’ means—
“(A) any controlled foreign corporation,

and

“(B) any section 902 corporation (as defined in section 909(d)(5)).

“(2) APPLICATION TO SECTION 902 CORPORATIONS.—For purposes of section 951, a section 902 corporation (as so defined) shall be treated as a controlled foreign corporation solely for purposes of taking into account the subpart F income of such corporation under subsection (a) (and for purposes of applying subsection (f)).

“(f) DETERMINATIONS OF PRO RATA SHARE.—For purposes of this section, the determination of any United States shareholder’s pro rata share of any amount with respect to any specified foreign corporation shall be determined under rules similar to the rules of section 951(a)(2) by treating such amount in the same manner as subpart F income (and by treating such specified foreign corporation as a controlled foreign corporation).

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

“(1) IN GENERAL.—No credit shall be allowed under section 901 for the applicable percentage of any taxes paid or accrued (or treated as paid or ac-
crued) with respect to any amount for which a de-
duction is allowed under this section.

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

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

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

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

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

“(A) 8 percent of the net tax liability in
the case of each of the first 5 of such install-
ments,
“(B) 15 percent of the net tax liability in the case of the 6th such installment,

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

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

“(2) DATE FOR PAYMENT OF INSTALLMENTS.—If an election is made under paragraph (1), the first installment shall be paid on the due date (determined without regard to any extension of time for filing the return) for the return of tax for the taxable year described in subsection (b) and each succeeding installment shall be paid on the due date (as so determined) for the return of tax for the taxable year following the taxable year with respect to which the preceding installment was made.

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

The preceding sentence shall not apply to the sale of substantially all the assets of a taxpayer to a buyer if such buyer enters into an agreement with the Secretary under which such buyer is liable for the remaining installments due under this subsection in the same manner as if such buyer were the taxpayer.

“(4) **Proration of deficiency to installments.**—If an election is made under paragraph (1) to pay the net tax liability under this section in installments and a deficiency has been assessed with respect to such net tax liability, the deficiency shall be prorated to the installments payable under paragraph (1). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.
“(5) ELECTION.—Any election under paragraph (1) shall be made not later than the due date for the return of tax for the taxable year described in subsection (a) and shall be made in such manner as the Secretary may provide.

“(6) NET TAX LIABILITY UNDER THIS SECTION.—For purposes of this subsection—

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

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

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

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

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

shareholder’s taxable income from sources without the
United States shall be determined without regard to this
section.

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

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

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

SEC. 96102. AMERICAN INFRASTRUCTURE FUND.

(a) American Infrastructure Fund.—

(1) In general.—There is established a wholly
owned Government corporation—

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

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

(C) which may have separate subaccounts
or subsidiaries for funds used to make loans,
bond guarantees, and equity investments under
this section;
(D) which shall be available to the AIF to pay for the costs of carrying out this section, including the compensation of the Board and other employees of the AIF; and

(E) the funds of which may be invested by the Board in such manner as the Board determines appropriate.

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

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

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

(5) TREATMENT OF AIF.—

(A) ACCOUNTS.—Title 31, United States Code, is amended in each of sections 9107(c)(3) and 9108(d)(2)—
(i) by inserting “the American Infrastructure Fund,” after “the Regional Banks for Cooperatives,”; and

(ii) by striking “those banks” and inserting “those entities”.

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

(b) BOARD OF TRUSTEES.—

(1) IN GENERAL.—There is established a Board of Trustees of the AIF (referred to in this subsection as the “Board”), which shall be composed of

9 members who—

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

(B) to the greatest extent practicable, have extensive experience working with municipal credit, risk management, and infrastructure finance.

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

(A) to operate the AIF and its subsidiaries to be a low cost provider of bond guarantees, loans, and equity investments to State and local
governments and infrastructure providers for urban and rural infrastructure projects that—

(i) provide a positive economic impact;

and

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

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

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

(i) covering its costs;

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

(iii) applying prudent underwriting standards;

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

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

(3) MEMBERSHIP.—

(A) INITIAL MEMBERS.—

(i) APPOINTMENT.—Not later than 150 days after the date of the enactment
of this Act, the President shall appoint, with the advice and consent of the Senate, as members of the Board—

(I) 2 individuals from a list of at least 5 individuals selected by the Speaker of the House of Representatives;

(II) 2 individuals from a list of at least 5 individuals selected by the Minority Leader of the House of Representatives;

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

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

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

(ii) Submission of lists.—Each of the lists described in clause (i) shall be submitted to the President not later than 90 days after the date of the enactment of this Act. If any of such lists are submitted after the date required under this clause,
the President may appoint the 2 members
of the Board who were to be selected from
such list at will.

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

(C) ADDITIONAL MEMBERS.—

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

(ii) TERM OF SERVICE.—

(I) IN GENERAL.—Each member
of the Board appointed to replace a
member whose term is expiring shall
serve for a 7-year term.

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

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

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

(F) CONFLICTS OF INTEREST.—No mem-
ber of the Board may have a financial interest
in, or be employed by, a Qualified Infrastruc-
ture Project (“QIP”) related to assistance pro-
vided under this section. Owning municipal
credit of any State or local government or own-
ing the securities of a diversified company that
engages in infrastructure activities, provided
those activities constitute less than 20 percent
of the company’s revenues, or investing in
broadly held investment funds shall not be
deemed to create a conflict of interest. The
Board may issue regulations to define terms
used under this subparagraph.

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

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

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

(7) CORPORATE GOVERNANCE STANDARDS.—
(A) BOARD COMMITTEES GENERALLY.—
The Board shall maintain all of the committees required to be maintained by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(B) RISK MANAGEMENT COMMITTEE.—The Board shall maintain a risk management committee, which shall—

(i) employ additional staff who are certified by the Board as having significant and relevant experience in insurance underwriting and credit risk management; and

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

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

(8) BIENNIAL REPORTS.—Not less frequently than once every 2 years, the Board shall produce a report that describes, of the materials, goods, and
products that were used to construct, or to support
the construction of, qualified infrastructure projects
(as described in subsection (c)) and received financ-
ing from the American Infrastructure Fund within
the most recent 2 calendar years, the percentage of
such materials, goods, and products that were cre-
ated, sourced, or manufactured in the United States.

(c) Infrastructure Investment.—

(1) Entities eligible for assistance.—The
AIF may provide assistance to State and local gov-
ernment entities, nonprofit infrastructure providers,
private parties, and public-private partnerships (re-
ferred to in this section as “eligible entities”) to help
finance qualified infrastructure projects (referred to
in this subsection as “QIPs”).

(2) Forms of assistance.—The AIF may—

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

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

(C) make equity investments in QIPs.

(3) Qualified Infrastructure Projects.—
A project qualifies as a QIP under this section if—

(A) the project is sponsored by a State or
local government;
(B) the infrastructure is, or will be, owned by a State or local government;

(C) the project involves the construction, maintenance, improvement, or repair of a transportation, energy, water, communications, or educational facility;

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

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

(4) APPLICATION FOR ASSISTANCE.—
(A) IN GENERAL.—A State or local government that wishes to receive a loan or bond guarantee under this section shall submit an application to the Board in such form and manner and containing such information as the Board may require.

(B) REQUIREMENT FOR PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—A private entity may only receive a bond guarantee, loan, or equity investment under this section if the State or local government for the jurisdiction in which the nonprofit infrastructure provider or private partner is located submits an application pursuant to subparagraph (A) on behalf of such nonprofit infrastructure provider or private partner.

(5) LIMITATIONS ON SINGLE STATE AWARDS.—

(A) ANNUAL LIMITATION.—The Board shall set an annual limit, as a percentage of total assistance provided under this section during a year, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.
(B) Cumulative Limitation.—The Board shall set a limit, as a percentage of total assistance provided under this section outstanding at any one time, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.

(6) Loan Specifications.—Loans made under this section shall have such maturity and carry such interest rate as the Board determines appropriate.

(7) Bond Guarantee.—The Board shall charge such fees for Bond guarantees made under this section as the Board determines appropriate.

(8) Equity Investments.—With respect to a QIP, the amount of an equity investment made by the AIF in such QIP may not exceed 20 percent of the total cost of the QIP.

(9) Public-Private Partnership Requirements.—At least 35 percent of the assistance provided under this section shall be provided to QIPs for which at least 10 percent of the financing for such QIPs comes from private debt or equity.

(10) Prohibition on Principal Forgiveness.—With respect to a loan made under this sec-
tion, the Board may not forgive any amount of prin-
cipal on such loan.

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

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

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

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

(e) APPROPRIATION.—Out of money in the Treasury
not otherwise appropriated, there is hereby appropriated
$50,000,000,000 to the American Infrastructure Fund.

Amounts appropriated under this subsection shall remain
available without fiscal year limitation.

SEC. 96103. DEDICATION OF REMAINING REVENUES TO
HIGHWAY TRUST FUND.

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

“(5) APPROPRIATION OF REVENUES ATTRIB-
UTABLE TO SECTION 965.—
“(A) INITIAL APPROPRIATION.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated for each of the fiscal years 2016 through 2021, $20,000,000,000 to the Highway Trust Fund.

“(B) REMAINING REVENUES.—

“(i) IN GENERAL.—Out of money in the Treasury not otherwise appropriated, there are hereby appropriated to the Highway Trust Fund the excess of—

“(I) amounts equivalent to the aggregate net tax liabilities under section 965 (as defined in such section) received in the Treasury, over

“(II) $170,025,000,000.

“(ii) ADDITIONAL TRANSFERS ONLY AFTER REVENUES EQUALING INITIAL TRANSFERS HAVE BEEN RECEIVED IN THE TREASURY.—For purposes of applying section 9601 to clause (i), no transfer shall be made under clause (i) until the Secretary estimates that the amount described in clause (i)(I) has exceeded the amount described in clause (i)(II).”.
(b) TRANSFERS TO MASS TRANSIT ACCOUNT.—Section 9503(e)(2) of such Code is amended by striking “the mass transit portion” and inserting “, 20 percent of the amounts appropriated to the Highway Trust Fund under subsection (f)(5), and the mass transit portion”.

SEC. 96104. HIGHWAY TRUST FUND SOLVENCY COMMISSION.

(a) ESTABLISHMENT.—There is established in the legislative branch a commission to be known as the “Highway Trust Fund Solvency Commission” (in this section referred to as the “Commission”).

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

(c) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members. Of the members of the Commission—

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

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

(D) 1 member shall be appointed by the chairman of the Committee on Ways and Means of the House of Representa-
tives;

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

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

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

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

(I) 1 member shall be appointed by the ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.
(2) TIMING OF APPOINTMENTS.—Each of the
appointments made under paragraph (1) shall be
made not later than 45 days after the date of the
enactment of this Act.

