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1ST SESSION

H. R. 1278

To amend the Internal Revenue Code of 1986 to reduce tax benefits for foreign corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1995

Mr. EVANS (for himself, Mr. RAHALL, Mr. BONIOR, Mr. DELLUMS, Mr. HINCHEY, Mr. FATTAH, Mr. OWENS, Mr. WATT of North Carolina, Ms. KAPTUR, Mr. GUTIERREZ, Mr. HOLDEN, and Mr. SANDERS) 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 reduce tax benefits for foreign corporations, and for other purposes.

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 “Corporate Welfare
5 Reduction Act of 1995”.

6 **SEC. 2. FOREIGN OIL AND GAS INCOME.**

7 (a) SPECIAL RULES FOR FOREIGN TAX CREDIT
8 WITH RESPECT TO FOREIGN OIL AND GAS INCOME.—

9 (1) CERTAIN TAXES NOT CREDITABLE.—

1 (A) IN GENERAL.—Subsection (a) of sec-
2 tion 907 of the Internal Revenue Code of 1986
3 (relating to reduction in amount allowed as for-
4 eign tax under section 901) is amended to read
5 as follows:

6 “(a) CERTAIN TAXES NOT CREDITABLE.—

7 “(1) IN GENERAL.—For purposes of this sub-
8 title, the term ‘income, war profits, and excess prof-
9 its taxes’ shall not include—

10 “(A) any taxes which are paid or accrued
11 to any foreign country with respect to foreign
12 oil and gas income and which are not imposed
13 under a generally applicable income tax law of
14 such country, and

15 “(B) any taxes (not described in subpara-
16 graph (A)) which are paid or accrued to any
17 foreign country with respect to foreign oil and
18 gas income to the extent that the foreign law
19 imposing such amount of tax is structured, or
20 in fact operates, so that the amount of tax im-
21 posed with respect to foreign oil and gas income
22 will generally be materially greater, over a rea-
23 sonable period of time, than the amount gen-
24 erally imposed on income that is not foreign oil
25 and gas income.

1 In computing the amount not treated as tax under
2 subparagraph (B), such amount shall be treated as
3 a deduction under the foreign law.

4 “(2) FOREIGN OIL AND GAS INCOME.—For pur-
5 poses of this paragraph, the term ‘foreign oil and
6 gas income’ means the amount of foreign oil and gas
7 extraction income and foreign oil related income.

8 “(3) GENERALLY APPLICABLE INCOME TAX
9 LAW.—For purposes of this paragraph, the term
10 ‘generally applicable income tax law’ means any law
11 of a foreign country imposing an income tax if such
12 tax generally applies to all income from sources
13 within such foreign country—

14 “(A) without regard to the residence or na-
15 tionality of the person earning such income,
16 and

17 “(B) in the case of any income earned by
18 a corporation, partnership, or other entity,
19 without regard to—

20 “(i) where such corporation, partner-
21 ship, or other entity is organized, and

22 “(ii) the residence or nationality of
23 the persons owning interests in such cor-
24 poration, partnership, or entity.”

1 (B) CONFORMING AMENDMENT.—Section
2 907 of such Code is amended by striking sub-
3 sections (b), (c)(3), (c)(4), (c)(5), and (f).

4 (2) SEPARATE BASKETS FOR FOREIGN OIL AND
5 GAS EXTRACTION INCOME AND FOREIGN OIL RELAT-
6 ED INCOME.—

7 (A) IN GENERAL.—Paragraph (1) of sec-
8 tion 904(d) of such Code (relating to separate
9 application of section with respect to certain
10 categories of income) is amended by striking
11 “and” at the end of subparagraph (H), by re-
12 designating subparagraph (I) as subparagraph
13 (K) and by inserting after subparagraph (H)
14 the following new subparagraphs:

15 “(I) foreign oil and gas extraction income,
16 “(J) foreign oil related income, and”.

