H. R. 625

To eliminate the incentive for corporations to continue to hold accumulated earnings offshore, to invest in domestic infrastructure, to provide for international tax reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2015

Mr. Delaney (for himself and Mr. Hanna) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To eliminate the incentive for corporations to continue to hold accumulated earnings offshore, to invest in domestic infrastructure, to provide for international tax reform, 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; ETC.
4 (a) Short Title.—This Act may be cited as the
5 “Infrastructure 2.0 Act”.
(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—DEEMED REPATRIATION AND INVESTMENT IN DOMESTIC INFRASTRUCTURE

Sec. 101. Elimination of incentive for corporations to continue to hold accumulated earnings offshore.
Sec. 102. American Infrastructure Fund.
Sec. 103. Dedication of remaining revenues to highway trust fund.
Sec. 104. Highway Trust Fund Solvency Commission.
Sec. 105. Regional infrastructure accelerator pilot program.

TITLE II—DEADLINE FOR INTERNATIONAL TAX REFORM

Sec. 201. 18-month deadline for international tax reform.

TITLE III—FALLBACK INTERNATIONAL TAX REFORM

Sec. 300. General effective date of title.

Subtitle A—Reform of Taxation of Income Earned by Controlled Foreign Corporations

PART I—GENERAL PROVISIONS

Sec. 301. Modifications to subpart F income.
Sec. 302. Deemed repatriation upon transition to fallback international tax reform.

PART II—FOREIGN TAX CREDIT LIMITATIONS

Sec. 311. Reform of foreign tax credit limitation.
Sec. 312. Denial of credit and deduction for foreign taxes with respect to excluded subpart F income.

PART III—EXPENSE DISALLOWANCE

Sec. 321. Disallowance of deduction for expenses allocable to exempt income of a controlled foreign corporation.

PART IV—OTHER PROVISIONS RELATING TO SUBPART F
SUBPART A—PREVIOUSLY DEFERRED FOREIGN INCOME

Sec. 331. Treatment of previously deferred foreign income.

SUBPART B—OTHER PROVISIONS

Sec. 336. Elimination of 30-day requirement.
Sec. 337. Modification of definition of United States shareholder.

Subtitle B—Reform of Foreign Tax Credit Provisions

Sec. 341. Repeal of section 902 indirect foreign tax credits; foreign tax credit related to subpart F income.
Sec. 342. Repeal of rule suspending foreign taxes and credits until related income is taken into account.

TITLE I—DEEMED REPATRIATION AND INVESTMENT IN DOMESTIC INFRASTRUCTURE

SEC. 101. ELIMINATION OF INCENTIVE FOR CORPORATIONS TO CONTINUE TO HOLD ACCUMULATED EARNINGS OFFSHORE.

(a) IN GENERAL.—Section 965 is amended to read as follows:

“SEC. 965. ELIMINATION OF INCENTIVE TO HOLD ACCUMULATED EARNINGS AND PROFITS OFFSHORE.

“(a) TREATMENT OF DEFERRED FOREIGN INCOME AS SUBPART F INCOME.—In the case of the last taxable year of a deferred foreign income corporation which ends before the date of the enactment of the Infrastructure 2.0 Act, the subpart F income of such foreign corporation (as otherwise determined for such taxable year under section 952) shall be increased by the accumulated post-1986 deferred foreign income of such corporation determined as of the close of such taxable year.
“(b) Reduction in Amounts Included in Gross Income of United States Shareholders of Specified Foreign Corporations With Deficits in Earnings and Profits.—

“(1) In general.—In the case of a taxpayer which is a United States shareholder with respect to at least one deferred foreign income corporation and at least one E&P deficit foreign corporation, the amount which would (but for this subsection) be taken into account under section 951(a)(1) by reason of subsection (a) as such United States shareholder’s pro rata share of the subpart F income of each deferred foreign income corporation shall be reduced (but not below zero) by the amount of such United States shareholder’s aggregate foreign E&P deficit which is allocated under paragraph (2) to such deferred foreign income corporation.

“(2) Allocation of aggregate foreign E&P deficit.—The aggregate foreign E&P deficit of any United States shareholder shall be allocated among the deferred foreign income corporations of such United States shareholder in an amount which bears the same proportion to such aggregate as—

“(A) such United States shareholder’s pro rata share of the accumulated post-1986 de-
ferred foreign income of each such deferred for-

eign income corporation, bears to

“(B) the aggregate of such United States

shareholder’s pro rata share of the accumulated

post-1986 deferred foreign income of all de-

ferred foreign income corporations of such

United States shareholder.

“(3) DEFINITIONS RELATED TO E&P DEFI-

CITS.—For purposes of this subsection—

“(A) AGGREGATE FOREIGN E&P DEF-

ICIT.—The term ‘aggregate foreign E&P deficit’

means, with respect to any United States share-

holder, the aggregate of such shareholder’s pro

rata shares of the specified E&P deficits of the

E&P deficit foreign corporations of such share-

holder.

“(B) E&P DEFICIT FOREIGN CORPO-

RATION.—The term ‘E&P deficit foreign corpo-

ration’ means, with respect to any taxpayer, any

specified foreign corporation with respect to

which such taxpayer is a United States share-

holder, if—

“(i) such specified foreign corporation

has a deficit in post-1986 earnings and

profits, and
“(ii) as of the date of the introduction of Infrastructure 2.0 Act—

“(I) such corporation was a specified foreign corporation, and

“(II) such taxpayer was a United States shareholder of such corporation.

“(C) SPECIFIED E&P DEFICIT.—The term ‘specified E&P deficit’ means, with respect to any E&P deficit foreign corporation, the amount of the deficit referred to in subparagraph (B).

“(c) DEDUCTION FOR PORTION OF INCLUDED INCOME.—In the case of a United States shareholder of a deferred foreign income corporation, there shall be allowed as a deduction for the taxable year in which an amount is included in the gross income of such United States shareholder under section 951(a)(1) by reason of this section an amount equal to 75 percent of the amount so included in gross income.

“(d) DEFERRED FOREIGN INCOME CORPORATION; ACCUMULATED POST-1986 DEFERRED FOREIGN INCOME.—For purposes of this section—

“(1) DEFERRED FOREIGN INCOME CORPORATION.—The term ‘deferred foreign income corpora-
tion’ means, with respect to any United States shareholder, any specified foreign corporation of such United States shareholder which has accumulated post-1986 deferred foreign income (as of the close of the taxable year referred to in subsection (a)) greater than zero.

“(2) ACCUMULATED POST-1986 DEFERRED FOREIGN INCOME.—The term ‘accumulated post-1986 deferred foreign income’ means the post-1986 earnings and profits except to the extent such earnings—

“(A) are attributable to income of the specified foreign corporation which is effectively connected with the conduct of a trade or business within the United States and subject to tax under this chapter,

“(B) if distributed, would—

“(i) in the case of a controlled foreign corporation, be excluded from the gross income of a United States shareholder under section 959, or

“(ii) in the case of any passive foreign investment company (as defined in section 1297) other than a controlled foreign corporation, be treated as a distribution which is not a dividend, or
“(C) in the case of any passive foreign investment company (as so defined), is properly attributable to an unreversed inclusion of a United States person under section 1296.

To the extent provided in regulations or other guidance prescribed by the Secretary, in the case of any controlled foreign corporation which has shareholders which are not United States shareholders, accumulated post-1986 deferred foreign income shall be appropriately reduced by amounts which would be described in subparagraph (B)(i) if such shareholders were United States shareholders. Such regulations or other guidance may provide a similar rule for purposes of subparagraph (B)(ii) and (C).

“(3) POST-1986 EARNINGS AND PROFITS.—The term ‘post-1986 earnings and profits’ means the earnings and profits of the foreign corporation (computed in accordance with sections 964(a) and 986) accumulated in taxable years beginning after December 31, 1986, and determined—

“(A) as of the close the taxable year referred to in subsection (a), and

“(B) without diminution by reason of dividends distributed during such taxable year.

“(e) SPECIFIED FOREIGN CORPORATION.—
“(1) IN GENERAL.—For purposes of this section, the term ‘specified foreign corporation’ means—

“(A) any controlled foreign corporation,

and

“(B) any section 902 corporation (as defined in section 909(d)(5)).

“(2) APPLICATION TO SECTION 902 CORPORATIONS.—For purposes of section 951, a section 902 corporation (as so defined) shall be treated as a controlled foreign corporation solely for purposes of taking into account the subpart F income of such corporation under subsection (a) (and for purposes of applying subsection (f)).

“(f) DETERMINATIONS OF PRO RATA SHARE.—For purposes of this section, the determination of any United States shareholder’s pro rata share of any amount with respect to any specified foreign corporation shall be determined under rules similar to the rules of section 951(a)(2) by treating such amount in the same manner as subpart F income (and by treating such specified foreign corporation as a controlled foreign corporation).

“(g) DISALLOWANCE OF FOREIGN TAX CREDIT, ETC.—
“(1) IN GENERAL.—No credit shall be allowed under section 901 for the applicable percentage of any taxes paid or accrued (or treated as paid or accrued) with respect to any amount for which a deduction is allowed under this section.

“(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term ‘applicable percentage’ means the percentage specified in subsection (c).

“(3) DENIAL OF DEDUCTION.—No deduction shall be allowed under this chapter for any tax for which credit is not allowable under section 901 by reason of paragraph (1) (determined by treating the taxpayer as having elected the benefits of subpart A of part III of subchapter N).

“(4) COORDINATION WITH SECTION 78.—Section 78 shall not apply to any tax for which credit is not allowable under section 901 by reason of paragraph (1).

“(h) ELECTION TO PAY LIABILITY IN INSTALLMENTS.—

“(1) IN GENERAL.—In the case of a United States shareholder of a deferred foreign income corporation, such United States shareholder may elect to pay the net tax liability under this section in 8 installments of the following amounts:
“(A) 8 percent of the net tax liability in
the case of each of the first 5 of such install-
ments,

“(B) 15 percent of the net tax liability in
the case of the 6th such installment,

“(C) 20 percent of the net tax liability in
the case of the 7th such installment, and

“(D) 25 percent of the net tax liability in
the case of the 8th such installment.

“(2) DATE FOR PAYMENT OF INSTALLMENTS.—

If an election is made under paragraph (1), the first
installment shall be paid on the due date (deter-
mined without regard to any extension of time for
filing the return) for the return of tax for the taxable
year described in subsection (b) and each suc-
ceeding installment shall be paid on the due date (as
so determined) for the return of tax for the taxable
year following the taxable year with respect to which
the preceding installment was made.

“(3) ACCELERATION OF PAYMENT.—If there is
an addition to tax for failure to pay timely assessed
with respect to any installment required under this
subsection, a liquidation or sale of substantially all
the assets of the taxpayer (including in a title 11 or
similar case), a cessation of business by the tax-
payer, or any similar circumstance, then the unpaid portion of all remaining installments shall be due on the date of such event (or in the case of a title 11 or similar case, the day before the petition is filed). The preceding sentence shall not apply to the sale of substantially all the assets of a taxpayer to a buyer if such buyer enters into an agreement with the Secretary under which such buyer is liable for the remaining installments due under this subsection in the same manner as if such buyer were the taxpayer.

“(4) Proration of deficiency to installments.—If an election is made under paragraph (1) to pay the net tax liability under this section in installments and a deficiency has been assessed with respect to such net tax liability, the deficiency shall be prorated to the installments payable under paragraph (1). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to
negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(5) ELECTION.—Any election under paragraph (1) shall be made not later than the due date for the return of tax for the taxable year described in subsection (a) and shall be made in such manner as the Secretary may provide.

“(6) NET TAX LIABILITY UNDER THIS SECTION.—For purposes of this subsection—

“(A) IN GENERAL.—The net tax liability under this section with respect to any United States shareholder is the excess (if any) of—

“(i) such taxpayer’s net income tax for the taxable year described in subsection (a), over

“(ii) such taxpayer’s net income tax for such taxable year determined without regard to this section.

“(B) NET INCOME TAX.—The term ‘net income tax’ means the regular tax liability reduced by the credits allowed under subparts A, B, and D of part IV of subchapter A.

“(i) INCLUSION OF DEFERRED FOREIGN INCOME UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF OVERALL FOREIGN LOSS.—For purposes of section
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904(f)(1), in the case of a United States shareholder of
a deferred foreign income corporation, such United States
shareholder’s taxable income from sources without the
United States shall be determined without regard to this
section.

“(j) REGULATIONS.—The Secretary may prescribe
such regulations or other guidance as may be necessary
or appropriate to carry out the provisions of this section.”.

(b) CLERICAL AMENDMENT.—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 965 and inserting the following:

“Sec. 965. Elimination of incentive to hold accumulated earnings and profits
offshore.”.

SEC. 102. AMERICAN INFRASTRUCTURE FUND.

(a) AMERICAN INFRASTRUCTURE FUND.—

(1) IN GENERAL.—There is established a wholly
owned Government corporation—

(A) which shall be called the American In-
frastucture Fund (referred to in this Act as
the “AIF”);

(B) which shall be headed by the Board of
Trustees established under subsection (b);

(C) which may have separate subaccounts
or subsidiaries for funds used to make loans,
bond guarantees, and equity investments under this section;

(D) which shall be available to the AIF to pay for the costs of carrying out this section, including the compensation of the Board and other employees of the AIF; and

(E) the funds of which may be invested by the Board in such manner as the Board determines appropriate.

(2) DEPOSITS TO AIF.—All funds received from bond issuances, loan payments, bond guarantee fees, and any other funds received in carrying out this section shall be held by AIF.

(3) LIMITATIONS.—The charter of the AIF shall limit its activities to those activities described as the mission of the Board under subsection (b)(2).

(4) OVERSIGHT.—The AIF shall register with the Securities and Exchange Commission and the Chairman shall report to Congress annually as to whether the AIF is fulfilling the mission of the Board under subsection (b)(2).

(5) TREATMENT OF AIF.—

(A) ACCOUNTS.—Title 31, United States Code, is amended in each of sections 9107(c)(3) and 9108(d)(2)—
(i) by inserting “the American Infrastructure Fund,” after “the Regional Banks for Cooperatives,”; and

(ii) by striking “those banks” and inserting “those entities”.

(B) Bonds.—Section 149(b)(3)(A)(i) is amended by inserting “American Infrastructure Fund,” after “Federal Home Loan Mortgage Corporation,”.

(b) Board of Trustees.—

(1) In General.—There is established a Board of Trustees of the AIF (referred to in this subsection as the “Board”), which shall be composed of 9 members who—

(A) have substantial experience in bond guarantees or municipal credit; and

(B) to the greatest extent practicable, have extensive experience working with municipal credit, risk management, and infrastructure finance.

(2) Mission.—The mission of the Board is—

(A) to operate the AIF and its subsidiaries to be a low cost provider of bond guarantees, loans, and equity investments to State and local
governments and infrastructure providers for urban and rural infrastructure projects that—

(i) provide a positive economic impact;

and

(ii) meet such other standards as the Board may develop;

(B) to operate the AIF in a self-sustaining manner;

(C) to not have a profit motive, but to seek at all times to pursue its mission of providing low cost bond guarantees and loans while—

(i) covering its costs;

(ii) maintaining such reserves as may be needed; and

(iii) applying prudent underwriting standards;

(D) to only consider projects put forth by State and local governments and not to seek projects directly; and

(E) to engage in no other activities other than those permitted under this section.