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

(4) COMPENSATION.—

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

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

(d) OPERATION AND POWERS OF THE COMMI-
SSION.—

(1) CHAIR.—The chairperson of the Commis-
sion shall be elected by the members of the Com-
mission.

(2) MEETINGS.—The Commission shall meet
not later than 30 days after the members of the
Commission have been appointed, and at such times
thereafter as the chairperson shall determine.
(3) RULES OF PROCEDURE.—The chairperson shall, with the approval of a majority of the members of the Commission, establish written rules of procedure for the Commission, which shall include a quorum requirement to conduct the business of the Commission.

(4) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(5) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States, including the Congressional Budget Office and the Government Accountability Office, any information or technical assistance necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish that information or technical assistance to the Commission.

(6) CONTRACT AUTHORITY.—The Commission may contract with and compensate government and private agencies or persons for any purpose necessary to enable it to carry out this section.
(7) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) PERSONNEL.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission. The Director shall be paid at a rate of pay equivalent to the annual rate of basic pay for a comparable position paid under the Executive Schedule, subject to the approval of the chairperson of the Commission.

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

(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay for a comparable position paid under the Executive Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, without reim-
bursement, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(5) Administrative Support Services.—
Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

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

(g) Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(h) EXPEDITED CONSIDERATION OF COMMISSION RECOMMENDATIONS.—

(1) EXPEDITED CONSIDERATION.—

(A) Introduction of Approval Bill.—
The majority leader of each House or a designee shall (by request) introduce an approval bill as described in paragraph (3) not later than the third day of session of that House after the date of receipt of the report transmitted to the Congress under subsection (b).
(B) Consideration in the House of Representatives.—

(i) Referral and Reporting.—Any committee of the House of Representatives to which an approval bill is referred shall report it to the House without amendment not later than the third legislative day after the date of its introduction. If a committee fails to report the bill within that period or the House has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, such committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

(ii) Proceeding to Consideration.—Not later than 3 legislative days after the approval bill is reported or a committee has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the approval bill in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule.
within two legislative days after the day on which the proponent announces an intention to the House to offer the motion provided that such notice may not be given until the approval bill is reported or a committee has been discharged from further consideration thereof. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to that special message. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(iii) CONSIDERATION.—If the motion to proceed is agreed to, the House shall immediately proceed to consider the approval bill in the House without intervening motion. The approval bill shall be considered as read. All points of order against the approval bill and against its consideration are waived. The previous question shall be considered as ordered on the approval bill to its passage without in-
tervening motion except 4 hours of debate equally divided and controlled by the pro-
ponent and an opponent and one motion to limit debate on the bill. A motion to recon-
sider the vote on passage of the approval bill shall not be in order.

(C) CONSIDERATION IN THE SENATE.—

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

(ii) MOTION TO PROCEED.—Not later than 3 session days after the approval bill is reported in the Senate or the committee has been discharged thereof, it shall be in order for any Senator to move to proceed to consider the approval bill in the Senate.
The motion shall be decided without debate and the motion to reconsider shall be deemed to have been laid on the table. Such a motion shall not be in order after the Senate has disposed of a prior motion to proceed with respect to the approval bill.

(iii) CONSIDERATION.—If a motion to proceed to the consideration of the approval bill is agreed to, the Senate shall immediately proceed to consideration of the approval bill without intervening motion, order, or other business, and the approval bill shall remain the unfinished business of the Senate until disposed of. Consideration on the bill in the Senate under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours equally divided in the usual form. All points of order against the approval bill or its consideration are waived. Consideration in the Senate on any debatable motion or appeal in connection with the approval bill shall be limited to not more than 1 hour. A motion to postpone, or a motion to proceed to the
consideration of other business, or a mo-
tion to recommit the approval bill is not in
order. A motion to reconsider the vote by
which the approval bill is agreed to or dis-
agreed to is not in order.

(D) Amendments prohibited.—No
amendment to, or motion to strike a provision
from, an approval bill considered under this sec-
tion shall be in order in either the Senate or the
House of Representatives.

(E) Coordination with action by
other house.—

(i) In general.—If, before passing
the approval bill, one House receives from
the other a bill—

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

(II) the procedure in the receiv-
ing House shall be the same as if no
approval bill had been received from
the other House until the vote on pas-
sage, when the bill received from the
other House shall supplant the ap-
proval bill of the receiving House.
(ii) EXCEPTION.—This paragraph shall not apply to the House of Representatives.

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

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

(A) which consists of the proposed legislation which is included in such report to carry out the recommendations made by the Commission in the report; and

(B) the title of which is as follows: “A bill to carry out the recommendations of the Highway Trust Fund Solvency Commission.”.

(4) EXTENDED TIME PERIOD.—If Congress adjourns at the end of a Congress and an approval bill was then pending in either House of Congress or a committee thereof, or an approval bill had not yet been introduced with respect to a special message, then within the first 3 days of session of the next Congress, the Commission shall transmit to Congress an additional special message containing all of the information in the previous, pending special mes-
sage. An approval bill may be introduced within the first five days of session of such next Congress and shall be treated as an approval bill under this section, and the time periods described in subparagraphs (B) and (C) of paragraph (1) shall commence on the day of introduction of that approval bill.

SEC. 96105. REGIONAL INFRASTRUCTURE ACCELERATOR PILOT PROGRAM.

(a) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall establish a regional infrastructure accelerator pilot program (in this section referred to as the “Program”) to assist certain State, local, and regional public entities to develop improved priorities and financing strategies for the accelerated development of covered infrastructure projects.

(b) Accelerator Establishment Authority.—

(1) In general.—In carrying out the Program, the Secretary is authorized to establish regional infrastructure accelerators that will—

(A) serve a defined geographic area; and

(B) act as a resource to State, local, and regional public entities in that area in accordance with this section.
(2) APPLICATIONS.—To be eligible for a regional infrastructure accelerator under the Program, State, local, and regional public entities shall submit to the Secretary an application proposing an accelerator at such time, in such form, and containing such information as the Secretary determines is appropriate.

(3) NUMBER.—To the extent practicable, the Secretary shall establish at least 5 regional infrastructure accelerators under the Program.

(4) GEOGRAPHIC DIVERSITY.—In establishing regional infrastructure accelerators under the Program, the Secretary shall consider the need for geographic diversity among such accelerators.

(c) ACCELERATOR COMPOSITION.—

(1) IN GENERAL.—Each regional infrastructure accelerator established under subsection (b) shall include a membership composed of at least the following:

(A) A representative of each State, local, or regional public entity in the area served by the accelerator that participated in the application that resulted in the establishment of the accelerator.
(B) A representative of a State, local, or regional public entity located outside the area served by the accelerator with experience in innovative infrastructure financing.

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

(D) A representative of a construction or development entity that intends to develop covered infrastructure projects in the area served by the accelerator.

(E) A representative of the Department of Transportation.

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

(G) A representative of the Environmental Protection Agency.

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

(2) LOCAL REPRESENTATION REQUIREMENT.—At least 60 percent of the membership of each regional infrastructure accelerator established under subsection (b) shall be composed of representatives...
of State, local, and regional public entities located in
the area served by the accelerator.

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

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

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

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

(B) evaluating and promoting innovative
financing methods;

(C) connecting sources of financing to the
public sponsors of such projects;
(D) establishing standards to measure the life-cycle impacts of investments in such projects; and

(E) providing technical assistance and information on best practices with respect to such projects from predevelopment activities through maintenance;

(2) assesses regional and multimodal approaches to advancing innovative investment in covered infrastructure projects; and

(3) develops strategies for—

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

(B) predevelopment capital programs to facilitate the creation of a catalog of covered infrastructure projects available for investment;

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

(D) the multimodal integration of transportation projects.

(e) PROGRAM TERMINATION.—The Program shall terminate on the date that is 10 years after the date on which the Program is established under subsection (a).
(f) Covered Infrastructure Project Defined.—In this section, the term “covered infrastructure project” means a project—

(1) sponsored by a State, local, or regional public entity; and

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

(g) Appropriation.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated $25,000,000 to the Department of Transportation to carry out the Program. Amounts appropriated under this subsection shall remain available without fiscal year limitation.

TITLE XCVII—PROSPECTIVE INTERNATIONAL TAX REFORM

SEC. 96200. GENERAL EFFECTIVE DATE OF TITLE.

For purposes of this title, the term “applicable date” means the first day of the first taxable year beginning on or after the date of the enactment of this Act.
Subtitle A—Reform of Taxation of Income Earned by Controlled Foreign Corporations

PART I—GENERAL PROVISIONS

SEC. 96201. MODIFICATIONS TO SUBPART F INCOME.

(a) In General.—Subpart F of part III of subchapter N of chapter 1 is amended by striking sections 952 through 956 and inserting the following:

“SEC. 952. SUBPART F INCOME DEFINED.

“(a) In General.—For purposes of this subpart, the term ‘subpart F income’ means, with respect to any controlled foreign corporation, the sum of—

“(1) the inclusion percentage of the corporation’s modified active income, plus

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

“(b) Modified Active Income.—

“(1) In General.—The term ‘modified active income’ means, with respect to any controlled foreign corporation, the excess (if any) of—

“(A) the corporation’s active foreign market income, over

“(B) the amount of the reduction under subsection (e) for deductions properly allocable to such income.
“(2) REDUCTION FOR CERTAIN LOSSES.—

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

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

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

“(B) LIMITATION.—An active foreign market loss or qualified loss for any prior taxable year shall only be taken into account under subparagraph (A)—

“(i) if the prior taxable year is a taxable year which begins on or after the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act), and for which the controlled foreign corporation was a controlled foreign corporation, and

“(ii) to the extent such loss has not been previously taken into account under this subsection.
“(3) Active Foreign Market Loss.—The term ‘active foreign market loss’ means, with respect to any taxable year, the amount by which the amount determined under paragraph (1)(B) exceeds the amount determined under paragraph (1)(A).

“(c) Modified Nonactive Income.—

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

“(A) the corporation’s gross income determined without regard to active foreign market income, over

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

“(2) Reduction for Qualified Losses.—The amount determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by any qualified loss for any prior taxable year beginning on or after the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act), for which the controlled foreign corporation was a controlled foreign corporation, but only to the extent such loss has not been previously taken into account under subsection (b)(2) or this subsection.
“(3) QUALIFIED LOSS.—For purposes of this section—

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

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

“(i) first under paragraph (2), and

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

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

“(1) IN GENERAL.—The term ‘inclusion percentage’ means 20 percent increased by the number of percentage points (if any) determined under paragraph (2).

