

107TH CONGRESS
2^D SESSION

H. R. 5323

To amend the Internal Revenue Code of 1986 to eliminate the double taxation of dividends.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2002

Mr. COX (for himself, Mr. ISTOOK, Mr. KERNS, Mr. OTTER, and Mr. WILSON of South Carolina) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to eliminate the double taxation of dividends.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Investor Protection,
5 Market Stabilization, and Tax Fairness Restoration Act
6 of 2002”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that:

9 (1) Corporate earnings paid out as dividends
10 are taxed once at the full corporate rate, and again

1 at the full individual rate, leading to an effective
2 rate that can be in excess of 60%.

3 (2) This confiscatory taxation of dividends has
4 contributed to a steady diminution of dividend pay-
5 out ratios and the virtual elimination of dividends as
6 the primary method of rewarding equity investors
7 for risk.

8 (3) When taxation makes dividend distributions
9 uneconomical, investors are forced to look at sale or
10 collateralization of stock as essentially the only ways
11 of achieving an adequate rate of return on invest-
12 ment.

13 (4) As a result, even companies with healthy
14 earnings are unable to protect their investors from
15 loss during a stock market downturn.

16 **SEC. 3. PURPOSE.**

17 The purpose of this Act is to protect taxpaying inves-
18 tors in America's equity markets, promote a greater cor-
19 relation between earnings and equity prices, and encour-
20 age economic growth by eliminating the unfair double tax-
21 ation of dividends.

22 **SEC. 4. ELIMINATION OF DOUBLE TAX ON DIVIDENDS.**

23 (a) DIVIDENDS RECEIVED BY INDIVIDUALS.—

24 (1) CREDIT FOR TAX PAID BY DISTRIBUTING
25 CORPORATION.—Part IV of subchapter A of chapter

1 1 of the Internal Revenue Code of 1986 is amended
2 by adding at the end thereof the following new sub-
3 part:

4 **“Subpart H—Individual Shareholder Credit**

“Sec. 54. Allowance of shareholder credit.

“Sec. 54A. Determination of shareholder credit.

“Sec. 54B. Inclusion of shareholder credit.

5 **“SEC. 54. ALLOWANCE OF SHAREHOLDER CREDIT.**

6 “(a) GENERAL RULE.—In the case of a taxpayer
7 other than a corporation, there shall be allowed as a credit
8 against the tax imposed by this chapter for the taxable
9 year an amount equal to the shareholder credits deter-
10 mined with respect to dividends from domestic corpora-
11 tions received by the taxpayer during the taxable year.

12 “(b) LIMITATION.—The amount allowed as a credit
13 under subsection (a) for any taxable year shall not exceed
14 the sum of—

15 “(1) the regular tax liability of the taxpayer for
16 the taxable year reduced by the sum of the credits
17 allowable under this part (other than subpart C),
18 and

19 “(2) the minimum tax imposed by section 55.

20 “(c) NONRESIDENT ALIENS.—No credit shall be al-
21 lowed under this section to any nonresident alien with re-
22 spect to any dividend unless such dividend is taxable under
23 section 871(b) (relating to income effectively connected
24 with United States business).

1 **“SEC. 54A. DETERMINATION OF SHAREHOLDER CREDIT.**

2 “(a) GENERAL RULE.—For purposes of this subpart,
3 the shareholder credit with respect to any dividend paid
4 by a domestic corporation is an amount which bears the
5 same ratio to such corporation’s post-2002 Federal income
6 taxes as—

7 “(1) the amount of such dividend (determined
8 without regard to section 54B), bears to

9 “(2) such corporation’s post-2002 undistributed
10 earnings.

11 “(b) POST-2002 FEDERAL INCOME TAXES.—For
12 purposes of this section—

13 “(1) IN GENERAL.—The term ‘post-2002 Fed-
14 eral income taxes’ means the sum of—

15 “(A) the Federal income taxes with respect
16 to the taxable year of the distributing corpora-
17 tion in which the dividend is distributed, plus

18 “(B) the Federal income taxes with respect
19 to prior taxable years of such corporation begin-
20 ning after December 31, 2002, reduced by the
21 amount of shareholder credits determined with
22 respect to distributions by such corporation in
23 such prior taxable years.