(3) MEMBERSHIP.—

(A) INITIAL MEMBERS.—

(i) APPOINTMENT.—Not later than 150 days after the date of the enactment
of this Act, the President shall appoint, with the advice and consent of the Senate, as members of the Board—

(I) 2 individuals from a list of at least 5 individuals selected by the Speaker of the House of Representatives; 

(II) 2 individuals from a list of at least 5 individuals selected by the Minority Leader of the House of Representatives; 

(III) 2 individuals from a list of at least 5 individuals selected by the Majority Leader of the Senate; 

(IV) 2 individuals from a list of at least 5 individuals selected by the Minority Leader of the Senate; and 

(V) 1 individual selected at will by the President.

(ii) Submission of lists.—Each of the lists described in clause (i) shall be submitted to the President not later than 90 days after the date of the enactment of this Act. If any of such lists are submitted after the date required under this clause,
the President may appoint the 2 members of the Board who were to be selected from such list at will.

(B) Staggered Terms.—The members of the Board appointed pursuant to subparagraph (A)(i) shall serve staggered terms, with 2 each of the initial members of the Board serving for terms of 5, 6, 7, and 8 years, respectively, and the initial Chair selected under subparagraph (D) serving for 9 years. The decision of which Board members, other than the Chair, serve for which initial terms shall be made by the members of the Board drawing lots.

(C) Additional Members.—

(i) In General.—Except as provided in subparagraph (A), if the term of a member of the Board expires or otherwise becomes vacant, the President shall appoint a replacement for such member, with the advice and consent of the Senate, from among a list of at least 5 individuals submitted by the Board.

(ii) Term of Service.—

(I) In General.—Each member of the Board appointed to replace a
member whose term is expiring shall
serve for a 7-year term.

(II) Vacancies.—Any member
of the Board appointed to fill a va-
cancy occurring before the expiration
of the term to which that member’s
predecessor was appointed shall be ap-
pointed only for the remainder of the
term.

(D) Chair.—The members of the Board
shall choose 1 member to serve as the Chair of
the Board for a term of 7 years, except that the
initial Chair shall serve for a term of 9 years,
pursuant to subsection (B).

(E) Continuation of Service.—Each
member of the Board may continue to serve
after the expiration of the term of office to
which that member was appointed until a suc-
cessor has been appointed.

(F) Conflicts of Interest.—No mem-
ber of the Board may have a financial interest
in, or be employed by, a Qualified Infrastruc-
ture Project ("QIP") related to assistance pro-
vided under this section. Owning municipal
credit of any State or local government or own-
ing the securities of a diversified company that
engages in infrastructure activities, provided
those activities constitute less than 20 percent
of the company’s revenues, or investing in
broadly held investment funds shall not be
deemed to create a conflict of interest. The
Board may issue regulations to define terms
used under this subparagraph.

(4) COMPENSATION.—The members of the
Board shall be compensated at an amount to be set
by the Board, but under no circumstances may such
compensation be higher than the rate prescribed for
level IV of the Executive Schedule under section
5315 of title 5, United States Code.

(5) STAFF.—The Board shall employ and set
compensation for such staff as the Board determines
as is necessary to carry out the activities and mis-
mission of the AIF, and such staff may be paid without
regard to the provisions of chapter 51 and sub-
chapter III of chapter 53, United States Code, relat-
ing to classification and General Schedule pay rates.

(6) PROCEDURES.—The Board shall establish
such procedures as are necessary to carry out this
section.

(7) CORPORATE GOVERNANCE STANDARDS.—
(A) BOARD COMMITTEES GENERALLY.—

The Board shall maintain all of the committees required to be maintained by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(B) RISK MANAGEMENT COMMITTEE.—The Board shall maintain a risk management committee, which shall—

(i) employ additional staff who are certified by the Board as having significant and relevant experience in insurance underwriting and credit risk management; and

(ii) establish the risk management policies used by the Board.

(C) STANDARDS.—The Board shall, to the extent practicable, follow all standards with respect to corporate governance that are required to be followed by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(8) BIENNIAL REPORTS.—Not less frequently than once every 2 years, the Board shall produce a report that describes, of the materials, goods, and
products that were used to construct, or to support
the construction of, qualified infrastructure projects
(as described in subsection (c)) and received financ-
ing from the American Infrastructure Fund within
the most recent 2 calendar years, the percentage of
such materials, goods, and products that were cre-
ated, sourced, or manufactured in the United States.
(c) INFRASTRUCTURE INVESTMENT.—

(1) ENTITIES ELIGIBLE FOR ASSISTANCE.—The
AIF may provide assistance to State and local gov-
ernment entities, nonprofit infrastructure providers,
private parties, and public-private partnerships (re-
ferred to in this section as “eligible entities”) to help
finance qualified infrastructure projects (referred to
in this subsection as “QIPs”).

(2) FORMS OF ASSISTANCE.—The AIF may—

(A) provide bond guarantees to debt issued
by eligible entities;

(B) make loans, including subordinated
loans, to eligible entities; and

(C) make equity investments in QIPs.

(3) QUALIFIED INFRASTRUCTURE PROJECTS.—
A project qualifies as a QIP under this section if—

(A) the project is sponsored by a State or
local government;
(B) the infrastructure is, or will be, owned by a State or local government;

(C) the project involves the construction, maintenance, improvement, or repair of a transportation, energy, water, communications, or educational facility;

(D) the recipient of bond guarantees, loans, equity investments, or any other innovative financing technique authorized under this Act provides written assurances prescribed by the AIF that the project will be performed in compliance with the requirements of all Federal laws that would otherwise apply to similar projects to which the United States is a party; and

(E) in the case of a public transportation capital project as defined in section 5302 of title 49, United States Code, the recipient of bond guarantees, loans, equity investments, or any other innovative financing technique authorized under this Act complies with the grant requirements applicable to grants made under section 5309 of such title.

(4) APPLICATION FOR ASSISTANCE.—
(A) **In General.**—A State or local government that wishes to receive a loan or bond guarantee under this section shall submit an application to the Board in such form and manner and containing such information as the Board may require.

(B) **Requirement for Public Sponsorship of Private Entities.**—A private entity may only receive a bond guarantee, loan, or equity investment under this section if the State or local government for the jurisdiction in which the nonprofit infrastructure provider or private partner is located submits an application pursuant to subparagraph (A) on behalf of such nonprofit infrastructure provider or private partner.

(5) **Limitations on Single State Awards.**—

(A) **Annual Limitation.**—The Board shall set an annual limit, as a percentage of total assistance provided under this section during a year, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.
(B) Cumulative limitation.—The Board shall set a limit, as a percentage of total assistance provided under this section outstanding at any one time, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.

(6) Loan specifications.—Loans made under this section shall have such maturity and carry such interest rate as the Board determines appropriate.

(7) Bond guarantee.—The Board shall charge such fees for Bond guarantees made under this section as the Board determines appropriate.

(8) Equity investments.—With respect to a QIP, the amount of an equity investment made by the AIF in such QIP may not exceed 20 percent of the total cost of the QIP.

(9) Public-private partnership requirements.—At least 35 percent of the assistance provided under this section shall be provided to QIPs for which at least 10 percent of the financing for such QIPs comes from private debt or equity.

(10) Prohibition on principal forgiveness.—With respect to a loan made under this sec-
tion, the Board may not forgive any amount of prin-
cipal on such loan.

(d) DEFINITIONS.—For purposes of this section:

(1) INFRASTRUCTURE PROVIDER.—The term
“infrastructure provider” means an entity that seeks
to finance a QIP.

(2) SECRETARY.—The term “Secretary” means
the Secretary of the Treasury.

(3) STATE.—The term “State” means each of
the several States, the District of Columbia, any ter-
ritory or possession of the United States, and each
federally recognized Indian tribe.

(e) APPROPRIATION.—Out of money in the Treasury
not otherwise appropriated, there is hereby appropriated
$50,000,000,000 to the American Infrastructure Fund.
Amounts appropriated under this subsection shall remain
available without fiscal year limitation.

SEC. 103. DEDICATION OF REMAINING REVENUES TO HIGH-
WAY TRUST FUND.

(a) IN GENERAL.—Section 9503(f) is amended by re-
designating paragraph (5) as paragraph (6) and by insert-
ing after paragraph (4) the following new paragraph:

“(5) APPROPRIATION OF REVENUES ATTRIB-
UTABLE TO SECTION 965.—
“(A) Initial Appropriation.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated $100,000,000,000 to the Highway Trust Fund.

“(B) Remaining Revenues.—

“(i) In general.—Out of money in the Treasury not otherwise appropriated, there are hereby appropriated to the Highway Trust Fund the excess of—

“(I) amounts equivalent to the aggregate net tax liabilities under section 965 (as defined in such section) received in the Treasury, over

“(II) $150,025,000,000.

“(ii) Additional Transfers Only after Revenues Equaling Initial Transfers Have Been Received in the Treasury.—For purposes of applying section 9601 to clause (i), no transfer shall be made under clause (i) until the Secretary estimates that the amount described in clause (i)(I) has exceeded the amount described in clause (i)(II).”.

(b) Transfers to Mass Transit Account.—Section 9503(e)(2) of such Code is amended by striking “the
mass transit portion” and inserting “, 20 percent of the
amounts appropriated to the Highway Trust Fund under
subsection (f)(5), and the mass transit portion”.

SEC. 104. HIGHWAY TRUST FUND SOLVENCY COMMISSION.

(a) Establishment.—There is established in the
legislative branch a commission to be known as the “High-
way Trust Fund Solvency Commission” (in this section
referred to as the “Commission”).

(b) Duty of the Commission.—Not later than 1
year after the initial meeting of the Commission, the Com-
mission shall transmit to Congress a written report that
includes recommendations and proposed legislation for
achieving long-term solvency of the Highway Trust Fund.

(c) Members.—

(1) Number and Appointment.—The Com-
misson shall be composed of 9 members. Of the
members of the Commission—

(A) 1 member shall be appointed by the
President of the United States;

(B) 1 member shall be appointed by the
chairman of the Committee on Finance of the
Senate;

(C) 1 member shall be appointed by the
ranking minority member of the Committee on
Finance of the Senate;
(D) 1 member shall be appointed by the chairman of the Committee on Ways and Means of the House of Representatives;

(E) 1 member shall be appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;

(F) 1 member shall be appointed by the chairman of the Committee on Environment and Public Works of the Senate;

(G) 1 member shall be appointed by the ranking minority member of the Committee on Environment and Public Works of the Senate;

(H) 1 member shall be appointed by the chairman of the Committee on Transportation and Infrastructure of the House of Representatives; and

(I) 1 member shall be appointed by the ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Timing of Appointments.—Each of the appointments made under paragraph (1) shall be made not later than 45 days after the date of the enactment of this Act.
(3) TERMS; VACANCIES.—Each member shall be appointed for the life of the Commission, and a vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—

(A) IN GENERAL.—Members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) OPERATION AND POWERS OF THE COMMISSION.—

(1) CHAIR.—The chairperson of the Commission shall be elected by the members of the Commission.

(2) MEETINGS.—The Commission shall meet not later than 30 days after the members of the Commission have been appointed, and at such times thereafter as the chairperson shall determine.

(3) RULES OF PROCEDURE.—The chairperson shall, with the approval of a majority of the members of the Commission, establish written rules of procedure for the Commission, which shall include a
quorum requirement to conduct the business of the Commission.

(4) **Hearings.**—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(5) **Obtaining Official Data.**—The Commission may secure directly from any department or agency of the United States, including the Congressional Budget Office and the Government Accountability Office, any information or technical assistance necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish that information or technical assistance to the Commission.

(6) **Contract Authority.**—The Commission may contract with and compensate government and private agencies or persons for any purpose necessary to enable it to carry out this section.

(7) **Mails.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.
(c) PERSONNEL.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission. The Director shall be paid at a rate of pay equivalent to the annual rate of basic pay for a comparable position paid under the Executive Schedule, subject to the approval of the chairperson of the Commission.

(2) STAFF.—The Director may appoint and fix the pay of additional staff as the Director considers appropriate.

(3) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay for a comparable position paid under the Executive Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, without reimbursement, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.
(5) **Administrative Support Services.**—

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(f) **Termination.**—The Commission shall terminate not later than 60 days after the submission of the report described in subsection (b).

(g) **Authorization of Appropriations.**—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(h) ** Expedited Consideration of Commission Recommendations.**—

1. **(1) Expedited Consideration.**—

   (A) **Introduction of Approval Bill.**—

   The majority leader of each House or a designee shall (by request) introduce an approval bill as described in paragraph (3) not later than the third day of session of that House after the date of receipt of the report transmitted to the Congress under subsection (b).

   (B) **Consideration in the House of Representatives.**—
(i) Referral and reporting.—Any committee of the House of Representatives to which an approval bill is referred shall report it to the House without amendment not later than the third legislative day after the date of its introduction. If a committee fails to report the bill within that period or the House has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, such committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

(ii) Proceeding to consideration.—Not later than 3 legislative days after the approval bill is reported or a committee has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the approval bill in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces an inten-
tion to the House to offer the motion provided that such notice may not be given until the approval bill is reported or a committee has been discharged from further consideration thereof. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to that special message. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(iii) CONSIDERATION.—If the motion to proceed is agreed to, the House shall immediately proceed to consider the approval bill in the House without intervening motion. The approval bill shall be considered as read. All points of order against the approval bill and against its consideration are waived. The previous question shall be considered as ordered on the approval bill to its passage without intervening motion except 4 hours of debate equally divided and controlled by the pro-
ponent and an opponent and one motion to
limit debate on the bill. A motion to reconsid-
er the vote on passage of the approval
bill shall not be in order.

(C) CONSIDERATION IN THE SENATE.—

(i) COMMITTEE ACTION.—The appro-
priate committee of the Senate shall report
without amendment the approval bill not
later than the third session day after intro-
duction. If a committee fails to report the
approval bill within that period or the Sen-
ate has adopted a concurrent resolution
providing for adjournment sine die at the
end of a Congress, the Committee shall be
automatically discharged from further con-
sideration of the approval bill and it shall
be placed on the appropriate calendar.

(ii) MOTION TO PROCEED.—Not later
than 3 session days after the approval bill
is reported in the Senate or the committee
has been discharged thereof, it shall be in
order for any Senator to move to proceed
to consider the approval bill in the Senate.
The motion shall be decided without debate
and the motion to reconsider shall be
deemed to have been laid on the table. Such a motion shall not be in order after the Senate has disposed of a prior motion to proceed with respect to the approval bill.

(iii) CONSIDERATION.—If a motion to proceed to the consideration of the approval bill is agreed to, the Senate shall immediately proceed to consideration of the approval bill without intervening motion, order, or other business, and the approval bill shall remain the unfinished business of the Senate until disposed of. Consideration on the bill in the Senate under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours equally divided in the usual form. All points of order against the approval bill or its consideration are waived. Consideration in the Senate on any debatable motion or appeal in connection with the approval bill shall be limited to not more than 1 hour. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the approval bill is not in
order. A motion to reconsider the vote by which the approval bill is agreed to or dis-
agreed to is not in order.