“(2) ADDITIONAL INCLUSION FOR EARNINGS NOT SUBJECT TO OECD AVERAGE FOREIGN TAX.— The number of percentage points determined under
this paragraph with respect to any controlled foreign
corporation for any taxable year, is the number of
percentage points (not less than zero nor more than
15) which bears the same ratio to 15 as—

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

“(B) 25.

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

“(f) DEDUCTIONS.—For purposes of subsections
(b)(1)(B) and (e)(1)(B), the active foreign market income,
and gross income other than active foreign market income,
of a controlled foreign corporation shall each be reduced,
under regulations prescribed by the Secretary, by any de-
ductions (including taxes) of such corporation properly al-
locable to items of income taken into account in computing
such income.

"SEC. 953. ACTIVE FOREIGN MARKET INCOME.

"(a) Active Foreign Market Income Defined.—
For purposes of this subpart, the term ‘active foreign mar-
ket income’ means, with respect to any controlled foreign
corporation, the aggregate of all items of income which
are—

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

“(2) derived in connection with—

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

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

“(b) Treatment of Passive Income.—

“(1) In General.—Except as otherwise pro-
vided in this subsection, the term ‘active foreign
market income’ shall not include the passive income
(as defined in section 954) of a controlled foreign corporation.

“(2) ACTIVE FOREIGN MARKET INCOME INCLUDES CERTAIN INCOME.—The term ‘active foreign market income’ shall include—

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

“(B) if the controlled foreign corporation or a qualified business unit of the corporation is a qualifying insurance company (as defined in section 954(d)) or a qualifying insurance company branch (as so defined), any item of income of the corporation or unit which is qualified insurance income (as so defined),

“(C) any item of income which is rents or royalties derived from the ownership and operation (including leasing) of real or personal property which is not treated as passive income under section 954(a)(2)(A), and

“(D) in the case of a regular dealer in property which is property described in section
954(a)(1)(B), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), any item of income from any transaction (including hedging transactions and transactions involving physical settlement) entered into in the ordinary course of such dealer’s trade or business as such a dealer.

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

“(A) gain from such sale, exchange, or disposition shall be treated as active foreign market income to the extent that such gain would have been excluded from gross income under section 1203 if the selling corporation were a United States shareholder in the other controlled foreign corporation, and

“(B) loss from such sale, exchange, or disposition shall not be allowed to the extent such loss would have been disallowed under section 1213 if the selling corporation were a United
States shareholder in the other controlled foreign corporation.

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

“(A) IN GENERAL.—

“(i) Portion treated as active foreign market income.—In the case of any sale or exchange by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, gain or loss on such sale shall be taken into account in determining active foreign market income in the amount which bears the same ratio to the amount of such gain or loss as the controlled foreign corporation’s distributable share of the active foreign market income from the partnership over the applicable period bears to the controlled foreign corporation’s distributable share of gross income from the partnership over such period. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations pro-
viding for coordination of this paragraph
with the provisions of subchapter K.

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

“(B) 25-PERCENT OWNER.—For purposes
of this paragraph, the term ‘25-percent owner’
means a controlled foreign corporation which
owns directly 25 percent or more of the capital
or profits interest in a partnership. For pur-
poses of the preceding sentence, if a controlled
foreign corporation is a shareholder or partner
of a corporation or a partnership, the controlled
foreign corporation shall be treated as owning
directly its proportionate share of any capital or
profits interest in any partnership held directly
or indirectly by such corporation or partnership.
If a controlled foreign corporation is treated as
owning a capital or profits interest in a part-
nership under constructive ownership rules
similar to the rules of section 958(b), the con-
trolled foreign corporation shall be treated as
owning such interest directly for purposes of
this subparagraph.

“(c) TREATMENT OF INSURANCE INCOME.—

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

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

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

“(1) IN GENERAL.—The term ‘active foreign
market income’ shall not include income derived in
connection with property which is sold, exchanged, or otherwise disposed of to any person if it was reasonable for the controlled foreign corporation (or a related person) to expect that—

“(A) such property would be used, consumed, or disposed of in the United States, or

“(B) such property would be used in the manufacture or production of, or as a component part in, other property which would be used, consumed, or disposed of in the United States.

“(2) Chain of related persons.—If—

“(A) property is ultimately used, consumed, or disposed of as described in subparagraph (A) or (B) of paragraph (1), and

“(B) all sales, exchanges, or dispositions of such property (or of the other property described in paragraph (1)(B)) before the sale for use, consumption, or disposition in the United States are between related persons,

then, for purposes of paragraph (1), there shall be deemed to have been a reasonable expectation that the property (or the other property described in paragraph (1)(B)) would be used, consumed, or disposed of in the United States.
(3) Exception for property subsequently exported.—Paragraphs (1) and (2) shall not apply with respect to property which, after entry into the United States is—

“(A) sold, leased, rented, or licensed by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

“(B) used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, rented, or licensed.

(4) Related person defined.—For purposes of this subsection, the term ‘related person’ has the meaning given such term under section 954(b).

(e) Economically significant activities.—For purposes of this section, the term ‘economically significant activities’ means, with respect to any item of income, activities—

“(1) performed outside the United States,

“(2) performed by officers or employees of the controlled foreign corporation which are part of the management and operational functions of the corporation, and
“(3) which make a substantial contribution to
the production of such item of income.

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

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

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

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

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

“SEC. 954. DEFINITION OF PASSIVE INCOME.

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

“(A) DIVIDENDS, ETC.—Dividends, interest, royalties, rents, and annuities.

“(B) CERTAIN PROPERTY TRANSACTIONS.—The excess of gains over losses from the sale or exchange of property—

“(i) which gives rise to income described in subparagraph (A) (after application of paragraph (2)(A)) other than property which gives rise to income not treated as passive income by reason of subsection (c) or (d) for the taxable year,

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

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

Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(a)(1) shall not be taken into account under this subparagraph.

“(C) COMMODITIES TRANSACTIONS.—The excess of gains over losses from transactions
(including futures, forward, and similar transactions) in any commodities. This subparagraph shall not apply to gains or losses which—

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

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

“(iii) are foreign currency gains or losses (as defined in section 988(b)) attributable to any section 988 transactions.

“(D) FOREIGN CURRENCY GAINS.—The excess of foreign currency gains over foreign currency losses (as defined in section 988(b)) attributable to any section 988 transactions. This subparagraph shall not apply in the case of any transaction, other than a borrowing, directly related to the business needs of the controlled foreign corporation.

“(E) INCOME EQUIVALENT TO INTEREST.—Any income equivalent to interest, in-
including income from commitment fees (or similar amounts) for loans actually made.

“(F) INCOME FROM NOTIONAL PRINCIPAL CONTRACTS.—

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

“(ii) COORDINATION WITH OTHER CATEGORIES OF PASSIVE INCOME.—Any item of income, gain, deduction, or loss from a notional principal contract entered into for purposes of hedging any item described in any preceding subparagraph shall not be taken into account for purposes of this subparagraph but shall be taken into account under such other subparagraph.

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

“(H) PERSONAL SERVICE CONTRACTS.—

“(i) Amounts received under a contract under which the corporation is to furnish personal services if—
“(I) some person other than the
corporation has the right to designate
(by name or by description) the indi-
vidual who is to perform the services,
or
“(II) the individual who is to per-
form the services is designated (by
name or by description) in the con-
tract, and
“(ii) amounts received from the sale
or other disposition of such a contract.

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

“(2) Exception for certain amounts.—
“(A) Rents and royalties derived in
active business.—Passive income shall not
include rents and royalties which are derived in
the active conduct of a trade or business and
which are received from a person other than a related person. For purposes of the preceding sentence, rents derived from leasing an aircraft or vessel in foreign commerce shall not fail to be treated as derived in the active conduct of a trade or business if, as determined under regulations prescribed by the Secretary, the active leasing expenses are not less than 10 percent of the profit on the lease.

“(B) Exception for dealers.—Except as provided by regulations, in the case of a regular dealer in property which is property described in paragraph (1)(B), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing passive income any item of income, gain, deduction, or loss from any transaction (including hedging transactions and transactions involving physical settlement) entered into in the ordinary course of such dealer’s trade or business as such a dealer.

“(3) Look-thru rule for certain partnership sales.—
“(A) IN GENERAL.—In the case of any sale or exchange by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, gain or loss on such sale shall be treated as being described in paragraph (1)(B)(ii) in the amount which bears the same ratio to the amount of such gain or loss as the controlled foreign corporation’s distributable share of passive income from the partnership over the applicable period (as defined in section 953(b)(4)(A)(ii)) bears to the controlled foreign corporation’s distributable share of gross income from the partnership over such period. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for the coordination of this paragraph with the provisions of subchapter K.

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

“(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—
“(A) Commodity Hedging Transactions.—For purposes of paragraph
(1)(C)(i), the term ‘commodity hedging transaction’ means any transaction with respect to a commodity if such transaction—

“(i) is a hedging transaction as defined in section 1221(b)(2), determined—

“(I) without regard to subparagraph (A)(ii) thereof,

“(II) by applying subparagraph (A)(i) thereof by substituting ‘ordinary property or property described in section 1231(b)’ for ‘ordinary property’, and

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

“(ii) is clearly identified as such in accordance with section 1221(a)(7).

“(B) Treatment of Dealer Activities Under Paragraph (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(B) in computing a controlled foreign corporation’s passive income shall not be taken into account in apply-
ing the substantially all test under paragraph (1)(C)(ii) to such corporation.

“(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related persons.

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

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

“(2) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership,
trust, or estate. For purposes of this subsection, rules similar to the rules of section 958 shall apply.

“(c) Special Rule for Income Derived in the Active Conduct of Banking, Financing, or Similar Businesses.—

“(1) In General.—For purposes of subsection (a)(1), passive income shall not include qualified banking or financing income of an eligible controlled foreign corporation.

“(2) Eligible Controlled Foreign Corporation.—For purposes of this subsection, the term ‘eligible controlled foreign corporation’ means any controlled foreign corporation if—

“(A) more than 80 percent of the gross income of the controlled foreign corporation is derived directly from the active and regular conduct of a lending, finance, or financial services business from transactions with customers which are located outside the United States and are not related persons, or

“(B) it is a regulated financial institution.

