AMENDMENT TO RULES COMMITTEE PRINT OF
H.R. 7
OFFERED BY MR. TIBERI OF OHIO

Page 912, after line 23, insert the following:

1 SEC. 15006. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.
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3 (a) IN GENERAL.—Section 955 of the Internal Revenue Code of 1986 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.
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5 (b) CONFORMING AMENDMENTS.—
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7 (1) Section 951(a)(1)(A) of the Internal Revenue Code of 1986 is amended by adding “and” at the end of clause (i) and by striking clause (iii).
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9 (2) Section 951(a)(1)(A)(ii) of such Code is amended by striking “, and” at the end and inserting “, except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.”.
10
11 (3) Section 951(a)(3) of such Code (relating to the limitation on pro rata share of previously ex-
cluded subpart F income withdrawn from investment) is hereby repealed.

(4) Section 964(b) of such Code is amended by striking “, 955,”.

(5) 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 955.

(e) Effective Date.—The amendments made by this section shall apply to taxable years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 15007. ONE-TIME TEMPORARY DIVIDENDS RECEIVED DEDUCTION FOR PREVIOUSLY UNTAXED FOREIGN BASE COMPANY SHIPPING INCOME.

(a) In General.—In the case of a corporation which is a United States shareholder and for which an election under this section is made for the taxable year, for purposes of the Internal Revenue Code of 1986, there shall be allowed as a deduction in computing taxable income under section 63 of such Code an amount equal to 85 percent of the cash distributions which are received during such taxable year by such shareholder from controlled for-
foreign corporations to the extent that the distributions are attributable to income—

(1) which was derived by the controlled foreign corporation in taxable years beginning before January 1, 2005, and

(2) which would, without regard to the year earned, be described in section 954(f) of such Code (as in effect before the enactment of the American Jobs Creation Act of 2004).

(b) INDIRECT DIVIDENDS.—A rule similar to the rule of section 965(a)(2) of the Internal Revenue Code of 1986 shall apply, determined by treating cash distributions which are so attributable as cash dividends.

(e) LIMITATION.—The amount of dividends taken into account under this section shall not exceed the amount permitted to be taken into account under paragraphs (1), (3) (determined by substituting “December 31, 2008” for “October 3, 2004”), and (4) of section 965(b) of the Internal Revenue Code of 1986, determined as if such paragraphs applied to this section.

(d) TAXPAYER ELECTION AND DESIGNATION.—For purposes of subsection (a), a taxpayer may, on its return for the taxable year to which this section applies—
(1) elect to apply paragraph (3) of section 959(e) of the Internal Revenue Code of 1986 before paragraphs (1) and (2) thereof, and

(2) designate the extent, if any, to which a cash distribution reduces a controlled foreign corporation’s earnings and profits attributable to—

(A) foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004), or

(B) other earnings and profits.

(e) ELECTION.—

(1) IN GENERAL.—The taxpayer may elect to apply this section to—

(A) the taxpayer’s last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer’s first taxable year which begins during the 1-year period beginning on such date.

(2) TIMING OF ELECTION AND ONE-TIME ELEC-

TION.—Such election may be made for a taxable year—
(A) only if made on or before the due date
(including extensions) for filing the return of
tax for such taxable year, and
(B) only if no election has been made
under this section or section 965 of the Internal
Revenue Code of 1986 with respect to the same
distribution for any other taxable year of the
taxpayer.

(f) Reduction in Benefits for Failure to
Maintain Employment Levels.—

(1) In general.—If, during the period con-
sisting of the calendar month in which the taxpayer
first receives a distribution described in subsection
(a) and the succeeding 23 calendar months, the tax-
payer does not maintain an average employment
level at least equal to the taxpayer’s prior average
employment, an additional amount equal to $25,000
multiplied by the number of employees by which the
taxpayer’s average employment level during such pe-
period falls below the prior average employment (but
not exceeding the aggregate amount allowed as a de-
duction pursuant to subsection (a)) shall be taken
into account as income by the taxpayer during the
taxable year that includes the final day of such pe-
period.
(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this paragraph, the taxpayer’s “prior average employment” shall be the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the taxpayer first receives a distribution described in subsection (a).

(3) AGGREGATION RULES.—In determining the taxpayer’s average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(g) SPECIAL RULES.—Rules similar to the rules of subsections (d) and (e) and paragraphs (3), (4), and (5) of subsection (c) of section 965 of the Internal Revenue Code of 1986 shall apply for purposes of this section.

(h) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.