(D) Amendments prohibited.—No amendment to, or motion to strike a provision from, an approval bill considered under this sec-
tion shall be in order in either the Senate or the House of Representatives.

(E) Coordination with action by other House.—

(i) In general.—If, before passing the approval bill, one House receives from the other a bill—

(I) the approval bill of the other House shall not be referred to a com-
mittee; and

(II) the procedure in the receiv-
ing House shall be the same as if no approval bill had been received from the other House until the vote on pas-
sage, when the bill received from the other House shall supplant the ap-
proval bill of the receiving House.
(ii) Exception.—This paragraph shall not apply to the House of Representa-
tives.

(2) Limitation.—Paragraph (1) shall apply only to an approval bill described in paragraph (3) and introduced pursuant to paragraph (1)(A).

(3) Approval Bill Described.—For purposes of paragraph (1), a bill described in this paragraph is a bill—

(A) which consists of the proposed legislation which is included in such report to carry out the recommendations made by the Commission in the report; and

(B) the title of which is as follows: “A bill to carry out the recommendations of the Highway Trust Fund Solvency Commission.”.

(4) Extended Time Period.—If Congress adjourns at the end of a Congress and an approval bill was then pending in either House of Congress or a committee thereof, or an approval bill had not yet been introduced with respect to a special message, then within the first 3 days of session of the next Congress, the Commission shall transmit to Congress an additional special message containing all of the information in the previous, pending special mes-
sage. An approval bill may be introduced within the
first five days of session of such next Congress and
shall be treated as an approval bill under this sec-
tion, and the time periods described in subpara-
graphs (B) and (C) of paragraph (1) shall com-
ence on the day of introduction of that approval
bill.

SEC. 105. REGIONAL INFRASTRUCTURE ACCELERATOR
PILOT PROGRAM.

(a) In General.—Not later than 90 days after the
date of enactment of this Act, the Secretary of Transpor-
tation shall establish a regional infrastructure accelerator
pilot program (in this section referred to as the “Pro-
gram”) to assist certain State, local, and regional public
entities to develop improved priorities and financing strat-
egies for the accelerated development of covered infra-
structure projects.

(b) Accelerator Establishment Authority.—

(1) In General.—In carrying out the Pro-
gram, the Secretary is authorized to establish re-
gional infrastructure accelerators that will—

(A) serve a defined geographic area; and

(B) act as a resource to State, local, and
regional public entities in that area in accord-
ance with this section.
(2) APPLICATIONS.—To be eligible for a regional infrastructure accelerator under the Program, State, local, and regional public entities shall submit to the Secretary an application proposing an accelerator at such time, in such form, and containing such information as the Secretary determines is appropriate.

(3) NUMBER.—To the extent practicable, the Secretary shall establish at least 5 regional infrastructure accelerators under the Program.

(4) GEOGRAPHIC DIVERSITY.—In establishing regional infrastructure accelerators under the Program, the Secretary shall consider the need for geographic diversity among such accelerators.

(c) ACCELERATOR COMPOSITION.—

(1) IN GENERAL.—Each regional infrastructure accelerator established under subsection (b) shall include a membership composed of at least the following:

(A) A representative of each State, local, or regional public entity in the area served by the accelerator that participated in the application that resulted in the establishment of the accelerator.
(B) A representative of a State, local, or regional public entity located outside the area served by the accelerator with experience in innovative infrastructure financing.

(C) A representative of a financing entity that intends to finance covered infrastructure projects in the area served by the accelerator.

(D) A representative of a construction or development entity that intends to develop covered infrastructure projects in the area served by the accelerator.

(E) A representative of the Department of Transportation.

(F) A representative of the Department of the Treasury.

(G) A representative of the Environmental Protection Agency.

(H) A representative of another Federal department or agency with jurisdiction over covered infrastructure projects intended for the area served by the accelerator.

(2) Local representation requirement.—At least 60 percent of the membership of each regional infrastructure accelerator established under subsection (b) shall be composed of representatives
of State, local, and regional public entities located in
the area served by the accelerator.

(3) Diverse Perspectives.—Each regional
infrastructure accelerator established under sub-
section (b) shall have a membership that represents
a diverse set of public and private perspectives.

(d) Regional Infrastructure Acceleration
Plan.—Each regional infrastructure accelerator estab-
lished under subsection (b) shall develop and implement
a regional infrastructure acceleration plan for the area
served by the accelerator that—

(1) describes how the accelerator will promote
investment in covered infrastructure projects, includ-
ing through—

(A) providing guidance and feedback to
State, local, and regional public entities with re-
spect to infrastructure priorities, financing
strategies, and other matters relating to such
projects;

(B) evaluating and promoting innovative
financing methods;

(C) connecting sources of financing to the
public sponsors of such projects;
(D) establishing standards to measure the life-cycle impacts of investments in such projects; and

(E) providing technical assistance and information on best practices with respect to such projects from predevelopment activities through maintenance;

(2) assesses regional and multimodal approaches to advancing innovative investment in covered infrastructure projects; and

(3) develops strategies for—

(A) transparency with respect to covered infrastructure project analysis to ensure the public interest is protected;

(B) predevelopment capital programs to facilitate the creation of a catalog of covered infrastructure projects available for investment;

(C) the bundling of smaller-scale and rural projects into project pools for investment; and

(D) the multimodal integration of transportation projects.

(e) PROGRAM TERMINATION.—The Program shall terminate on the date that is 10 years after the date on which the Program is established under subsection (a).
(f) Covered Infrastructure Project Defined.—In this section, the term “covered infrastructure project” means a project—

(1) sponsored by a State, local, or regional public entity; and

(2) that involves the construction, maintenance, improvement, or repair of a transportation, energy, water, communications, or educational facility that is, or will be, owned by such an entity.

(g) Appropriation.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated $25,000,000 to the Department of Transportation to carry out the Program. Amounts appropriated under this subsection shall remain available without fiscal year limitation.

TITLE II—Deadline for International Tax Reform

SEC. 201. 18-Month Deadline for International Tax Reform.

Notwithstanding any provision of title III, the provisions of, and amendments made by, title III shall not take effect if a bill which reforms the corporate international tax system by eliminating the incentive to hold earnings in low-tax foreign jurisdictions is enacted into law during
the 18-month period which begins on the date of the enactment of this Act.

TITLE III—FALLBACK INTERNATIONAL TAX REFORM

SEC. 300. GENERAL EFFECTIVE DATE OF TITLE.

For purposes of this title, the term “applicable date” means the date which is 18 months after the date of the enactment of this Act.

Subtitle A—Reform of Taxation of Income Earned by Controlled Foreign Corporations

PART I—GENERAL PROVISIONS

SEC. 301. MODIFICATIONS TO SUBPART F INCOME.

(a) In General.—Subpart F of part III of subchapter N of chapter 1 is amended by striking sections 952 through 956 and inserting the following:

“SEC. 952. SUBPART F INCOME DEFINED.

“(a) In General.—For purposes of this subpart, the term ‘subpart F income’ means, with respect to any controlled foreign corporation, the sum of—

“(1) the inclusion percentage of the corporation’s modified active income, plus

“(2) 100 percent of the corporation’s modified nonactive income.

“(b) Modified Active Income.—
“(1) IN GENERAL.—The term ‘modified active income’ means, with respect to any controlled foreign corporation, the excess (if any) of—

“(A) the corporation’s active foreign market income, over

“(B) the amount of the reduction under subsection (e) for deductions properly allocable to such income.

“(2) REDUCTION FOR CERTAIN LOSSES.—

“(A) IN GENERAL.—The modified active income determined under paragraph (1) for any taxable year shall be reduced (but not below zero)—

“(i) first by any active foreign market loss for any prior taxable year, and

“(ii) then by any qualified loss for such taxable year (or for any prior taxable year to the extent provided in subsection (c)(3)(B)).

“(B) LIMITATION.—An active foreign market loss or qualified loss for any prior taxable year shall only be taken into account under subparagraph (A)—

“(i) if the prior taxable year is a taxable year which begins on or after the ap-
applicable date (as defined in section 300 of
the Infrastructure 2.0 Act), and for which
the controlled foreign corporation was a
controlled foreign corporation, and
“(ii) to the extent such loss has not
been previously taken into account under
this subsection.
“(3) ACTIVE FOREIGN MARKET LOSS.—The
term ‘active foreign market loss’ means, with respect
to any taxable year, the amount by which the
amount determined under paragraph (1)(B) exceeds
the amount determined under paragraph (1)(A).
“(e) MODIFIED NONACTIVE INCOME.—
“(1) IN GENERAL.—The term ‘modified non-
active income’ means, with respect to any controlled
foreign corporation, the excess (if any) of—
“(A) the corporation’s gross income deter-
mined without regard to active foreign market
income, over
“(B) the amount of the reduction under
subsection (e) for deductions properly allocable
to such gross income.
“(2) REDUCTION FOR QUALIFIED LOSSES.—
The amount determined under paragraph (1) for
any taxable year shall be reduced (but not below
zero) by any qualified loss for any prior taxable year beginning on or after the applicable date (as defined in section 300 of the Infrastructure 2.0 Act), for which the controlled foreign corporation was a controlled foreign corporation, but only to the extent such loss has not been previously taken into account under subsection (b)(2) or this subsection.

“(3) QUALIFIED LOSS.—For purposes of this section—

“(A) IN GENERAL.—The term ‘qualified loss’ means, with respect to any taxable year, the amount by which the amount determined under paragraph (1)(B) exceeds the amount determined under paragraph (1)(A).

“(B) ORDERING RULE FOR LOSSES CARRIED FROM PRIOR TAXABLE YEARS.—In the case of any qualified losses carried to a taxable year from 1 or more prior taxable years, such losses shall be taken into account—

“(i) first under paragraph (2), and

“(ii) then under subsection (b)(2)(B) to the extent such losses exceed the amount determined under paragraph (1).

“(d) INCLUSION PERCENTAGE.—For purposes of this section—
“(1) IN GENERAL.—The term ‘inclusion percentage’ means 20 percent increased by the number of percentage points (if any) determined under paragraph (2).

“(2) ADDITIONAL INCLUSION FOR EARNINGS NOT SUBJECT TO OECD AVERAGE FOREIGN TAX.—

The number of percentage points determined under this paragraph with respect to any controlled foreign corporation for any taxable year, is the number of percentage points (not less than zero nor more than 15) which bears the same ratio to 15 as—

“(A) the number of percentage points by which 25 percent exceeds the aggregate foreign rate of tax imposed on the modified active income of such controlled foreign corporation for such taxable year, bears to

“(B) 25.

“(e) EXCLUSION OF UNITED STATES INCOME.—For purposes of this subpart, any item of income of the controlled foreign corporation which is effectively connected with the conduct by such corporation of a trade or business within the United States shall not be taken into account in computing the subpart F income of such corporation unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obliga-
tion of the United States. For purposes of this subsection, any exemption (or reductions) with respect to the tax imposed by section 884 shall not be taken into account.

“(f) Deductions.—For purposes of subsections (b)(1)(B) and (c)(1)(B), the active foreign market income, and gross income other than active foreign market income, of a controlled foreign corporation shall each be reduced, under regulations prescribed by the Secretary, by any deductions (including taxes) of such corporation properly allocable to items of income taken into account in computing such income.

“SEC. 953. ACTIVE FOREIGN MARKET INCOME.

“(a) Active Foreign Market Income Defined.—For purposes of this subpart, the term ‘active foreign market income’ means, with respect to any controlled foreign corporation, the aggregate of all items of income which are—

“(1) attributable to economically significant activities with respect to a qualified trade or business, and

“(2) derived in connection with—

“(A) property which is sold, exchanged, or otherwise disposed of for use, consumption, or disposition outside of the United States, or
“(B) services which are provided outside of the United States with respect to persons or property located outside of the United States.

“(b) TREATMENT OF PASSIVE INCOME.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the term ‘active foreign market income’ shall not include the passive income (as defined in section 954) of a controlled foreign corporation.

“(2) ACTIVE FOREIGN MARKET INCOME INCLUDES CERTAIN INCOME.—The term ‘active foreign market income’ shall include—

“(A) if the controlled foreign corporation or a qualified business unit of the corporation is an eligible controlled foreign corporation (as defined in section 954(c)), any item of income of the corporation or unit which is qualified banking or financing income (as so defined),

“(B) if the controlled foreign corporation or a qualified business unit of the corporation is a qualifying insurance company (as defined in section 954(d)) or a qualifying insurance company branch (as so defined), any item of income of the corporation or unit which is qualified insurance income (as so defined),
“(C) any item of income which is rents or 
royalties derived from the ownership and oper-
ation (including leasing) of real or personal 
property which is not treated as passive income 
under section 954(a)(2)(A), and 
“(D) in the case of a regular dealer in 
property which is property described in section 
954(a)(1)(B), forward contracts, option con-
tracts, or similar financial instruments (includ-
ing notional principal contracts and all instru-
ments referenced to commodities), any item of 
income from any transaction (including hedging 
transactions and transactions involving physical 
settlement) entered into in the ordinary course 
of such dealer’s trade or business as such a 
dealer.
“(3) G AIN OR LOSS FROM SALES OF STOCK IN 
other CFCS.—If a controlled foreign corporation 
sells, exchanges, or otherwise disposes of stock in 
another controlled foreign corporation which is a re-
lated person to the selling corporation—
“(A) gain from such sale, exchange, or dis-
position shall be treated as active foreign mar-
ket income to the extent that such gain would 
have been excluded from gross income under
section 1203 if the selling corporation were a United States shareholder in the other controlled foreign corporation, and

“(B) loss from such sale, exchange, or disposition shall not be allowed to the extent such loss would have been disallowed under section 1213 if the selling corporation were a United States shareholder in the other controlled foreign corporation.

“(4) GAIN OR LOSS FROM SALES OF INTERESTS IN 25-PERCENT OWNED PARTNERSHIPS.—

“(A) IN GENERAL.—

“(i) PORTION TREATED AS ACTIVE FOREIGN MARKET INCOME.—In the case of any sale or exchange by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, gain or loss on such sale shall be taken into account in determining active foreign market income in the amount which bears the same ratio to the amount of such gain or loss as the controlled foreign corporation’s distributable share of the active foreign market income from the partnership over
the applicable period bears to the controlled foreign corporation’s distributable share of gross income from the partnership over such period. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

“(ii) Applicable Period.—For purposes of this subparagraph, the term ‘applicable period’ means, with respect to any interest in a partnership, the shorter of the 3-taxable year period immediately preceding the taxable year of the sale or exchange or the controlled foreign corporation’s holding period in the interest. In no event shall the applicable period include any portion of any taxable year beginning before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act).

“(B) 25-percent owner.—For purposes of this paragraph, the term ‘25-percent owner’ means a controlled foreign corporation which owns directly 25 percent or more of the capital
or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or a partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any capital or profits interest in any partnership held directly or indirectly by such corporation or partnership. If a controlled foreign corporation is treated as owning a capital or profits interest in a partnership under constructive ownership rules similar to the rules of section 958(b), the controlled foreign corporation shall be treated as owning such interest directly for purposes of this subparagraph.

“(c) TREATMENT OF INSURANCE INCOME.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the term ‘active foreign market income’ shall not include the insurance income (as defined in section 955(a)) of a controlled foreign corporation.