“(3) Qualified Banking or Financing Income.—For purposes of this subsection—

“(A) In General.—The term ‘qualified banking or financing income’ means income of
an eligible controlled foreign corporation

which—

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

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

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

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

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

“(B) Income derived from customers
to include certain investment income.—
For purposes of subparagraph (A), in the case
of a regulated financial institution, income de-
derived from customers includes income derived
from—
“(i) reserves that are required to be held pursuant to banking regulations,

“(ii) deposits placed with the central bank (or equivalent thereof) in the corporation’s home country, and

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

“(C) Substantial Activity Requirement for Cross Border Income.—The term ‘qualified banking or financing income’ shall not include income derived from 1 or more transactions with customers located in a country other than the home country of the eligible controlled foreign corporation unless such corporation conducts substantial activity with respect to a banking, financing, or similar business in its home country.

“(D) Direct Conduct of Activities.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation in its home country if the activity is performed by employees of a related person and—

“(i) the related person is a resident subject to tax under the laws of the home
country of the corporation to which subparagraph (A)(ii)(II) is being applied,

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

“(iii) the related person is compensated on an arm’s-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in such home country for purposes of the home country’s tax laws.

“(4) Lending, finance, or financial services business.—For purposes of this subsection, except as provided in regulations, the term ‘lending, finance, or financial services business’ means the business of—

“(A) making loans,

“(B) purchasing, selling, discounting, or negotiating on a regular basis accounts receivable, notes, or installment obligations,

“(C) engaging in leasing (including entering into leases and purchasing, servicing, and disposing of leases and leased assets),

“(D) issuing letters of credit or providing guarantees,
“(E) providing charge and credit card services,

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

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

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

“(I) providing correspondent bank services for customers,

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

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

“(L) providing financial, investment advisory, or investment management services,

“(M) purchasing or selling stock, debt instruments, interest rate or currency futures, or other securities or derivative financial products (including notional principal contracts) from or
to customers and holding such stock, debt instruments, futures, or other securities or products as inventory for sale to customers, unless such stock, debt instruments, futures, or other securities or products are not held in a dealer capacity,

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

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

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

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

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

“(A) CUSTOMER.—The term ‘customer’ means, with respect to any controlled foreign corporation, any person which has a customer relationship with such corporation and which is acting in its capacity as such.
“(B) HOME COUNTRY.—Except as provided in regulations, the term ‘home country’ means, with respect to any entity, the country with respect to which the entity is a resident for purposes of the country’s income tax laws.

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

“(i) if a customer is a natural person, the customer is considered to be located in the country in which the customer is physically located when entering into the transaction, and

“(ii) if a customer is not a natural person, the customer is considered to be located in the country from which the customer enters into the transaction.

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

“(E) REGULATED FINANCIAL INSTITUTION.—Except as provided in regulations, the term ‘regulated financial institution’ means a controlled foreign corporation which—

“(i) is engaged in the active conduct of a banking business and is an institution
licensed to do business as a bank in the
United States (or is any other corporation
not so licensed which is specified by the
Secretary in regulations), or

“(ii) satisfies each of the following
conditions:

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

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

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

“(6) SEPARATE APPLICATION TO QUALIFIED
BUSINESS UNITS.—
“(A) IN GENERAL.—If a controlled foreign corporation has 1 or more qualified business units—

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

“(ii) if any such unit is treated as an eligible controlled foreign corporation after application of clause (i), the qualified banking or financing income of such unit shall be treated as qualified banking or financing income of the controlled foreign corporation of which such unit is a part.

“(B) DETERMINATIONS MADE SEPARATELY.—For purposes of the separate application of this subsection to a controlled foreign corporation and its qualified business units—

“(i) in the case of the controlled foreign corporation, only activities and items of income, deduction, gain, or loss and activities of such corporation not properly allocable or attributable to any qualified business unit of such corporation shall be taken into account, and
“(ii) in the case of a qualified business unit, only activities and items of income, deduction, gain, or loss and activities properly allocable or attributable to such unit shall be taken into account.

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

“(7) ANTI-ABUSE RULES.—For purposes of applying this subsection—

“(A) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions one of the principal purposes of which is qualifying income or gain for the exclusion under this section, including any transaction or series of transactions a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of such exclusion through the application of this subsection,
“(B) there shall be disregarded any item of income, gain, loss, or deduction of an entity which is not engaged in regular and continuous transactions with customers which are not related persons,

“(C) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions utilizing, or doing business with—

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

“(ii) a special purpose entity or arrangement, including a securitization, financing, or similar entity or arrangement, if one of the principal purposes of such transaction or series of transactions is qualifying income or gain for the exclusion under this subsection, and

“(D) a related person, an officer, a director, or an employee with respect to any controlled foreign corporation which would otherwise be treated as a customer of such corporation with respect to any transaction shall not be so treated if a principal purpose of such trans-
action is to satisfy any requirement of this sub-
section.

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

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

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

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

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

“(B) received from a person other than a
related person and derived from investments
made by a qualifying insurance company or a qualifying insurance company branch of an amount of its assets allocable to exempt contracts equal to—

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

“(ii) in the case of life insurance or annuity contracts, 10 percent of the reserves described in subparagraph (A) for such contracts.

“(3) Principles for determining qualified insurance income.—Except as provided by the Secretary, for purposes of subparagraphs (A) and (B) of paragraph (2)—

“(A) in the case of any contract which is a separate account-type contract (including any variable contract not meeting the requirements of section 817), income credited under such contract shall be allocable only to such contract, and
“(B) income not allocable under subparagraph (A) shall be allocated ratably among contracts not described in subparagraph (A).

“(4) Methods for determining unearned premiums and reserves.—For purposes of paragraph (2)(A)—

“(A) Property and casualty contracts.—The unearned premiums and reserves of a qualifying insurance company or a qualifying insurance company branch with respect to property, casualty, or health insurance contracts shall be determined using the same methods and interest rates which would be used if such company or branch were subject to tax under subchapter L, except that—

“(i) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate, and
“(ii) such company or branch shall use the appropriate foreign loss payment pattern.

“(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

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

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

“(ii) RULING REQUEST, ETC.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in deter-
mining the foreign statement reserve provide an appropriate means of measuring income.

“(C) LIMITATION ON RESERVES.—In no event shall the reserve determined under this paragraph for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining foreign statement reserves (less any catastrophe, deficiency, equalization, or similar reserves).

“(5) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined in the same manner as it would be determined if the qualifying insurance company or qualifying insurance company branch were subject to tax under subchapter L, except that in applying such subchapter—

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

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

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

The Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for 1 or more of its qualifying insurance company branches when appropriate.

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

“SEC. 955. DEFINITION OF INSURANCE INCOME.

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

“(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

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

“(2) EXCEPTION.—Such term shall not include any exempt insurance income (as defined in subsection (c)).

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

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

“(A) The small life insurance company deduction.

“(B) Section 805(a)(5) (relating to operations loss deduction).
“(C) Section 832(c)(5) (relating to certain capital losses).

“(2) Special rules for amounts included in income.—The items referred to in—

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

“(B) section 803(a)(2) (relating to net decrease in reserves),

“(C) section 805(a)(2) (relating to net increase in reserves), and

“(D) section 832(b)(4) (relating to premiums earned on insurance contracts), shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subsection (a)(1).

“(3) Treatment of reserves.—Reserves for any insurance or annuity contract shall be determined in the same manner as under section 954(d).

“(c) Exempt insurance income.—For purposes of this section—

“(1) Exempt insurance income defined.—

“(A) In general.—The term ‘exempt insurance income’ means income derived by a qualifying insurance company which—
“(i) is attributable to the issuing (or reinsuring) of an exempt contract by such company or a qualifying insurance company branch of such company, and

“(ii) is treated as earned by such company or branch in its home country for purposes of such country’s tax laws.

“(B) Exception for Certain Arrangements.—Such term shall not include income attributable to the issuing (or reinsuring) of an exempt contract as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract which is not an exempt contract.

“(C) Determinations Made Separately.—For purposes of this subsection and section 954(d), the exempt insurance income and exempt contracts of a qualifying insurance company or any qualifying insurance company branch of such company shall be determined separately for such company and each such branch by taking into account—
“(i) in the case of the qualifying insurance company, only items of income, deduction, gain, or loss, and activities of such company not properly allocable or attributable to any qualifying insurance company branch of such company, and

“(ii) in the case of a qualifying insurance company branch, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such branch.

“(2) EXEMPT CONTRACT.—

“(A) IN GENERAL.—The term ‘exempt contract’ means an insurance or annuity contract issued or reinsured by a qualifying insurance company or qualifying insurance company branch in connection with property in, liability arising out of activity in, or the lives or health of residents of, a country other than the United States.

“(B) MINIMUM NON-RELATED INCOME REQUIRED.—No contract of a qualifying insurance company or of a qualifying insurance company branch shall be treated as an exempt contract unless such company or branch derives more
than 30 percent of its net written premiums from exempt contracts (determined without regard to this subparagraph) with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(b)).

“(C) Substantial activity requirements.—A contract issued by a qualifying insurance company or qualifying insurance company branch shall not be treated as an exempt contract unless such company or branch, as the case may be—

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

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

“(3) Qualifying insurance company.—

“(A) In general.—The term ‘qualifying insurance company’ means any controlled foreign corporation—

“(i) which—
“(I) is subject to regulation as an insurance (or reinsurance) company by its home country, and is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(b)) in such home country, and

“(II) is engaged in the insurance business and would be subject to tax under subchapter L if it were a domestic corporation,

“(ii) which derives more than 50 percent of its aggregate net written premiums from the issuance or reinsurance by such controlled foreign corporation and each of its qualifying insurance company branches of contracts with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(b)), except that in the case of a branch, such premiums shall only be taken into account to the extent such pre-
miums are treated as earned by such branch in its home country for purposes of such country’s tax laws,

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

“(I) consist of premiums for insurance or reinsurance in connection with property, liability, or the lives or health of individuals, and

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

“(iv) the applicable insurance liabilities of which constitute more than 35 percent of its total assets as reported on the company’s applicable financial statement for the year with which or in which the taxable year ends.

“(B) APPlicable insurance liabilities.—For purposes of subparagraph (A)(iv), the term ‘applicable insurance liabilities’ means—
“(i) loss and loss adjustment expenses,

“(ii) unearned premiums, and

“(iii) reserves (other than any catastrophe, deficiency, equalization, or similar reserves) for life and health insurance risks and life and health insurance claims with respect to contracts providing coverage for mortality or morbidity risks (not to exceed the amount of such reserve that is required to be reported to the home country insurance regulatory body).

