

**AMENDMENT TO THE SENATE AMENDMENTS TO
H.R. 22
OFFERED BY MR. GARAMENDI OF CALIFORNIA**

Add at the end of division E the following:

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

4 **SEC. 53101. ELIMINATION OF INCENTIVE FOR CORPORA-**
5 **TIONS TO CONTINUE TO HOLD ACCUMU-**
6 **LATED EARNINGS OFFSHORE.**

7 (a) IN GENERAL.—Section 965 of the Internal Rev-
8 enue Code of 1986 is amended to read as follows:

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

11 “(a) TREATMENT OF DEFERRED FOREIGN INCOME
12 AS SUBPART F INCOME.—In the case of the last taxable
13 year of a deferred foreign income corporation which ends
14 before the date of the enactment of the Transportation
15 Funding Act of 2015, the subpart F income of such for-
16 eign corporation (as otherwise determined for such taxable
17 year under section 952) shall be increased by the accumu-
18 lated post-1986 deferred foreign income of such corpora-
19 tion determined as of the close of such taxable year.

1 “(b) REDUCTION IN AMOUNTS INCLUDED IN GROSS
2 INCOME OF UNITED STATES SHAREHOLDERS OF SPECI-
3 FIED FOREIGN CORPORATIONS WITH DEFICITS IN EARN-
4 INGS AND PROFITS.—

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

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

24 “(A) such United States shareholder’s pro
25 rata share of the accumulated post-1986 de-

1 ferred foreign income of each such deferred for-
2 foreign income corporation, bears to

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

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

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

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

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

1 “(ii) as of January 30, 2015—

2 “(I) such corporation was a spec-
3 ified foreign corporation, and

4 “(II) such taxpayer was a United
5 States shareholder of such corpora-
6 tion.

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

12 “(c) DEDUCTION FOR PORTION OF INCLUDED IN-
13 COME.—In the case of a United States shareholder of a
14 deferred foreign income corporation, there shall be allowed
15 as a deduction for the taxable year in which an amount
16 is included in the gross income of such United States
17 shareholder under section 951(a)(1) by reason of this sec-
18 tion an amount equal to 60 percent of the amount so in-
19 cluded in gross income.

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

23 “(1) DEFERRED FOREIGN INCOME CORPORA-
24 TION.—The term ‘deferred foreign income corpora-
25 tion’ means, with respect to any United States

1 shareholder, any specified foreign corporation of
2 such United States shareholder which has accumu-
3 lated post-1986 deferred foreign income (as of the
4 close of the taxable year referred to in subsection
5 (a)) greater than zero.

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

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

15 “(B) if distributed, would—

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

20 “(ii) in the case of any passive foreign
21 investment company (as defined in section
22 1297) other than a controlled foreign cor-
23 poration, be treated as a distribution which
24 is not a dividend, or

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

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

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

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

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

25 “(e) SPECIFIED FOREIGN CORPORATION.—

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

4 “(A) any controlled foreign corporation,
5 and

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

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

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

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

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

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

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

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

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

21 “(1) IN GENERAL.—In the case of a United
22 States shareholder of a deferred foreign income cor-
23 poration, such United States shareholder may elect
24 to pay the net tax liability under this section in 5
25 equal installments.

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

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

11 “(3) ACCELERATION OF PAYMENT.—If there is
12 an addition to tax for failure to pay timely assessed
13 with respect to any installment required under this
14 subsection, a liquidation or sale of substantially all
15 the assets of the taxpayer (including in a title 11 or
16 similar case), a cessation of business by the tax-
17 payer, or any similar circumstance, then the unpaid
18 portion of all remaining installments shall be due on
19 the date of such event (or in the case of a title 11
20 or similar case, the day before the petition is filed).
21 The preceding sentence shall not apply to the sale
22 of substantially all the assets of a taxpayer to a
23 buyer if such buyer enters into an agreement with
24 the Secretary under which such buyer is liable for
25 the remaining installments due under this subsection

1 in the same manner as if such buyer were the tax-
2 payer.

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

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

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

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

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

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

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

14 “(i) INCLUSION OF DEFERRED FOREIGN INCOME
15 UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF
16 OVERALL FOREIGN LOSS.—For purposes of section
17 904(f)(1), in the case of a United States shareholder of
18 a deferred foreign income corporation, such United States
19 shareholder’s taxable income from sources without the
20 United States shall be determined without regard to this
21 section.

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

1 (b) DEDICATION OF REVENUES ATTRIBUTABLE TO
2 SECTION 965.—Section 9503(f) of such Code is amended
3 by redesignating paragraph (7) as paragraph (8) and by
4 inserting after paragraph (6) the following new paragraph:

5 “(7) ADDITIONAL SUMS.—Out of money in the
6 Treasury not otherwise appropriated, there is hereby
7 appropriated \$189,968,000,000 to the Highway
8 Trust Fund.”.

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

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

