

111TH CONGRESS
1ST SESSION

H. R. 2542

To amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. McDERMOTT (for himself and Mr. TIBERI) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Shipping Re-

5 investment Act of 2009”.

1 **SEC. 2. REPEAL OF QUALIFIED SHIPPING INVESTMENT**

2 **WITHDRAWAL RULES.**

3 (a) IN GENERAL.—Section 955 of the Internal Rev-
4 enue Code of 1986 (relating to withdrawal of previously
5 excluded subpart F income from qualified investment) is
6 hereby repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 951(a)(1)(A) of the Internal Rev-
9 enue Code of 1986 is amended by adding “and” at
10 the end of clause (i) and by striking clause (iii).

11 (2) Section 951(a)(1)(A)(ii) is amended by
12 striking “, and” at the end and inserting “, except
13 that in applying this clause amounts invested in less
14 developed country corporations described in section
15 955(c)(2) (as so in effect) shall not be treated as in-
16 vestments in less developed countries.”.

17 (3) Section 951(a)(3) of such Code (relating to
18 the limitation on pro rata share of previously ex-
19 cluded subpart F income withdrawn from invest-
20 ment) is hereby repealed.

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

23 (5) The table of sections for subpart F of part
24 III of subchapter N of chapter 1 of such Code is
25 amended by striking the item relating to section
26 955.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years of controlled for-
3 eign corporations ending on or after the date of the enact-
4 ment of this Act, and to taxable years of United States
5 shareholders in which or with which such taxable years
6 of controlled foreign corporations end.

10 (a) IN GENERAL.—In the case of a corporation which
11 is a United States shareholder and for which an election
12 under this section is made for the taxable year, for pur-
13 poses of the Internal Revenue Code of 1986, there shall
14 be allowed as a deduction in computing taxable income
15 under section 63 of such Code an amount equal to 85 per-
16 cent of the cash distributions which are received during
17 such taxable year by such shareholder from controlled for-
18 eign corporations to the extent that the distributions are
19 attributable to income—

1 before the enactment of the American Jobs Creation
2 Act of 2004).

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

7 (c) LIMITATION.—The amount of dividends taken
8 into account under this section shall not exceed the
9 amount permitted to be taken into account under para-
10 graphs (1), (3) (determined by substituting “December
11 31, 2008” for “October 3, 2004”), and (4) of section
12 965(b) of the Internal Revenue Code of 1986, determined
13 as if such paragraphs applied to this section.

14 (d) TAXPAYER ELECTION AND DESIGNATION.—For
15 purposes of subsection (a), a taxpayer may, on its return
16 for the taxable year to which this section applies—

17 (1) elect to apply paragraph (3) of section
18 959(c) of the Internal Revenue Code of 1986 before
19 paragraphs (1) and (2) thereof, and

20 (2) designate the extent, if any, to which a cash
21 distribution reduces a controlled foreign corpora-
22 tion’s earnings and profits attributable to—

23 (A) foreign base company shipping income
24 (determined under section 954(f) of the Inter-
25 national Revenue Code of 1986 as in effect before

1 the enactment of the American Jobs Creation
2 Act of 2004), or
3 (B) other earnings and profits.

4 (e) ELECTION.—

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

7 (A) the taxpayer's last taxable year which
8 begins before the date of the enactment of this
9 Act, or

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

13 (2) TIMING OF ELECTION AND ONE-TIME ELEC-
14 TION.—Such election may be made for a taxable
15 year—

16 (A) only if made on or before the due date
17 (including extensions) for filing the return of
18 tax for such taxable year, and

19 (B) only if no election has been made
20 under this section or section 965 of the Internal
21 Revenue Code of 1986 with respect to the same
22 distribution for any other taxable year of the
23 taxpayer.

24 (f) REDUCTION IN BENEFITS FOR FAILURE TO
25 MAINTAIN EMPLOYMENT LEVELS.—

1 (1) IN GENERAL.—If, during the period con-
2 sisting of the calendar month in which the taxpayer
3 first receives a distribution described in subsection
4 (a) and the succeeding 23 calendar months, the tax-
5 payer does not maintain an average employment
6 level at least equal to the taxpayer's prior average
7 employment, an additional amount equal to \$25,000
8 multiplied by the number of employees by which the
9 taxpayer's average employment level during such pe-
10 riod falls below the prior average employment (but
11 not exceeding the aggregate amount allowed as a de-
12 duction pursuant to subsection (a)) shall be taken
13 into account as income by the taxpayer during the
14 taxable year that includes the final day of such pe-
15 riod.

16 (2) PRIOR AVERAGE EMPLOYMENT.—For pur-
17 poses of this paragraph, the taxpayer's "prior aver-
18 age employment" shall be the average number of full
19 time equivalent employees of the taxpayer during the
20 period consisting of the 24 calendar months imme-
21 diately preceding the calendar month in which the
22 taxpayer first receives a distribution described in
23 subsection (a).

24 (3) AGGREGATION RULES.—In determining the
25 taxpayer's average employment level and prior aver-

1 age employment, all domestic members of a con-
2 trolled group (as defined in section 264(e)(5)(B) of
3 the Internal Revenue Code of 1986) shall be treated
4 as a single taxpayer.

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

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