17 (B) DEFINITIONS.—Paragraph (2) of sec-
18 tion 904(d) of such Code is amended by redesi-
19 gnating subparagraphs (H) and (I) as subpara-
20 graphs (J) and (K), respectively, and by insert-
21 ing after subparagraph (G) the following new
22 subparagraphs:

23 “(H) FOREIGN OIL AND GAS EXTRACTION
24 INCOME.—The term ‘foreign oil and gas extrac-
25 tion income’ has the meaning given such term

1 by section 907(c)(1). Such term shall not in-
2 clude any dividend from a noncontrolled section
3 902 corporation.

4 “(I) FOREIGN OIL RELATED INCOME.—
5 The term ‘foreign oil related income’ has the
6 meaning given such term by section 907(c)(2).
7 Such term shall not include any dividend from
8 a noncontrolled section 902 corporation and any
9 shipping income.”

10 (C) CONFORMING AMENDMENT.—Clause
11 (i) of section 904(d)(3)(F) of such Code is
12 amended by striking “or (E)” and inserting
13 “(E), (I), or (J)”.

14 (3) EFFECTIVE DATE.—

15 (A) IN GENERAL.—Except as otherwise
16 provided in this paragraph, the amendments
17 made by this subsection shall apply to taxable
18 years beginning after December 31, 1995.

19 (B) DISALLOWANCE RULE.—

20 (i) Section 907(a) of such Code (as
21 amended by paragraph (1)) shall apply to
22 taxes paid or accrued after December 31,
23 1995, in taxable years ending after such
24 date.

1 (ii) In determining the amount of
2 taxes deemed to be paid in a taxable year
3 beginning after December 31, 1995, under
4 section 902 or 960 of such Code, section
5 907(a) of such Code (as amended by para-
6 graph (1)) shall apply to all taxes whether
7 paid or accrued before, on, or after Decem-
8 ber 31, 1995.

9 (C) LOSS RULE.—Notwithstanding the
10 amendments made by paragraph (1)(B), section
11 907(c)(4) of such Code shall continue to apply
12 with respect to foreign oil and gas extraction
13 losses for taxable years beginning before Janu-
14 ary 1, 1996.

15 (D) TRANSITIONAL RULES.—

16 (i) Any taxes paid or accrued in a tax-
17 able year beginning before January 1,
18 1996, with respect to income which was
19 described in subparagraph (I) of section
20 904(d)(1) of such Code (as in effect on the
21 day before the date of the enactment of
22 this Act) shall be treated as taxes paid or
23 accrued with respect to foreign oil and gas
24 extraction income or foreign oil related in-
25 come (as the case may be) to the extent

1 such taxes were paid or accrued with re-
2 spect to such type of income.

3 (ii) Any unused oil and gas extraction
4 taxes which under section 907(f) of such
5 Code (as so in effect) would have been al-
6 lowed as a carryover to the taxpayer's first
7 taxable year beginning after December 31,
8 1995 (determined without regard to the
9 limitation of paragraph (2) of such section
10 907(f) for such first taxable year), shall be
11 allowed as carryovers under section 904(c)
12 of such Code in the same manner as if
13 they were unused taxes under section
14 904(c) with respect to foreign oil and gas
15 extraction income.

16 (b) ELIMINATION OF DEFERRAL FOR FOREIGN OIL
17 AND GAS EXTRACTION INCOME.—

18 (1) GENERAL RULE.—Paragraph (1) of section
19 954(g) of the Internal Revenue Code of 1986 (defin-
20 ing foreign base company oil related income) is
21 amended to read as follows:

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the term ‘foreign oil and
24 gas income’ means any income of a kind which

1 would be taken into account in determining the
2 amount of—

3 “(A) foreign oil and gas extraction income
4 (as defined in section 907(c)(1)), or

5 “(B) foreign oil related income (as defined
6 in section 907(c)(2)).”