“(2) ACTIVE FOREIGN MARKET INCOME INCLUDES EXEMPT INSURANCE INCOME.—The term ‘active foreign market income’ shall include exempt
insurance income (as defined in section 955(c)) shall be treated as active foreign market income.

“(d) TREATMENT OF INCOME FROM PROPERTY USED, CONSUMED, OR DISPOSED OF IN THE UNITED STATES.—For purposes of subsection (a)(2)(A)—

“(1) IN GENERAL.—The term ‘active foreign market income’ shall not include income derived in connection with property which is sold, exchanged, or otherwise disposed of to any person if it was reasonable for the controlled foreign corporation (or a related person) to expect that—

“(A) such property would be used, consumed, or disposed of in the United States, or

“(B) such property would be used in the manufacture or production of, or as a component part in, other property which would be used, consumed, or disposed of in the United States.

“(2) CHAIN OF RELATED PERSONS.—If—

“(A) property is ultimately used, consumed, or disposed of as described in subparagraph (A) or (B) of paragraph (1), and

“(B) all sales, exchanges, or dispositions of such property (or of the other property described in paragraph (1)(B)) before the sale for

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use, consumption, or disposition in the United States are between related persons,

then, for purposes of paragraph (1), there shall be deemed to have been a reasonable expectation that the property (or the other property described in paragraph (1)(B)) would be used, consumed, or disposed of in the United States.

“(3) Exception for property subsequently exported.—Paragraphs (1) and (2) shall not apply with respect to property which, after entry into the United States is—

“(A) sold, leased, rented, or licensed by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

“(B) used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, rented, or licensed.

“(4) Related person defined.—For purposes of this subsection, the term ‘related person’ has the meaning given such term under section 954(b).

“(e) Economically significant activities.—For purposes of this section, the term ‘economically significant
activities’ means, with respect to any item of income, activities—

“(1) performed outside the United States,

“(2) performed by officers or employees of the controlled foreign corporation which are part of the management and operational functions of the corporation, and

“(3) which make a substantial contribution to the production of such item of income.

“(f) QUALIFIED TRADE OR BUSINESS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified trade or business’ means any trade or business which consists of—

“(A) manufacturing, producing, growing, or extracting property outside of the United States, or

“(B) providing services outside of the United States.

“(2) SPECIAL RULE FOR SUBSTANTIAL CONTRIBUTIONS TO MANUFACTURING AND SERVICES.—If a trade or business consists of making a substantial contribution through the activities of the officers and employees of the controlled foreign corporation to a qualified trade or business which is described in
subsection (A) or (B) of paragraph (1) of another person, then the trade or business shall be
treated as a qualified trade or business described in
subsection (A) or (B) of paragraph (1), whichever is applicable.

SEC. 954. DEFINITION OF PASSIVE INCOME.

(a) Passive income.—

(1) In general.—For purposes of this part, the term ‘passive income’ means the portion of the
gross income which consists of:

(A) Dividends, etc.—Dividends, interest, royalties, rents, and annuities.

(B) Certain property transactions.—The excess of gains over losses from the sale or exchange of property—

(i) which gives rise to income described in subsection (A) (after application of paragraph (2)(A)) other than property which gives rise to income not treated as passive income by reason of subsection (c) or (d) for the taxable year,

(ii) which is an interest in a trust, partnership, or REMIC, or

(iii) which does not give rise to any income.
Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(a)(1) shall not be taken into account under this subparagraph.

“(C) COMMODITIES TRANSACTIONS.—The excess of gains over losses from transactions (including futures, forward, and similar transactions) in any commodities. This subparagraph shall not apply to gains or losses which—

“(i) arise out of commodity hedging transactions (as defined in paragraph (5)(A)),

“(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation’s commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or

“(iii) are foreign currency gains or losses (as defined in section 988(b)) attributable to any section 988 transactions.

“(D) FOREIGN CURRENCY GAINS.—The excess of foreign currency gains over foreign currency losses (as defined in section 988(b)) at-
tributable to any section 988 transactions. This
subparagraph shall not apply in the case of any
transaction, other than a borrowing, directly re-
lated to the business needs of the controlled for-
eign corporation.

“(E) INCOME EQUIVALENT TO INTER-
est.—Any income equivalent to interest, in-
cluding income from commitment fees (or simi-
lar amounts) for loans actually made.

“(F) INCOME FROM NOTIONAL PRINCIPAL
CONTRACTIONS.—

“(i) IN GENERAL.—Net income from
notional principal contracts.

“(ii) COORDINATION WITH OTHER
cATEGORIES OF PASSIVE INCOME.—Any
item of income, gain, deduction, or loss
from a notional principal contract entered
into for purposes of hedging any item de-
scribed in any preceding subparagraph
shall not be taken into account for pur-
poses of this subparagraph but shall be
taken into account under such other sub-
paragraph.

“(G) PAYMENTS IN LIEU OF DIVIDENDS.—
Payments in lieu of dividends which are made
pursuant to an agreement to which section 1058 applies.

“(H) PERSONAL SERVICE CONTRACTS.—

“(i) Amounts received under a contract under which the corporation is to furnish personal services if—

“(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

“(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

“(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be des-
ignated (by name or by description) as the one to perform, such services.

“(2) Exception for certain amounts.—

“(A) Rents and royalties derived in active business.—Passive income shall not include rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person. For purposes of the preceding sentence, rents derived from leasing an aircraft or vessel in foreign commerce shall not fail to be treated as derived in the active conduct of a trade or business if, as determined under regulations prescribed by the Secretary, the active leasing expenses are not less than 10 percent of the profit on the lease.

“(B) Exception for dealers.—Except as provided by regulations, in the case of a regular dealer in property which is property described in paragraph (1)(B), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing passive income any item of income, gain,
deduction, or loss from any transaction (including hedging transactions and transactions involving physical settlement) entered into in the ordinary course of such dealer’s trade or business as such a dealer.

“(3) Look-thru rule for certain partnership sales.—

“(A) In general.—In the case of any sale or exchange by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, gain or loss on such sale shall be treated as being described in paragraph (1)(B)(ii) in the amount which bears the same ratio to the amount of such gain or loss as the controlled foreign corporation’s distributable share of passive income from the partnership over the applicable period (as defined in section 953(b)(4)(A)(ii)) bears to the controlled foreign corporation’s distributable share of gross income from the partnership over such period. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regula-
tions providing for the coordination of this paragraph with the provisions of subchapter K.

“(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term ‘25-percent owner’ has the meaning given such term under section 953(b)(4)(B).

“(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

“(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term ‘commodity hedging transaction’ means any transaction with respect to a commodity if such transaction—

“(i) is a hedging transaction as defined in section 1221(b)(2), determined—

“(I) without regard to subparagraph (A)(ii) thereof,

“(II) by applying subparagraph (A)(i) thereof by substituting ‘ordinary property or property described in section 1231(b)’ for ‘ordinary property’, and

“(III) by substituting ‘controlled foreign corporation’ for ‘taxpayer’ each place it appears, and
“(ii) is clearly identified as such in accordance with section 1221(a)(7).

“(B) Treatment of dealer activities under paragraph (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(B) in computing a controlled foreign corporation’s passive income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

“(C) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related persons.

“(b) Related person defined.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

“(1) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

“(2) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation.
For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this subsection, rules similar to the rules of section 958 shall apply.

“(c) Special Rule for Income Derived in the Active Conduct of Banking, Financing, or Similar Businesses.—

“(1) In General.—For purposes of subsection (a)(1), passive income shall not include qualified banking or financing income of an eligible controlled foreign corporation.

“(2) Eligible Controlled Foreign Corporation.—For purposes of this subsection, the term ‘eligible controlled foreign corporation’ means any controlled foreign corporation if—

“(A) more than 80 percent of the gross income of the controlled foreign corporation is derived directly from the active and regular conduct of a lending, finance, or financial services
business from transactions with customers which are located outside the United States and are not related persons, or

“(B) it is a regulated financial institution.

“(3) QUALIFIED BANKING OR FINANCING INCOME.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified banking or financing income’ means income of an eligible controlled foreign corporation which—

“(i) is derived in the active conduct of a banking, financing, or similar business by such eligible controlled foreign corporation,

“(ii) is derived from one or more transactions—

“(I) with customers located in a country other than the United States, and

“(II) substantially all of the activities in connection with which are conducted directly by the corporation in its home country, and
“(iii) is treated as earned by such corporation in its home country for purposes of such country’s tax laws.

“(B) Income derived from customers to include certain investment income.—For purposes of subparagraph (A), in the case of a regulated financial institution, income derived from customers includes income derived from—

“(i) reserves that are required to be held pursuant to banking regulations,

“(ii) deposits placed with the central bank (or equivalent thereof) in the corporation’s home country, and

“(iii) investments in debt instruments issued by the home country.

“(C) Substantial activity requirement for cross border income.—The term ‘qualified banking or financing income’ shall not include income derived from 1 or more transactions with customers located in a country other than the home country of the eligible controlled foreign corporation unless such corporation conducts substantial activity with re-
spect to a banking, financing, or similar business in its home country.

“(D) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation in its home country if the activity is performed by employees of a related person and—

“(i) the related person is a resident subject to tax under the laws of the home country of the corporation to which subparagraph (A)(ii)(II) is being applied,

“(ii) the activity is performed in such home country, and

“(iii) the related person is compensated on an arm’s-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in such home country for purposes of the home country’s tax laws.

“(4) LENDING, FINANCE, OR FINANCIAL SERVICES BUSINESS.—For purposes of this subsection, except as provided in regulations, the term ‘lending,
finance, or financial services business’ means the business of—

“(A) making loans,

“(B) purchasing, selling, discounting, or negotiating on a regular basis accounts receivable, notes, or installment obligations,

“(C) engaging in leasing (including entering into leases and purchasing, servicing, and disposing of leases and leased assets),

“(D) issuing letters of credit or providing guarantees,

“(E) providing charge and credit card services,

“(F) performing trust services, including as a fiduciary, agent, or custodian, other than trust services provided by a broker or dealer in stock, securities, or other financial instruments,

“(G) arranging interest rate or currency futures, forwards, options, or notional principal contracts for, or entering into such transactions with, customers,

“(H) providing traveler’s check and money order services for customers,

“(I) providing correspondent bank services for customers,
“(J) engaging in hedging activities directly related to an activity described in any other subparagraph of this paragraph,

“(K) underwriting issues of stock, debt, or other securities for customers,

“(L) providing financial, investment advisory, or investment management services,

“(M) purchasing or selling stock, debt instruments, interest rate or currency futures, or other securities or derivative financial products (including notional principal contracts) from or to customers and holding such stock, debt instruments, futures, or other securities or products as inventory for sale to customers, unless such stock, debt instruments, futures, or other securities or products are not held in a dealer capacity,

“(N) effecting transactions in securities for customers as a securities broker, or

“(O) rendering services or making facilities available in connection with activities described in subparagraphs (A) through (N) carried on by—

“(i) the corporation rendering services or making facilities available, or
“(ii) another corporation which is a member of the same affiliated group (as defined in section 1504, but determined without regard to section 1504(b)(3)).

“(5) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) CUSTOMER.—The term ‘customer’ means, with respect to any controlled foreign corporation, any person which has a customer relationship with such corporation and which is acting in its capacity as such.

“(B) HOME COUNTRY.—Except as provided in regulations, the term ‘home country’ means, with respect to any entity, the country with respect to which the entity is a resident for purposes of the country’s income tax laws.

“(C) LOCATED.—Except as provided in regulations, for purposes of paragraph (3)(A)—

“(i) if a customer is a natural person, the customer is considered to be located in the country in which the customer is physically located when entering into the transaction, and

“(ii) if a customer is not a natural person, the customer is considered to be lo-
cated in the country from which the cus-

tomer enters into the transaction.

“(D) QUALIFIED BUSINESS UNIT.—The
term ‘qualified business unit’ has the meaning
given such term by section 989(a).

“(E) REGULATED FINANCIAL INSTITU-
TION.—Except as provided in regulations, the
term ‘regulated financial institution’ means a
controlled foreign corporation which—

“(i) is engaged in the active conduct
of a banking business and is an institution
licensed to do business as a bank in the
United States (or is any other corporation
not so licensed which is specified by the
Secretary in regulations), or

“(ii) satisfies each of the following
conditions:

“(I) The corporation is directly
or indirectly wholly owned by a do-

cestic corporation that is a bank (as
defined in section 581) or a depository
institution holding company (as de-
defined in section 3(w)(1) of the Federal
Deposit Insurance Act (12 U.S.C.
1813(w)(1))).
“(II) The corporation is subject to bank regulatory supervision in a jurisdiction the central bank of which (or equivalent thereof) is a member of the Basel Committee on Banking Supervision.

“(III) The corporation is licensed and regulated in such jurisdiction as a bank.

“(6) SEPARATE APPLICATION TO QUALIFIED BUSINESS UNITS.—

“(A) IN GENERAL.—If a controlled foreign corporation has 1 or more qualified business units—

“(i) this subsection shall be applied separately to each such unit in the same manner as if it were a controlled foreign corporation, and

“(ii) if any such unit is treated as an eligible controlled foreign corporation after application of clause (i), the qualified banking or financing income of such unit shall be treated as qualified banking or financing income of the controlled foreign corporation of which such unit is a part.
“(B) Determinations made separately.—For purposes of the separate application of this subsection to a controlled foreign corporation and its qualified business units—

“(i) in the case of the controlled foreign corporation, only activities and items of income, deduction, gain, or loss and activities of such corporation not properly allocable or attributable to any qualified business unit of such corporation shall be taken into account, and

“(ii) in the case of a qualified business unit, only activities and items of income, deduction, gain, or loss and activities properly allocable or attributable to such unit shall be taken into account.

“(C) Home country.—For purposes of this subsection, except as provided in regulations, notwithstanding paragraph (5)(B), the home country with respect to any qualified business unit treated as a controlled foreign corporation under subparagraph (A) shall be the country in which such unit maintains its principal office.
“(7) Anti-abuse rules.—For purposes of applying this subsection—

“(A) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions one of the principal purposes of which is qualifying income or gain for the exclusion under this section, including any transaction or series of transactions a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of such exclusion through the application of this subsection,

“(B) there shall be disregarded any item of income, gain, loss, or deduction of an entity which is not engaged in regular and continuous transactions with customers which are not related persons,

“(C) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions utilizing, or doing business with—

“(i) one or more entities in order to satisfy any home country requirement under this subsection, or
“(ii) a special purpose entity or arrangement, including a securitization, financing, or similar entity or arrangement, if one of the principal purposes of such transaction or series of transactions is qualifying income or gain for the exclusion under this subsection, and

“(D) a related person, an officer, a director, or an employee with respect to any controlled foreign corporation which would otherwise be treated as a customer of such corporation with respect to any transaction shall not be so treated if a principal purpose of such transaction is to satisfy any requirement of this subsection.

“(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and subsection (a)(1)(B)(i).