“(C) Applicable financial statement.—For purposes of subparagraph (A)(iv), the term ‘applicable financial statement’ means a statement for financial reporting purposes which—

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

“(ii) is made on the basis of international financial reporting standards, but only if there is no statement that meets the requirement of clause (i), or

“(iii) except as otherwise provided by the Secretary in regulations, is the annual
statement which is required to be filed
with the home country insurance regu-
laratory body, but only if there is no state-
ment which meets the requirements of
clause (i) or (ii).

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

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

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

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

“(5) LIFE INSURANCE OR ANNUITY CON-
TRACT.—For purposes of this section and section
954, the determination of whether a contract issued by a controlled foreign corporation or a qualifying insurance company branch is a life insurance contract or an annuity contract shall be made without regard to sections 72(s), 101(f), 817(h), and 7702 if—

“(A) such contract is regulated as a life insurance or annuity contract by the corporation’s or branch’s home country, and

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

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

“(A) CONTROLLED FOREIGN CORPORATION.—The term ‘home country’ means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

“(B) QUALIFYING INSURANCE COMPANY BRANCH.—The term ‘home country’ means, with respect to a qualifying insurance company branch, the country in which the principal office of such branch is located and in which such branch is licensed, authorized, or regulated by
the applicable insurance regulatory body to sell
insurance, reinsurance, or annuity contracts to
persons other than related persons (as defined
in section 954(b)) in such country.

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

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

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

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

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

“(i) any policyholder, insured, annu-
itant, or beneficiary is a resident of the
United States and such contract was marketed to such resident and was written to cover a risk outside the United States, or

“(ii) the contract covers risks located within and without the United States and the qualifying insurance company or qualifying insurance company branch does not maintain such contemporaneous records, and file such reports, with respect to such contract as the Secretary may require,

“(E) the Secretary may prescribe rules for the allocation of contracts (and income from contracts) among 2 or more qualifying insurance company branches of a qualifying insurance company in order to clearly reflect the income of such branches, and

“(F) premiums from a contract shall not be taken into account for purposes of paragraph (2)(B) or (3) if such contract reinsures a contract issued or reinsured by a related person (as defined in section 954(b)).

“(8) COORDINATION WITH SECTION 956(a).—

“(A) IN GENERAL.—In determining insurance income for purposes of section 956(a), exempt insurance income shall not include income
derived from exempt contracts which cover risks
other than applicable home country risks.

“(B) Applicable home country risks.—For purposes of subparagraph (A), the
term ‘applicable home country risks’ means
risks in connection with property in, liability
arising out of activity in, or the lives or health
of residents of, the home country of the qual-
ifying insurance company or qualifying insur-
ance company branch, as the case may be,
issuing or reinsuring the contract covering the
risks.

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

“(10) Cross reference.—For treatment of
certain investment income derived by qualifying in-
surance companies, see section 954(d).

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

“(a) Treatment as Controlled Foreign Cor-
porations and United States Shareholders.—

“(1) In general.—For purposes only of tak-
ing into account related person insurance income—
“(A) the term ‘United States shareholder’ means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation,

“(B) the term ‘controlled foreign corporation’ has the meaning given to such term by section 957(a) determined by substituting ‘25 percent or more’ for ‘more than 50 percent’, and

“(C) the pro rata share referred to in section 951(a)(1) shall be determined under paragraph (5) of this subsection.

“(2) RELATED PERSON INSURANCE INCOME.— For purposes of this subsection, the term ‘related person insurance income’ means any insurance income (within the meaning of section 955(a)) attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is a United States shareholder in the foreign corporation or a related person to such a shareholder.

“(3) EXCEPTIONS.—
“(A) Corporations not held by insured.—Paragraph (1) shall not apply to any foreign corporation if at all times during the taxable year of such foreign corporation—

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

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

is owned (directly or indirectly under the principles of section 883(c)(4)) by persons who are (directly or indirectly) insured under any policy of insurance or reinsurance issued by such corporation or who are related persons to any such person.

“(B) De minimis exception.—Paragraph (1) shall not apply to any foreign corporation for a taxable year of such corporation if the related person insurance income (determined on a gross basis) of such corporation for such taxable year is less than 20 percent of its insurance income (as so determined) for such taxable year.
“(C) Election to treat income as effectively connected.—Paragraph (1) shall not apply to any foreign corporation for any taxable year if—

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

“(I) to treat its related person insurance income for such taxable year as income effectively connected with the conduct of a trade or business in the United States, and

“(II) to waive all benefits (other than with respect to section 884) with respect to related person insurance income granted by the United States under any treaty between the United States and any foreign country, and

“(ii) such corporation meets such requirements as the Secretary shall prescribe to ensure that the tax imposed by this chapter on such income is paid.

An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a
disqualified corporation for the taxable year for
which the election was made or for any prior
taxable year beginning after 1986.

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

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

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

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

“(ii) EXEMPTION FROM TAX IMPOSED
BY SECTION 4371.—The tax imposed by
section 4371 shall not apply with respect
to any related person insurance income treated as effectively connected with the conduct of a trade or business within the United States under subparagraph (C).

“(E) Disqualified corporation.—For purposes of this paragraph the term ‘disqualified corporation’ means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation at any time during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year.

“(4) Treatment of mutual insurance companies.—In the case of a mutual insurance company—

“(A) this subsection shall apply,

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

“(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

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

“(i) the amount which would be determined under paragraph (2) of section 951(a) if—

“(I) only related person insurance income were taken into account,

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

“(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

“(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

“(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the
provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A).

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

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

“(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons.

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

“(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

“(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect
to any foreign corporation if neither such per-
son (nor any related person to such person) is
(directly or indirectly) insured under any policy
of insurance or reinsurance issued by such for-
eign corporation.

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(b) Election by Foreign Insurance Company To Be Treated as Domestic Corporation.—
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for purposes of this title, such corporation shall be treated as a domestic corporation.

“(2) Period during which election is in effect.—

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

“(B) Termination.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

“(3) Effect of election.—

“(A) In general.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.
“(B) Exception for Pre-1988 Earnings and Profits.—

“(i) In general.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 1988, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

“(ii) Treatment of distributions.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

“(iii) Certain rules to continue to apply to pre-1988 earnings.—Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies,
only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

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

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

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

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

“(5) ADDITIONAL TAX ON CORPORATION MAKING ELECTION.—

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

“(B) AMOUNT OF TAX.—The amount of tax determined under this paragraph shall be equal to the lesser of—
“(i) 3/4 of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

“(ii) $1,500,000.”.

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

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

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

“(2) ORDERING RULE.—Notwithstanding subsection (c), for purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof and then paragraph (1) thereof—

“(A) first to the deductible portion (as defined in section 965(c)(3)) of the increase in subpart F income described in section 965(a)(1) included in the gross income of United States shareholders under section
951(a)(1) (after application of section 965(a)(2)(A)),

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

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

“(3) DEFINITIONS.—For purposes of this subsection—

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

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

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

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

"SEC. 1203. GAINS FROM SALES OR EXCHANGES OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.

"(a) IN GENERAL.—In the case of a United States shareholder (as defined in section 951), there shall be excluded from gross income an amount equal to the applicable portion of the amount of any gain recognized from the sale or exchange of stock in a controlled foreign corporation.

"(b) APPLICABLE PORTION.—For purposes of this section—

"(1) IN GENERAL.—The term ‘applicable portion’ means the amount which bears the same ratio to the gain recognized from such sale or exchange as—

"(A) the shareholder’s pro rata share (determined under section 951(a)(2)) of the excludable portion of the aggregate subpart F income of the controlled foreign corporation for the applicable period, bears to

"(B) the sum of the amount determined under subparagraph (A) plus the shareholder’s pro rata share (determined under section
951(a)(2)) of the aggregate subpart F income of the controlled foreign corporation for the applicable period.

“(2) Excludable portion.—For purposes of this section, the term ‘excludable portion’ has the meaning given such term by section 959(g)(3)(B).

“(3) Applicable period.—The term ‘applicable period’ means, with respect to any stock, the shorter of the 3-taxable year period immediately preceding the taxable year of the sale or exchange or the shareholder’s holding period in the stock. In no event shall the applicable period include any portion of any taxable year beginning before the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act).”.

(B) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

“Sec. 1203. Gains from sales or exchanges of stock in controlled foreign corporations.”.

(2) Losses.—

(A) In general.—Part II of subchapter P of chapter 1 is amended by adding at the end the following new section:
“SEC. 1213. LOSSES FROM SALES OR EXCHANGES OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.

“(a) In General.—In the case of a United States shareholder (as defined in section 951), any loss from the sale or exchange of stock in a controlled foreign corporation shall be reduced (but not below zero) by an amount equal to the shareholder’s aggregate pro rata share (determined under section 951(a)(2)) of the excludable portion of the subpart F income of the controlled foreign corporation during the shareholder’s holding period in the stock.

“(b) Excludable Portion.—For purposes of this section, the term ‘excludable portion’ has the meaning given such term by section 959(g)(3)(B).”.

(B) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

“Sec. 1213. Losses from sales or exchanges of stock in controlled foreign corporations.”.

(d) Repeal of Ordinary Income Treatment for Gains From the Sale of Stock in Certain Foreign Corporations.—

(1) In General.—Part IV of subchapter P of chapter 1 is amended by striking section 1248.

(2) Conforming Amendments.—
(A) Section (a) is amended by striking paragraph (11).

(B) Section 338(h) is amended—

(i) in paragraph (6)(B)(ii), by striking “or described in section 1248(e)”;

(ii) in paragraph (16), by striking the second sentence.

(C) Section 751 is amended—

(i) in subsection (c), by striking “stock in certain foreign corporations (as described in section 1248),”;

(ii) by striking subsection (e) and redesignating subsection (f) as subsection (e).

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

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

(E) Section 904(h)(7) is amended by striking “or as a dividend under section 1248”.

(F) Section 951(a)(2) is amended by striking the last sentence thereof.

(G) Section 964 is amended by striking subsection (e).
(H) Section 989(b) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

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

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

(2) CONFORMING AMENDMENTS.—

(A) Section 951(a) is amended—

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

(ii) by striking paragraph (3).

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

(C) Section 851(b) is amended by striking “951(a)(1)(A)(i)” in the first sentence following paragraph (3) and inserting “951(a)(1)”.
(D) Section 959(a) is amended—

(i) by striking “shall not, when” and all that follows through “such shareholder” and inserting “shall not, when actually distributed to such shareholder”, and

(ii) by striking “and the rules of subsection (f) shall apply for purposes of paragraph (2) of this subsection”.