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subsections (a)(5), (b)(4), (b)(5), and
9 (b)(8) of section 954 of such Code are each
10 amended by striking “base company oil related
11 income” each place it appears (including in the
12 heading of subsection (b)(8)) and inserting “oil
13 and gas income”.

14 (B) The subsection heading for subsection
15 (g) of section 954 of such Code is amended by
16 striking “FOREIGN BASE COMPANY OIL RE-
17 LATED INCOME” and inserting “FOREIGN OIL
18 AND GAS INCOME”.

19 (C) Subparagraph (A) of section 954(g)(2)
20 of such Code is amended by striking “foreign
21 base company oil related income” and inserting
22 “foreign oil and gas income”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to taxable years of for-
25 eign corporations beginning after December 31,

1 1995, and to taxable years of United States share-
2 holders in which or with which such taxable years of
3 foreign corporations end.

4 **SEC. 3. TRANSFER PRICING.**

5 (a) **AUTHORITY OF SECRETARY WHEN LEGAL LIM-**
6 **ITS ON TRANSFER BY TAXPAYER.**—Section 482 of the In-
7 ternal Revenue Code of 1986 (relating to allocation of in-
8 come and deductions among taxpayers) is amended by
9 adding at the end the following: “The authority of the Sec-
10 retary under this section shall not be limited by any re-
11 striction (by any law or agreement) on the ability of such
12 interests, organizations, trades, or businesses to transfer
13 or receive money or other property.”

14 (b) **EFFECTIVE DATE.**—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 1995.

17 **SEC. 4. ELIMINATION OF EXCLUSION FOR CITIZENS OR**
18 **RESIDENTS OF UNITED STATES LIVING**
19 **ABROAD.**

20 Section 911 of the Internal Revenue Code of 1986
21 (relating to citizens or residents of the United States living
22 abroad) is amended by redesignating subsection (f) as sub-
23 section (g) and by inserting after subsection (e) the follow-
24 ing new subsection:

1 “(f) TERMINATION.—This section shall not apply to
2 any taxable year beginning after December 31, 1995.”

3 **SEC. 5. DISPOSITION OF STOCK IN DOMESTIC CORPO-**
4 **RATIONS BY 10-PERCENT FOREIGN SHARE-**
5 **HOLDERS.**

6 (a) GENERAL RULE.—Subpart D of part II of sub-
7 chapter N of chapter 1 of the Internal Revenue Code of
8 1986 (relating to miscellaneous provisions) is amended by
9 adding at the end thereof the following new section:

10 **“SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPO-**
11 **RATIONS BY 10-PERCENT FOREIGN SHARE-**
12 **HOLDERS.**

13 “(a) GENERAL RULE.—

14 “(1) TREATMENT AS EFFECTIVELY CONNECTED
15 WITH UNITED STATES TRADE OR BUSINESS.—For
16 purposes of this title, if any nonresident alien indi-
17 vidual or foreign corporation is a 10-percent share-
18 holder in any domestic corporation, any gain or loss
19 of such individual or foreign corporation from the
20 disposition of any stock in such domestic corporation
21 shall be taken into account—

22 “(A) in the case of a nonresident alien in-
23 dividual, under section 871(b)(1), or

24 “(B) in the case of a foreign corporation,
25 under section 882(a)(1),

1 as if the taxpayer were engaged during the taxable
2 year in a trade or business within the United States
3 through a permanent establishment in the United
4 States and as if such gain or loss were effectively
5 connected with such trade or business and attrib-
6 utable to such permanent establishment. Notwith-
7 standing section 865, any such gain or loss shall be
8 treated as from sources in the United States.

9 “(2) 26-PERCENT MINIMUM TAX ON NON-
10 RESIDENT ALIEN INDIVIDUALS.—

11 “(A) IN GENERAL.—In the case of any
12 nonresident alien individual, the amount deter-
13 mined under section 55(b)(1)(A) shall not be
14 less than 26 percent of the lesser of—

15 “(i) the individual’s alternative mini-
16 mum taxable income (as defined in section
17 55(b)(2)) for the taxable year, or

18 “(ii) the individual’s net taxable stock
19 gain for the taxable year.