“(d) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF INSURANCE BUSINESS.—

“(1) IN GENERAL.—For purposes of subsection (a)(1), passive income shall not include qualified insurance income of a qualifying insurance company.
“(2) QUALIFIED INSURANCE INCOME.—For purposes of this subsection, the term ‘qualified insurance income’ means income of a qualifying insurance company which is—

“(A) received from a person other than a related person and derived from the investments made by a qualifying insurance company or a qualifying insurance company branch of its reserves allocable to exempt contracts or of 80 percent of its unearned premiums from exempt contracts (as both are determined in the manner prescribed under paragraph (4)), or

“(B) received from a person other than a related person and derived from investments made by a qualifying insurance company or a qualifying insurance company branch of an amount of its assets allocable to exempt contracts equal to—

“(i) in the case of property, casualty, or health insurance contracts, one-third of its premiums earned on such insurance contracts during the taxable year (as defined in section 832(b)(4)), and

“(ii) in the case of life insurance or annuity contracts, 10 percent of the re-
serves described in subparagraph (A) for such contracts.

“(3) PRINCIPLES FOR DETERMINING QUALIFIED INSURANCE INCOME.—Except as provided by the Secretary, for purposes of subparagraphs (A) and (B) of paragraph (2)—

“(A) in the case of any contract which is a separate account-type contract (including any variable contract not meeting the requirements of section 817), income credited under such contract shall be allocable only to such contract, and

“(B) income not allocable under subparagraph (A) shall be allocated ratably among contracts not described in subparagraph (A).

“(4) METHODS FOR DETERMINING UNEARNED PREMIUMS AND RESERVES.—For purposes of paragraph (2)(A)—

“(A) PROPERTY AND CASUALTY CONTRACTS.—The unearned premiums and reserves of a qualifying insurance company or a qualifying insurance company branch with respect to property, casualty, or health insurance contracts shall be determined using the same methods and interest rates which would be used if
such company or branch were subject to tax
under subchapter L, except that—

“(i) the interest rate determined for
the functional currency of the company or
branch, and which, except as provided by
the Secretary, is calculated in the same
manner as the Federal mid-term rate
under section 1274(d), shall be substituted
for the applicable Federal interest rate,
and

“(ii) such company or branch shall
use the appropriate foreign loss payment
pattern.

“(B) LIFE INSURANCE AND ANNUITY CON-
TRACTS.—

“(i) IN GENERAL.—Except as pro-
vided in clause (ii), the amount of the re-
serve of a qualifying insurance company or
qualifying insurance company branch for
any life insurance or annuity contract shall
be equal to the greater of—

“(I) the net surrender value of
such contract (as defined in section
807(e)(1)(A)), or
“(II) the reserve determined under paragraph (5).

“(ii) Ruling Request, etc.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income.

“(C) Limitation on Reserves.—In no event shall the reserve determined under this paragraph for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining foreign statement reserves (less any catastrophe, deficiency, equalization, or similar reserves).

“(5) Amount of Reserve.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined in the
same manner as it would be determined if the qualifying insurance company or qualifying insurance company branch were subject to tax under subchapter L, except that in applying such subchapter—

“(A) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

“(B) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall be substituted for the prevailing State assumed interest rate, and

“(C) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the company’s or branch’s home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

The Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for 1 or more of its
qualifying insurance company branches when appropriate.

“(6) Definitions.—For purposes of this section, any term used in this subsection which is also used in section 955(c) shall have the meaning given such term under section 955(c).

“SEC. 955. DEFINITION OF INSURANCE INCOME.

“(a) Insurance Income.—

“(1) In General.—For purposes of section 953(c), the term ‘insurance income’ means the gross income which—

“(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

“(B) is of a kind that would be subject to tax under subchapter L of this chapter if such income were the income of a domestic insurance company.

“(2) Exception.—Such term shall not include any exempt insurance income (as defined in subsection (c)).

“(b) Special Rules for Determination of Gross Income and Allocable Deductions.—For purposes of determining gross income under subsection (a)
and deductions allocable to insurance income under section 952(e), the following rules shall apply:

“(1) Certain deductions not allowed.—

The following provisions of subchapter L shall not apply:

“(A) The small life insurance company deduction.

“(B) Section 805(a)(5) (relating to operations loss deduction).

“(C) Section 832(c)(5) (relating to certain capital losses).

“(2) Special rules for amounts included in income.—The items referred to in—

“(A) section 803(a)(1) (relating to gross amount of premiums and other considerations),

“(B) section 803(a)(2) (relating to net decrease in reserves),

“(C) section 805(a)(2) (relating to net increase in reserves), and

“(D) section 832(b)(4) (relating to premiums earned on insurance contracts),

shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subsection (a)(1).
“(3) Treatment of reserves.—Reserves for any insurance or annuity contract shall be determined in the same manner as under section 954(d).

“(c) Exempt insurance income.—For purposes of this section—

“(1) Exempt insurance income defined.—

“(A) In general.—The term ‘exempt insurance income’ means income derived by a qualifying insurance company which—

“(i) is attributable to the issuing (or reinsuring) of an exempt contract by such company or a qualifying insurance company branch of such company, and

“(ii) is treated as earned by such company or branch in its home country for purposes of such country’s tax laws.

“(B) Exception for certain arrangements.—Such term shall not include income attributable to the issuing (or reinsuring) of an exempt contract as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract which is not an exempt contract.
“(C) Determinations made separately.—For purposes of this subsection and section 954(d), the exempt insurance income and exempt contracts of a qualifying insurance company or any qualifying insurance company branch of such company shall be determined separately for such company and each such branch by taking into account—

“(i) in the case of the qualifying insurance company, only items of income, deduction, gain, or loss, and activities of such company not properly allocable or attributable to any qualifying insurance company branch of such company, and

“(ii) in the case of a qualifying insurance company branch, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such branch.

“(2) Exempt contract.—

“(A) In general.—The term ‘exempt contract’ means an insurance or annuity contract issued or reinsured by a qualifying insurance company or qualifying insurance company branch in connection with property in, liability
arising out of activity in, or the lives or health
of residents of, a country other than the United
States.

“(B) Minimum non-related income re-
quired.—No contract of a qualifying insurance
company or of a qualifying insurance company
branch shall be treated as an exempt contract
unless such company or branch derives more
than 30 percent of its net written premiums
from exempt contracts (determined without re-
gard to this subparagraph) with respect to
which no policyholder, insured, annuitant, or
beneficiary is a related person (as defined in
section 954(b)).

“(C) Substantial activity require-
ments.—A contract issued by a qualifying in-
surance company or qualifying insurance com-
pany branch shall not be treated as an exempt
contract unless such company or branch, as the
case may be—

“(i) conducts substantial activity with
respect to an insurance business in its
home country, and

“(ii) performs in its home country
substantially all of the activities necessary
to give rise to the income generated by such contract.

“(3) QUALIFYING INSURANCE COMPANY.—

“(A) IN GENERAL.—The term ‘qualifying insurance company’ means any controlled foreign corporation—

“(i) which—

“(I) is subject to regulation as an insurance (or reinsurance) company by its home country, and is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(b)) in such home country, and

“(II) is engaged in the insurance business and would be subject to tax under subchapter L if it were a domestic corporation,

“(ii) which derives more than 50 percent of its aggregate net written premiums from the issuance or reinsurance by such controlled foreign corporation and each of
its qualifying insurance company branches
of contracts with respect to which no pol-
icyholder, insured, annuitant, or bene-
ficiary is a related person (as defined in
section 954(b)), except that in the case of
a branch, such premiums shall only be
taken into account to the extent such pre-
miums are treated as earned by such
branch in its home country for purposes of
such country’s tax laws,
“(iii) more than 50 percent of the
gross receipts of which for the taxable
year—
“(I) consist of premiums for in-
surance or reinsurance in connection
with property, liability, or the lives or
health of individuals, and
“(II) are treated as earned by
such controlled foreign corporation in
its home country for purposes of such
country’s tax laws, and
“(iv) the applicable insurance liabil-
ities of which constitute more than 35 per-
cent of its total assets as reported on the
company’s applicable financial statement
for the year with which or in which the taxable year ends.

“(B) Applicable insurance liabilities.—For purposes of subparagraph (A)(iv), the term ‘applicable insurance liabilities’ means—

“(i) loss and loss adjustment expenses,

“(ii) unearned premiums, and

“(iii) reserves (other than any catastrophe, deficiency, equalization, or similar reserves) for life and health insurance risks and life and health insurance claims with respect to contracts providing coverage for mortality or morbidity risks (not to exceed the amount of such reserve that is required to be reported to the home country insurance regulatory body).

“(C) Applicable financial statement.—For purposes of subparagraph (A)(iv), the term ‘applicable financial statement’ means a statement for financial reporting purposes which—

“(i) is made on the basis of generally accepted accounting principles,
“(ii) is made on the basis of international financial reporting standards, but only if there is no statement that meets the requirement of clause (i), or

“(iii) except as otherwise provided by the Secretary in regulations, is the annual statement which is required to be filed with the home country insurance regulatory body, but only if there is no statement which meets the requirements of clause (i) or (ii).

“(D) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the purposes of this paragraph.

“(4) Qualifying insurance company branch.—The term ‘qualifying insurance company branch’ means a qualified business unit (within the meaning of section 989(a)) of a controlled foreign corporation if—

“(A) such unit is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(b)) in such home country, and
“(B) such controlled foreign corporation is a qualifying insurance company, determined under paragraph (3) as if such unit were a qualifying insurance company branch.

“(5) LIFE INSURANCE OR ANNUITY CONTRACT.—For purposes of this section and section 954, the determination of whether a contract issued by a controlled foreign corporation or a qualifying insurance company branch is a life insurance contract or an annuity contract shall be made without regard to sections 72(s), 101(f), 817(h), and 7702 if—

“(A) such contract is regulated as a life insurance or annuity contract by the corporation’s or branch’s home country, and

“(B) no policyholder, insured, annuitant, or beneficiary with respect to the contract is a United States person.

“(6) HOME COUNTRY.—For purposes of this subsection, except as provided in regulations—

“(A) CONTROLLED FOREIGN CORPORATION.—The term ‘home country’ means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.
“(B) QUALIFYING INSURANCE COMPANY BRANCH.—The term ‘home country’ means, with respect to a qualifying insurance company branch, the country in which the principal office of such branch is located and in which such branch is licensed, authorized, or regulated by the applicable insurance regulatory body to sell insurance, reinsurance, or annuity contracts to persons other than related persons (as defined in section 954(b)) in such country.

“(7) ANTI-ABUSE RULES.—For purposes of applying this subsection and section 954(d)—

“(A) the rules of section 954(e)(7) (other than subparagraph (B) thereof) shall apply,

“(B) there shall be disregarded any item of income, gain, loss, or deduction of, or derived from, an entity which is not engaged in regular and continuous transactions with persons which are not related persons,

“(C) there shall be disregarded any change in the method of computing reserves a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of this subsection or section 954(d),
“(D) a contract of insurance or reinsurance shall not be treated as an exempt contract (and premiums from such contract shall not be taken into account for purposes of paragraph (2)(B) or (3)) if—

“(i) any policyholder, insured, annuitant, or beneficiary is a resident of the United States and such contract was marketed to such resident and was written to cover a risk outside the United States, or

“(ii) the contract covers risks located within and without the United States and the qualifying insurance company or qualifying insurance company branch does not maintain such contemporaneous records, and file such reports, with respect to such contract as the Secretary may require,

“(E) the Secretary may prescribe rules for the allocation of contracts (and income from contracts) among 2 or more qualifying insurance company branches of a qualifying insurance company in order to clearly reflect the income of such branches, and

“(F) premiums from a contract shall not be taken into account for purposes of para-
graph (2)(B) or (3) if such contract reinsures
a contract issued or reinsured by a related per-
son (as defined in section 954(b)).

“(8) COORDINATION WITH SECTION 956(a).—

“(A) IN GENERAL.—In determining insur-
ance income for purposes of section 956(a), ex-
empt insurance income shall not include income
derived from exempt contracts which cover risks
other than applicable home country risks.

“(B) APPLICABLE HOME COUNTRY
risks.—For purposes of subparagraph (A), the
term ‘applicable home country risks’ means
risks in connection with property in, liability
arising out of activity in, or the lives or health
of residents of, the home country of the quali-
fying insurance company or qualifying insur-
ance company branch, as the case may be,
issuing or reinsuring the contract covering the
risks.

“(9) REGULATIONS.—The Secretary shall pre-
scribe such regulations as may be necessary or ap-
propriate to carry out the purposes of this sub-
section and section 954(d).
“(10) CROSS REFERENCE.—For treatment of certain investment income derived by qualifying insurance companies, see section 954(d).

“SEC. 956. SPECIAL RULE FOR CERTAIN CAPTIVE INSURANCE COMPANIES.

“(a) TREATMENT AS CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—

“(1) IN GENERAL.—For purposes only of taking into account related person insurance income—

“(A) the term ‘United States shareholder’ means, with respect to any foreign corporation, a United States person (as defined in section 957(c)) who owns (within the meaning of section 958(a)) any stock of the foreign corporation,

“(B) the term ‘controlled foreign corporation’ has the meaning given to such term by section 957(a) determined by substituting ‘25 percent or more’ for ‘more than 50 percent’, and

“(C) the pro rata share referred to in section 951(a)(1) shall be determined under paragraph (5) of this subsection.

“(2) RELATED PERSON INSURANCE INCOME.—

For purposes of this subsection, the term ‘related
person insurance income’ means any insurance in-
come (within the meaning of section 955(a)) attrib-
utable to a policy of insurance or reinsurance with
respect to which the person (directly or indirectly)
insured is a United States shareholder in the foreign
corporation or a related person to such a share-
holder.

“(3) Exceptions.—

“(A) Corporations not held by in-
sured.—Paragraph (1) shall not apply to any
foreign corporation if at all times during the
taxable year of such foreign corporation—

“(i) less than 20 percent of the total
combined voting power of all classes of
stock of such corporation entitled to vote,
and

“(ii) less than 20 percent of the total
value of such corporation,
is owned (directly or indirectly under the prin-
ciples of section 883(c)(4)) by persons who are
(directly or indirectly) insured under any policy
of insurance or reinsurance issued by such cor-
poration or who are related persons to any such
person.
“(B) De Minimis Exception.—Paragraph (1) shall not apply to any foreign corporation for a taxable year of such corporation if the related person insurance income (determined on a gross basis) of such corporation for such taxable year is less than 20 percent of its insurance income (as so determined) for such taxable year.

“(C) Election to Treat Income as Effectively Connected.—Paragraph (1) shall not apply to any foreign corporation for any taxable year if—

“(i) such corporation elects (at such time and in such manner as the Secretary may prescribe)—

“(I) to treat its related person insurance income for such taxable year as income effectively connected with the conduct of a trade or business in the United States, and

“(II) to waive all benefits (other than with respect to section 884) with respect to related person insurance income granted by the United States
under any treaty between the United States and any foreign country, and

“(ii) such corporation meets such requirements as the Secretary shall prescribe to ensure that the tax imposed by this chapter on such income is paid.

An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986.

“(D) SPECIAL RULES FOR SUBPARAGRAPH (C).—

“(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

“(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

“(II) TERMINATION.—If a foreign corporation which made an elec-
tion under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

“(ii) EXEMPTION FROM TAX IMPOSED BY SECTION 4371.—The tax imposed by section 4371 shall not apply with respect to any related person insurance income treated as effectively connected with the conduct of a trade or business within the United States under subparagraph (C).