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

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

(G) Section 989(b)(3) is amended by striking “951(a)(1)(A)” and inserting “951(a)(1)”.

(H) Section 1298(b) is amended by striking paragraph (8).

(f) Application of Anti-Loss Importation Rules.—Section 362(e)(1)(B) is amended by adding at the end the following new sentence: “For purposes of clause (i), except as provided under regulations, a con-
trolled foreign corporation shall be considered to be subject to tax under this subtitle.”.

(g) OTHER CONFORMING AMENDMENTS.—

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

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

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

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

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

(6) Section 864(d)(5)(A) is amended—

(A) by striking clause (iii) and redesignating clause (iv) as clause (iii), and

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

(7) Section 864(d)(7)(B) is amended by striking “foreign base company income (as defined in
section 954(a), determined without regard to section 954(b)(3)(A)” and inserting “passive income (as defined in section 954(a))”.

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

(9) Section 884(d)(2)(D) is amended by striking “953(c)(3)(C)” and inserting “956(a)(3)(C)”.

(10) Section 898(b)(3) is amended—

(A) by striking “953(e)(2)” and inserting “956(a)(2)”, and

(B) by striking “953(e)(1)” and inserting “956(a)(1)”.

(11) Section 936(h)(5) is amended—

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

(B) in subparagraph (F)(iv)(II)—

(i) by inserting “(as in effect on the day before the enactment of the Infrastructure 2.0 Act)” after “section 954”, and

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

(12) Section 957(b) is amended—
(A) by striking “income described in section 953(a)” and inserting “income described in section 955(a)”, and

(B) by striking “contracts described in section 953(a)(1)” and inserting “contracts described in section 955(a)(1)”.  

(13) Section 958(b) is amended—

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

(B) by striking “to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(c)(2),”, and

(C) by striking the last sentence.

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

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

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

(B) Section 865(e)(2)(A) is amended by striking the last sentence.
(C) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart G.

(17) Section 999(c) is amended—

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

(B) by striking “, the addition to subpart F income under section 952(a)(3),” in paragraph (2).

(18) Section 1296(f)(2) is amended—

(A) by striking “foreign personal holding company income described in section 954(c)(1)(A)” in subparagraph (A) and inserting “passive income (as defined in section 954(a))”, and

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

(19) Section 1297(b) is amended to read as follows:

“(b) PASSIVE INCOME.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘passive income’ means any income received or accrued by any foreign corporation which is of a kind which would be passive income as
defined in section 954 if the foreign corporation were a controlled foreign corporation.

“(2) EXCEPTION.—Except as provided in regulations, the term ‘passive income’ does not include any income which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(b)) to the extent that such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.”.

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

(21) The following sections are amended by striking “954(d)(3)” each place it appears and inserting “954(b)”:

(A) Section 861(c)(2)(B).
(B) Section 958(b).
(C) Section 988(a)(3)(C).
(D) Subsections (d)(3)(A) and (e)(2)(B)(i) of section 1298.
(E) Section 1471(e)(2).
(F) Section 3121(z)(2).
(22) The table of sections for subpart F of part III of subchapter 1 is amended by striking the items relating to sections 952 through 956 and inserting 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."

(h) **Effective Dates.**—

(1) **In general.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) **Gains and losses from the sale of CFC stock; repeal of section 1248.**—The amendments made by subsections (c) and (d) shall apply to sales or exchanges on or after the applicable date.

**PART II—FOREIGN TAX CREDIT LIMITATIONS**

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

(a) **In general.**—Subsection (d) of section 904 is amended to read as follows:

"(d) **Separate Application of Section With Respect to Certain Categories of Income.**—
“(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) and section 907 and 960 shall be applied separately with respect to—

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

“(B) passive category income, and

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

“(2) DEFINITIONS AND SPECIAL RULES.—

“(A) PASSIVE CATEGORY INCOME.—

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

“(I) United States taxpayer passive income described in subparagraph (B), and

“(II) income which is included in gross income of the taxpayer under section 951(a)(1) to the extent such income is attributable to passive income (as defined in section 954(a)).

“(ii) EXCEPTION FOR HIGH-TAXED INCOME.—Passive category income shall not include any high-taxed income.
“(iii) Clarification of Application of Section 864(d)(6).—In determining whether any income is passive category income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation.

“(B) United States Taxpayer Passive Income.—United States taxpayer passive income described in this subparagraph is income received or accrued by the taxpayer which is of a kind that would be passive income as defined under section 954(a) if such taxpayer were a controlled foreign corporation.

“(C) Treatment of Financial Services Income and Companies.—

“(i) In General.—Financial services income which is not active foreign market category income shall be treated as income described in paragraph (1)(C) in the case of—

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

“(II) any other person if such person is predominantly engaged in
the active conduct of a banking, insurance, financing, or similar business.

“(ii) FINANCIAL SERVICES GROUP.—
The term ‘financial services group’ means any affiliated group (as defined in section 1504(a) without regard to paragraphs (2) and (3) of section 1504(b)) which is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business. In determining whether such a group is so engaged, there shall be taken into account only the income of members of the group that are—

“(I) United States corporations, or

“(II) controlled foreign corporations in which such United States corporations own, directly or indirectly, at least 80 percent of the total voting power and value of the stock.

“(iii) PASS-THRU ENTITIES.—The Secretary shall by regulation specify for purposes of this subparagraph the treatment of financial services income received or accrued by partnerships and by other
pass-thru entities which are not members
of a financial services group.

“(D) FINANCIAL SERVICES INCOME.—

“(i) IN GENERAL.—Except as otherwise
provided in this subparagraph, the

‘financial services income’ means any
income which is received or accrued by any
person predominantly engaged in the active

conduct of a banking, insurance, financing,
or similar business, and which is—

“(I) described in clause (ii), or

“(II) United States taxpayer pas-

sive income (determined without re-
gard to subparagraph (A)(ii)).

“(ii) GENERAL DESCRIPTION OF FI-

NANCIAL SERVICES INCOME.—Income is
described in this clause if such income is—

“(I) derived in the active conduct

of a banking, financing, or similar
business,

“(II) derived from the investment

by an insurance company of its un-
earned premiums or reserves ordinary

and necessary for the proper conduct

of its insurance business, or
“(III) of a kind which would be insurance income as defined in section 955(a).

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

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

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

exceeds the highest rate of tax specified in section 1 or 11 (whichever applies) multiplied by the amount of such income (determined with regard to section 78). For purposes of the preceding sentence, the term ‘foreign income taxes’ means any income, war profits, or excess profits tax imposed by any foreign country or possession of the United States.

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

“(i) IN GENERAL.—In the case of taxable years beginning after December 31,
2006, tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles shall be treated as imposed on income described in paragraph (1)(C).

“(ii) Special rules for years after 2006 and before the applicable date.—In the case of taxable years beginning after December 31, 2006, and on or before the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act), tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles shall be treated as imposed on income described in paragraph (1)(B) (as in effect for taxable years beginning the day before such applicable date).

“(iii) Special rule for years before 2007.—

“(I) In general.—In the case of taxes paid or accrued in taxable years beginning after December 31,
2004, and before January 1, 2007, a
taxpayer may elect to treat tax im-
posed under the law of a foreign coun-
try or possession of the United States
on an amount which does not con-
stitute income under United States
tax principles as tax imposed on in-
come described in subparagraph (C)
or (I) of paragraph (1) (as in effect
for taxable years beginning in 2006).

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

“(G) Transition Rules for Certain
Carryforwards and Carrybacks.—For pur-
poses of paragraph (1)—

“(i) in the case of any taxes carried
from any taxable year beginning before the
applicable date (as defined in section
96200 of the Infrastructure 2.0 Act), to
any taxable year beginning on or after
such date—
“(I) if such taxes were treated as attributable to income described in paragraph (1)(A) (as in effect for taxable years beginning the day before such applicable date), such taxes shall be treated as attributable to income described in paragraph (1)(B), and

“(II) if such taxes were treated as attributable to income described in paragraph (1)(B) (as in effect for taxable years beginning the day before such applicable date), such taxes shall be treated as attributable to income described in paragraph (1)(C), and

“(ii) the Secretary may by regulations provide for the allocation of any carryback of taxes with respect to income from a taxable year beginning on or after such applicable date, to a taxable year beginning before such date for purposes of allocating such income among the separate categories in effect for the taxable year to which carried.
“(3) CONTROLLED FOREIGN CORPORATION;

UNITED STATES SHAREHOLDER.—For purposes of this subsection—

“(A) CONTROLLED FOREIGN CORPORATION.—The term ‘controlled foreign corporation’ has the meaning given such term by section 957 (taking into account section 956(a)).

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

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

“(A) IN GENERAL.—If—

“(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

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

“(iii) the taxpayer chooses the benefits of such treaty obligation,
subsections (a), (b), and (c) of this section and sections 907 and 960 shall be applied separately with respect to each such item.

“(B) Coordination with Other Provisions.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

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

“(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate for the purposes of this subsection, including preventing the manipulation of the character of income the effect of which is to avoid the purposes of this subsection.”.

(b) Application of Per Country Limitation.—Section 904 is amended by inserting after subsection (d) the following new subsection:

“(e) Limitations Applied on a Per Country Basis.—The provisions of subsections (a), (b), (c), and (d) and sections 907 and 960 shall be applied separately
with respect to each foreign country or possession with respect to which taxes described in section 901(b) are paid or accrued.”

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning on or after the applicable date.

SEC. 96212. DENIAL OF CREDIT AND DEDUCTION FOR FOREIGN TAXES WITH RESPECT TO EXCLUDED SUBPART F INCOME.

(a) In General.—Section 901 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

“(n) Denial of Foreign Tax Credit and Deduction With Respect to Excluded Subpart F Income.—

“(1) In General.—Notwithstanding section 960(b), no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid or accrued under section 960) with respect to the excludable portion of subpart F income or any distribution received by a United States shareholder (as defined in section 951(b)) which is properly attributable to such excludable portion. No deduction shall be allowed to a taxpayer under this chapter for any tax
for which a credit is not allowable by reason of the preceding sentence.

“(2) **Excludable portion.**—The term ‘excludable portion’ has the meaning given such term by section 959(g)(3)(B).

“(3) **Coordination with section 78.**—Section 78 shall not apply to any tax which is not allowable as a credit under this section by reason of this subsection.”.