20 “(B) NET TAXABLE STOCK GAIN.—For
21 purposes of subparagraph (A), the term ‘net
22 taxable stock gain’ means the excess of—

23 “(i) the aggregate gains for the tax-
24 able year from dispositions of stock in do-
25 mestic corporations with respect to which

1 such individual is a 10-percent share-
2 holder, over

3 “(ii) the aggregate of the losses for
4 the taxable year from dispositions of such
5 stock.

6 “(C) COORDINATION WITH SECTION
7 897(a)(2).—Section 897(a)(2)(A) shall not apply
8 to any nonresident alien individual for any tax-
9 able year for which such individual has a net
10 taxable stock gain, but the amount of such net
11 taxable stock gain shall be increased by the
12 amount of such individual’s net United States
13 real property gain (as defined in section
14 897(a)(2)(B)) for such taxable year.

15 “(b) 10-PERCENT SHAREHOLDER.—

16 “(1) IN GENERAL.—For purposes of this sec-
17 tion, the term ‘10-percent shareholder’ means any
18 person who at any time during the shorter of—

19 “(A) the period beginning on January 1,
20 1995, and ending on the date of the disposition,
21 or

22 “(B) the 5-year period ending on the date
23 of the disposition,
24 owned 10 percent or more (by vote or value) of the
25 stock in the domestic corporation.

1 “(2) CONSTRUCTIVE OWNERSHIP.—

2 “(A) IN GENERAL.—Section 318(a) (relat-
3 ing to constructive ownership of stock) shall
4 apply for purposes of paragraph (1).

5 “(B) MODIFICATIONS.—For purposes of
6 subparagraph (A)—

7 “(i) paragraph (2)(C) of section
8 318(a) shall be applied by substituting ‘10
9 percent’ for ‘50 percent’, and

10 “(ii) paragraph (3)(C) of section
11 318(a) shall be applied—

12 “(I) by substituting ‘10 percent’
13 for ‘50 percent’, and

14 “(II) in any case where such
15 paragraph would not apply but for
16 subclause (I), by considering a cor-
17 poration as owning the stock (other
18 than stock in such corporation) owned
19 by or for any shareholder of such cor-
20 poration in that proportion which the
21 value of the stock which such share-
22 holder owns in such corporation bears
23 to the value of all stock in such cor-
24 poration.

1 “(3) TREATMENT OF STOCK HELD BY CERTAIN
2 PARTNERSHIPS.—

3 “(A) IN GENERAL.—For purposes of this
4 section, if—

5 “(i) a partnership is a 10-percent
6 shareholder in any domestic corporation,
7 and

8 “(ii) 10 percent or more of the capital
9 or profits interests in such partnership is
10 held (directly or indirectly) by nonresident
11 alien individuals or foreign corporations,
12 each partner in such partnership who is not
13 otherwise a 10-percent shareholder in such cor-
14 poration shall, with respect to the stock in such
15 corporation held by the partnership, be treated
16 as a 10-percent shareholder in such corpora-
17 tion.

18 “(B) EXCEPTION.—

19 “(i) IN GENERAL.—Subparagraph (A)
20 shall not apply with respect to stock in a
21 domestic corporation held by any partner-
22 ship if, at all times during the 5-year pe-
23 riod ending on the date of the disposition
24 involved—

1 “(I) the aggregate bases of the
2 stock and securities in such domestic
3 corporation held by such partnership
4 were less than 25 percent of the part-
5 nership’s net adjusted asset cost, and

6 “(II) the partnership did not own
7 50 percent or more (by vote or value)
8 of the stock in such domestic corpora-
9 tion.

10 The Secretary may by regulations dis-
11 regard any failure to meet the require-
12 ments of subclause (I) where the partner-
13 ship normally met such requirements dur-
14 ing such 5-year period.