“(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term ‘disqualified corporation’ means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation at any time during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year.
“(4) Treatment of Mutual Insurance Companies.—In the case of a mutual insurance company—

“(A) this subsection shall apply,

“(B) policyholders of such company shall be treated as shareholders, and

“(C) appropriate adjustments in the application of this subpart shall be made under regulations prescribed by the Secretary.

“(5) Determination of Pro Rata Share.—

“(A) In General.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

“(i) the amount which would be determined under paragraph (2) of section 951(a) if—

“(I) only related person insurance income were taken into account,

“(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

“(III) only distributions received by United States shareholders were
taken into account under subparagraph (B) of such paragraph (2), or

“(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

“(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A).

“(6) RELATED PERSON.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘related person’ has the meaning given such term by section 954(b).

“(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such
services are performed shall be treated as related persons.

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

“(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

“(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation.

“(b) ELECTION BY FOREIGN INSURANCE COMPANY TO BE TREATED AS DOMESTIC CORPORATION.—

“(1) IN GENERAL.—If—

“(A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting ‘25 percent or more’ for ‘more than 50 percent’ and by using the definition of United States shareholder under subsection (a)(1)(B)),
“(B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,

“(C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

“(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty, for purposes of this title, such corporation shall be treated as a domestic corporation.

“(2) Period during which election is in effect.—

“(A) In general.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

“(B) Termination.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) for any subsequent taxable year, such
election shall not apply to any taxable year begin-
ning after such subsequent taxable year.

“(3) Effect of election.—

“(A) In general.—For purposes of sec-
tion 367, any foreign corporation making an
election under paragraph (1) shall be treated as
transferring (as of the 1st day of the 1st tax-
able year to which such election applies) all of
its assets to a domestic corporation in connec-
tion with an exchange to which section 354 ap-
plies.

“(B) Exception for pre-1988 earnings
and profits.—

“(i) In general.—Earnings and
profits of the foreign corporation accumu-
lated in taxable years beginning before
January 1, 1988, shall not be included in
the gross income of the persons holding
stock in such corporation by reason of sub-
paragraph (A).

“(ii) Treatment of distributions.—For purposes of this title, any dis-
tribution made by a corporation to which
an election under paragraph (1) applies
out of earnings and profits accumulated in
taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

“(iii) Certain rules to continue to apply to pre-1988 earnings.—Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

“(4) Effect of termination.—For purposes of section 367, if—

“(A) an election is made by a corporation under paragraph (1) for any taxable year, and

“(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.
“(5) ADDITIONAL TAX ON CORPORATION MAKING ELECTION.—

“(A) IN GENERAL.—If a corporation makes an election under paragraph (1), the amount of tax imposed by this chapter for the 1st taxable year to which such election applies shall be increased by the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax determined under this paragraph shall be equal to the lesser of—

“(i) 3⁄4 of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

“(ii) $1,500,000.”.

(b) TREATMENT OF CERTAIN EXCLUDED SUBPART F INCOME AS PREVIOUSLY TAXED INCOME.—Section 959(g), as added by section 331, is amended to read as follows:

“(g) SPECIAL RULES FOR NONTAXED PORTION OF CERTAIN INCOME.—For purposes of this section—

“(1) IN GENERAL.—A United States shareholder’s pro rata share of the excludable portion of the controlled foreign corporation’s subpart F in-
come shall be treated as an amount which has been included in gross income under section 951(a).

“(2) ORDERING RULE.—Notwithstanding subsection (c), for purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof and then paragraph (1) thereof—

“(A) first to the deductible portion (as defined in section 965(c)(3)) of the increase in subpart F income described in section 965(a)(1) included in the gross income of United States shareholders under section 951(a)(1) (after application of section 965(a)(2)(A)),

“(B) second to the excludable portion of the controlled foreign corporation’s subpart F income, and

“(C) then to the amounts described in paragraphs (1), (2), or (3) of subsection (c) in accordance with the provisions of subsection (c).

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) DEDUCTIBLE PORTION.—The term ‘deductible portion’ has the meaning given such term by section 965(c)(3).
(B) Excludable portion.—The term ‘excludable portion’ means, with respect to the subpart F income of a controlled foreign corporation, so much of such controlled foreign corporation’s modified active income as is not taken into account in computing subpart F income under section 952(a)(1).

(c) Gains and Losses From the Sale of CFC Stock.—

(1) Gains.—

(A) In general.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1203. GAINS FROM SALES OR EXCHANGES OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.

“(a) In General.—In the case of a United States shareholder (as defined in section 951), there shall be excluded from gross income an amount equal to the applicable portion of the amount of any gain recognized from the sale or exchange of stock in a controlled foreign corporation.

“(b) Applicable Portion.—For purposes of this section—

“(1) In General.—The term ‘applicable portion’ means the amount which bears the same ratio
to the gain recognized from such sale or exchange as—

“(A) the shareholder’s pro rata share (determined under section 951(a)(2)) of the excludable portion of the aggregate subpart F income of the controlled foreign corporation for the applicable period, bears to

“(B) the sum of the amount determined under subparagraph (A) plus the shareholder’s pro rata share (determined under section 951(a)(2)) of the aggregate subpart F income of the controlled foreign corporation for the applicable period.

“(2) EXCLUDABLE PORTION.—For purposes of this section, the term ‘excludable portion’ has the meaning given such term by section 959(g)(3)(B).

“(3) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any stock, the shorter of the 3-taxable year period immediately preceding the taxable year of the sale or exchange or the shareholder’s holding period in the stock. In no event shall the applicable period include any portion of any taxable year beginning before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act).”.
(B) CLERICAL AMENDMENT.—The table of
sections for part I of subchapter P of chapter 1 is amended by adding at the end the following
new item:

“Sec. 1203. Gains from sales or exchanges of stock in controlled foreign corpo-

rations.”.

(2) LOSSES.—

(A) IN GENERAL.—Part II of subchapter P of chapter 1 is amended by adding at the end
the following new section:

“SEC. 1213. LOSSES FROM SALES OR EXCHANGES OF STOCK
IN CONTROLLED FOREIGN CORPORATIONS.

“(a) IN GENERAL.—In the case of a United States shareholder (as defined in section 951), any loss from the
sale or exchange of stock in a controlled foreign corpora-
tion shall be reduced (but not below zero) by an amount
equal to the shareholder’s aggregate pro rata share (deter-
mined under section 951(a)(2)) of the excludable portion
of the subpart F income of the controlled foreign corpora-
tion during the shareholder’s holding period in the stock.

“(b) EXCLUDABLE PORTION.—For purposes of this
section, the term ‘excludable portion’ has the meaning
given such term by section 959(g)(3)(B).”.

(B) CLERICAL AMENDMENT.—The table of
sections for part I of subchapter P of chapter
1 is amended by adding at the end the following new item:

“Sec. 1213. Losses from sales or exchanges of stock in controlled foreign corporations.”.

(d) **Repeal of Ordinary Income Treatment for Gains From the Sale of Stock in Certain Foreign Corporations.**—

(1) **In General.**—Part IV of subchapter P of chapter 1 is amended by striking section 1248.

(2) **Conforming Amendments.**—

(A) Section (a) is amended by striking paragraph (11).

(B) Section 338(h) is amended—

(i) in paragraph (6)(B)(ii), by striking “or described in section 1248(e)”, and

(ii) in paragraph (16), by striking the second sentence.

(C) Section 751 is amended—

(i) in subsection (c), by striking “stock in certain foreign corporations (as described in section 1248),”, and

(ii) by striking subsection (e) and redesignating subsection (f) as subsection (e).

(D) Section 865(k) is amended to read as follows:
“(k) Cross Reference.—For sourcing of income from certain foreign currency transactions, see section 988.”.

(E) Section 904(h)(7) is amended by striking “or as a dividend under section 1248”.

(F) Section 951(a)(2) is amended by striking the last sentence thereof.

(G) Section 964 is amended by striking subsection (e).

(H) Section 989(b) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(e) Coordination With Amounts Included in Gross Income of United States Shareholders.—

(1) In General.—Paragraph (1) of section 951(a) is amended by striking “such taxable year of the corporation ends—” and all that follows through the end period and inserting: “such taxable year of the corporation ends, the shareholder’s pro rata share (determined under paragraph (2)) of the corporation’s subpart F income for such taxable year.”.

(2) Conforming Amendments.—

(A) Section 951(a) is amended—
(ii) by striking paragraph (3).

(B) Subparagraph (A) of section 512(b)(17) is amended by striking “951(a)(1)(A)” and inserting “951(a)(1)”.

(C) Section 851(b) is amended by striking “951(a)(1)(A)(i)” in the first sentence following paragraph (3) and inserting “951(a)(1)”.

(D) Section 959(a) is amended—

(i) by striking “shall not, when” and all that follows through “such shareholder” and inserting “shall not, when actually dis-
tributed to such shareholder”, and

(ii) by striking “and the rules of sub-
section (f) shall apply for purposes of para-
graph (2) of this subsection”.

(E) Section 959(c) is amended by adding at the end the following: “References in this subsection and subsection (f) to section 951(a)(1)(B) shall be treated as references to such provisions as in effect on the day before the enactment of the Infrastructure 2.0 Act.”.
(F) Section 959(e) is amended by striking “951(a)(1)(A)” and inserting “951(a)(1)”.

(G) Section 989(b)(3) is amended by striking “951(a)(1)(A)” and inserting “951(a)(1)”.

(H) Section 1298(b) is amended by striking paragraph (8).

(f) Application of Anti-Loss Importation Rules.—Section 362(e)(1)(B) is amended by adding at the end the following new sentence: “For purposes of clause (i), except as provided under regulations, a controlled foreign corporation shall be considered to be subject to tax under this subtitle.”.

(g) Other Conforming Amendments.—

(1) Sections 163(e)(3)(B)(i) and 267(a)(3)(B)(i) are each amended by striking “and qualified deficits under section 952(c)(1)(B)” and inserting “and loss carryforwards under sections 952(d) and 953(b)”.

(2) Section 304(b)(5)(B)(ii) is amended by striking “953(e)” and inserting “956(a)”.

(3) Section 355(g)(2)(B)(ii)(I) is amended by striking “section 954(h)(4)” and inserting “section 954(c)(4)”.

(4) Section 512(b)(17) is amended by striking “953” and inserting “section 955”.

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(5) Section 864(d)(8) is amended by striking “or section 956(b)(3)”.

(6) Section 864(d)(5)(A) is amended—

(A) by striking clause (iii) and redesignating clause (iv) as clause (iii), and

(B) by striking “954(c)(3)(A)” in clause (iii) (as redesignated by subparagraph (A)) and inserting “954(a)(3)(A)”.

(7) Section 864(d)(7)(B) is amended by striking “foreign base company income (as defined in section 954(a), determined without regard to section 954(b)(3)(A))” and inserting “passive income (as defined in section 954(a))”.

(8) Section 881(e)(5)(A)(iii) is amended by striking “954(c)(3)(A)” and inserting “954(a)(3)(A)”.

(9) Section 884(d)(2)(D) is amended by striking “953(c)(3)(C)” and inserting “956(a)(3)(C)”.

(10) Section 898(b)(3) is amended—

(A) by striking “953(c)(2)” and inserting “956(a)(2)”, and

(B) by striking “953(c)(1)” and inserting “956(a)(1)”.

(11) Section 936(h)(5) is amended—
(A) by inserting “(as in effect on the day before the enactment of the Infrastructure 2.0 Act)” after “section 954” in the last sentence of subparagraph (B)(ii), and

(B) in subparagraph (F)(iv)(II)—

(i) by inserting “(as in effect on the day before the enactment of the Infrastructure 2.0 Act)” after “section 954”, and

(ii) by inserting “(as so in effect)” after “section 954(a)”.

(12) Section 957(b) is amended—

(A) by striking “income described in section 953(a)” and inserting “income described in section 955(a)”, and

(B) by striking “contracts described in section 953(a)(1)” and inserting “contracts described in section 955(a)(1)”.

(13) Section 958(b) is amended—

(A) by striking “956(c)(2),” before “and 957”,

(B) by striking “to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(c)(2),”, and

(C) by striking the last sentence.
(14) Section 964(b) is amended by striking “sections 952, 955, and 956” and inserting “section 952”.

(15) Section 964(e)(2) is amended by striking “954(c)(3)(A)” and inserting “954(a)(3)(A)”.

(16)(A) Part III of subchapter N of chapter 1 is amended by striking subpart G.

(B) Section 865(e)(2)(A) is amended by striking the last sentence.

(C) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart G.

(17) Section 999(c) is amended—

(A) by striking “, 952(a)(3)” in paragraph (1), and

(B) by striking “, the addition to subpart F income under section 952(a)(3),” in paragraph (2).

(18) Section 1296(f)(2) is amended—

(A) by striking “foreign personal holding company income described in section 954(c)(1)(A)” in subparagraph (A) and inserting “passive income (as defined in section 954(a))”, and
(B) by striking “foreign personal holding
company income so described” and inserting
“such passive income”.

(19) Section 1297(b) is amended to read as fol-
lows:

“(b) PASSIVE INCOME.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), the term ‘passive income’ means any in-
come received or accrued by any foreign corporation
which is of a kind which would be passive income as
defined in section 954 if the foreign corporation
were a controlled foreign corporation.

“(2) EXCEPTION.—Except as provided in regu-
lations, the term ‘passive income’ does not include
any income which is interest, a dividend, or a rent
or royalty, which is received or accrued from a re-
lated person (within the meaning of section 954(b))
to the extent that such amount is properly allocable
(under regulations prescribed by the Secretary) to
income of such related person which is not passive
income.”.

(20) Section 2057(e)(2)(D)(ii) is amended by
striking “section 954(c)(1)” and inserting “section
954(a)(1)”.

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(21) The following sections are amended by striking “954(d)(3)” each place it appears and inserting “954(b)”:

(A) Section 861(e)(2)(B).

(B) Section 958(b).

(C) Section 988(a)(3)(C).

(D) Subsections (d)(3)(A) and (e)(2)(B)(i) of section 1298.

(E) Section 1471(e)(2).

(F) Section 3121(z)(2).

(22) The table of sections for subpart F of part III of subchapter 1 is amended by striking the items relating to sections 952 through 956 and inserting the following:

Sec. 952. Subpart F income defined.
Sec. 953. Active foreign market income.
Sec. 954. Definition of passive income.
Sec. 955. Definition of insurance income.
Sec. 956. Special rule for certain captive insurance companies.”.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.
(2) GAINS AND LOSSES FROM THE SALE OF CFC STOCK; REPEAL OF SECTION 1248.—The amendments made by subsections (c) and (d) shall apply to sales or exchanges on or after the applicable date.

SEC. 302. DEEMED REPATRIATION UPON TRANSITION TO FALBACK INTERNATIONAL TAX REFORM.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 966. DEEMED REPATRIATION UPON TRANSITION TO FALBACK INTERNATIONAL TAX REFORM.

“(a) TREATMENT OF DEFERRED FOREIGN INCOME AS SUBPART F INCOME.—In the case of the last taxable year of a deferred foreign income corporation which begins before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act), the subpart F income of such foreign corporation (as otherwise determined for such taxable year under section 952) shall be increased by the inclusion percentage (as defined in section 952(d) as in effect for taxable years beginning on or after the applicable date (as so defined)) of the accumulated post-1986 deferred foreign income of such corporation determined as of the close of such last taxable year.
“(b) Application of Certain Rules.—Rules similar to the rules of subsections (b), (f), (g), (i), and (j) of section 965 shall apply for purposes of this section.