(b) **Effective date.**—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

**PART III—EXPENSE DISALLOWANCE**

**SEC. 96221. DISALLOWANCE OF DEDUCTION FOR EXPENSES ALLOCABLE TO EXEMPT INCOME OF A CONTROLLED FOREIGN CORPORATION.**

(a) **In general.**—Part IX of subchapter B of chapter 1 is amended by adding at the end the following:

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

“(a) **In general.**—In the case of a United States shareholder of a controlled foreign corporation for any tax-
able year, no deduction shall be allowed under this chapter for—

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

“(2) expenses directly allocable to the excludable portion of subpart F income (as defined in section 959(g)(3)(B)).

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

“(1) IN GENERAL.—The term ‘disallowed portion’ means, with respect to any allocable CFC interest in connection with a controlled foreign corporation, the exclusion percentage of the amount which bears the same ratio to the amount of such interest as—

“(A) the corporation’s modified active income (as defined in section 952) for the applicable taxable year, bears to

“(B) the corporation’s current earnings and profits.

“(2) CURRENT EARNINGS AND PROFITS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘current earnings and profits’ means the earnings and profits of the controlled foreign corporation for
the applicable taxable year, without diminution by reason of distributions made during the taxable year.

“(B) Special rule for determining earnings and profits.—Earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

“(3) Exclusion percentage.—The term ‘exclusion percentage’ means, with respect to any controlled foreign corporation for any taxable year, the number of percentage points by which 100 percent exceeds the inclusion percentage determined under section 952(d) with respect to such controlled foreign corporation for such taxable year.

“(c) Definitions and special rules.—For purposes of this section—

“(1) Allocable CFC interest.—The term ‘allocable CFC interest’ means any interest expense paid or accrued during the taxable year by a United States shareholder of a controlled foreign corpora-
tion which under section 861, and subsection (e) or (f) of section 864 (whichever is applicable), is apportioned to income of the controlled foreign corporation.

“(2) Applicable taxable year.—The term ‘applicable taxable year’ means, with respect to any controlled foreign corporation, the taxable year of such corporation which ends with or within the taxable year of the United States shareholder described in subsection (a).

“(3) United States shareholder; controlled foreign corporation.—The term ‘United States shareholder’ has the meaning given such term by section 951(b) and the term ‘controlled foreign corporation’ shall have the meaning given such term by section 957(a).

“(4) Special rule for members of an affiliated group.—If a United States shareholder to which subsection (a) applies is a domestic corporation which is a member of a group all members of which are treated as a single corporation under subsection (e) or (f) of section 864, whichever is applicable, all domestic corporations which are members of such group shall be treated as a single corporation for purposes of this section.
“(A) Coordination with other provisions.—Except as provided in regulations, this section shall be applied before any other provision of this chapter limiting the deductibility of any allocable CFC interest.

“(B) Separate application to income in separate baskets.—This section shall be applied separately with respect to the categories of income under section 904(d)(1).

“(d) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing—

“(1) for the sharing of information between shareholders if necessary to carry out the provisions of this section,

“(2) for directly associating interest or other expenses disallowed under this section with income of a controlled foreign corporation and for coordinating this section with other provisions of this chapter limiting the deductibility of interest or other expenses, and

“(3) for the proper application of this section with respect to the taxpayer’s share of net operating losses of a controlled foreign corporation.”.
CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after the item relating to section 265 the following:

"Sec. 265A. Expense allocable to exempt income of a controlled foreign corporation."

EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

PART IV—OTHER PROVISIONS RELATING TO SUBPART F

Subpart A—Previously Deferred Foreign Income

SEC. 96231. TREATMENT OF PREVIOUSLY DEFERRED FOREIGN INCOME.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 966. INCLUSION OF PREVIOUSLY DEFERRED FOREIGN INCOME.

"(a) INCLUSION AS SUBPART F INCOME.—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), the subpart F income (determined under section 952 without regard to this section) of a controlled foreign corporation for its last taxable
year beginning before the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act), shall be increased by the accumulated deferred foreign income of the corporation.

“(2) Inclusion only to apply to domestic corporations.—In the case of any increase in subpart F income of a controlled foreign corporation by reason of paragraph (1)—

“(A) notwithstanding section 951(a)(1), the inclusion in gross income under such section of a United States shareholder’s pro rata portion (as determined under section 951(a)(2)) of such increased subpart F income shall only apply if the United States shareholder is a domestic corporation, and

“(B) there shall be allowed as a deduction for the taxable year of such United States shareholder in which such increased subpart F income is included in such shareholder’s gross income under section 951(a)(1) an amount equal to the applicable percentage of the amount of the income so included.

“(b) Accumulated deferred foreign income.—For purposes of this section—
“(1) IN GENERAL.—The term ‘accumulated deferred foreign income’ means the excess of—

“(A) the undistributed earnings of the controlled foreign corporation, over

“(B) the undistributed U.S. earnings of such controlled foreign corporation.

“(2) UNDISTRIBUTED EARNINGS.—

“(A) IN GENERAL.—The term ‘undistributed earnings’ means the earnings and profits of the controlled foreign corporation described in section 959(c)(3), determined—

“(i) as of the close of the taxable year described in subsection (a)(1),

“(ii) without diminution by reason of distributions made during such taxable year, and

“(iii) without regard to this section.

“(B) SPECIAL RULE FOR CURRENT YEAR DISTRIBUTIONS.—For purposes of this chapter, any determination with respect to the treatment of distributions described in subparagraph (A)(ii) shall be made after the application of this section to the earnings and profits described in subparagraph (A).
“(3) **Undistributed U.S. Earnings.**—The term ‘undistributed U.S. earnings’ has the meaning given the term ‘post-1986 undistributed U.S. earnings’ in section 245(a)(5) (as in effect for taxable years beginning the day before the applicable date (as defined in section 96200 of the Infrastructure 2.0 Act)), determined—

“(A) without regard to ‘post-1986’ each place it appears in the matter before subparagraph (A), and

“(B) without regard to the last sentence thereof.

“(c) **Disallowance of Foreign Tax Credit, Etc.—**

“(1) **In General.**—No credit shall be allowed under section 901 to a United States shareholder of a controlled foreign corporation for any taxes paid or accrued (or treated as paid or accrued) with respect to the deductible portion of—

“(A) the increased subpart F income of the corporation included in the gross income of the shareholder under subsection (a)(2)(A), or

“(B) any distribution received by the shareholder which is properly attributable to such increased subpart F income.
“(2) Denial of Deduction.—No deduction shall be allowed under this chapter to a United States shareholder of a controlled foreign corporation for any tax for which a credit is not allowable under section 901 by reason of paragraph (1).

“(3) Deductible Portion.—For purposes of this subsection, the term ‘deductible portion’ means, with respect to the increased subpart F income of the corporation included in the gross income of the shareholder under subsection (a)(2)(A), the applicable percentage of such income with respect to which a deduction is allowable under subsection (a)(2)(B).

“(4) Coordination with Section 78.—Section 78 shall not apply to the portion of any tax for which credit is not allowable under section 901 by reason of paragraph (1).

“(d) Applicable Percentage.—For purposes of this section, the term ‘applicable percentage’ means the percentage which is equal to the ratio of—

“(1) the excess of—

“(A) the highest rate of tax in effect under section 11(b) for the taxable year of the United States shareholder described in subsection (a)(2)(B), over

“(B) 20 percent, to
“(2) the highest rate of tax in effect under section 11(b) for the taxable year of the United States shareholder described in subsection (a)(2)(B).

The percentage determined under the preceding sentence shall be rounded to the nearest whole percentage point.

“(e) ELECTION TO PAY LIABILITY IN INSTALLMENTS.—

“(1) IN GENERAL.—In the case of a United States shareholder with respect to one or more controlled foreign corporations to which subsection (a) applies, such United States shareholder may elect to pay the net tax liability under this section in 2 or more (but not exceeding 8) equal installments.

“(2) DATE FOR PAYMENT OF INSTALLMENTS.—

If an election is made under paragraph (1), the due date for the first installment shall be the due date (determined without regard to any extension of time for filing the return) for the return of tax for the taxable year described in subsection (a)(2)(B) and the due date for each succeeding installment shall be the due date (as so determined) for the return of tax for the taxable year following the taxable year with respect to which the preceding installment was made.
“(3) Acceleration of Payment.—If there is—

“(A) an assessment of an addition to tax for failure to pay timely with respect to any installment required under this subsection,

“(B) a liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or similar case),

“(C) a cessation of business by the taxpayer, or

“(D) any similar circumstance,

then the unpaid portion of all remaining installments shall be due on the date of such event (or in the case of a title 11 or similar case, the day before the petition is filed).

“(4) Proration of Deficiency to Installments.—If an election is made under paragraph (1) to pay the net tax liability under this section in installments and a deficiency has been assessed, the deficiency shall be prorated to the installments payable under paragraph (1). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment.

The part of the deficiency so prorated to any install-
ment the date for payment of which has arrived shall be paid upon notice and demand from the Sec-
retary. This paragraph shall not apply if the defi-
ciency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(5) RULES RELATING TO INTEREST.—

“(A) IN GENERAL.—In the case of any net tax liability prorated to an installment under this subsection, the last date prescribed for pay-
ment of the tax for purposes of section 6601(a) shall be the last date for payment of the install-
ment rather than the last date for payment of tax for the taxable year in which the net tax li-
ability arose.

“(B) SPECIAL RULES FOR DEFI-

“(i) INTEREST PAYABLE FOR ENTIRE PERIOD.—Subparagraph (A) shall not apply to any deficiency prorated to an in-
stallment under paragraph (4).

“(ii) PAYMENT OF INTEREST ATTRIB-
UTABLE TO PRIOR PERIODS.—In the case of a deficiency to which paragraph (4) ap-
plies, interest with respect to such defi-
ciency which is assigned under paragraph
(4) to any installment the date for pay-
ment of which has arrived on or before the
date of the assessment of the deficiency,
shall be paid upon notice and demand from
the Secretary.

“(6) Period of Assessment.—Notwith-
standing section 6501, the period for assessing the
net tax liability under this section for which an elec-
tion is made under paragraph (1) shall not expire
before the due date for the last installment.

“(7) Election.—Any election under paragraph
(1) shall be made not later than the due date for the
return of tax for the taxable year of the United
States shareholder described in subsection (a)(2)(B)
and shall be made in such manner as the Secretary
may provide.

“(8) Net Tax Liability Under This Sec-
tion.—For purposes of this subsection—

“(A) In General.—The net tax liability
under this section with respect to any United
States shareholder is the excess (if any) of—

“(i) such taxpayer’s net income tax
for the taxable year, over
“(ii) such taxpayer’s net income tax for such taxable year determined without regard to this section.

“(B) Net income tax.—The term ‘net income tax’ means the net income tax (as defined in section 38(e)(1)) reduced by the credit allowed under section 38.