15 “(ii) NET ADJUSTED ASSET COST.—
16 For purposes of clause (i), the term ‘net
17 adjusted asset cost’ means—

18 “(I) the aggregate bases of all of
19 the assets of the partnership other
20 than cash and cash items, reduced by

21 “(II) the portion of the liabilities
22 of the partnership not allocable (on a
23 proportionate basis) to assets excluded
24 under subclause (I).

1 “(C) EXCEPTION NOT TO APPLY TO 50-
2 PERCENT PARTNERS.—Subparagraph (B) shall
3 not apply in the case of any partner owning (di-
4 rectly or indirectly) more than 50 percent of the
5 capital or profits interests in the partnership at
6 any time during the 5-year period ending on the
7 date of the disposition.

8 “(D) SPECIAL RULES.—For purposes of
9 subparagraphs (B) and (C)—

10 “(i) TREATMENT OF PREDE-
11 CESSORS.—Any reference to a partnership
12 or corporation shall be treated as including
13 a reference to any predecessor thereof.

14 “(ii) PARTNERSHIP NOT IN EXIST-
15 ENCE.—If any partnership was not in ex-
16 istence throughout the entire 5-year period
17 ending on the date of the disposition, only
18 the portion of such period during which
19 the partnership (or any predecessor) was
20 in existence shall be taken into account.

21 “(E) OTHER PASS-THRU ENTITIES;
22 TIERED ENTITIES.—Rules similar to the rules
23 of the preceding provisions of this paragraph
24 shall also apply in the case of any pass-thru en-

1 tity other than a partnership and in the case of
2 tiered partnerships and other entities.

3 “(c) COORDINATION WITH NONRECOGNITION PROVI-
4 SIONS; ETC.—

5 “(1) COORDINATION WITH NONRECOGNITION
6 PROVISIONS.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), any nonrecognition provision
9 shall apply for purposes of this section to a
10 transaction only in the case of—

11 “(i) an exchange of stock in a domes-
12 tic corporation for other property the sale
13 of which would be subject to taxation
14 under this chapter, or

15 “(ii) a distribution with respect to
16 which gain or loss would not be recognized
17 under section 336 if the sale of the distrib-
18 uted property by the distributee would be
19 subject to tax under this chapter.

20 “(B) REGULATIONS.—The Secretary shall
21 prescribe regulations (which are necessary or
22 appropriate to prevent the avoidance of Federal
23 income taxes) providing—

1 “(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

2 “(ii) the extent to which—

3 “(I) transfers of property in a reorganization, and

4 “(II) changes in interests in, or distributions from, a partnership, trust, or estate,

5 shall be treated as sales of property at fair market value.

6 “(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term ‘nonrecognition provision’ means any provision of this title for not recognizing gain or loss.

7 “(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

8 “(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

9 “(1) any option or other right to acquire stock in a domestic corporation,

10 “(2) the conversion feature of any debt instrument issued by a domestic corporation, and

1 “(3) to the extent provided in regulations, any
2 other interest in a domestic corporation other than
3 an interest solely as creditor,
4 shall be treated as stock in such corporation.

5 “(e) TREATMENT OF CERTAIN GAIN AS A DIVI-
6 DEND.—In the case of any gain which would be subject
7 to tax by reason of this section but for a treaty and which
8 results from any distribution in liquidation or redemption,
9 for purposes of this subtitle, such gain shall be treated
10 as a dividend to the extent of the earnings and profits
11 of the domestic corporation attributable to the stock.
12 Rules similar to the rules of section 1248(c) (determined
13 without regard to paragraph (2)(D) thereof) shall apply
14 for purposes of the preceding sentence.

15 “(f) REGULATIONS.—The Secretary shall prescribe
16 such regulations as may be appropriate to carry out the
17 purposes of this section, including—

18 “(1) regulations coordinating the provisions of
19 this section with the provisions of section 897, and

20 “(2) regulations aggregating stock held by a
21 group of persons acting together.”