“(c) Definitions.—Terms used in this section which are also used in section 965 shall have the same meanings when used in this section as when such terms are used in section 965.”.

(b) Clerical Amendment.—The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by adding at the end the following:

“Sec. 966. Deemed repatriation upon transition to fallback international tax reform.”.

PART II—FOREIGN TAX CREDIT LIMITATIONS

SEC. 311. REFORM OF FOREIGN TAX CREDIT LIMITATION.

(a) In General.—Subsection (d) of section 904 is amended to read as follows:

“(d) Separate Application of Section With Respect to Certain Categories of Income.—

“(1) In General.—The provisions of subsections (a), (b), and (c) and section 907 and 960 shall be applied separately with respect to—

“(A) amounts included under section 951(a) which are attributable to active foreign market income (as defined in section 953),

“(B) passive category income, and
“(C) income other than income described
in either of the preceding subparagraphs.

“(2) Definitions and special rules.—

“(A) Passive category income.—

“(i) In general.—The term ‘passive
category income’ means—

“(I) United States taxpayer pas-
sive income described in subparagraph
(B), and

“(II) income which is included in
gross income of the taxpayer under
section 951(a)(1) to the extent such
income is attributable to passive in-
come (as defined in section 954(a)).

“(ii) Exception for high-taxed
income.—Passive category income shall
not include any high-taxed income.

“(iii) Clarification of application
of section 864(d)(6).—In determining
whether any income is passive category in-
come, the rules of section 864(d)(6) shall
apply only in the case of income of a con-
trolled foreign corporation.

“(B) United States taxpayer passive
income.—United States taxpayer passive in-
come described in this subparagraph is income received or accrued by the taxpayer which is of a kind that would be passive income as defined under section 954(a) if such taxpayer were a controlled foreign corporation.

“(C) TREATMENT OF FINANCIAL SERVICES INCOME AND COMPANIES.—

“(i) IN GENERAL.—Financial services income which is not active foreign market category income shall be treated as income described in paragraph (1)(C) in the case of—

“(I) a member of a financial services group, and

“(II) any other person if such person is predominantly engaged in the active conduct of a banking, insurance, financing, or similar business.

“(ii) FINANCIAL SERVICES GROUP.—

The term ‘financial services group’ means any affiliated group (as defined in section 1504(a) without regard to paragraphs (2) and (3) of section 1504(b)) which is predominantly engaged in the active conduct of a banking, insurance, financing, or simi-
lar business. In determining whether such
a group is so engaged, there shall be taken
into account only the income of members
of the group that are—

“(I) United States corporations,
or

“(II) controlled foreign corpora-
tions in which such United States cor-
porations own, directly or indirectly, at
least 80 percent of the total voting
power and value of the stock.

“(iii) Pass-thru entities.—The
Secretary shall by regulation specify for
purposes of this subparagraph the treat-
ment of financial services income received
or accrued by partnerships and by other
pass-thru entities which are not members
of a financial services group.

“(D) Financial services income.—

“(i) In general.—Except as other-
wise provided in this subparagraph, the
term ‘financial services income’ means any
income which is received or accrued by any
person predominantly engaged in the active
conduct of a banking, insurance, financing,
or similar business, and which is—

“(I) described in clause (ii), or

“(II) United States taxpayer pas-
sive income (determined without re-
gard to subparagraph (A)(ii)).

“(ii) GENERAL DESCRIPTION OF FI-
NANCIAL SERVICES INCOME.—Income is
described in this clause if such income is—

“(I) derived in the active conduct
of a banking, financing, or similar
business,

“(II) derived from the investment
by an insurance company of its un-
earned premiums or reserves ordinary
and necessary for the proper conduct
of its insurance business, or

“(III) of a kind which would be
insurance income as defined in section
955(a).

“(E) HIGH-TAXED INCOME.—The term
‘high-taxed income’ means any income which
(but for this subparagraph) would be passive
category income if the sum of—
“(i) the foreign income taxes paid or
accrued by the taxpayer with respect to
such income, and

“(ii) the foreign income taxes deemed
paid by the taxpayer with respect to such
income under section 960,

exceeds the highest rate of tax specified in sec-
ction 1 or 11 (whichever applies) multiplied by
the amount of such income (determined with re-
gard to section 78). For purposes of the pre-
ceding sentence, the term ‘foreign income taxes’
means any income, war profits, or excess profits
tax imposed by any foreign country or posses-
sion of the United States.

“(F) TREATMENT OF INCOME TAX BASE
DIFFERENCES.—

“(i) IN GENERAL.—In the case of tax-
able years beginning after December 31,
2006, tax imposed under the law of a for-

eign country or possession of the United
States on an amount which does not con-
stitute income under United States tax
principles shall be treated as imposed on
income described in paragraph (1)(C).
“(ii) Special rules for years after 2006 and before the applicable date.—In the case of taxable years beginning after December 31, 2006, and on or before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act), tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles shall be treated as imposed on income described in paragraph (1)(B) (as in effect for taxable years beginning the day before such applicable date).

“(iii) Special rule for years before 2007.—

“(I) In general.—In the case of taxes paid or accrued in taxable years beginning after December 31, 2004, and before January 1, 2007, a taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States
tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1) (as in effect for taxable years beginning in 2006).

“(II) Revocation.—Any such election shall apply to the taxable year for which made and all subsequent taxable years described in subclause (I) unless revoked with the consent of the Secretary.

“(G) Transition rules for certain carryforwards and carrybacks.—For purposes of paragraph (1)—

“(i) in the case of any taxes carried from any taxable year beginning before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act), to any taxable year beginning on or after such date—

“(I) if such taxes were treated as attributable to income described in paragraph (1)(A) (as in effect for taxable years beginning the day before such applicable date), such taxes shall
be treated as attributable to income described in paragraph (1)(B), and

“(II) if such taxes were treated as attributable to income described in paragraph (1)(B) (as in effect for taxable years beginning the day before such applicable date), such taxes shall be treated as attributable to income described in paragraph (1)(C), and

“(ii) the Secretary may by regulations provide for the allocation of any carryback of taxes with respect to income from a taxable year beginning on or after such applicable date, to a taxable year beginning before such date for purposes of allocating such income among the separate categories in effect for the taxable year to which carried.

“(3) Controlled foreign corporation; United States shareholder.—For purposes of this subsection—

“(A) Controlled foreign corporation.—The term ‘controlled foreign corporation’ has the meaning given such term by section 957 (taking into account section 956(a)).
“(B) United States shareholder.—

The term ‘United States shareholder’ has the meaning given such term by section 951(b) (taking into account section 956(a)).

“(4) Separate application to items resourced under treaties.—

“(A) In general.—If—

“(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

“(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

“(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 907 and 960 shall be applied separately with respect to each such item.

“(B) Coordination with other provisions.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.
“(C) Regulations.—The Secretary may issue such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations which provide that related items of income may be aggregated for purposes of this paragraph.

“(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate for the purposes of this subsection, including preventing the manipulation of the character of income the effect of which is to avoid the purposes of this subsection.”

(b) Application of Per Country Limitation.—Section 904 is amended by inserting after subsection (d) the following new subsection:

““(e) Limitations Applied on a Per Country Basis.—The provisions of subsections (a), (b), (c), and (d) and sections 907 and 960 shall be applied separately with respect to each foreign country or possession with respect to which taxes described in section 901(b) are paid or accrued.”

(c) Effective Date.—The amendment made by this section shall apply to taxable years beginning on or after the applicable date.
SEC. 312. DENIAL OF CREDIT AND DEDUCTION FOR FOREIGN TAXES WITH RESPECT TO EXCLUDED SUBPART F INCOME.

(a) In General.—Section 901 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

“(n) Denial of Foreign Tax Credit and Deduction With Respect to Excluded Subpart F Income.—

“(1) In General.—Notwithstanding section 960(b), no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid or accrued under section 960) with respect to the excludable portion of subpart F income or any distribution received by a United States shareholder (as defined in section 951(b)) which is properly attributable to such excludable portion. No deduction shall be allowed to a taxpayer under this chapter for any tax for which a credit is not allowable by reason of the preceding sentence.

“(2) Excludable Portion.—The term ‘excludable portion’ has the meaning given such term by section 959(g)(3)(B).

“(3) Coordination with Section 78.—Section 78 shall not apply to any tax which is not allow-
able as a credit under this section by reason of this subsection.”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

PART III—EXPENSE DISALLOWANCE

SEC. 321. DISALLOWANCE OF DEDUCTION FOR EXPENSES ALLOCABLE TO EXEMPT INCOME OF A CONTROLLED FOREIGN CORPORATION.

(a) In General.—Part IX of subchapter B of chapter 1 is amended by adding at the end the following:

“SEC. 265A. EXPENSES ALLOCABLE TO EXEMPT INCOME OF A CONTROLLED FOREIGN CORPORATION.

“(a) In General.—In the case of a United States shareholder of a controlled foreign corporation for any taxable year, no deduction shall be allowed under this chapter for—

“(1) the disallowed portion of any allocable CFC interest, or

“(2) expenses directly allocable to the excludable portion of subpart F income (as defined in section 959(g)(3)(B)).
“(b) DISALLOWED PORTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘disallowed portion’ means, with respect to any allocable CFC interest in connection with a controlled foreign corporation, the exclusion percentage of the amount which bears the same ratio to the amount of such interest as—

“(A) the corporation’s modified active income (as defined in section 952) for the applicable taxable year, bears to

“(B) the corporation’s current earnings and profits.

“(2) CURRENT EARNINGS AND PROFITS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘current earnings and profits’ means the earnings and profits of the controlled foreign corporation for the applicable taxable year, without diminution by reason of distributions made during the taxable year.

“(B) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—Earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4),
(5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

“(3) EXCLUSION PERCENTAGE.—The term ‘exclusion percentage’ means, with respect to any controlled foreign corporation for any taxable year, the number of percentage points by which 100 percent exceeds the inclusion percentage determined under section 952(d) with respect to such controlled foreign corporation for such taxable year.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ALLOCABLE CFC INTEREST.—The term ‘allocable CFC interest’ means any interest expense paid or accrued during the taxable year by a United States shareholder of a controlled foreign corporation which under section 861, and subsection (e) or (f) of section 864 (whichever is applicable), is apportioned to income of the controlled foreign corporation.

“(2) APPLICABLE TAXABLE YEAR.—The term ‘applicable taxable year’ means, with respect to any controlled foreign corporation, the taxable year of
such corporation which ends with or within the taxable year of the United States shareholder described in subsection (a).

“(3) UNITED STATES SHAREHOLDER; CONTROLLED FOREIGN CORPORATION.—The term ‘United States shareholder’ has the meaning given such term by section 951(b) and the term ‘controlled foreign corporation’ shall have the meaning given such term by section 957(a).

“(4) SPECIAL RULE FOR MEMBERS OF AN AFFILIATED GROUP.—If a United States shareholder to which subsection (a) applies is a domestic corporation which is a member of a group all members of which are treated as a single corporation under subsection (e) or (f) of section 864, whichever is applicable, all domestic corporations which are members of such group shall be treated as a single corporation for purposes of this section.

“(5) SPECIAL RULES.—

“(A) COORDINATION WITH OTHER PROVISIONS.—Except as provided in regulations, this section shall be applied before any other provision of this chapter limiting the deductibility of any allocable CFC interest.
“(B) SEPARATE APPLICATION TO INCOME

IN SEPARATE BASKETS.—This section shall be

applied separately with respect to the categories

of income under section 904(d)(1).

“(d) REGULATIONS.—The Secretary shall prescribe

such regulations as may be necessary to carry out the pur-

poses of this section, including regulations providing—

“(1) for the sharing of information between

shareholders if necessary to carry out the provisions

of this section,

“(2) for directly associating interest or other

expenses disallowed under this section with income

of a controlled foreign corporation and for coordi-

nating this section with other provisions of this

chapter limiting the deductibility of interest or other

expenses, and

“(3) for the proper application of this section

with respect to the taxpayer’s share of net operating

losses of a controlled foreign corporation.”.

(b) CONFORMING AMENDMENT.—The table of sec-

tions for part IX of subchapter B of chapter 1 is amended

by inserting after the item relating to section 265 the fol-

lowing:

“Sec. 265A. Expense allocable to exempt income of a controlled foreign cor-

poration.”.
(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

PART IV—OTHER PROVISIONS RELATING TO SUBPART F

Subpart A—Previously Deferred Foreign Income

SEC. 331. TREATMENT OF PREVIOUSLY DEFERRED FOREIGN INCOME.

(a) In General.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

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SEC. 966. INCLUSION OF PREVIOUSLY DEFERRED FOREIGN INCOME.

(a) INCLUSION AS SUBPART F INCOME.—

“(1) IN GENERAL.—Subject to the provisions of paragraph (2), the subpart F income (determined under section 952 without regard to this section) of a controlled foreign corporation for its last taxable year beginning before the applicable date (as defined in section 300 of the Infrastructure 2.0 Act), shall be increased by the accumulated deferred foreign income of the corporation.
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“(2) Inclusion only to apply to domestic corporations.—In the case of any increase in subpart F income of a controlled foreign corporation by reason of paragraph (1)—

“(A) notwithstanding section 951(a)(1), the inclusion in gross income under such section of a United States shareholder’s pro rata portion (as determined under section 951(a)(2)) of such increased subpart F income shall only apply if the United States shareholder is a domestic corporation, and

“(B) there shall be allowed as a deduction for the taxable year of such United States shareholder in which such increased subpart F income is included in such shareholder’s gross income under section 951(a)(1) an amount equal to the applicable percentage of the amount of the income so included.

“(b) Accumulated Deferred Foreign Income.—For purposes of this section—

“(1) In general.—The term ‘accumulated deferred foreign income’ means the excess of—

“(A) the undistributed earnings of the controlled foreign corporation, over
“(B) the undistributed U.S. earnings of such controlled foreign corporation.

“(2) UNDISTRIBUTED EARNINGS.—

“(A) IN GENERAL.—The term ‘undistributed earnings’ means the earnings and profits of the controlled foreign corporation described in section 959(c)(3), determined—

“(i) as of the close of the taxable year described in subsection (a)(1),

“(ii) without diminution by reason of distributions made during such taxable year, and

“(iii) without regard to this section.

“(B) SPECIAL RULE FOR CURRENT YEAR DISTRIBUTIONS.—For purposes of this chapter, any determination with respect to the treatment of distributions described in subparagraph (A)(ii) shall be made after the application of this section to the earnings and profits described in subparagraph (A).

“(3) UNDISTRIBUTED U.S. EARNINGS.—The term ‘undistributed U.S. earnings’ has the meaning given the term ‘post-1986 undistributed U.S. earnings’ in section 245(a)(5) (as in effect for taxable years beginning the day before the applicable date
(as defined in section 300 of the Infrastructure 2.0 Act)), determined—

“(A) without regard to ‘post-1986’ each place it appears in the matter before subpara-

graph (A), and

“(B) without regard to the last sentence thereof.