“(C) Regulations.—The Secretary shall prescribe such regulations as may be necessary for the determination under this subsection of the net tax liability under this section in the case of any pass-thru entity.

“(f) Regulations.—The Secretary shall promulgate such regulations as necessary to carry out the purposes of this section, including regulations for the application of this section to pass-through entities all or part of which are owned by 1 or more domestic corporations.”.

(b) Ordering Rule for Purposes of Treatment of Previously Taxed Income.—

(1) In general.—Section 959 is amended by adding at the end the following new subsection:

“(g) Special Ordering Rule.—Notwithstanding subsection (c), for purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof and then paragraph (1) thereof—
“(1) first to the deductible portion (as defined in section 965(e)(3)) of the increase in subpart F income described in section 965(a)(1) included in the gross income of United States shareholders under section 951(a)(1) (after application of section 965(a)(2)(A)), and

“(2) then to amounts described in paragraphs (1), (2), or (3) of subsection (c).”.

(2) CONFORMING AMENDMENT.—Section 959(c) is amended by inserting “except as provided in subsection (g),” after “subsections (a) and (b),”.

(c) CONFORMING AMENDMENTS.—

(1) Clause (vi) of section 56(g)(4)(C) is amended—

(A) by inserting “or section 966(a)(2)” after “section 965”, and

(B) by inserting “AND INCLUSIONS” after “CERTAIN DISTRIBUTIONS” in the heading thereof.

(2) Paragraph (3) of section 245(a) is amended—

(A) by striking “post-1986” in subparagraph (A), and

(B) by striking “total post-1986” in subparagraph (B).
Paragraph (4) of section 245(a) is amended to read as follows:

“(4) UNDISTRIBUTED EARNINGS.—The term ‘undistributed earnings’ means the amount of the earnings and profits of the controlled foreign corporation (computed in accordance with sections 964(a) and 986)—

“(A) as of the close of the taxable year of the controlled foreign corporation in which the dividend is distributed, and

“(B) without diminution by reason of dividends distributed during such taxable year.”.

Paragraph (5) of section 245(a) is amended—

(A) by striking “post-1986” both places it appears in the matter preceding subparagraph (A), and

(B) by striking “POST-1986 UNDISTRIBUTED” in the heading thereof and inserting “UNDISTRIBUTED”.

Paragraph (6) of section 245(a) is amended—

(A) by striking “beginning after December 31, 1986” and inserting “which is after the first taxable year of such corporation”, and
(B) by striking “post-1986” both places it appears.

(6) Paragraph (2) of section 6601(b) is amended—

(A) by striking “section 6156(a)” in the matter preceding subparagraph (A) and inserting “section 965(d)(1) or 6156(a)”, and

(B) by striking “section 6156(b)” in subparagraph (A) and inserting “section 965(d)(2) or 6156(b), as the case may be”.

(7) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 965 and inserting the following:

“Sec. 965. Inclusion of previously deferred foreign income.”.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to the last taxable year of foreign corporations beginning before the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) Conforming amendments related to section 245.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (e) shall
apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

**Subpart B—Other Provisions**

**SEC. 96236. ELIMINATION OF 30-DAY REQUIREMENT.**

(a) IN GENERAL.—Section 951(a)(1) is amended by striking “for an uninterrupted period of 30 days or more” and inserting “at any time”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

**SEC. 96237. MODIFICATION OF DEFINITION OF UNITED STATES SHAREHOLDER.**

(a) IN GENERAL.—Section 951(b) is amended by inserting “, or 10 percent or more of the total value of shares of all classes of stock of such foreign corporation” after “such foreign corporation”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to tax-

...
able years of United States shareholders with or within which such taxable years of foreign corporations end.

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.

(a) Repeal of Section 902 Indirect Foreign Tax Credits.—Subpart A of part III of subchapter N of chapter 1 is amended by striking section 902.

(b) Foreign Tax Credit Related to Subpart F Income.—

(1) In General.—Section 960 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by striking subsection (a) and inserting the following:

“(a) Determination of Credit on Current Year Basis.—For purposes of this subpart, if there is included in the gross income of a domestic corporation any amount under section 951(a) with respect to any controlled foreign corporation with respect to which such domestic corporation is a United States shareholder, such domestic corporation shall be deemed to have paid so much of such foreign corporation’s foreign income taxes as are properly attributable to the amount so included.
“(b) Treatment of Foreign Taxes Not Previously Deemed Paid.—For purposes of this subpart—

“(1) In General.—If any portion of a distribution from a controlled foreign corporation received by a domestic corporation is excluded from gross income under section 959(a), such domestic corporation shall be deemed to have paid so much of such foreign corporation’s foreign income taxes as are properly attributable to the amount so excluded to the extent such taxes were not deemed paid by the domestic corporation under this section for any prior taxable year.

“(2) Taxes of Lower-Tier CFCS.—If a controlled foreign corporation receives a distribution any portion of which is described in section 959(b) from another controlled foreign corporation, such foreign corporation shall be deemed to have paid so much of such other foreign corporation’s foreign income taxes as are properly attributable to the amount so described to the extent such taxes were not deemed paid by a domestic corporation under this section for any prior taxable year.”.

(2) Application with Respect to Foreign Tax Credit Limitation.—Section 960(c), as redes-
ignated by paragraph (1), is amended by adding at the end the following new paragraph:

“(6) APPLICATION WITH RESPECT TO FOREIGN TAX CREDIT LIMITATION.—This subsection shall be applied separately with respect to each category of income described in section 904(d)(1).”.

(3) CONFORMING AMENDMENTS.—

(A) Section 960 is amended by striking subsection (d), as redesignated by paragraph (1), and inserting the following:

“(d) FOREIGN INCOME TAXES.—For purposes of this section, the term ‘foreign income taxes’ means any income, war profits, or excess profits taxes paid or accrued by a foreign corporation to any foreign country or possession of the United States.

“(e) REGULATIONS.—The Secretary shall provide such regulations as may be necessary or appropriate to carry out the provisions of this section, including rules for the application of this section to domestic partnerships with partners that are domestic corporations.”.

(B) Section 960 is amended by striking the heading and inserting “DEEMED PAID CRED-

IT FOR SUBPART F INCLUSIONS”.

(c) MODIFICATION TO SECTION 78 GROSS UP.—Sec-

tion 78 is amended to read as follows:
SEC. 78. AMOUNTS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS BY DOMESTIC CORPORATIONS CHOOSING FOREIGN TAX CREDIT.

“If a domestic corporation which is a United States shareholder chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credits) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under section 960 for such taxable year—

“(1) shall be treated as an amount included in the gross income under section 951(a), and

“(2) for purposes of section 904, shall be deemed to be attributable to the same category of income described in section 904(d)(1) as the income which gave rise to the taxes deemed paid by such corporation.”.

(d) CONFORMING AMENDMENTS.—

(1) Subclause (III) of section 56(g)(4)(C)(iii) is amended by inserting “as in effect before its repeal” after “section 902”.

(2) Sections 535(b)(1) and 545(b)(1) are each amended by striking “section 902(a) or 960(a)(1)” and inserting “section 960”.

(3) Subparagraph (B) of section 814(f)(1) is repealed.
(4) Subsection (a) of section 901 is amended by striking “sections 902 and 960” and inserting “section 960”.

(5) Paragraph (2) of section 901(e) is amended by striking “but is not limited to—” and all that follows through “that portion” and inserting “but is not limited to that portion”.

(6) Subsection (f) of section 901 is amended by striking “sections 902 and 960” and inserting “section 960”.

(7) Subparagraph (A) of section 901(j)(1) is amended by striking “902 or”.

(8) Subparagraph (A) of section 904(h)(10) is amended by striking “sections 902, 907, and 960” and inserting “sections 907 and 960”.

(9) Subsection (k) of section 904 is amended to read as follows:

“(k) CROSS REFERENCE.—For modification of limitation under subsection (a) for purposes of determining the amount of credit which can be taken against the alternative minimum tax, see section 59(a).”.

(10) Paragraph (1) of section 905(c) is amended by striking the last sentence.

(11) Subclause (I) of section 905(c)(2)(B) is amended by striking “902 or”.

(12) Subsection (a) of section 906 is amended by striking “(or deemed, under section 902, paid or accrued during the taxable year)”.

(13) Subsection (b) of section 906 is amended by striking paragraphs (4) and (5).

(14) Subparagraph (B) of section 907(b)(2) is amended by striking “902 or”.

(15) Paragraph (3) of section 907(c) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking “section 960(a)” in subparagraph (A) (as so redesignated) and inserting “section 960”.

(16) Paragraph (5) of section 907(c) is amended by striking “902 or”.

(17) Clause (i) of section 907(f)(2)(B) is amended by striking “902 or”.

(18) Subsection (a) of section 908 is amended by striking “902 or”.

(19) Paragraph (1) of section 958(a) is amended by striking “960(a)(1)” and inserting “960”.

(20) Subparagraph (B) of section 6038(c)(1) is amended by striking “sections 902 (relating to for-
eign tax credit for corporate stockholder in foreign
corporation) and 960 (relating to special rules for
foreign tax credit)” and inserting “section 960”.

(21) Paragraph (4) of section 6038(c) is
amended by striking subparagraph (C).

(22) The table of sections for subpart A of part
III of subchapter N of chapter 1 is amended by
striking the item relating to section 902.

(23) The table of sections for part II of sub-
chapter B of chapter 1 is amended by striking
“Dividends” in the item relating to section 78 and
inserting “Amounts”.

(24) The table of sections for subpart F of part
III of subchapter N of chapter 1 is amended by
striking the item relating to section 960 and insert-
ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years of foreign corpora-
tions beginning on or after the applicable date, and to tax-
able years of United States shareholders with or within
which such taxable years of foreign corporations end.
SEC. 96242. REPEAL OF RULE SUSPENDING FOREIGN TAXES AND CREDITS UNTIL RELATED INCOME IS TAKEN INTO ACCOUNT.

(a) In General.—Subpart A of part III of subchapter N of chapter 1 is amended by striking section 909.

(b) Conforming Amendments.—

(1) Section 901(m)(1)(B) is amended by striking “a section 902 corporation (as defined in section 909(d)(5))” and inserting “a controlled foreign corporation (as defined in section 957(a))”.

(2) The table of sections of subpart A of part III of subchapter N of chapter 1 is amended by striking the item relating to section 909.

(c) Effective Date.—The amendments made by this section shall apply to foreign taxes paid or accrued in taxable years beginning on or after the applicable date.