22 (b) WITHHOLDING OF TAX.—Subchapter A of chap-
23 ter 3 of such Code is amended by adding at the end the
24 following new section:

1 **“SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK**
2 **DISPOSITIONS.**

3 “(a) GENERAL RULE.—Except as otherwise provided
4 in this section, in the case of any disposition of stock in
5 a domestic corporation by a foreign person who is a 10-
6 percent shareholder in such corporation, the withholding
7 agent shall deduct and withhold a tax equal to 10 percent
8 of the amount realized on the disposition.

9 “(b) EXCEPTIONS.—

10 “(1) STOCK WHICH IS NOT REGULARLY TRAD-
11 ED.—In the case of a disposition of stock which is
12 not regularly traded, a withholding agent shall not
13 be required to deduct and withhold any amount
14 under subsection (a) if—

15 “(A) the transferor furnishes to such with-
16 holding agent an affidavit by such transferor
17 stating, under penalty of perjury, that section
18 899 does not apply to such disposition be-
19 cause—

20 “(i) the transferor is not a foreign
21 person, or

22 “(ii) the transferor is not a 10-percent
23 shareholder, and

24 “(B) such withholding agent does not
25 know (or have reason to know) that such affida-
26 vit is not correct.

1 “(2) STOCK WHICH IS REGULARLY TRADED.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a withholding agent shall
4 not be required to deduct and withhold any
5 amount under subsection (a) with respect to
6 any disposition of regularly traded stock if such
7 withholding agent does not know (or have rea-
8 son to know) that section 899 applies to such
9 disposition.

10 “(B) SPECIAL RULE WHERE SUBSTANTIAL
11 DISPOSITION.—If—

12 “(i) there is a disposition of regularly
13 traded stock in a corporation, and

14 “(ii) the amount of stock involved in
15 such disposition constitutes 1 percent or
16 more (by vote or value) of the stock in
17 such corporation,

18 subparagraph (A) shall not apply but para-
19 graph (1) shall apply as if the disposition in-
20 volved stock which was not regularly traded.

21 “(C) NOTIFICATION BY FOREIGN PER-
22 SON.—If section 899 applies to any disposition
23 by a foreign person of regularly traded stock,
24 such foreign person shall notify the withholding

1 agent that section 899 applies to such disposi-
2 tion.

3 “(3) NONRECOGNITION TRANSACTIONS.—A
4 withholding agent shall not be required to deduct
5 and withhold any amount under subsection (a) in
6 any case where gain or loss is not recognized by rea-
7 son of section 899(c) (or the regulations prescribed
8 under such section).

9 “(c) SPECIAL RULE WHERE NO WITHHOLDING.—
10 If—

11 “(1) there is no amount deducted and withheld
12 under this section with respect to any disposition to
13 which section 899 applies, and

14 “(2) the foreign person does not pay the tax
15 imposed by this subtitle to the extent attributable to
16 such disposition on the date prescribed therefor,
17 for purposes of determining the amount of such tax, the
18 foreign person’s basis in the stock disposed of shall be
19 treated as zero or such other amount as the Secretary may
20 determine (and, for purposes of section 6501, the
21 underpayment of such tax shall be treated as due to a
22 willful attempt to evade such tax).

23 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
24 poses of this section—

1 “(1) WITHHOLDING AGENT.—The term ‘with-
2 holding agent’ means—

3 “(A) the last United States person to have
4 the control, receipt, custody, disposal, or pay-
5 ment of the amount realized on the disposition,
6 or

7 “(B) if there is no such United States per-
8 son, the person prescribed in regulations.

9 “(2) FOREIGN PERSON.—The term ‘foreign per-
10 son’ means any person other than a United States
11 person.

12 “(3) REGULARLY TRADED STOCK.—The term
13 ‘regularly traded stock’ means any stock of a class
14 which is regularly traded on an established securities
15 market.

