

112TH CONGRESS  
1ST SESSION

# S. 626

To amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

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

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## A BILL

To amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Shipping Re-  
5 investment Act of 2011”.

1 **SEC. 2. REPEAL OF QUALIFIED SHIPPING INVESTMENT**  
2 **WITHDRAWAL RULES.**

3 (a) IN GENERAL.—Section 955 of the Internal Rev-  
4 enue Code of 1986 (relating to withdrawal of previously  
5 excluded subpart F income from qualified investment) is  
6 hereby repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 951(a)(1)(A) of the Internal Rev-  
9 enue Code of 1986 is amended by adding “and” at  
10 the end of clause (i) and by striking clause (iii).

11 (2) Section 951(a)(1)(A)(ii) of such Code is  
12 amended by striking “, and” at the end and insert-  
13 ing “, except that in applying this clause amounts  
14 invested in less developed country corporations de-  
15 scribed in section 955(c)(2) (as so in effect) shall  
16 not be treated as investments in less developed coun-  
17 tries.”.

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20 cluded subpart F income withdrawn from invest-  
21 ment) is hereby repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (B) other earnings and profits.

7 (e) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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