“(c) Disallowance of Foreign Tax Credit, etc.—

“(1) In general.—No credit shall be allowed under section 901 to a United States shareholder of a controlled foreign corporation for any taxes paid or accrued (or treated as paid or accrued) with re-

pect to the deductible portion of—

“(A) the increased subpart F income of the corporation included in the gross income of the shareholder under subsection (a)(2)(A), or

“(B) any distribution received by the shareholder which is properly attributable to such increased subpart F income.

“(2) Denial of deduction.—No deduction shall be allowed under this chapter to a United States shareholder of a controlled foreign corpora-

tion for any tax for which a credit is not allowable under section 901 by reason of paragraph (1).
“(3) Deductible portion.—For purposes of this subsection, the term ‘deductible portion’ means, with respect to the increased subpart F income of the corporation included in the gross income of the shareholder under subsection (a)(2)(A), the applicable percentage of such income with respect to which a deduction is allowable under subsection (a)(2)(B).

“(4) Coordination with section 78.—Section 78 shall not apply to the portion of any tax for which credit is not allowable under section 901 by reason of paragraph (1).

“(d) Applicable percentage.—For purposes of this section, the term ‘applicable percentage’ means the percentage which is equal to the ratio of—

“(1) the excess of—

“(A) the highest rate of tax in effect under section 11(b) for the taxable year of the United States shareholder described in subsection (a)(2)(B), over

“(B) 20 percent, to

“(2) the highest rate of tax in effect under section 11(b) for the taxable year of the United States shareholder described in subsection (a)(2)(B).

The percentage determined under the preceding sentence shall be rounded to the nearest whole percentage point.
“(e) Election To Pay Liability in Installments.—

“(1) IN GENERAL.—In the case of a United States shareholder with respect to one or more controlled foreign corporations to which subsection (a) applies, such United States shareholder may elect to pay the net tax liability under this section in 2 or more (but not exceeding 8) equal installments.

“(2) DATE FOR PAYMENT OF INSTALLMENTS.—If an election is made under paragraph (1), the due date for the first installment shall be the due date (determined without regard to any extension of time for filing the return) for the return of tax for the taxable year described in subsection (a)(2)(B) and the due date for each succeeding installment shall be the due date (as so determined) for the return of tax for the taxable year following the taxable year with respect to which the preceding installment was made.

“(3) ACCELERATION OF PAYMENT.—If there is—

“(A) an assessment of an addition to tax for failure to pay timely with respect to any installment required under this subsection,
“(B) a liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or similar case),
“(C) a cessation of business by the taxpayer, or
“(D) any similar circumstance,
then the unpaid portion of all remaining installments shall be due on the date of such event (or in the case of a title 11 or similar case, the day before the petition is filed).
“(4) Proration of deficiency to installments.—If an election is made under paragraph (1) to pay the net tax liability under this section in installments and a deficiency has been assessed, the deficiency shall be prorated to the installments payable under paragraph (1). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard
of rules and regulations, or to fraud with intent to evade tax.

“(5) RULES RELATING TO INTEREST.—

“(A) IN GENERAL.—In the case of any net tax liability prorated to an installment under this subsection, the last date prescribed for payment of the tax for purposes of section 6601(a) shall be the last date for payment of the installment rather than the last date for payment of tax for the taxable year in which the net tax liability arose.

“(B) SPECIAL RULES FOR DEFICIENCIES.—

“(i) INTEREST PAYABLE FOR ENTIRE PERIOD.—Subparagraph (A) shall not apply to any deficiency prorated to an installment under paragraph (4).

“(ii) PAYMENT OF INTEREST ATTRIBUTABLE TO PRIOR PERIODS.—In the case of a deficiency to which paragraph (4) applies, interest with respect to such deficiency which is assigned under paragraph (4) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency,
shall be paid upon notice and demand from the Secretary.

“(6) Period of Assessment.—Notwithstanding section 6501, the period for assessing the net tax liability under this section for which an election is made under paragraph (1) shall not expire before the due date for the last installment.

“(7) Election.—Any election under paragraph (1) shall be made not later than the due date for the return of tax for the taxable year of the United States shareholder described in subsection (a)(2)(B) and shall be made in such manner as the Secretary may provide.

“(8) Net Tax Liability under This Section.—For purposes of this subsection—

“(A) In General.—The net tax liability under this section with respect to any United States shareholder is the excess (if any) of—

“(i) such taxpayer’s net income tax for the taxable year, over

“(ii) such taxpayer’s net income tax for such taxable year determined without regard to this section.

“(B) Net Income Tax.—The term ‘net income tax’ means the net income tax (as de-
fined in section 38(c)(1)) reduced by the credit
allowed under section 38.

“(C) REGULATIONS.—The Secretary shall
prescribe such regulations as may be necessary
for the determination under this subsection of
the net tax liability under this section in the
case of any pass-thru entity.

“(f) REGULATIONS.—The Secretary shall promulgate
such regulations as necessary to carry out the purposes
of this section, including regulations for the application
of this section to pass-through entities all or part of which
are owned by 1 or more domestic corporations.”.

(b) ORDERING RULE FOR PURPOSES OF TREATMENT
OF PREVIOUSLY TAXED INCOME.—

(1) IN GENERAL.—Section 959 is amended by
adding at the end the following new subsection:

“(g) SPECIAL ORDERING RULE.—Notwithstanding
subsection (c), for purposes of subsections (a) and (b), sec-
tion 316(a) shall be applied by applying paragraph (2)
thereof and then paragraph (1) thereof—

“(1) first to the deductible portion (as defined
in section 965(c)(3)) of the increase in subpart F in-
come described in section 965(a)(1) included in the
gross income of United States shareholders under
section 951(a)(1) (after application of section
965(a)(2)(A)), and

“(2) then to amounts described in paragraphs
(1), (2), or (3) of subsection (c).”.

(2) CONFORMING AMENDMENT.—Section
959(c) is amended by inserting “except as provided
in subsection (g),” after “subsections (a) and (b),”.

(c) CONFORMING AMENDMENTS.—
(1) Clause (vi) of section 56(g)(4)(C) is amend-
ed—

(A) by inserting “or section 966(a)(2)”
after “section 965”, and

(B) by inserting “AND INCLUSIONS” after
“CERTAIN DISTRIBUTIONS” in the heading
thereof.

(2) Paragraph (3) of section 245(a) is amend-
ed—

(A) by striking “post-1986” in subpara-
graph (A), and

(B) by striking “total post-1986” in sub-
paragraph (B).

(3) Paragraph (4) of section 245(a) is amended
to read as follows:

“(4) UNDISTRIBUTED EARNINGS.—The term
‘undistributed earnings’ means the amount of the
earnings and profits of the controlled foreign corporation (computed in accordance with sections 964(a) and 986)—

“(A) as of the close of the taxable year of the controlled foreign corporation in which the dividend is distributed, and

“(B) without diminution by reason of dividends distributed during such taxable year.”.

(4) Paragraph (5) of section 245(a) is amended—

(A) by striking “post-1986” both places it appears in the matter preceding subparagraph (A), and

(B) by striking “POST-1986 UNDISTRIBUTED” in the heading thereof and inserting “UNDISTRIBUTED”.

(5) Paragraph (6) of section 245(a) is amended—

(A) by striking “beginning after December 31, 1986” and inserting “which is after the first taxable year of such corporation”, and

(B) by striking “post-1986” both places it appears.

(6) Paragraph (2) of section 6601(b) is amended—
(A) by striking “section 6156(a)” in the matter preceding subparagraph (A) and inserting “section 965(d)(1) or 6156(a)”, and

(B) by striking “section 6156(b)” in subparagraph (A) and inserting “section 965(d)(2) or 6156(b), as the case may be”.

(7) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 965 and inserting the following:

“Sec. 965. Inclusion of previously deferred foreign income.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to the last taxable year of foreign corporations beginning before the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

(2) CONFORMING AMENDMENTS RELATED TO SECTION 245.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (c) shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within
which such taxable years of foreign corporations end.

Subpart B—Other Provisions

SEC. 336. ELIMINATION OF 30-DAY REQUIREMENT.

(a) In General.—Section 951(a)(1) is amended by striking “for an uninterrupted period of 30 days or more” and inserting “at any time”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 337. MODIFICATION OF DEFINITION OF UNITED STATES SHAREHOLDER.

(a) In General.—Section 951(b) is amended by inserting “, or 10 percent or more of the total value of shares of all classes of stock of such foreign corporation” after “such foreign corporation”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning on or after the applicable date, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.
Subtitle B—Reform of Foreign Tax Credit Provisions

SEC. 341. REPEAL OF SECTION 902 INDIRECT FOREIGN TAX CREDITS; FOREIGN TAX CREDIT RELATED TO SUBPART F INCOME.

(a) Repeal of Section 902 Indirect Foreign Tax Credits.—Subpart A of part III of subchapter N of chapter 1 is amended by striking section 902.

(b) Foreign Tax Credit Related to Subpart F Income.—

(1) In general.—Section 960 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by striking subsection (a) and inserting the following:

“(a) Determination of Credit on Current Year Basis.—For purposes of this subpart, if there is included in the gross income of a domestic corporation any amount under section 951(a) with respect to any controlled foreign corporation with respect to which such domestic corporation is a United States shareholder, such domestic corporation shall be deemed to have paid so much of such foreign corporation’s foreign income taxes as are properly attributable to the amount so included.

“(b) Treatment of Foreign Taxes Not Previously Deemed Paid.—For purposes of this subpart—
“(1) IN GENERAL.—If any portion of a distribution from a controlled foreign corporation received by a domestic corporation is excluded from gross income under section 959(a), such domestic corporation shall be deemed to have paid so much of such foreign corporation’s foreign income taxes as are properly attributable to the amount so excluded to the extent such taxes were not deemed paid by the domestic corporation under this section for any prior taxable year.

“(2) TAXES OF LOWER-TIER CFCS.—If a controlled foreign corporation receives a distribution any portion of which is described in section 959(b) from another controlled foreign corporation, such foreign corporation shall be deemed to have paid so much of such other foreign corporation’s foreign income taxes as are properly attributable to the amount so described to the extent such taxes were not deemed paid by a domestic corporation under this section for any prior taxable year.”.

(2) APPLICATION WITH RESPECT TO FOREIGN TAX CREDIT LIMITATION.—Section 960(c), as redesignated by paragraph (1), is amended by adding at the end the following new paragraph:
“(6) Application with respect to foreign tax credit limitation.—This subsection shall be applied separately with respect to each category of income described in section 904(d)(1).”.

(3) Conforming amendments.—

(A) Section 960 is amended by striking subsection (d), as redesignated by paragraph (1), and inserting the following:

“(d) Foreign income taxes.—For purposes of this section, the term ‘foreign income taxes’ means any income, war profits, or excess profits taxes paid or accrued by a foreign corporation to any foreign country or possession of the United States.

“(e) Regulations.—The Secretary shall provide such regulations as may be necessary or appropriate to carry out the provisions of this section, including rules for the application of this section to domestic partnerships with partners that are domestic corporations.”.

(B) Section 960 is amended by striking the heading and inserting “DEEMED PAID CRED- IT FOR SUBPART F INCLUSIONS”.

(c) Modification to section 78 gross up.—Section 78 is amended to read as follows:
“SEC. 78. AMOUNTS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS BY DOMESTIC CORPORATIONS CHOOSING FOREIGN TAX CREDIT.

“If a domestic corporation which is a United States shareholder chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credits) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under section 960 for such taxable year—

“(1) shall be treated as an amount included in the gross income under section 951(a), and

“(2) for purposes of section 904, shall be deemed to be attributable to the same category of income described in section 904(d)(1) as the income which gave rise to the taxes deemed paid by such corporation.”.

(d) CONFORMING AMENDMENTS.—

(1) Subclause (III) of section 56(g)(4)(C)(iii) is amended by inserting “as in effect before its repeal” after “section 902”.

(2) Sections 535(b)(1) and 545(b)(1) are each amended by striking “section 902(a) or 960(a)(1)” and inserting “section 960”.

(3) Subparagraph (B) of section 814(f)(1) is repealed.
(4) Subsection (a) of section 901 is amended by striking “sections 902 and 960” and inserting “section 960”.

(5) Paragraph (2) of section 901(e) is amended by striking “but is not limited to—” and all that follows through “that portion” and inserting “but is not limited to that portion”.

(6) Subsection (f) of section 901 is amended by striking “sections 902 and 960” and inserting “section 960”.

(7) Subparagraph (A) of section 901(j)(1) is amended by striking “902 or”.

(8) Subparagraph (A) of section 904(h)(10) is amended by striking “sections 902, 907, and 960” and inserting “sections 907 and 960”.

(9) Subsection (k) of section 904 is amended to read as follows:

“(k) CROSS REFERENCE.—For modification of limitation under subsection (a) for purposes of determining the amount of credit which can be taken against the alternative minimum tax, see section 59(a).”.

(10) Paragraph (1) of section 905(c) is amended by striking the last sentence.

(11) Subclause (I) of section 905(c)(2)(B) is amended by striking “902 or”.
(12) Subsection (a) of section 906 is amended by striking “(or deemed, under section 902, paid or accrued during the taxable year)”. 

(13) Subsection (b) of section 906 is amended by striking paragraphs (4) and (5). 

(14) Subparagraph (B) of section 907(b)(2) is amended by striking “902 or”. 

(15) Paragraph (3) of section 907(c) is amended— 

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and 

(B) by striking “section 960(a)” in subparagraph (A) (as so redesignated) and inserting “section 960”. 

(16) Paragraph (5) of section 907(c) is amended by striking “902 or”. 

(17) Clause (i) of section 907(f)(2)(B) is amended by striking “902 or”. 

(18) Subsection (a) of section 908 is amended by striking “902 or”. 

(19) Paragraph (1) of section 958(a) is amended by striking “960(a)(1)” and inserting “960”. 

(20) Subparagraph (B) of section 6038(c)(1) is amended by striking “sections 902 (relating to for-
eign tax credit for corporate stockholder in foreign
corporation) and 960 (relating to special rules for
foreign tax credit)” and inserting “section 960”.

(21) Paragraph (4) of section 6038(c) is
amended by striking subparagraph (C).

(22) The table of sections for subpart A of part
III of subchapter N of chapter 1 is amended by
striking the item relating to section 902.

(23) The table of sections for part II of sub-
chapter B of chapter 1 is amended by striking
“Dividends” in the item relating to section 78 and
inserting “Amounts”.

(24) The table of sections for subpart F of part
III of subchapter N of chapter 1 is amended by
striking the item relating to section 960 and insert-
ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years of foreign corpora-
tions beginning on or after the applicable date, and to tax-
able years of United States shareholders with or within
which such taxable years of foreign corporations end.
SEC. 342. REPEAL OF RULE SUSPENDING FOREIGN TAXES AND CREDITS UNTIL RELATED INCOME IS TAKEN INTO ACCOUNT.

(a) In General.—Subpart A of part III of subchapter N of chapter 1 is amended by striking section 909.

(b) Conforming Amendments.—

(1) Section 901(m)(1)(B) is amended by striking “a section 902 corporation (as defined in section 909(d)(5))” and inserting “a controlled foreign corporation (as defined in section 957(a))”.

(2) The table of sections of subpart A of part III of subchapter N of chapter 1 is amended by striking the item relating to section 909.

(c) Effective Date.—The amendments made by this section shall apply to foreign taxes paid or accrued in taxable years beginning on or after the applicable date.