16 “(4) AUTHORITY TO PRESCRIBE REDUCED
17 AMOUNT.—At the request of the person making the
18 disposition or the withholding agent, the Secretary
19 may prescribe a reduced amount to be withheld
20 under this section if the Secretary determines that
21 to substitute such reduced amount will not jeopard-
22 ize the collection of the tax imposed by section
23 871(b)(1) or 882(a)(1).

24 “(5) OTHER TERMS.—Except as provided in
25 this section, terms used in this section shall have the

1 same respective meanings as when used in section
2 899.

3 “(6) CERTAIN RULES MADE APPLICABLE.—
4 Rules similar to the rules of section 1445(e) shall
5 apply for purposes of this section.

6 “(e) REGULATIONS.—The Secretary shall prescribe
7 such regulations as may be appropriate to carry out the
8 purposes of this section, including regulations coordinat-
9 ing the provisions of this section with the provisions of
10 sections 1445 and 1446.”

11 (c) EXCEPTION FROM BRANCH PROFITS TAX.—Sub-
12 paragraph (C) of section 884(d)(2) of such Code is amend-
13 ed to read as follows:

14 “(C) gain treated as effectively connected
15 with the conduct of a trade or business within
16 the United States under—

17 “(i) section 897 in the case of the
18 disposition of a United States real property
19 interest described in section
20 897(c)(1)(A)(ii), or

21 “(ii) section 899,”.

22 (d) REPORTS WITH RESPECT TO CERTAIN DIS-
23 TRIBUTIONS.—Paragraph (2) of section 6038B(a) of such
24 Code (relating to notice of certain transfers to foreign per-

1 son) is amended by striking “section 336” and inserting
2 “section 302, 331, or 336”.

3 (e) CLERICAL AMENDMENTS.—

4 (1) The table of sections for subpart D of part
5 II of subchapter N of chapter 1 of such Code is
6 amended by adding at the end the following new
7 item:

“Sec. 899. Dispositions of stock in domestic corporations by 10-
percent foreign shareholders.”

8 (2) The table of sections for subchapter A of
9 chapter 3 of such Code is amended by adding at the
10 end the following new item:

“Sec. 1447. Withholding of tax on certain stock dispositions.”

11 (f) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the amendments made by
14 this section shall apply to dispositions after the date
15 of the enactment of this Act, except that section
16 1447 of such Code (as added by this section) shall
17 not apply to any disposition before the date 6
18 months after the date of the enactment of this Act.

19 (2) COORDINATION WITH TREATIES.—

20 (A) IN GENERAL.—Sections 899 (other
21 than subsection (e) thereof) and 1447 of such
22 Code (as added by this section) shall not apply
23 to any disposition if such disposition is by a

1 qualified resident of a foreign country and the
2 application of such sections to such disposition
3 would be contrary to any treaty between the
4 United States and such foreign country which
5 is in effect on the date of the enactment of this
6 Act and at the time of such disposition.

7 (B) QUALIFIED RESIDENT.—For purposes
8 of subparagraph (A), the term “qualified resi-
9 dent” means any resident of the foreign country
10 entitled to the benefits of the treaty referred to
11 in subparagraph (A); except that such term
12 shall not include a corporation unless such cor-
13 poration is a qualified resident of such country
14 (as defined in section 884(e)(4) of such Code).

15 **SEC. 6. PORTFOLIO DEBT.**

16 (a) IN GENERAL.—Section 871(h)(3) of the Internal
17 Revenue Code of 1986 is amended to read as follows:

18 “(3) PORTFOLIO INTEREST TO INCLUDE ONLY
19 INTEREST ON GOVERNMENT OBLIGATIONS.—The
20 term ‘portfolio interest’ shall include only interest
21 paid on an obligation issued by a governmental en-
22 tity.”

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 881(c)(3) of such Code is amend-
25 ed—

1 (A) in subparagraph (A), by adding “or”
2 at the end, and

3 (B) by striking subparagraph (B) and re-
4 designating subparagraph (C) as subparagraph
5 (B).

