

104TH CONGRESS
1ST SESSION

S. 1355

To amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 1995

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. CONRAD, Mr. LEVIN, Mr. REID, Mr. WELLSTONE, Mr. SIMON, Mr. FEINGOLD, Mr. KENNEDY, Mr. LEAHY, Mr. HARKIN, Mr. BYRD, Mr. FORD, Mr. KERREY, Mr. BUMPERS, and Mr. KERRY) 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 end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into 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 Jobs and
5 Manufacturing Preservation Act of 1995”.

1 **SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN**
2 **CORPORATIONS ATTRIBUTABLE TO IM-**
3 **PORTED PROPERTY.**

4 (a) GENERAL RULE.—Subsection (a) of section 954
5 of the Internal Revenue Code of 1986 (defining foreign
6 base company income) is amended by striking “and” at
7 the end of paragraph (4), by striking the period at the
8 end of paragraph (5) and inserting “, and”, and by adding
9 at the end the following new paragraph:

10 “(6) imported property income for the taxable
11 year (determined under subsection (h) and reduced
12 as provided in subsection (b)(5)).”

13 (b) DEFINITION OF IMPORTED PROPERTY IN-
14 COME.—Section 954 of such Code is amended by adding
15 at the end the following new subsection:

16 “(h) IMPORTED PROPERTY INCOME.—

17 “(1) IN GENERAL.—For purposes of subsection
18 (a)(6), the term ‘imported property income’ means
19 income (whether in the form of profits, commissions,
20 fees, or otherwise) derived in connection with—

21 “(A) manufacturing, producing, growing,
22 or extracting imported property,

23 “(B) the sale, exchange, or other disposi-
24 tion of imported property, or

25 “(C) the lease, rental, or licensing of im-
26 ported property.

1 Such term shall not include any foreign oil and gas
2 extraction income (within the meaning of section
3 907(c)) or any foreign oil related income (within the
4 meaning of section 907(c)).

5 “(2) IMPORTED PROPERTY.—For purposes of
6 this subsection—

7 “(A) IN GENERAL.—Except as otherwise
8 provided in this paragraph, the term ‘imported
9 property’ means property which is imported
10 into the United States by the controlled foreign
11 corporation or a related person.

12 “(B) IMPORTED PROPERTY INCLUDES CER-
13 TAIN PROPERTY IMPORTED BY UNRELATED
14 PERSONS.—The term ‘imported property’ in-
15 cludes any property imported into the United
16 States by an unrelated person if, when such
17 property was sold to the unrelated person by
18 the controlled foreign corporation (or a related
19 person), it was reasonable to expect that—

20 “(i) such property would be imported
21 into the United States, or

22 “(ii) such property would be used as
23 a component in other property which would
24 be imported into the United States.

1 “(C) EXCEPTION FOR PROPERTY SUBSE-
2 QUENTLY EXPORTED.—The term ‘imported
3 property’ does not include any property which is
4 imported into the United States and which—

5 “(i) before substantial use in the
6 United States, is sold, leased, or rented by
7 the controlled foreign corporation or a re-
8 lated person for direct use, consumption,
9 or disposition outside the United States, or

10 “(ii) is used by the controlled foreign
11 corporation or a related person as a com-
12 ponent in other property which is so sold,
13 leased, or rented.

14 “(3) DEFINITIONS AND SPECIAL RULES.—

15 “(A) IMPORT.—For purposes of this sub-
16 section, the term ‘import’ means entering, or
17 withdrawal from warehouse, for consumption or
18 use. Such term includes any grant of the right
19 to use an intangible (as defined in section
20 936(b)(3)(B)) in the United States.

21 “(B) UNRELATED PERSON.—For purposes
22 of this subsection, the term ‘unrelated person’
23 means any person who is not a related person
24 with respect to the controlled foreign corpora-
25 tion.

1 “(C) COORDINATION WITH FOREIGN BASE
2 COMPANY SALES INCOME.—For purposes of this
3 section, the term ‘foreign base company sales
4 income’ shall not include any imported property
5 income.”

6 (c) SEPARATE APPLICATION OF LIMITATIONS ON
7 FOREIGN TAX CREDIT FOR IMPORTED PROPERTY IN-
8 COME.—

9 (1) IN GENERAL.—Paragraph (1) of section
10 904(d) of such Code (relating to separate application
11 of section with respect to certain categories of in-
12 come) is amended by striking “and” at the end of
13 subparagraph (H), by redesignating subparagraph
14 (I) as subparagraph (J), and by inserting after sub-
15 paragraph (H) the following new subparagraph:

16 “(I) imported property income, and”.

17 (2) IMPORTED PROPERTY INCOME DEFINED.—
18 Paragraph (2) of section 904(d) of such Code is
19 amended by redesignating subparagraphs (H) and
20 (I) as subparagraphs (I) and (J), respectively, and
21 by inserting after subparagraph (G) the following
22 new subparagraph:

23 “(H) IMPORTED PROPERTY INCOME.—The
24 term ‘imported property income’ means any in-
25 come received or accrued by any person which

1 is of a kind which would be imported property
2 income (as defined in section 954(h)).”

3 (3) LOOK-THRU RULES TO APPLY.—Subpara-
4 graph (F) of section 904(d)(3) of such Code is
5 amended by striking “or (E)” and inserting “(E), or
6 (H)”.

7 (d) TECHNICAL AMENDMENTS.—

8 (1) Clause (iii) of section 952(c)(1)(B) of such
9 Code (relating to certain prior year deficits may be
10 taken into account) is amended by inserting the fol-
11 lowing subclause after subclause (II) (and by redesi-
12 gnating the following subclauses accordingly):

13 “(III) imported property income,”.

14 (2) Paragraph (5) of section 954(b) of such
15 Code (relating to deductions to be taken into ac-
16 count) is amended by striking “and the foreign base
17 company oil related income” and inserting “the for-
18 eign base company oil related income, and the im-
19 ported property income”.

20 (e) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply to taxable years of foreign corporations
24 beginning after December 31, 1995, and to taxable
25 years of United States shareholders within which or

1 with which such taxable years of such foreign cor-
2 porations end.

3 (2) SUBSECTION (c).—The amendments made
4 by subsection (c) shall apply to taxable years begin-
5 ning after December 31, 1995.

○