24 “(2) FEDERAL INCOME TAXES.—The term
25 ‘Federal income taxes’ means any tax paid by the
26 corporation under this chapter. Any shareholder

1 credit determined under this section with respect to
2 a dividend received by the corporation during any
3 taxable year shall be treated as a tax paid by the
4 corporation under this chapter for such taxable year.

5 “(c) POST-2002 UNDISTRIBUTED EARNINGS.—For
6 purposes of this section, the term ‘post-2002 undistributed
7 earnings’ means the earnings and profits of the distrib-
8 uting corporation accumulated in taxable years beginning
9 after December 31, 2002, determined—

10 “(1) as of the close of the taxable year in which
11 the dividend is distributed, and

12 “(2) without diminution by reason of dividends
13 distributed during such taxable year.

14 **“SEC. 54B. INCLUSION OF SHAREHOLDER CREDIT.**

15 “In the case of a taxpayer other than a corporation,
16 gross income shall include the amount of the shareholder
17 credits determined under section 54A with respect to divi-
18 dends received by such shareholder.”

19 (2) CLERICAL AMENDMENT.—The table of sub-
20 parts for part IV of subchapter A of chapter 1 of
21 such Code is amended by adding at the end thereof
22 the following new item:

“Subpart H. Individual shareholder credit.”

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to dividends paid out

1 of earnings and profits for taxable years beginning
2 after December 31, 2002.

3 (b) DIVIDENDS RECEIVED BY CORPORATIONS.—

4 (1) IN GENERAL.—Subsection (a) of section
5 243 of such Code (relating to dividends received by
6 corporations) is amended to read as follows:

7 “(a) GENERAL RULE.—In the case of a corporation,
8 there shall be allowed as a deduction an amount equal to
9 100 percent of the amount received as dividends from a
10 domestic corporation which is subject to taxation under
11 this chapter.”

12 (2) DIVIDENDS ON CERTAIN PREFERRED
13 STOCK.—Section 244 of such Code (relating to divi-
14 dends received on certain preferred stock) is
15 amended—

16 (A) by striking “70 percent” in subsection
17 (a)(3) and inserting “100 percent”,

18 (B) by striking “(a) IN GENERAL.—”, and

19 (C) by striking subsection (b).

20 (3) TECHNICAL, CONFORMING AND CLERICAL
21 AMENDMENTS.—

22 (A) Section 243 of such Code (relating to
23 dividends received by corporations) is amended
24 by striking subsections (b) and (c) and by re-

1 designating subsections (d) and (e) as sub-
2 sections (b) and (c), respectively.

3 (B) Subsection (b) of section 246 of such
4 Code (relating to rules applying to deductions
5 for dividends received) is amended—

6 (i) in paragraph (1) by striking
7 “243(a)(1), 244(a)” each time it appears
8 and inserting “243, 244” and by striking
9 “the percentage determined under para-
10 graph (3) of”, and

11 (ii) by striking paragraph (3).

12 (C)(i) Subparagraph (A) of section
13 805(a)(4) of such Code (relating to dividends
14 received by life insurance companies) is amend-
15 ed by striking all that follows “subparagraph
16 (B))” and inserting a period.

17 (ii) Subparagraph (B) of section 805(a)(4)
18 of such Code is amended—

19 (I) by striking “243(a)(1), 244(a)”
20 each place it appears and inserting “243,
21 244”,

22 (II) by striking “the percentage deter-
23 mined under section 246(b)(3) of”, and

1 (III) by striking “(and such limitation
2 shall be applied as provided in section
3 246(b)(3))”.

4 (iii) Paragraph (4) of section 805(a) of
5 such Code is amended by striking subpara-
6 graphs (C), (D), (E), and (F) and inserting the
7 following:

8 “(C) DISTRIBUTIONS OUT OF TAX-EXEMPT
9 INTEREST.—No deduction shall be allowed by
10 reason of this paragraph with respect to any
11 dividend to the extent the dividend is a distribu-
12 tion out of tax-exempt interest.”

13 (D) Subparagraph (C) of section 861(a)(2)
14 of such Code (relating to income from sources
15 within the United States) is amended by strik-
16 ing “243(e)” and inserting “243(c)”.

17 (E) Subparagraph (B) of section
18 1504(c)(2) of such Code (relating to definition
19 of includible insurance companies) is amended
20 by striking clause (i) and by redesignating
21 clauses (ii) and (iii) as clauses (i) and (ii), re-
22 spectively.

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years end-
3 ing after the date of the enactment of this Act.

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