6 (2) Section 881(c)(4) of such Code is amend-
7 ed—

8 (A) by striking “section 871(h)(4)” and in-
9 serting “section 871(h)(3) or (4)”, and

10 (B) in the heading, by inserting “INTER-
11 EST ON NON-GOVERNMENT OBLIGATIONS OR”
12 after “INCLUDE”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to interest received after December
15 31, 1995, with respect to obligations issued after such
16 date.

17 **SEC. 7. SOURCE OF INCOME FROM CERTAIN SALES OF IN-**
18 **VENTORY PROPERTY.**

19 (a) GENERAL RULE.—Subsection (b) of section 865
20 of the Internal Revenue Code of 1986 (relating to excep-
21 tion for inventory property) is amended to read as follows:

22 “(b) INVENTORY PROPERTY.—

23 “(1) INCOME ATTRIBUTABLE TO PRODUCTION
24 ACTIVITY.—In the case of income from the sale of

1 inventory property produced (in whole or in part) by
2 the taxpayer—

3 “(A) a portion (determined under regula-
4 tions) of such income shall be allocated to pro-
5 duction activity (and sourced in the United
6 States or outside the United States depending
7 on where such activity occurs), and

8 “(B) the remaining portion of such income
9 shall be sourced under the other provisions of
10 this section.

11 The regulations prescribed under subparagraph (A)
12 shall provide that at least 50 percent of such income
13 shall be allocated to production activities.

14 “(2) SALES INCOME.—

15 “(A) UNITED STATES RESIDENTS.—In-
16 come from the sale of inventory property by a
17 United States resident shall be sourced outside
18 the United States if—

19 “(i) the property is sold for use, con-
20 sumption, or disposition outside the United
21 States and an office or another fixed place
22 of business of the taxpayer outside the
23 United States participated materially in
24 the sale, and

1 “(ii) such sale is not (directly or indi-
2 rectly) to an affiliate of the taxpayer.

3 “(B) NONRESIDENT.—Income from the
4 sale of inventory property by a nonresident
5 shall be sourced in the United States if—

6 “(i) the taxpayer has an office or
7 other fixed place of business in the United
8 States, and

9 “(ii) such sale is through such office
10 or other fixed place of business.

11 This subparagraph shall not apply if the require-
12 ments of clauses (i) and (ii) of subparagraph (A) are
13 met with respect to such sale.

14 “(3) COORDINATION WITH TREATIES.—For
15 purposes of paragraph (2)(A)(i), a United States
16 resident shall not be treated as having an office or
17 fixed place of business in a foreign country if a trea-
18 ty prevents such country from imposing an income
19 tax on the income.”

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to income from sales occurring
22 after December 31, 1995.

1 **SEC. 8. ENHANCEMENT OF BENEFITS FOR FOREIGN SALES**
2 **CORPORATIONS.**

3 (a) **IN GENERAL.**—Subsection (a) of section 923 of
4 the Internal Revenue Code of 1986 is amended—

5 (1) in paragraph (2), by striking “32 percent”
6 and inserting “34 percent”, and

7 (2) in paragraph (3), by striking “¹⁶/₂₃” and in-
8 serting “¹⁷/₂₃”.

9 (b) **SPECIAL RULES RELATING TO CORPORATE**
10 **PREFERENCE ITEMS.**—Paragraph (4) of section 291(a) of
11 such Code is amended—

12 (1) in subparagraph (A), by striking “‘30 per-
13 cent’ for ‘32 percent’” and inserting “‘32 percent’
14 for ‘34 percent’”, and

15 (2) in subparagraph (B), by striking “‘¹⁵/₂₃’ for
16 ‘¹⁶/₂₃’” and inserting “‘¹⁶/₂₃’ for ‘¹⁷/₂₃’”.

17 (c) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1995.

○

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