

112TH CONGRESS
1ST SESSION

S. 626

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 SENATE OF THE UNITED STATES

MARCH 17, 2011

Ms. CANTWELL (for herself, Mr. VITTER, Mr. CARPER, Mr. COCHRAN, Mr. INOUE, Ms. LANDRIEU, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Finance

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 2011”.

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6 hereby repealed.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) of such Code is
12 amended by striking “, and” at the end and insert-
13 ing “, except that in applying this clause amounts
14 invested in less developed country corporations de-
15 scribed in section 955(c)(2) (as so in effect) shall
16 not be treated as investments in less developed coun-
17 tries.”.

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20 cluded subpart F income withdrawn from invest-
21 ment) is hereby repealed.

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

24 (5) The table of sections for subpart F of part
25 III of subchapter N of chapter 1 of such Code is

1 amended by striking the item relating to section
2 955.

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

9 **SEC. 3. ONE-TIME TEMPORARY DIVIDENDS RECEIVED DE-**
10 **DUCTION FOR PREVIOUSLY UNTAXED FOR-**
11 **EIGN BASE COMPANY SHIPPING INCOME.**

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

22 (1) which was derived by the controlled foreign
23 corporation in taxable years beginning before Janu-
24 ary 1, 2005, and

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

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

9 (c) LIMITATION.—The amount of dividends taken
10 into account under this section shall not exceed the
11 amount permitted to be taken into account under para-
12 graphs (1), (3) (determined by substituting “December
13 31, 2008” for “October 3, 2004”), and (4) of section
14 965(b) of the Internal Revenue Code of 1986, determined
15 as if such paragraphs applied to this section.

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

19 (1) elect to apply paragraph (3) of section
20 959(c) of the Internal Revenue Code of 1986 before
21 paragraphs (1) and (2) thereof, and

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

1 (A) foreign base company shipping income
2 (determined under section 954(f) of the Inter-
3 nal Revenue Code of 1986 as in effect before
4 the enactment of the American Jobs Creation
5 Act of 2004), or

6 (B) other earnings and profits.

7 (e) ELECTION.—

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

10 (A) the taxpayer's last taxable year which
11 begins before the date of the enactment of this
12 Act, or

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

16 (2) TIMING OF ELECTION AND ONE-TIME ELEC-
17 TION.—Such election may be made for a taxable
18 year—

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

22 (B) only if no election has been made
23 under this section or section 965 of the Internal
24 Revenue Code of 1986 with respect to the same

1 distribution for any other taxable year of the
2 taxpayer.

3 (f) REDUCTION IN BENEFITS FOR FAILURE TO
4 MAINTAIN EMPLOYMENT LEVELS.—

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

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

1 taxpayer first receives a distribution described in
2 subsection (a).

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

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

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

○